

Update 108 contains (LOCAL) policies that require board action before we can incorporate Update 108 into your district's *Policy On Line* manual.

Please notify Travis Damron of your policy adoption by completing the electronic [Notify TASB of Policy Adoption](#) form\*. You may also complete, scan, and submit the form below by e-mail to [pol-support@tasb.org](mailto:pol-support@tasb.org) or by fax to 512-467-3618. Electronic submissions will receive a confirmation e-mail.

### 057922 Coppell ISD

Your Name: \_\_\_\_\_

Your E-mail: \_\_\_\_\_

#### Previous Updates

- I confirm that all updates prior to Update 108 have been adopted. (Visit [Local Manual Updates](#)<sup>†</sup> to see updates pending adoption.)

**Update 108** Adoption Date: \_\_\_\_\_

Status (please check one):

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

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#### Policy Changes

If you wish to make changes to policies issued in Update 108, submit those changes with your adoption notification. If you wish to make changes to policies not issued in Update 108, please e-mail those changes directly to your policy consultant.

Changes will be processed as a Local District Update. Your policy consultant may contact you about policy changes if necessary.

If you have questions, please contact Travis Damron by phone at 800-580-7529.

\* Notify TASB of Policy Adoption: <https://www.tasb.org/apps/PolicyAdmin/>

<sup>†</sup> Local Manual Updates: <https://www.tasb.org/apps/policyUpdates/index.aspx>

# Update 108

## Adoption Notification Form

Policy On Line<sup>®</sup>

**TASB Policy Service**

**Fax: 512-467-3618**



# Localized Policy Manual Update 108

Coppell ISD

**Remember:** You can download a PDF of this update packet, annotated copies of the (LOCAL) policies, editable (LOCAL) text, and more on [my.tasb.org](http://my.tasb.org) under *Policy Service Resource Library: Local Manual Updates*.

**Need help?** Please call your policy consultant at 800-580-7529 or e-mail [Policy.Service@TASB.org](mailto:Policy.Service@TASB.org).

## Overview

Update 108 contains recommended changes to local policies on topics including:

- Instructional resources and materials;
- Credit by examination with prior instruction;
- Graduation;
- Campus charters; and
- Community relations (advertising and fundraising).

Revisions to legal policies incorporate various administrative rules and include some updating and recoding of provisions in anticipation of changes from the 85<sup>th</sup> Legislative Session, which will be included in Update 109, scheduled for early fall.

Your Localized Update 108 packet also contains:

- **Explanatory Notes** describing the changes to each policy. Please note that, where appropriate, the Explanatory Notes ask you to verify that a particular policy reflects current district practice and to advise us of any changes needed so that our records and the district's policy manual accurately track the district's practice. Explanatory notes may also provide important information about policies not included in the update packet.
- **Vantage Points—A Board Member's Guide to Update 108**, which provides local officials a highly summarized first glance at the update. Please distribute the enclosed copies of *Vantage Points* to your board members with the review copies of the update.
- **Instructions** for incorporating this update into each of the district's Localized Policy Manuals after board adoption. Use the enclosed Instruction Sheet as a guide to which policies should be added, replaced, and removed from your manual.

# (LEGAL) vs. (LOCAL) Policies: Remember the Difference

(LEGAL) policies:

- Reflect the ever-changing legal context for governance and management of the district
- Should inform local decision making
- Should NOT be adopted, but only reviewed

(LOCAL) policies:

- Require close attention by both the administration and the board
- Must reflect the practices of the district and the intentions of the board
- May only be changed by board action (adopt, revise, or repeal)

**If your board adopts changes to the (LOCAL) policies contained in this packet, please notify your policy consultant.**

## How to Place Policy Changes on the Agenda for Board Action

Board action on Localized Update 108 must occur within a properly posted, open meeting of the board.

- Update 108 may be addressed on the agenda posting as “Policy Update 108, affecting (LOCAL) policies (see attached list of codes).”
- You may use the “Agenda Posting (LOCAL) Policy List” provided online in *Local Manual Updates* and attach that list to the posting, or you may compile a list of (LOCAL) policy codes, titles, and subtitles from the material provided below.
- **BoardBook** compilers should use “Policy Update 108, affecting (LOCAL) policies” as the agenda item and, as agenda sub-items, the policy code, title, and subtitle of each of the (LOCAL) policies affected by the update.
- Here is a suggested motion for board action on Localized Update 108:

*“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 108 [with the following changes:]”*

## How to Notify Policy Service of Board Action

Notify Policy Service of the board's action on Update 108 using the Update 108 Adoption Notification Form, enclosed, so Policy Service records remain accurate.

## How to Keep Minutes

The board's action on Localized Update 108 must be reflected in board minutes. Your minutes should include:

- The list of proposed (LOCAL) policy actions, such as the Instruction Sheet—annotated to reflect any changes made by the board
- The Explanatory Notes for the update (filed as an attachment to the minutes)
- Copies of new, replaced, or rescinded (LOCAL) policies

## How to Maintain Your Historical Record

To construct a separate historical record of the manual, you must track the history of individual (LOCAL) policies. You should maintain a permanent historical record of every (LOCAL) policy adopted, revised, or rescinded by the board.

At a minimum, this record should include the following key pieces of information:

- Policy code
- Date of board action
- Text of policy

For more guidance on maintaining this record, please refer to:

- *The Administrator's Guide to Policy Management* (<https://www.tasb.org/Services/Policy-Service/myTASB/Guidance-for-Policy-Administrators.aspx>)
- Tutorial videos on handling an update (<https://www.tasb.org/Services/Policy-Service/myTASB/Tutorials.aspx>)

These guides are available in the myTASB *Policy Service Resource Library*.

# How to Keep Your Administrative Regulations Current

Inspect your administrative procedures and documents—including EXHIBITS, REGULATIONS, handbooks, and guides—that may be affected by Update 108 policy changes.

If you must make changes to the REGULATIONS or EXHIBITS contained in your board policy manual, please notify your policy consultant.

## Disclaimer and Copyright

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 adviser. Consult with your attorney or professional adviser to apply these principles to specific fact situations.

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# Instruction Sheet

## TASB Localized Policy Manual Update 108

District      Coppell ISD

<b>Code</b>	<b>Action To Be Taken</b>	<b>Note</b>
AIA (LEGAL)	Replace policy	Revised policy
AIB (LEGAL)	Replace policy	Revised policy
AIC (LEGAL)	Replace policy	Revised policy
BBB (EXHIBIT)	DELETE exhibit	See explanatory note
BBG (LEGAL)	Replace policy	Revised policy
BED (LEGAL)	Replace policy	Revised policy
BJCF (LEGAL)	Replace policy	Revised policy
BQ (LEGAL)	Replace policy	Revised policy
BQA (LEGAL)	Replace policy	Revised policy
BQB (LEGAL)	Replace policy	Revised policy
CH (LEGAL)	Replace policy	Revised policy
CJA (LEGAL)	Replace policy	Revised policy
COB (LEGAL)	Replace policy	Revised policy
CQA (LEGAL)	Replace policy	Revised policy
DBA (LEGAL)	Replace policy	Revised policy
DBAA (LEGAL)	Replace policy	Revised policy
DFE (LEGAL)	Replace policy	Revised policy
DHB (LEGAL)	Replace policy	Revised policy
DK (LEGAL)	Replace policy	Revised policy
DK (EXHIBIT)	Replace exhibit	Revised exhibit
E (LEGAL)	Replace table of contents	Revised table of contents
EF (LEGAL)	Replace policy	Revised policy
EF (LOCAL)	ADD policy	See explanatory note
EFA (LEGAL)	Replace policy	Revised policy
EFA (LOCAL)	DELETE policy	See explanatory note
EFAA (LEGAL)	DELETE policy	See explanatory note
EFAA (LOCAL)	DELETE policy	See explanatory note
EGA (LEGAL)	DELETE policy	See explanatory note
EHAC (LEGAL)	Replace policy	Revised policy
EHBJ (LEGAL)	ADD policy	See explanatory note
EHBL (LEGAL)	Replace policy	Revised policy
EHDB (LOCAL)	Replace policy	Revised policy

Instruction Sheet  
TASB Localized Policy Manual Update 108

EIF (LOCAL)	Replace policy	Revised policy
EKBA (LEGAL)	Replace policy	Revised policy
EL (LOCAL)	Replace policy	Revised policy
FEA (LEGAL)	Replace policy	Revised policy
FED (LEGAL)	Replace policy	Revised policy
FFEA (LEGAL)	Replace policy	Revised policy
FNCF (LEGAL)	Replace policy	Revised policy
FNCF (EXHIBIT)	DELETE exhibit	See explanatory note
FOC (LEGAL)	Replace policy	Revised policy
FOC (EXHIBIT)	DELETE exhibit	See explanatory note
G (LEGAL)	Replace table of contents	Revised table of contents
GKB (LOCAL)	Replace policy	Revised policy



# Explanatory Notes

## TASB Localized Policy Manual Update 108

District: Coppel ISD

AIA (LEGAL) ACCOUNTABILITY  
ACCREDITATION AND PERFORMANCE INDICATORS

This legally referenced policy on accreditation and performance standards has been reorganized and updated to include provisions from House Bill 2804 (84th Legislative Session) that are effective with the 2017–18 school year. These changes include additional material on the A–F PERFORMANCE RATINGS, PERFORMANCE INDICATORS, and the FIVE DOMAINS for student achievement, as well as deletion of provisions on student achievement indicators. Other changes are to delete material on dropout recovery programs, which is addressed at other policy codes, and to better match statutory wording.

AIB (LEGAL) ACCOUNTABILITY  
PERFORMANCE REPORTING

This legally referenced policy on performance reporting has been revised to include statutory provisions that are effective with the 2017–18 school year.

AIC (LEGAL) ACCOUNTABILITY  
INVESTIGATIONS AND SANCTIONS

Revisions to this legally referenced policy on accountability investigations and sanctions are based on amended commissioner's rules effective November 17, 2016. The rules add to the duties for a CAMPUS INTERVENTION TEAM and address stakeholder notification and review requirements and district submission and implementation of a CAMPUS TURNAROUND PLAN.

BBB (EXHIBIT) BOARD MEMBERS  
ELECTIONS

This exhibit containing the officer's statement and the oath of office from the Texas Constitution is recommended for deletion from the district's policy manual, as this material is now readily available on the Texas Secretary of State website and in the TASB Legal Services eSource document *After the School Board Election: Frequently Asked Questions Regarding Post-Election Procedures*, available at [https://www.tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Governance/documents/after\\_bd\\_election.pdf](https://www.tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Governance/documents/after_bd_election.pdf).

BBG (LEGAL) BOARD MEMBERS  
COMPENSATION AND EXPENSES

This legally referenced policy on board member expenses has been updated to reference a new Administrative Code rule effective January 24, 2017, which duplicates the previous rule in allowing board members to participate in the comptroller's contract for travel services, and to better match statutory wording.

BED (LEGAL) BOARD MEETINGS  
PUBLIC PARTICIPATION

This legally referenced policy on public participation has been revised to delete a note referencing other related policies as well as a provision about complaints that is duplicated in the complaint policies. Citations have also been updated.

# Explanatory Notes

## TASB Localized Policy Manual Update 108

BJCF (LEGAL) SUPERINTENDENT  
NONRENEWAL

This legally referenced policy on superintendent nonrenewal has been revised to better match statutory wording.

BQ (LEGAL) PLANNING AND DECISION-MAKING PROCESS

Changes have been made throughout this legally referenced policy on the planning and decision-making process to better match statutory wording.

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

This legally referenced policy on district-level planning and decision-making has been revised to add an existing provision on STAFF DEVELOPMENT, to better match statutory wording, and to update citations.

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

This legally referenced policy on campus-level planning and decision-making has been revised to add an existing provision on STAFF DEVELOPMENT, to better match statutory wording, and to update citations.

CH (LEGAL) PURCHASING AND ACQUISITION

New Ethics Commission rules effective January 1, 2017, have been added at CONTRACT CHANGES on page 4 and explain the circumstances under which contract disclosure requirements apply to changes to an existing contract. Other revisions are to add an existing Administrative Code provision about submission of the REQUIRED FORM used for contract disclosures (see page 3) and to reorder provisions for better flow.

CJA (LEGAL) CONTRACTED SERVICES  
CRIMINAL HISTORY

This legally referenced policy on criminal history checks for contracted services and decision-making has been reorganized for better flow and revised to better match statutory wording.

COB (LEGAL) FOOD SERVICES MANAGEMENT  
FREE AND REDUCED-PRICE FOOD PROGRAM

Details from the Administrative Code have been added regarding submission of REQUIRED DOCUMENTATION on summer nutrition programs to the Texas Department of Agriculture by April 1 of each year. Other changes are to better match statutory wording.

# Explanatory Notes

## TASB Localized Policy Manual Update 108

### CQA (LEGAL) TECHNOLOGY RESOURCES DISTRICT, CAMPUS, AND CLASSROOM WEBSITES

The listing of REQUIRED INTERNET POSTINGS has been revised to include:

- Posting of the innovation plan for a district seeking designation as a district of innovation (item 1);
- Posting of the three programs or categories that will be used to evaluate district and campus performance in community and student engagement (items 3 and 4); and
- Posting of an opportunity to review a campus turnaround plan (item 10).

The listing of OPTIONAL INTERNET POSTINGS has been revised to include posting of a public meeting for input on a targeted improvement plan (item 1 on page 4).

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

Provisions on EMERGENCY PERMITS have been moved from policy DK to this policy code. Extensive revisions to the material are based on Administrative Code changes effective December 27, 2016. The rules reflect that emergency permits are intended as a temporary credential to be used for true emergencies. Effective with the 2017–18 school year, emergency permits will be limited to one year of issuance, with limited exceptions for JROTC instructors and for teachers of students with visual impairments.

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

New rules from the Administrative Code, effective November 6, 2016, have been added to this legally referenced policy on criminal history. Changes in the FBI subscription service required the Texas Department of Public Safety to issue rules that clarify the process for obtaining criminal history record information through the Clearinghouse. See PARTICIPATION IN THE CRIMINAL HISTORY CLEARINGHOUSE, beginning on page 1. Citations have been updated throughout.

### DFF (LEGAL) TERMINATION OF EMPLOYMENT REDUCTION IN FORCE

This legally referenced policy on reduction in force has been revised to add existing statutory provisions on reduction of personnel for CONTINUING CONTRACTS, including district notification to the affected teacher and teacher notification to the board if the teacher wishes to protest the proposed reduction of personnel.

### DHB (LEGAL) EMPLOYEE STANDARDS OF CONDUCT REPORTS TO STATE BOARD FOR EDUCATOR CERTIFICATION

Amended State Board for Educator Certification (SBEC) rules, effective December 27, 2016, have been incorporated into this policy. The amendments align the rules on superintendent reports to SBEC with changes to the Education Code made in the 84th Legislative Session (2015) and clarify that reporting is required if there is evidence that an educator solicited or engaged in sexual conduct or a romantic relationship with a student or minor. See REPORTABLE MISCONDUCT.

# Explanatory Notes

## TASB Localized Policy Manual Update 108

The rules also address PERMISSIVE REPORTS when a superintendent believes in good faith that educator misconduct may be subject to disciplinary proceedings or sanctions.

### DK (LEGAL) ASSIGNMENT AND SCHEDULES

Provisions on emergency permits were moved to DBA. Other changes are to provide appropriate references to information on credentials and permits at CREDENTIALS OR PERMIT REQUIRED.

### DK (EXHIBIT) ASSIGNMENT AND SCHEDULES

This exhibit has been reformatted and updated to better match wording from the applicable state rules.

### E (LEGAL) INSTRUCTION

The E Section table of contents has been updated to:

- Delete EFAA, Instructional Materials Selection and Adoption (provisions relocated to EFA, Instructional Materials);
- Delete EFF, Instructional Television
- Delete EG, Curriculum Development (provisions relocated to EH, Curriculum Design);
- Delete EGA, Innovative and Magnet Programs (provisions relocated to EHB, a new code subtitled Innovative and Magnet Programs);
- Add EHB, subtitled Innovative and Magnet Programs; and
- Rename EL Campus Charters (previously Charter Campus or Program).

See the notes below for additional information on these changes.

### EF (LEGAL) INSTRUCTIONAL RESOURCES

Legal guidance addressing library materials has been relocated from EFA to this policy code.

### EF (LOCAL) INSTRUCTIONAL RESOURCES

Local policy provisions addressing challenges to instructional resources have been relocated from EFA to this policy code. The policy is based heavily on materials from the American Library Association (ALA) and has been updated to reflect current ALA recommendations.

Other recommended changes include:

- Replacing the term "instructional materials" throughout the policy with the broader term "instructional resources" to clarify the scope of the policy;
- Deleting detail about APPEAL documents that is addressed in the grievance policies; and
- Clarifying at GUIDING PRINCIPLES that a parent may request that his or her child not be permitted access to challenged resources.

At FORMAL RECONSIDERATION, please confirm that the policy correctly lists the position of the individual who is responsible for accepting formal objections and appointing a reconsideration committee.

# Explanatory Notes

## TASB Localized Policy Manual Update 108

See <http://www.ala.org/tools/challengesupport/> for more information.

EFA (LEGAL) INSTRUCTIONAL RESOURCES  
INSTRUCTIONAL MATERIALS

Provisions addressing selection and adoption of instructional materials have been relocated from EFAA to this policy code.

EFA (LOCAL) INSTRUCTIONAL RESOURCES  
INSTRUCTIONAL MATERIALS

Local policy provisions addressing challenges to instructional resources have been relocated to EF.

EFAA (LEGAL) INSTRUCTIONAL MATERIALS  
SELECTION AND ADOPTION

Provisions addressing selection and adoption of instructional materials have been relocated to EFA. EFAA is no longer an active code.

EFAA (LOCAL) INSTRUCTIONAL MATERIALS  
SELECTION AND ADOPTION

This local policy is recommended for deletion. Changes to the Administrative Code effective May 5, 2016, deleted the requirement for a board to adopt a policy for selecting instructional materials. Instead, the rules require a board to select instructional materials in an open meeting with proper notice under the Open Meetings Act.

EGA (LEGAL) CURRICULUM DEVELOPMENT  
INNOVATIVE AND MAGNET PROGRAMS

Provisions addressing innovative and magnet programs have been relocated to EHB. EGA is no longer an active code.

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

Based on amended State Board of Education rules effective October 23, 2016, the list of courses that a district must offer at the high school level has been updated to include the newly adopted Personal Financial Literacy course (see item 4 on page 4).

EHB (LEGAL) SPECIAL PROGRAMS  
INNOVATIVE AND MAGNET PROGRAMS

Provisions addressing innovative and magnet programs have been relocated from EGA to this policy code.

# Explanatory Notes

## TASB Localized Policy Manual Update 108

### EHBL (LEGAL) SPECIAL PROGRAMS HIGH SCHOOL EQUIVALENCY

This legally referenced policy on high school equivalency programs (HSEP) was revised to incorporate rule changes effective February 14, 2017. The changes simplified language regarding STATE ASSESSMENTS required for HSEP admission, added details on HIGH SCHOOL EQUIVALENCY TESTING, aligned text with statutory language, and removed obsolete language.

### EHDB (LOCAL) ALTERNATIVE METHODS FOR EARNING CREDIT CREDIT BY EXAMINATION WITH PRIOR INSTRUCTION

Recommended revisions to this local policy on credit by examination with prior instruction are to clarify that the examinations used must be board approved and to reflect current statutory wording about failing to earn credit "or a final grade" because of excessive absences.

### EIF (LOCAL) ACADEMIC ACHIEVEMENT GRADUATION

This local policy on graduation has been revised to delete references to the minimum, recommended, and advanced/distinguished achievement graduation programs.

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

Outdated provisions on exit-level testing exemptions for English language learners have been removed from this legally referenced policy.

### EL (LOCAL) CAMPUS CHARTERS

Recommended revisions to this local policy on campus charters are intended to better align with the statutory provisions and current TEA expectations and include:

- Clarification at the beginning of the policy that the term "campus charter" includes program charters;
- To provide more flexibility at APPLICATION PROCESS, a change stating that application and petition forms will be available in the central administration office or other places accessible to parents and teachers, rather than in the superintendent's office;
- Addition of a reference to the legally required CONTENT OF A CHARTER;
- Addition of a statement explaining the process that the district will use when REVISING THE CHARTER;
- Clarification regarding the PROVISIONS FOR PROBATION OR REVOCATION to explain that the board may take appropriate action against the campus charter if the charter fails to meet academic or financial accountability requirements.

# Explanatory Notes

## TASB Localized Policy Manual Update 108

FEA (LEGAL) ATTENDANCE  
COMPULSORY ATTENDANCE

This legally referenced policy on compulsory attendance has been revised to better match statutory wording and to update citations.

FED (LEGAL) ATTENDANCE  
ATTENDANCE ENFORCEMENT

The Education Code requires TEA to adopt rules to create MINIMUM STANDARDS for truancy prevention measures, establish a set of BEST PRACTICES, and provide for SANCTIONS against a school district found to be out of compliance with the statute. These new rules, effective January 1, 2017, have been added to this legally referenced policy, beginning on page 5.

TASB Policy Service believes that districts' current attendance policies, as recommended in the policy manual, and procedures, as recommended in the *TASB Model Student Handbook*, adequately address the best practice suggestion for an "attendance policy" that outlines truancy requirements and provisions (see item 1 on page 6). Therefore, no local policy changes are being recommended at this time.

FFEA (LEGAL) STUDENT ASSISTANCE PROGRAMS/COUNSELING  
COMPREHENSIVE GUIDANCE PROGRAM

This legally referenced policy on guidance programs has been revised to better match statutory wording and to update citations.

FNCF (LEGAL) STUDENT CONDUCT  
ALCOHOL AND DRUG USE

The text of the required notice regarding steroids has been moved to this legally referenced policy from FNCF(EXHIBIT). Other changes are to better match statutory wording and to update citations.

FNCF (EXHIBIT) STUDENT CONDUCT  
ALCOHOL AND DRUG USE

The text of the required notice regarding steroids has been moved to FNCF(LEGAL). This exhibit is recommended for deletion.

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

The list of Penal Code TITLE 5 FELONIES has been updated and moved from FOC(EXHIBIT) to this legally referenced policy.

# Explanatory Notes

## TASB Localized Policy Manual Update 108

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

The list of Penal Code, Title 5, felony offenses in this exhibit has been moved to FOC(LEGAL). This exhibit is recommended for deletion.

G (LEGAL) COMMUNITY AND GOVERNMENTAL RELATIONS

The G Section table of contents has been revised to change the subtitle of GKB to Advertising and Fundraising.

GKB (LOCAL) COMMUNITY RELATIONS  
ADVERTISING AND FUNDRAISING

Based on numerous district requests, Policy Service recommends a revision to this local policy on advertising and fundraising to add an affirmative statement that the district shall not accept paid political advertising. This common district practice allows the district to avoid the appearance of taking sides in election matters.

**Contact the district's policy consultant for a revision to your policy if the district accepts paid political advertising.**

For information on political advertising, campaign communications, and electioneering involving nonschool use of school facilities [policy GKD(LOCAL)], see the First Amendment *Starting Points* available in the Policy Service Resource Library on myTASB (<https://www.tasb.org/Services/Policy-Service/myTASB/Starting-Points/First-Amendment-Resources/Community/Gkd-Facilities.aspx#pitfall4>).

For general information on campaigning and political advocacy, see the TASB School Law eSource (<https://www.tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Governance/Elections.aspx#Campaigns and Candidates>).



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)*

District accreditation is determined in accordance with Education Code Chapter 39, Subchapter C and rules adopted by the commissioner of education at 19 Administrative Code, Chapter 97, Subchapter EE (related to Accreditation Status, Standards, and Sanctions). *Education Code 39.051*

STATUSES

The commissioner shall determine criteria for the following accreditation statuses:

1. Accredited;
2. Accredited-warned;
3. Accredited-probation; and
4. Not accredited-revoked.

*Education Code 39.051; 19 TAC 97.1055(a)(1)*

Each year, the commissioner shall determine the accreditation status of each district. In determining the accreditation status of a district, the commissioner:

1. Shall evaluate and consider performance:
  - a. On achievement indicators under Education Code 39.053 [see PERFORMANCE INDICATORS, below]; and
  - b. Under the financial accountability rating system developed under Education Code, Chapter 39, Subchapter D [see CFA].
2. May evaluate and consider:
  - a. The district's compliance with statutory requirements and requirements imposed by rule of the commissioner or SBOE that relate to:
    - (1) Reporting data through the Public Education Information Management System (PEIMS) or other reports required by state or federal law or court order;
    - (2) High school graduation requirements; or
    - (3) 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;

- b. The effectiveness of the district's programs for special populations; and
- c. The effectiveness of the district's career and technology program.

Based on a district's performance, the commissioner shall assign each district an accreditation status or revoke the accreditation of the district and order closure of the district.

A district's accreditation status may be raised or lowered based on the district's performance or 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 C.

*Education Code 7.056(e)(3)(C)-(I), 39.052; 19 TAC 97.1055*

NOTICE OF STATUS

The commissioner shall notify a 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)*

TO PARENTS AND STUDENTS

A district assigned an accreditation status of accredited-warned, accredited-probation, or not accredited-revoked shall notify the parents of students enrolled in the district and property owners in the district as specified in 19 Administrative Code 97.1055. The district's notice must contain information about the accreditation status, the implications of such status, and the steps the district is taking to address the areas of deficiency identified by the commissioner. The district's notice shall use the format and language determined by the commissioner.

The district's notice must:

1. Not later than 30 calendar days after the accreditation status is assigned, appear on the home page of the district's website, with a link to the required notification, and remain until the district is assigned the accredited status; and
2. Appear in a newspaper of general circulation, as defined in 19 Administrative Code 97.1051 (relating to Definitions), in the district for three consecutive days as follows:
  - a. From Sunday through Tuesday of the second week following assignment of the status; or

- b. If the newspaper is not published from Sunday through Tuesday, then for three consecutive issues of the newspaper beginning the second week following assignment of the status; or
3. Not later than 30 calendar days after the status is assigned, be sent by first class mail addressed individually to each parent of a student enrolled in the district and each property owner in the district; or
4. Not later than 30 calendar days after the status is assigned, be presented as a discussion item in a public meeting of the board of trustees conducted at a time and location that allows parents of students enrolled in the district and property owners in the district to attend and provide public comment.

TO TEA

A district required to act under this subsection shall send the following to TEA via certified mail, return receipt requested:

1. The universal resource locator (URL) for the link to the notification required above; and
2. Copies of the notice in the newspaper showing dates of publication, or a paid invoice showing the notice content and its dates of publication; or
3. Copies of the notice sent by mail and copies of all mailing lists and postage receipts; or
4. Copies of the notice presented at a public meeting and copies of the board of trustees meeting notice and minutes for the board meeting in which the notice was presented and publicly discussed.

*19 TAC 97.1055(f)*

PERFORMANCE  
INDICATORS

The commissioner shall adopt a set of indicators of the quality of learning and achievement.

ACHIEVEMENT

The indicators must measure and evaluate districts and campuses with respect to:

1. Improving student preparedness for success;
2. Reducing achievement gaps; and
3. Parental and community engagement.

FIVE DOMAINS

Districts and campuses must be evaluated based on five domains of indicators of achievement. The five domains include:

1. Student achievement on required assessments;

2. Student improvement on required assessments;
3. Reducing achievement gaps among students from different racial and ethnic groups and socioeconomic backgrounds;
4. Postsecondary readiness including dropout rates, graduation rates, and percentage of students completing the distinguished level of achievement; and
5. Community and student engagement.

Performance on the achievement indicators 1–4, above, shall be compared to state-established standards.

*Education Code 39.053(a), (a-1), (b), (c)*

QUALITY OF  
LEARNING

The commissioner shall also 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 foundation high school program, the distinguished level of achievement under the foundation high school program, and each endorsement described by Education Code 28.025(c-1) [see EIF];
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 take courses under the foundation high school program and take additional courses to earn an endorsement, disaggregated by type of endorsement;
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*

A–F PERFORMANCE  
RATINGS

The commissioner shall adopt rules to evaluate district and campus performance and assign each district and campus an overall performance rating of A, B, C, D, or F.

In addition to the overall performance rating, the commissioner shall assign each district and campus a separate domain performance rating of A, B, C, D, or F for each domain under Education Code 39.053(c)(1)-(4) [see FIVE DOMAINS, above].

An overall or domain performance rating of:

1. A reflects exemplary performance.
2. B reflects recognized performance.
3. C reflects acceptable performance.
4. D or F reflects unacceptable performance.

A district may not receive an overall or domain performance rating of A if the district includes any campus with a corresponding overall or domain performance rating of D or F. A reference in law to an acceptable rating or acceptable performance includes an overall or domain performance rating of A, B, or C or exemplary, recognized, or acceptable performance.

Not later than August 15 of each year, the performance ratings of each district and campus shall be made publicly available as provided by rules adopted by the commissioner. If a district or campus received an overall or domain performance rating of D or F for

the preceding school year, the commissioner shall notify the district of a subsequent designation on or before June 15.

*Education Code 39.054*

DISTINCTION  
DESIGNATIONS FOR  
OUTSTANDING  
PERFORMANCE

The commissioner shall award distinction designations for outstanding performance. A distinction designation awarded to a district or campus shall be referenced directly in connection with the performance rating assigned to the district or campus and made publicly available together with the A–F performance ratings.

A district or campus may not be awarded a distinction designation unless the district or campus has acceptable performance under the A–F performance ratings.

*Education Code 39.201*

ACADEMIC  
DISTINCTION

The commissioner shall establish an academic distinction designation for districts and campuses for outstanding performance in attainment of postsecondary readiness based on the commissioner's adopted criteria. *Education Code 39.202*

CAMPUS  
DISTINCTION

The commissioner may award a campus a distinction designation for outstanding performance in:

1. Improvement in student achievement;
2. Closing student achievement differentials;
3. Academic achievement in English language arts, mathematics, science, or social studies; and
4. Advanced middle or junior high school student achievement.

*Education Code 39.203*

EXCELLENCE  
EXEMPTIONS

Except as listed below, a district or campus that is rated A (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 — TAPR

TEA shall provide to each district a Texas Academic Performance Report (TAPR). The intent of the TAPR is to inform the public about the educational performance of the district and of each campus in the district in relation to the district, the state, and a comparable group of schools. The TAPR will present the campus performance information as well as the student, staff, and financial information required by statute. It will also include any explanations and additional information deemed appropriate to the intent of the report.

The district may not alter the report provided by TEA. However, the district may concurrently provide additional information to the public that supplements or explains information in the TAPR. 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 (DAEP) 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); 19 TAC 61.1022(a)–(b), (e)*

PUBLIC HEARING

A board shall hold a hearing for public discussion of the TAPR within 90 days after the report is received from TEA. The hearing may take place during a regularly scheduled or special meeting of the board.

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.

*Education Code 39.306(c); 19 TAC 61.1022(c)*

ACCOUNTABILITY  
PERFORMANCE REPORTING

AIB  
(LEGAL)

PUBLICATION	<p>The TAPR must be published within two weeks after the public hearing, in the same format as it was received from TEA. The board shall disseminate the report by posting it on the district website and in public places, such as each school office, local businesses, and public libraries. <i>Education Code 39.306(c); 19 TAC 61.1022(d), (f)</i></p>
REPORT USES	<p>The information in the TAPR 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. <i>Education Code 39.307</i></p>
CAMPUS PERFORMANCE REPORT — SRC	<p>Each school year, TEA shall distribute to each district a report card for each campus. The campus report card distributed by TEA shall be termed the “school” report card (SRC). The intent of the SRC is to inform each student’s parents or guardians about the school’s performance and characteristics. The SRC will present the student, staff, financial, and performance information required by statute, as well as any explanations and additional information deemed appropriate to the intent of the report.</p>
DISTRIBUTION	<p>The district must disseminate each SRC within six weeks after the SRC is received from TEA. The school may not alter the report provided by TEA; however, it may concurrently provide additional information to the parents or guardians that supplements or explains information in the SRC.</p> <p>The SRC must be distributed to the parent, guardian, conservator, or other person having lawful control of each student at the campus. On written request, a district shall provide a copy of the SRC to any other party.</p> <p>The campus administration may provide the SRC in the same manner it would normally transmit official communications to parents and guardians, such as including the SRC in a weekly folder sent home with each student, mailing it to the student’s residence, providing it at a teacher-parent conference, enclosing it with the student report card, or sending it via electronic mail.</p> <p><i>Education Code 39.305; 19 TAC 61.1021</i></p>
WEBSITE NOTICES	<p>Not later than the tenth day after the first day of instruction of each school year, a district that maintains an Internet website shall make the following information available:</p> <ol style="list-style-type: none"><li>1. The information in the most recent campus report card for each campus in the district;</li></ol>

ACCOUNTABILITY  
PERFORMANCE REPORTING

AIB  
(LEGAL)

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*

COMMUNITY AND  
STUDENT  
ENGAGEMENT

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

PERFORMANCE  
EVALUATION OF  
DISTRICT AND  
CAMPUSES

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

The district shall assign performance ratings for the community and student engagement indicators and compliance status to the district and all campuses in the district, except for budgeted campuses, DAEP campuses, and juvenile justice alternative education program (JJAEP) campuses. Districts are not required to assign performance ratings for the community and student engagement indicators and compliance status to facilities operated by the Texas Juvenile Justice Department.

Annually, by August 8, the district shall report each rating to TEA. The district shall post the locally determined performance ratings and compliance status for the district and each campus on the district website no later than August 8 of each year. For campuses that operate on a year-round calendar, the district shall post the locally determined performance ratings and compliance status on the district website no later than the last day of August of each year.

*Education Code 39.0545(a); 19 TAC 61.1023(f), (h)*

PROGRAMS OR  
CATEGORIES OF  
PERFORMANCE

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 programs or specific categories:

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.

NOT APPLICABLE A district may assign a rating of Not Applicable to a program or performance category only when the district determines that the program or performance category is not applicable to the district or a campus. A district may not assign a rating of Not Applicable to all of the program or performance categories for the district or a campus.

OVERALL PERFORMANCE RATING A district shall require the local committee(s) to determine the criteria that shall be used to evaluate and assign an overall performance rating of Exemplary, Recognized, Acceptable, or Unacceptable to each campus and the district. A district may not assign a rating of Not Applicable to this indicator for the district or a campus.

*Education Code 39.0545(a), (b)(1), (c)(1); 19 TAC 61.1023(b)–(d)*

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.

A district shall require the local committee(s) to determine the criteria that shall be used to evaluate and assign a status of "Yes" or "No" on the record of the district and each campus regarding compliance with statutory reporting and policy requirements. A district may not assign a rating of *Not Applicable* to this indicator for the district or a campus.

*Education Code 39.0545(a), (b)(2), (c)(2); 19 TAC 61.1023(e)*

COMPONENT OF OVERALL DISTRICT AND CAMPUS RATING Before the beginning of each school year, a district and each campus shall:

1. Select and report to TEA three programs or categories above [at PROGRAMS OR CATEGORIES OF PERFORMANCE] under which it will evaluate its performance;
2. Submit to TEA the criteria it will use to evaluate its performance and assign a performance rating; and

	<p>3. Make the information available on the district's website.</p>
PERFORMANCE RATINGS	<p>Based on the evaluation, a district shall assign the district and each campus shall assign the campus a performance rating of A, B, C, D, or F, for both overall performance and for each program or category evaluated. An overall or a program or category performance rating of:</p> <ol style="list-style-type: none"><li>1. A reflects exemplary performance.</li><li>2. B reflects recognized performance.</li><li>3. C reflects acceptable performance.</li><li>4. D or F reflects unacceptable performance.</li></ol>
REPORTING	<p>On or before the date determined by the commissioner by rule, a district and each campus shall report each performance rating to TEA for the purpose of including the rating in evaluating school district and campus performance and assigning an overall rating under Education Code 39.054.</p> <p><i>Education Code 39.0546</i></p>
STUDENT PERFORMANCE REPORT	<p>Each year, TEA shall report to a 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. <i>Education Code 39.034, .302</i></p>
NOTICE TO PARENTS	<p>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. <i>Education Code 39.303</i></p>
NOTICE TO TEACHERS AND STUDENTS	<p>A district shall prepare a report of the annual improvement information and provide the report at the beginning of the school year to:</p> <ol style="list-style-type: none"><li>1. Each teacher for all students, including incoming students, who took a state assessment; and</li><li>2. All students who were provided instruction by that teacher in the subject for which the assessment instrument was administered.</li></ol>

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*

FEDERAL REPORT  
CARD

A district that receives Title I funding shall prepare and disseminate an annual federal report card that includes information on the district as a whole and each school within the district.

IMPLEMENTATION

The federal report card shall be concise; presented in an understandable and uniform format, and to the extent practicable, in a language that parents can understand; and accessible to the public, which shall include placing the report card on the district's website. If the district does not operate a website, the information in the report card must be provided to the public in another manner determined by the district.

MINIMUM  
REQUIREMENTS

The federal report card shall include the information required in the annual state report card described at 20 U.S.C. 6311(h)(1)(C), as applied to the district and each school served by the district, including:

1. In the case of the district, information that shows how students served by the district achieved on state academic assessments compared to students in the state as a whole;
2. In the case of a school, information that shows how the school's students' achievement on state academic assessments compared to students served by the district and the state as a whole; and
3. Any other information that the district determines is appropriate and will best provide parents, students, and other members of the public with information regarding the progress of each public school served by the district, whether or not such information is included in the annual state report card.

*20 U.S.C. 6311(h)(2)*

ACCOUNTABILITY  
INVESTIGATIONS AND SANCTIONS

AIC  
(LEGAL)

MONITORING  
REVIEWS AND ON-  
SITE INVESTIGATIONS

The commissioner of education may direct TEA to conduct monitoring reviews and random on-site visits of a district at any time, as authorized by Education Code 7.028, only as necessary to ensure:

1. Compliance with federal law and regulations;
2. Financial accountability, including compliance with grant requirements; and
3. Data integrity for purposes of:
  - a. The Public Education Information Management System (PEIMS); and
  - b. Accountability under Education Code Chapter 39.

A monitoring review may include desk reviews and on-site visits, including random on-site visits. In conducting a monitoring review, TEA may obtain information from administrators, other district employees, parents of students enrolled in the district, and other persons as necessary.

The commissioner may at any time convert a monitoring review to a special accreditation investigation under Education Code 39.057, provided the commissioner promptly notifies the district of the conversion. The agency shall give written notice to the superintendent and the board of any impending monitoring review.

TEA shall report in writing to the superintendent and president of the board and shall make recommendations concerning any necessary improvements or sources of aid such as regional education service centers. A district that takes action with regard to the recommendations provided by TEA shall make a reasonable effort to seek assistance from a third party in developing an action plan to improve district performance using improvement techniques that are goal-oriented and research-based.

*Education Code 7.028, 39.056*

SPECIAL  
ACCREDITATION  
INVESTIGATIONS

The commissioner may authorize a special accreditation investigation:

1. When excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;
2. When excessive numbers of allowable exemptions from the required state assessment are determined;
3. In response to complaints to the agency of alleged violations of civil rights or other requirements imposed on the state by federal law or court order;

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(LEGAL)

4. In response to established compliance reviews of the district's financial accounting practices and state and federal reporting requirements;
5. When extraordinary numbers of student placements in disciplinary alternative education programs, other than placements under Education Code 37.006 and 37.007, are determined;
6. In response to an allegation involving a conflict between members of the board or between the board and the district administration if it appears that the conflict involves a violation of a role or duty of the board members or the administration clearly defined by the Education Code. If the agency's findings indicate the board has observed a lawfully adopted policy, the agency may not substitute its judgment for that of the board;
7. When excessive numbers of students in special education programs are assessed through modified assessment instruments;
8. In response to an allegation regarding, or an analysis using a statistical method result indicating, a possible violation of an assessment instrument security procedure;
9. When a significant pattern of decreased academic performance has developed as a result of the promotion in the preceding two school years of students who did not perform satisfactorily on the state assessments;
10. When excessive numbers of students eligible to enroll fail to complete an Algebra II course or any other advanced course as determined by the commissioner;
11. When resource allocation practices indicate a potential for significant improvement in resource allocation;
12. When a disproportionate number of students of a particular demographic group is graduating with a particular endorsement;
13. When an excessive number of students is graduating with a particular endorsement;
14. In response to repeated complaints concerning imposition of excessive paperwork requirements on classroom teachers;
15. In response to a complaint with respect to alleged inaccurate data that is reported through the Public Education Information Management System (PEIMS) or through other reports required by state or federal law or rule or court order and that is used by the agency to make a determination relating to public



school accountability, including accreditation, under Education Code Chapter 39; or

16. As the commissioner otherwise determines necessary.

*Education Code 39.057(a)–(c)*

TEA shall adopt written procedures for conducting special accreditation investigations, including procedures that allow TEA to obtain information from district employees in a manner that prevents a district or campus from screening the information. *Education Code 39.058(a)*

Based on the results of a special accreditation investigation, the commissioner may:

1. Take appropriate action under Education Code, Chapter 39, Subchapter E [see INTERVENTIONS AND SANCTIONS below];
2. Lower the district's accreditation status or a district's or campus's performance rating; or
3. Take action under both items 1 and 2 above.

Regardless of whether the commissioner lowers the accreditation status or a district's or campus's performance rating, the commissioner may impose one of the district- or campus-level interventions or sanctions listed at items 1 through 8 at INTERVENTIONS AND SANCTIONS.

*Education Code 39.057(d), (e)*

INTERVENTIONS AND  
SANCTIONS  
DISTRICT-LEVEL

If a district does not satisfy the accreditation criteria, the academic performance standards, or any financial accountability standard, or if considered appropriate by the commissioner on the basis of a special accreditation investigation under Education Code 39.057, the commissioner shall take any of the following actions to the extent the commissioner determines necessary:

1. Issue public notice of the deficiency to the board;
2. Order the board to conduct a hearing to notify the public of insufficient performance, expected improvements, and potential interventions and sanctions;
3. Order the preparation of a student achievement improvement plan;
4. Order the president of the board and superintendent to appear at a hearing before the commissioner or designee to explain the district's low performance, lack of improvement, and plans for improvement;

ACCOUNTABILITY  
INVESTIGATIONS AND SANCTIONS

AIC  
(LEGAL)

5. Arrange a monitoring review;
6. Appoint a TEA monitor to participate in and report to TEA on the activities of the board and superintendent;
7. Appoint a conservator to oversee district operations. The duties and powers of a conservator are set forth at Education Code 39.111;
8. Appoint a management team to direct the operations of the district in areas of insufficient performance, or require the district to obtain certain services under contract with another person. The duties and powers of a management team are set forth at Education Code 39.111;
9. If the district's status is accredited-warned or accredited-probation, or if the district fails to satisfy any standard under Education Code 39.054(e) (student achievement indicators in relation to state standards and required improvement), appoint a board of managers to exercise the powers and duties of the board. The duties and powers of a board of managers are set forth at Education Code 39.112;
10. If the district has received a status of accredited-warned or accredited-probation for two consecutive school years, including the current school year, has failed to satisfy any standards under Section 39.054(e) (student achievement indicators in relation to state standards and required improvement), or has failed to satisfy financial accountability standards, revoke the district's accreditation and:
  - a. Order closure of the district and annex it to one or more adjoining districts; or
  - b. In the case of a home-rule school district, order closure of all programs operated under the district; or
11. If the district has failed to satisfy any student achievement indicator standard due to the district's dropout rates, impose sanctions designed to improve high school completion rates.

*Education Code 39.102(a)*

If a district has had a conservator or management team assigned for two consecutive school years, the commissioner may appoint a board of managers to exercise the powers and duties of the district's board. The majority of the board of managers must be residents of the district. *Education Code 39.102(b)*

CAMPUS-LEVEL

If a campus's performance is below any standard under Education Code 39.054(e) [see AIA], the campus shall engage in the Texas

Accountability Intervention System (TAIS) continuous improvement process. *19 TAC 97.1061(a)*

If a campus's performance satisfies performance standards under Education Code 39.054(e) [see AIA] for the current school year, but would not satisfy the standards for the following school year, the commissioner may request that the campus-level committee revise and submit the portions of the campus improvement plan that are relevant to those areas for which the campus would not satisfy performance standards. *Education Code 39.105(a)*

If a campus's performance is below any standard under Education Code 39.054(e) [see AIA], the commissioner shall take actions, to the extent the commissioner determines necessary, under Education Code Chapter 39, Subchapter E. If the commissioner determines that a campus subject to interventions or sanctions has implemented substantially similar interventions under federal accountability requirements, the commissioner may accept those measures. *Education Code 39.103(a), (c)*

In addition, the commissioner may:

1. Order the president of the board, superintendent, and the campus principal to appear at a hearing before the commissioner or designee to explain the campus's low performance, lack of improvement, and plans for improvement; or
2. Establish a school community partnership team composed of members of the campus-level planning and decision-making committee and additional community representatives as determined appropriate by the commissioner.

*Education Code 39.103(b)*

CAMPUS  
INTERVENTION  
TEAM

The commissioner shall assign a campus intervention team (CIT) to a campus whose performance is below any standard. [See Education Code 39.113 and 19 Administrative Code 97.1063 for composition of the CIT.] *Education Code 39.106*

The CIT shall perform the duties outlined in Education Code 39.106 and 39.107, and oversee the activities outlined in 19 Administrative Code 97.1061(a) (relating to Interventions and Sanctions for Campuses) and 19 Administrative Code 97.1064 (relating to Campus Turnaround Plan) in collaboration with the campus leadership team (CLT) as outlined in 19 Administrative Code 97.1061(a) and 97.1064. CIT members and the campus principal shall attend TEA-sponsored trainings on interventions and sanctions. *19 TAC 97.1063*

The CIT shall:

ACCOUNTABILITY  
INVESTIGATIONS AND SANCTIONS

AIC  
(LEGAL)

1. Conduct an on-site needs assessment, as set forth at Education Code 39.106(a)(1) and (b);
2. Recommend appropriate actions relating to any area of insufficient performance, as set forth at Education Code 39.106(c);
3. Assist in the development of a targeted improvement plan, and in the execution of the plan as set forth at Education Code 39.106(d-3);
4. Conduct a public meeting at the campus, as set forth at Education Code 39.106(a)(4) and (a-1);
5. Assist the campus in submitting the targeted improvement plan to the board and the commissioner for approval, and presenting the plan in a public hearing as provided by Education Code 39.106(e-1); and
6. Assist the commissioner in monitoring the campus's progress in implementing the targeted improvement plan.

*Education Code 39.106*

The CIT shall also:

1. Conduct a data analysis related to areas of low performance;
2. Conduct a needs assessment based on the results of the data analysis;
3. Assist in the creation of a targeted improvement plan, as follows:
  - a. Input must be gathered from the principal; campus-level committee established under Education Code 11.251; parents; and community members, prior to the development of the targeted improvement plan, using the following steps.
    - (1) The campus must hold a public meeting at the campus. The campus shall take reasonable steps to conduct the meeting at a time and in a manner that would allow a majority of stakeholders to attend and participate. The campus may hold more than one meeting if necessary.
    - (2) The public must be notified of the meeting 15 days prior to the meeting by way of the district and campus website, local newspapers or other media that reach the general public, and the parent liaison, if present on the campus.
    - (3) All input provided by family and community members should be considered in the development of

the final targeted improvement plan submitted to TEA.

- b. The completed targeted improvement plan must be presented at a public hearing and approved by the board.
  - c. The targeted improvement plan must be submitted to the commissioner for approval according to TEA procedures and guidance; and
4. Assist the commissioner in monitoring the implementation of the targeted improvement plan. The campus will submit updates to TEA as requested.

*19 TAC 97.1061(d)*

After a targeted improvement plan or updated plan is submitted to the board, the board shall:

1. Conduct a hearing for the purpose of notifying the public of insufficient performance, expected improvements, and possible intervention measures and sanctions, and soliciting public comment on the plan. The board may conduct one hearing for one or more campuses.
2. Post the plan on the district's Internet website before the hearing; and
3. Submit the plan to the commissioner for approval.

*Education Code 39.106(d), (e-1)*

CAMPUS  
TURNAROUND  
PLAN—  
UNACCEPTABLE  
FOR TWO YEARS

After a campus has been identified as unacceptable for two consecutive school years, the commissioner shall order the campus to prepare and submit a turnaround plan.

A CIT shall assist the campus in:

1. Developing an updated targeted improvement plan, including a campus turnaround plan. An updated targeted improvement plan must include all plans and details that are required to execute the campus turnaround plan without any additional action or approval by the board of trustees;
2. Submitting the plan to the board for approval and presenting the plan in a public hearing;
3. Obtaining approval of the plan from the commissioner; and
4. Executing the plan.

*Education Code 39.107(a), (a-1), (b-3); 19 TAC 97.1061(e), .1064(a)*

ACCOUNTABILITY  
INVESTIGATIONS AND SANCTIONS

AIC  
(LEGAL)

NOTICE AND  
OPPORTUNITY  
TO REVIEW

Within 60 days of receiving a campus's preliminary accountability rating, the district, in consultation with the CIT, shall provide notice to parents, community members, and stakeholders that the campus received an academically unacceptable performance rating for two consecutive years and request assistance in developing a campus turnaround plan. The district shall request assistance from parents, the community, and stakeholders in developing the campus turnaround plan.

The district shall notify stakeholders of their ability to review the completed plan on the district website at least 30 days before the final plan is submitted to the board. All input provided by family, community members, and stakeholders must be considered in the development of the final campus turnaround plan submitted to TEA. *Education Code 39.107(a-2); 19 TAC 97.1064(d)*

The district, in consultation with the CIT, shall prepare the campus turnaround plan and provide the following groups an opportunity to review and comment on the completed plan before it is submitted for approval to the board:

1. The campus-level committee established under Education Code 11.251. If the campus is not required to have a campus-level committee, the district shall provide an opportunity for professional staff at the campus to review and comment on the campus turnaround plan;
2. Teachers at the campus;
3. Parents; and
4. Community members.

A district may request that a regional education service center provide assistance in the development and implementation of a campus turnaround plan or partner with an institution of higher education to develop and implement a campus turnaround plan. *Education Code 39.107(b), (b-2); 19 TAC 97.1064(c), (e)*

Upon approval of the board, the district must submit the campus turnaround plan electronically to TEA by March 1 unless otherwise specified. *19 TAC 97.1064(g)*

CONTENTS OF  
PLAN

A campus turnaround plan must include:

1. A detailed description of the academic programs to be offered at the campus, including instructional methods, length of school day and school year, academic credit and promotion criteria, and programs to serve special student populations;
2. The term of the charter, if a district charter is to be granted for the campus under Education Code 12.0522 [see EL];

3. Written comments from the campus-level committee [see BQB], if applicable, parents, and teachers at the campus; and
4. A detailed description of the budget, staffing, and financial resources required to implement the plan, including any supplemental resources to be provided by the district or other identified sources.

The plan must include details on the method for restructuring, reforming, or reconstituting the campus. If the district determines that granting a district charter under Education Code 12.0522 is appropriate for the campus, the campus turnaround plan must provide information on the implementation of the district charter. The plan must assist the campus in implementing procedures to satisfy all performance standards required under Education Code 39.054(e).

*Education Code 39.107(b), (b-1); 19 TAC 97.1064(f)*

A campus turnaround plan must take effect not later than the school year following the third consecutive school year that the campus has received an academically unacceptable performance rating. *Education Code 39.107(b-4)*

IMPLEMENTATION

Following approval of a campus turnaround plan by the commissioner, the district, in consultation with the CIT, may take any actions needed to prepare for the implementation of the plan.

If a campus is assigned an unacceptable rating under Education Code 39.054(e), for a third or fourth consecutive year, the campus must implement the commissioner-approved campus turnaround plan as described in 19 Administrative Code 97.1064 (relating to Campus Turnaround Plan).

If a campus for which a campus turnaround plan has been ordered receives an academically acceptable performance rating for the school year following the order, the board may implement the campus turnaround plan, implement a modified version of the campus turnaround plan, or withdraw the campus turnaround plan.

A district required to implement a campus turnaround plan may modify the plan if the campus receives an academically acceptable performance rating for two consecutive school years following the implementation of the plan.

ACCOUNTABILITY  
INVESTIGATIONS AND SANCTIONS

AIC  
(LEGAL)

The campus shall implement the updated targeted improvement plan. The commissioner may appoint a monitor, conservator, management team, or board of managers to ensure and oversee district-level support to low-performing campuses and the implementation of the updated targeted plan.

*Education Code 39.107(b-5)–(b-7), (c); 19 TAC 97.1061(f), .1064(h)*

COMMISSIONER  
APPROVAL

The commissioner may approve a campus turnaround plan only if the commissioner determines that the campus will satisfy all student performance standards required under Education Code 39.054(e) not later than the second year the campus receives a performance rating following the implementation of the campus turnaround plan. If the commissioner does not make this determination, the commissioner shall order:

1. Appointment of a board of managers to govern the district as provided at Education Code 39.112(b);
2. Alternative management of the campus; or
3. Closure of the campus.

*Education Code 39.107(d)*

UNACCEPTABLE  
FOR THREE  
ADDITIONAL YEARS

If the campus is considered to have an unacceptable performance rating for three consecutive school years after the campus is ordered to submit a campus turnaround plan, the commissioner shall order appointment of a board of managers for the district or closure of the campus. *Education Code 39.107(e); 19 TAC 97.1061(g)*

CLOSURE

If the commissioner orders the closure of a campus, that campus may be repurposed to serve students at that campus location only if the commissioner finds that the repurposed campus offers a distinctly different academic program and serves a majority of grade levels at the repurposed campus not served at the original campus, and approves a new campus identification number for the campus. The majority of students assigned to a campus that has been closed and repurposed may not have attended that campus in the previous school year. Any student assigned to a campus that has been closed must be allowed to transfer to any other campus in the district that serves that student's grade level and on request must be provided transportation to the other campus. The commissioner may grant an exemption allowing students assigned to a closed campus to attend the repurposed campus if there is no other campus in the district at which the students may enroll. *Education Code 39.107(e-1); 19 TAC 97.1066*



ACCOUNTABILITY  
INVESTIGATIONS AND SANCTIONS

AIC  
(LEGAL)

BOARD OF  
MANAGERS

A board of managers appointed by the commissioner is required to take appropriate actions to resolve the conditions that caused a campus to be subject to a turnaround order, including amending the district's budget, reassigning staff, or relocating academic programs.

The commissioner may remove a board of managers only if the campus receives an academically acceptable performance rating for two consecutive school years. If the campus receives an academically unacceptable performance rating for two additional consecutive years following the appointment of the board of managers, the commissioner may remove the board of managers and, in consultation with the local community, may appoint a new board of managers to govern the district.

*Education Code 39.107(e-4), (f)*

The board of managers must, if possible, include community leaders, business representatives who have expertise in leadership, and individuals who have knowledge or expertise in the field of education. The commissioner must provide each individual appointed to a board of managers with training in effective leadership strategies.

A board of managers shall, during the period of the appointment, order the election of members of the board of trustees of the district in accordance with applicable provisions of law and 19 Administrative Code 97.1073. Except as provided by this subsection, the members of the board of trustees do not assume any powers or duties after the election until the appointment of the board of managers expires. An individual elected to the board of trustees at an election ordered under this subsection assumes and may exercise all powers and duties of that office at the first official board meeting where the replacement of the member of the board of managers with the elected board of trustee member occurs and after satisfying all legal and procedural prerequisites to take office.

Any member of the board of trustees elected during the appointment of the board of managers who has not yet assumed the powers and duties of a member of the board of trustees will not be considered for purposes of constitution of a quorum.

Not later than the second anniversary of the date the board of managers of a district was appointed, the commissioner shall notify the board of managers and the board of trustees of the date on which the appointment of the board of managers will expire. Following each of the last three years of the period of the appointment, one-third of the members of the board of managers shall be replaced by the number of members of the school district board of

trustees who were elected at an election ordered under this subsection that constitutes, as closely as possible, one-third of the membership of the board of trustees. On the expiration of the appointment of the board of managers, the board of trustees assumes all of the powers and duties assigned to a board of trustees by law, rule, or regulation.

Following the expiration of the period of appointment of a board of managers for a district, the commissioner shall provide training in effective leadership strategies to the board of trustees.

*Education Code 39.112(d-1)–(d-2), (e), (g); 19 TAC 97.1073*

If, before the second anniversary of the date the board of managers of a district was appointed, the commissioner determines, after receiving local feedback, that insufficient progress has been made toward improving the academic or financial performance of the district, the commissioner may extend the authority of the board of managers for a period of up to two additional years. *Education Code 39.112(f)*

PARENT  
REQUEST

The commissioner shall order the specific action (appointment of board of managers or closure) requested by the parents of a majority of students enrolled at the campus, if the commissioner is presented, in the time and manner specified by commissioner rule, a written petition signed by the parents. The signature of only one parent per student is required.

If the board of the district in which the campus is located presents a written request that the commissioner order a specific action (appointment of board of managers or closure) other than the action requested in the parents' petition and a written explanation of the basis for the board's request, the commissioner may order the action requested by the board. The board's request must be presented to the commissioner in the time and manner specified by commissioner rule.

*Education Code 39.107(e-2)–(e-3)*

ALTERNATIVE  
MANAGEMENT

Following the removal of a board of managers under Education Code 39.107(f), or at the request of a managing entity appointed under Education Code 39.107(d) to oversee the implementation of alternative management, the commissioner may appoint a conservator or monitor for the district to ensure district-level support for low-performing campuses and to oversee the implementation of the updated targeted improvement plan. *Education Code 39.107(g)*

The district shall execute a contract with a managing entity for a term not to exceed five years. The commissioner may require a

district to extend the term of the contract if the commissioner determines that extending the contract on expiration of the initial term is in the best interest of the students attending the campus. The terms of the contract must be approved by the commissioner. If a campus receives an academically unacceptable performance rating for two consecutive school years after the managing entity assumes management of the campus, the commissioner shall cancel the contract with the managing entity. *Education Code 39.107(g-1)*

Subject to Education Code 39.107(e), at the end of the contract term with a managing entity or the cancellation of a contract with a managing entity under Education Code 39.107(g-1), the board of trustees shall resume management of the campus. *Education Code 39.107(g-2)*

TRANSITIONAL  
INTERVENTIONS  
AND SANCTIONS

For a campus that received an academically unacceptable performance rating for the 2013–14, 2014–15, and 2015–16 school years, the commissioner may apply the interventions and sanctions authorized by Education Code Chapter 39 as that chapter existed on January 1, 2015. If the campus receives an academically unacceptable performance rating for the 2016–17 and 2017–18 school years, the commissioner shall apply the interventions and sanctions authorized by Education Code 39.107(e).

For a campus that received an academically acceptable performance rating for the 2013–14 school year and an academically unacceptable performance rating for the 2014–15 and 2015–16 school years, the commissioner shall apply the interventions and sanctions authorized by Education Code 39.107(a). If the campus receives an academically unacceptable performance rating for the 2016–17, 2017–18, and 2018–19 school years, the commissioner shall apply the interventions and sanctions authorized by Education Code 39.107(e).

*Education Code 39.1071*

If the commissioner determines that the basis for the unsatisfactory performance of a campus for more than two consecutive school years is limited to a specific condition that may be remedied with targeted technical assistance, the commissioner may require the district to contract for the appropriate technical assistance. *Education Code 39.107(i)*

NO NAME CHANGE

In reconstituting, repurposing, or imposing any other intervention or sanction on a campus, the commissioner may not require that the name of a campus be changed. *Education Code 39.115*

PROFESSIONAL  
SERVICES

In addition to the other authorized interventions and sanctions, the commissioner may order a district or campus to acquire profes-

ACCOUNTABILITY  
INVESTIGATIONS AND SANCTIONS

AIC  
(LEGAL)

sional services at the expense of the district or campus to address the applicable financial, assessment, data quality, program, performance, or governance deficiency. The commissioner's order may require the district or campus to:

1. Select or be assigned an external auditor, data quality expert, professional authorized to monitor district assessment instrument administration, or curriculum or program expert; or
2. Provide for or participate in the appropriate training of district staff or board members, in the case of a district, or campus staff in the case of a campus.

*Education Code 39.109*

COSTS OF  
INTERVENTIONS AND  
SANCTIONS

The costs of providing a monitor, conservator, management team, CIT, technical assistance team, managing entity, or service provider shall be paid by the district.

If the district fails or refuses to pay the costs in a timely manner, the commissioner may pay the costs using amounts withheld from any funds to which the district is otherwise entitled, or recover the costs in the manner provided for recovery of an overallocation of state funds under Education Code 42.258.

*Education Code 39.110*

APPEALS

The commissioner shall provide a process for a district to challenge an academic or financial accountability rating. A district may not challenge an academic or financial accountability rating in another proceeding if the district had an opportunity to challenge the decision under the process provided by the commissioner. *Education Code 39.151*

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**Note:** The following provisions apply to a district with a central administrative office that is located in a county with a population of more than two million and that has a student enrollment that is more than 125,000 and less than 200,000, and that is operating under a turnaround plan.

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STUDENT BOARD  
MEMBER

Notwithstanding Education Code 11.051(b) (regarding number of trustees on a school board), the board may adopt a resolution establishing as a nonvoting member a student trustee position. If a board adopts such a resolution, the board shall adopt a policy addressing the topics specified in statute. *Education Code 11.0511*

BOARD MEMBERS  
COMPENSATION AND EXPENSES

BBG  
(LEGAL)

Board members serve without compensation. *Education Code 11.061(d)*

MEMBERS' EXPENSES Local funds and state funds not designated for a specific purpose may be used for purposes necessary in the conduct of the public schools determined by the board. Reimbursement of travel expenses for school board members is not illegal if the reimbursement is determined to be necessary in the conduct of the school and to serve a proper public purpose. *Education Code 45.105(c); Atty. Gen. Op. H-133 (1973)*

NONMEMBERS' EXPENSES A board may not pay the travel expenses of spouses and other persons who have no responsibilities or duties to perform for the board when they accompany board members to board-related activities. *Atty. Gen. Op. MW-93 (1979)*

TRAVEL SERVICES An officer of a school district who is engaged in official business may participate in the comptroller's contract for travel services. *Gov't Code 2171.055(f); 34 TAC 20.406(b)(2)(F)*

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**Note:** For guidance regarding board member expense reimbursement and income tax issues, see the *TEA Financial Accountability System Resource Guide*, Section 1.9.2.2 Employee/Board Member Travel and Business Expenses.

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UNITED STATES  
CONSTITUTION

A 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*

A board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. 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, 176 (1976); *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568 (1968)

A board may create a limited public forum for the purpose of hearing comments from the public so long as:

1. The board does not discriminate against speech on the basis of viewpoint;
2. Any restrictions are reasonable in light of the purpose served by the forum; and
3. The board provides alternative paths for expressing categories of protected speech that are excluded from the forum.

*Fairchild v. Liberty Indep. Sch. Dist.*, 597 F.3d 747 (5th Cir. 2010)

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*

PUBLIC COMMENT

As long as the requirements of the Open Meetings Act are satisfied and the right of citizens to apply to a board for redress of their grievances is not abridged, the board need not provide a public forum for every citizen wishing to express an opinion on a matter. Reasonable restraints on the number, length, and frequency of presentations are permissible. A board may limit the number of persons it will hear on a particular subject and the frequency with which they may appear, so long as the regulation does not abridge constitutionally guaranteed rights of freedom of speech and to petition, nor unfairly discriminate among views seeking expression. *Atty. Gen. Op. H-188 (1973)*

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. Cr.  
App. 1991)*



SUPERINTENDENT  
NONRENEWAL

BJCF  
(LEGAL)

A board may choose to not renew the employment of a superintendent employed under a term contract, effective at the end of the contract period. *Education Code 21.212(a)*

REASONS

A board shall adopt policies that establish reasons for nonrenewal. *Education Code 21.212(d)*

NOTICE

If a majority of the board determines that the superintendent's contract should be considered for nonrenewal, the board shall give the superintendent written notice, containing reasonable notice of the reason for the proposed nonrenewal, not later than the 30th day before the last day of the contract term. *Education Code 21.212(a)*

If the board fails to give notice of proposed nonrenewal within the time specified above, the board shall employ the superintendent in the same professional capacity for the following school year. *Education Code 21.212(b)*

HEARING

If the superintendent desires a hearing after receiving notice of the proposed nonrenewal, the superintendent shall notify the board in writing not later than the 15th day after receiving the notice. The board shall provide for a hearing to be held not later than the 15th day after the date the board receives the request for a hearing unless the parties agree in writing to a different date. The hearing must be closed unless the superintendent requests an open hearing. The hearing must be conducted in accordance with rules adopted by the board. The board may use the process described at DFD(LEGAL) pertaining to hearings before a hearing examiner. At the hearing, the superintendent may:

1. Be represented by a representative of the superintendent's choice;
2. Hear the evidence supporting the reason for nonrenewal;
3. Cross-examine adverse witnesses; and
4. Present evidence.

*Education Code 21.207*

BOARD DECISION  
HEARING

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., Comm. Ed. Dec. No. 112-R1-598 (1998)*

If the superintendent requests a hearing, following the hearing the board shall take the appropriate action to renew or nonrenew the contract and notify the superintendent in writing of that action not later than the 15th day following the conclusion of the hearing. *Education Code 21.208(b)*

Coppell ISD  
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SUPERINTENDENT  
NONRENEWAL

BJCF  
(LEGAL)

NO HEARING

If the superintendent does not request a hearing, the board shall take the appropriate action and notify the superintendent in writing of that action not later than the 30th day after the date the board sends the notice of proposed nonrenewal. *Education Code 21.212(c)*

PLANNING AND DECISION-MAKING PROCESS

BQ  
(LEGAL)

PLANNING AND  
DECISION-MAKING  
PROCESS

A board shall adopt a policy to establish a district- and campus-level planning and decision-making process that will involve the professional staff of a district, parents of students enrolled in a district, business representatives, and community members in establishing and reviewing the district's and campuses' educational plans, goals, performance objectives, and major classroom instructional programs. *Education Code 11.251(b)*

The planning and decision-making requirements do not:

1. Prohibit a board from conducting meetings with teachers or groups of teachers other than the district-level committee meetings.
2. Prohibit a board from establishing policies providing avenues for input from others, including students or paraprofessional staff, in district- or campus-level planning and decision making.
3. Limit or affect the power of a board to govern the public schools.
4. Create a new cause of action or require collective bargaining.

*Education Code 11.251(g), .252(e), .253(f)*

EVALUATION

At least every two years, a district shall evaluate the effectiveness of the district's decision-making and planning policies, procedures, and staff development activities related to district- and campus-level decision making and planning to ensure that they are effectively structured to positively impact student performance. *Education Code 11.252(d)*

ADMINISTRATIVE  
PROCEDURE

A board shall ensure that an administrative procedure is provided to clearly define the respective roles and responsibilities of the superintendent, central office staff, principals, teachers, district-level committee members, and campus-level committee members in the areas of planning, budgeting, curriculum, staffing patterns, staff development, and school organization.

A board shall ensure that the district-level planning and decision-making committee will be actively involved in establishing the administrative procedure that defines the respective roles and responsibilities pertaining to planning and decision making at the district and campus levels.

*Education Code 11.251(d)*

FEDERAL  
REQUIREMENTS

The district policy must provide that all pertinent federal planning requirements are addressed through the district- and campus-level planning process. *Education Code 11.251(f)*

PLANNING AND DECISION-MAKING PROCESS

BQ  
(LEGAL)

REQUIRED PLANS

A board shall ensure that a district improvement plan and improvement plans for each campus are developed, reviewed, and revised annually for the purpose of improving the performance of all students. A board shall annually approve district and campus performance objectives and shall ensure that the district and campus plans:

1. Are mutually supportive to accomplish the identified objectives; and
2. At a minimum, support the state goals and objectives under Education Code Chapter 4.

*Education Code 11.251(a)*

SHARED SERVICES  
ARRANGEMENT  
FOR DAEP  
SERVICES

A district participating in a shared services arrangement for disciplinary alternative education program (DAEP) services shall ensure that the district improvement plan and each campus-level plan include the performance of the DAEP student group for the district. The identified objectives for the improvement plans shall include:

1. Student groups served, including overrepresentation of students from economically disadvantaged families, with ethnic and racial representations, and with a disability who receive special education and limited English proficiency services;
2. Attendance rates;
3. Pre- and post-assessment results;
4. Dropout rates;
5. Graduation rates; and
6. Recidivism rates.

*19 TAC 103.1201(b)*

DISTRICT  
IMPROVEMENT  
PLAN

A district shall have a district improvement plan that is developed, evaluated, and revised annually, in accordance with district policy, by the superintendent with the assistance of the district-level committee. The purpose of the district improvement plan is to guide district and campus staff in the improvement of student performance for all student groups in order to attain state standards in respect to the achievement indicators. *Education Code 11.252(a)* [See AIA]

The district improvement plan must include provisions for:

1. A comprehensive needs assessment addressing performance on the achievement indicators, and other appropriate measures of performance, that are disaggregated by all stu-

- dent groups served by a district, including categories of ethnicity, socioeconomic status, sex, and populations served by special programs, including students in special education programs under Education Code Chapter 29, Subchapter A.
2. Measurable district performance objectives for all appropriate achievement indicators for all student populations, including students in special education programs under Education Code Chapter 29, Subchapter A, and other measures of student performance that may be identified through the comprehensive needs assessment.
  3. Strategies for improvement of student performance that include:
    - a. Instructional methods for addressing the needs of student groups not achieving their full potential.
    - b. Methods for addressing the needs of students for special programs, including:
      - (1) Suicide prevention programs, in accordance with Health and Safety Code Chapter 161, Subchapter O-1, which includes a parental or guardian notification procedure [see FFB];
      - (2) Conflict resolution programs;
      - (3) Violence prevention programs; and
      - (4) Dyslexia treatment programs.
    - c. Dropout reduction.
    - d. Integration of technology in instructional and administrative programs.
    - e. Discipline management.
    - f. Staff development for professional staff of a district.
    - g. Career education to assist students in developing the knowledge, skills, and competencies necessary for a broad range of career opportunities.
    - h. Accelerated education.
  4. Strategies for providing to middle school, junior high school, and high school students, those students' teachers and school counselors, and those students' parents information about:

PLANNING AND DECISION-MAKING PROCESS

BQ  
(LEGAL)

- a. Higher education admissions and financial aid opportunities.
  - b. The TEXAS grant program and the Teach for Texas grant program.
  - c. The need for students to make informed curriculum choices to be prepared for success beyond high school.
  - d. Sources of information on higher education admissions and financial aid.
5. Resources needed to implement identified strategies.
  6. Staff responsible for ensuring the accomplishment of each strategy.
  7. Timelines for ongoing monitoring of the implementation of each improvement strategy.
  8. Formative evaluation criteria for determining periodically whether strategies are resulting in intended improvement of student performance.

*Education Code 11.252(a)*

9. A discipline management program providing for prevention of and education concerning unwanted physical or verbal aggression, sexual harassment, and other forms of bullying in schools, on school grounds, and in school vehicles. *Education Code 37.083(a)*
10. A dating violence policy that must:
  - a. Include a definition of dating violence that includes the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person in a dating relationship, as defined by Family Code 71.0021; and
  - b. Address safety planning, enforcement of protective orders, school-based alternatives to protective orders, training for teachers and administrators, counseling for affected students, and awareness education for students and parents.

*Education Code 37.0831 [See FFH]*

11. A policy addressing sexual abuse and other maltreatment of children that must include:

- a. Methods for increasing staff, student, and parent awareness of issues regarding sexual abuse and other maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim of sexual abuse or other maltreatment, using resources developed by TEA. These methods must include the staff training described at Education Code 38.0041(c) [see DMA];
- b. Actions that a child who is a victim of sexual abuse or other maltreatment should take to obtain assistance and intervention; and
- c. Available counseling options for students affected by sexual abuse or other maltreatment.

The policy must be included in any informational handbook provided to students and parents.

*Education Code 38.0041*

A district's plan for the improvement of student performance is not filed with TEA, but the district must make the plan available to TEA on request. *Education Code 11.252(b)*

CAMPUS-LEVEL  
PLAN

Each school year, the principal of each school campus, with the assistance of the campus-level committee, shall develop, review, and revise the campus improvement plan for the purpose of improving student performance for all student populations, including students in special education programs under Education Code Chapter 29, Subchapter A, with respect to the student achievement indicators and any other appropriate performance measures for special needs populations. *Education Code 11.253(c)*

Each campus improvement plan must:

1. Assess the academic achievement for each student in the school using the achievement indicator system.
2. Set the campus performance objectives based on the achievement indicator system, including objectives for special needs populations, including students in special education programs under Education Code Chapter 29, Subchapter A.
3. Identify how the campus goals will be met for each student.
4. Determine the resources needed to implement the plan.
5. Identify staff needed to implement the plan.
6. Set time lines for reaching the goals.

PLANNING AND DECISION-MAKING PROCESS

BQ  
(LEGAL)

7. Measure progress toward the performance objectives periodically to ensure that the plan is resulting in academic improvement.
8. Provide for a program to encourage parental involvement at the campus.
9. Include goals and methods for violence prevention and intervention on campus.
10. If the campus is an elementary, middle, or junior high school, set goals and objectives for the coordinated health program at the campus based on:
  - a. Student fitness assessment data, including any data from research-based assessments such as the school health index assessment and planning tool created by the federal Centers for Disease Control and Prevention;
  - b. Student academic performance data;
  - c. Student attendance rates;
  - d. The percentage of students who are educationally disadvantaged;
  - e. The use and success of any method to ensure that students participate in moderate to vigorous physical activity; and
  - f. Any other indicator recommended by the local school health advisory council.

*Education Code 11.253(d)*



PLANNING AND DECISION-MAKING PROCESS  
DISTRICT-LEVEL

BQA  
(LEGAL)

COMMITTEE

A district's policy and procedures shall establish a district level planning and decision-making committee as provided by Education Code 11.251(b)–(e).

The committee shall include representative professional staff, parents of students enrolled in the district, business representatives, and community members. *Education Code 11.251(b)*

PROFESSIONAL  
STAFF

A board shall adopt a procedure, consistent with Education Code 21.407(a) [see DGA], for the professional staff to nominate and elect the professional staff representatives who shall serve on the district-level committee. If practicable, the committee shall include at least one professional staff representative with the primary responsibility for educating students with disabilities.

At least two-thirds of the elected professional staff representatives must be classroom teachers. The remaining staff representatives shall include both campus- and district-level professional staff members.

*Education Code 11.251(e)*

PARENTS

Board policy shall provide procedures for the selection of parents to the district-level committee.

For purposes of establishing the composition of the committee:

1. A person who stands in parental relation to a student is considered a parent.
2. A parent who is an employee of a district is not considered a parent representative on the committee.
3. A parent is not considered a representative of community members on the committee.

*Education Code 11.251(c), (e)*

BUSINESS  
REPRESENTATIVES  
AND COMMUNITY  
MEMBERS

Board policy must provide procedures for the selection of community members and business representatives to serve on the district-level committee in a manner that provides for appropriate representation of the community's diversity.

The committee shall include a business representative without regard to whether the representative resides in the district or whether the business the person represents is located in the district.

Community members must reside in the district and must be at least 18 years of age.

*Education Code 11.251(b), (c), (e)*

PLANNING AND DECISION-MAKING PROCESS  
DISTRICT-LEVEL

BQA  
(LEGAL)

MEETINGS	A board shall establish a procedure under which the district-level committee holds regular meetings. The board or designee shall periodically meet with the district-level committee to review the committee's deliberations. <i>Education Code 11.251(b)</i>
PUBLIC MEETINGS	The district-level committee shall hold at least one public meeting per year. The required meeting shall be held after receipt of the annual district performance report from TEA for the purpose of discussing the performance of a district and the district performance objectives. <i>Education Code 11.252(e)</i>
COMMUNICATIONS	District policy and procedures must be established to ensure that systematic communications measures are in place to periodically obtain broad-based community, parent, and staff input and to provide information to those persons regarding the recommendations of the district-level committee. <i>Education Code 11.252(e)</i>
CONSULTATION	A superintendent shall regularly consult the district-level committee in the planning, operation, supervision, and evaluation of the district educational program. <i>Education Code 11.252(f)</i>
RESPONSIBILITIES DISTRICT PLAN	<p>The district-level committee shall assist the superintendent with the annual development, evaluation, and revision of the district improvement plan. <i>Education Code 11.252(a)</i> [See DISTRICT IMPROVEMENT PLAN at BQ(LEGAL)]</p> <p>Each school district shall use the results from the teaching and learning conditions survey required by Education Code 7.065(a), conducted biennially, to review and revise, as appropriate, the district-level improvement plan, and for other purposes, as appropriate to enhance the district learning environment. <i>Education Code 7.065(e)</i></p>
DROPOUT PREVENTION REVIEW	<p>A district-level committee of a district with a junior high, middle, or high school campus shall analyze information related to dropout prevention, including:</p> <ol style="list-style-type: none"><li>1. The results of the audit of dropout records;</li><li>2. Campus information related to graduation rates, dropout rates, high school equivalency certificate rates, and the percentage of students who remain in high school more than four years after entering grade 9;</li><li>3. The number of students who enter a high school equivalency certificate program and:<ol style="list-style-type: none"><li>a. Do not complete the program,</li><li>b. Complete the program but do not take the high school equivalency examination, or</li></ol></li></ol>

PLANNING AND DECISION-MAKING PROCESS  
DISTRICT-LEVEL

BQA  
(LEGAL)

- c. Complete the program and take the high school equivalency examination but do not obtain a high school equivalency certificate;
4. For students enrolled in grades 9 and 10, information related to academic credit hours earned, retention rates, and placements in disciplinary alternative education programs and expulsions under Chapter 37; and
5. The results of an evaluation of each school-based dropout prevention program in a district.

Each district-level committee shall use the information in developing the district improvement plan.

*Education Code 11.255*

STAFF  
DEVELOPMENT

For staff development under Education Code 21.451(a), a district may use district-wide staff development developed and approved through the district-level decision process. *Education Code 21.451(c)* [See DMA]

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**Note:** See BF for information on the committee's role in requesting waivers.

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PLANNING AND DECISION-MAKING PROCESS  
CAMPUS-LEVEL

BQB  
(LEGAL)

A district shall maintain policies and procedures to ensure that effective planning and site-based decision making occur at each campus to direct and support the improvement of student performance for all students. *Education Code 11.253(a)*

COMMITTEES

A district's policy and procedures shall establish campus-level planning and decision-making committees as provided by Education Code 11.251(b)–(e).

The committees shall include representative professional staff, parents of students enrolled in a district, business representatives, and community members.

*Education Code 11.251(b), .253(b)*

PROFESSIONAL  
STAFF

A board shall adopt a procedure, consistent with Education Code 21.407(a) [see DGA], for the professional staff to nominate and elect the professional staff representatives who shall serve on the campus-level committees. If practicable, a committee shall include at least one professional staff representative with the primary responsibility for educating students with disabilities.

At least two-thirds of the elected professional staff representatives must be classroom teachers. The remaining staff representatives shall include both campus- and district-level professional staff members.

*Education Code 11.251(e)*

PARENTS

Board policy shall provide procedures for the selection of parents to the campus-level committees.

For purposes of establishing the composition of committees:

1. A person who stands in parental relation to a student is considered a parent.
2. A parent who is an employee of a district is not considered a parent representative on the committee.
3. A parent is not considered a representative of community members on the committee.

*Education Code 11.251(c), (e)*

BUSINESS  
REPRESENTATIVES  
AND COMMUNITY  
MEMBERS

Board policy must provide procedures for the selection of community members and business representatives to serve on the committee in a manner that provides for appropriate representation of the community's diversity.

PLANNING AND DECISION-MAKING PROCESS  
CAMPUS-LEVEL

BQB  
(LEGAL)

A committee shall include a business representative without regard to whether the representative resides in the district or whether the business the person represents is located in the district.

Community members must reside in the district and must be at least 18 years of age.

*Education Code 11.251(b), (c), (e)*

MEETINGS

A board shall establish a procedure under which campus-level committees hold regular meetings. *Education Code 11.251(b)*

PUBLIC MEETING

Each campus-level committee shall hold at least one public meeting per year. The required meeting shall be held after receipt of the annual campus rating from TEA to discuss the performance of the campus and the campus performance objectives. *Education Code 11.253(g)*

COMMUNICATIONS

District policy and campus procedures must be established to ensure that systematic communications measures are in place to periodically obtain broad-based community, parent, and staff input, and to provide information to those persons regarding the recommendations of the campus-level committees. *Education Code 11.253(g)*

CONSULTATION

A principal shall regularly consult the campus-level committee in the planning, operation, supervision, and evaluation of the campus educational program. *Education Code 11.253(h)*

RESPONSIBILITIES

In accordance with the administrative procedures established under Education Code 11.251(b) [see BQ], the campus-level committee shall be involved in decisions in the areas of planning, budgeting, curriculum, staffing patterns, staff development, and school organization. *Education Code 11.251(d)*

CAMPUS  
IMPROVEMENT  
PLAN

Each school year, the campus-level committee shall assist the campus principal with the development, review, and revision of the campus improvement plan. *Education Code 11.253(c)* [See CAMPUS-LEVEL PLAN at BQ(LEGAL)]

Each school district shall use the results from the teaching and learning conditions survey required by Education Code 7.065(a), conducted biennially, to review and revise, as appropriate, the campus-level improvement plans, and for other purposes, as appropriate to enhance the campus learning environment. *Education Code 7.065(e)*

STAFF  
DEVELOPMENT

The campus-level committee must approve the portions of the campus plan addressing campus staff development needs. *Education Code 11.253(e)*

DROPOUT  
PREVENTION  
REVIEW

The staff development described by Education Code 21.451(a) must be predominantly campus-based, related to achieving campus performance objectives established under Education Code 11.253, and developed and approved by the campus-level committee. *Education Code 21.451(b)* [See DMA]

A campus-level committee for a junior, middle, or high school campus shall analyze information related to dropout prevention, including:

1. The results of the audit of dropout records;
2. Campus information related to graduation rates, dropout rates, high school equivalency certificate rates, and the percentage of students who remain in high school more than four years after entering grade 9;
3. The number of students who enter a high school equivalency certificate program and:
  - a. Do not complete the program;
  - b. Complete the program but do not take the high school equivalency examination; or
  - c. Complete the program and take the high school equivalency examination but do not obtain a high school equivalency certificate;
4. For students enrolled in grades 9 and 10, information related to academic credit hours earned, retention rates, and placements in disciplinary alternative education programs and expulsions under Chapter 37; and
5. The results of an evaluation of each school-based dropout prevention program in the district.

A campus-level committee shall use the information in developing the campus improvement plan.

*Education Code 11.255*

PRINCIPAL  
PERFORMANCE  
INCENTIVES

A performance incentive awarded to a principal shall be distributed to the principal's school. The campus-level committee shall determine the manner in which the performance incentive shall be distributed and used, in accordance with Education Code 39.264(a). *Education Code 21.357(c)*

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**Note:** See BF for information on the committee's role in requesting waivers.

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PURCHASING AND ACQUISITION

CH  
(LEGAL)

BOARD AUTHORITY	A board may adopt rules and procedures for the acquisition of goods and services. <i>Education Code 44.031(d)</i>
DELEGATION OF AUTHORITY	<p>A board may delegate its authority regarding an action authorized or required to be taken by a district by Education Code Chapter 44, Subchapter B, to a designated person, representative, or committee.</p> <p>A 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 a 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 a district:</p> <ol style="list-style-type: none"><li>1. Competitive bidding for services other than construction services.</li><li>2. Competitive sealed proposals for services other than construction services.</li><li>3. A request for proposals for services other than construction services.</li><li>4. An interlocal contract.</li><li>5. The reverse auction procedure as defined by Government Code 2155.062(d).</li><li>6. The formation of a political subdivision corporation under Local Government Code 304.001.</li></ol> <p><i>Education Code 44.031(a)</i></p>

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**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.

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FACTORS

In awarding a contract, a 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)*

The factors listed above are the only criteria that may be considered by a district in its decision to award a contract. R.G.V. Vend-

*ing v. Weslaco Indep. Sch. Dist., 995 S.W.2d 897 (Tex. App.—  
Corpus Christi 1999, no pet.).*

OUT-OF-STATE  
BIDDERS

A 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. A district shall rely on information published by the comptroller in evaluating the bids of a nonresident bidder. *Gov't Code 2252.003-.004*

DISCLOSURE OF  
INTERESTED PARTIES

A district may not enter into a contract that requires an action or vote of the board before the contract may be signed, or has a value of at least \$1 million, with a business entity unless the business entity submits a disclosure of interested parties to the district at the time the business entity submits the signed contract to the district. *Gov't Code 2252.908*

A contract does not require an action or vote by the board if the board has legal authority to delegate to its staff the authority to execute the contract, the board has delegated this authority, and the board does not participate in the selection of the business entity with which the contract is entered into. *1 TAC 46.1(c)*

REQUIRED FORM

The disclosure of interested parties must be submitted on a form prescribed by the Texas Ethics Commission (TEC) that includes a list of each interested party for the contract of which the contracting business entity is aware; and the signature of the authorized agent of the contracting business entity, acknowledging that the disclosure is made under oath and under penalty of perjury. *Gov't Code 2252.908(e); 1 TAC 46.5(a)*

The certification of filing and the completed disclosure of interested parties form generated by TEC's electronic filing application must be printed, signed by an authorized agent of the contracting business entity, and submitted to the district that is the party to the contract for which the form is being filed. *1 TAC 46.5(b)*

DEADLINE

A district that receives a completed disclosure of interested parties form and certification of filing shall notify TEC, in an electronic format prescribed by TEC, of the receipt of those documents not later

than the 30th day after the date the board receives the disclosure.  
*1 TAC 46.5(c); Gov't Code 2252.908(f)*

CONTRACT  
CHANGES

The disclosure requirements do not apply to a change made to an existing contract, including an amendment, change order, or extension of a contract except as set out below.

The disclosure requirements apply to a change made to an existing contract, including an amendment, change order, or extension of a contract if:

1. A disclosure of interested parties form was not filed for the existing contract; and either the changed contract requires an action or vote by the board or the value of the changed contract is at least \$1 million; or
2. The business entity submitted a disclosure of interested parties form to the district that is a party to the existing contract; and either there is a change to the disclosure; or the changed contract requires an action or vote by the board; or the value of the changed contract is at least \$1 million greater than the value of the existing contract.

*1 TAC 46.4*

DEFINITIONS

“Contract” means a contract between a board and a business entity at the time it is voted on by the board or at the time it binds the board, whichever is earlier, and includes an amended, extended, or renewed contract. *1 TAC 46.3(a)*

“Business entity” means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation. The term includes an entity through which business is conducted with a district, regardless of whether the entity is a for-profit or nonprofit entity, and does not include a governmental entity or state agency. *Gov't Code 2252.908(a)(1); 1 TAC 46.3(b)*

“Interested party” means a person who has a controlling interest in a business entity with whom a district contracts or who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity. *Gov't Code 2252.908(a)(3); 1 TAC 46.3(d), (e)*

“Controlling interest” means:

1. An ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds ten percent;

2. Membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than ten members; or
3. Service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers. This subsection does not apply to an officer of a publicly held business entity or its wholly owned subsidiaries.

*1 TAC 46.3(c)*

“Signed” includes any symbol executed or adopted by a person with present intention to authenticate a writing, including an electronic signature. *1 TAC 46.3(f)*

“Value” of a contract is based on the amount of consideration received or to be received by a business entity from a board under the contract. *1 TAC 46.3(g)*

[See BBFA for additional conflict of interest disclosures.]

CONTRACT WITH  
PERSON INDEBTED  
TO DISTRICT

A board may, by resolution, establish regulations permitting a school district to refuse to enter into a contract or other transaction with a person indebted to the school district. A 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 a 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 a 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 a 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)*

PURCHASING AND ACQUISITION

CH  
(LEGAL)

ELECTRONIC BIDS OR  
PROPOSALS

A 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.

A 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 a 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 a 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)*

PURCHASING AND ACQUISITION

CH  
(LEGAL)

COMPUTERS	A district may acquire computers and computer-related equipment, including computer software, through the Department of Information Resources (DIR) under contracts with the DIR in accordance with Government Code Chapter 2054 or 2157. <i>Education Code 44.031(i)</i>
AUTOMATED INFORMATION SYSTEM	A 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 controller to obtain the best value for the state, including a request for offers method. A district that purchases an item using a method listed above satisfies any state law requiring the district to seek competitive bids for the purchase of the item. <i>Gov't Code 2157.006; 34 TAC 20.391</i>
AUTOMATED EXTERNAL DEFIBRILLATORS	A school that purchases or leases an automated external defibrillator, as defined by Health and Safety Code 779.001, shall ensure that the defibrillator meets standards established by the federal Food and Drug Administration. <i>Education Code 44.047</i>
SOLE SOURCE	<p>Compliance with Education Code 44.031 is not required for purchases that are available from only one source, including:</p> <ol style="list-style-type: none"><li>1. An item for which competition is precluded because of a patent, copyright, secret process, or monopoly.</li><li>2. A film, manuscript, or book.</li><li>3. A utility service, including electricity, gas, or water.</li><li>4. A captive replacement part or component for equipment.</li></ol> <p>The sole source exception shall not apply to mainframe data processing equipment and peripheral attachments with a single-item purchase price in excess of \$15,000.</p> <p><i>Education Code 44.031(j)–(k)</i></p>
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. <i>Education Code 44.031; Atty. Gen. Op. DM-347 (1995)</i>
MULTIYEAR CONTRACTS	A 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 a 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. <i>Atty. Gen. Op. DM-418 (1996)</i>

PURCHASING AND ACQUISITION

CH  
(LEGAL)

COMPETITIVE  
BIDDING

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

A 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 a board at a public meeting or by an officer or employee of a 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*

A 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, a 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 a 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 a district, that bidder shall be selected. If two or more such bidders are residents of a district, one shall be selected by the casting of



lots. In all other cases, one of the identical bids shall be selected by the casting of lots.

A 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), a school 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, a 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 a 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)*

A 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)*

A 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 a district by the comptroller shall include:

PURCHASING AND ACQUISITION

CH  
(LEGAL)

1. The extension of state contract prices to a district when the comptroller considers it feasible.
2. Solicitation of bids on items desired by a district if the solicitation is considered feasible by the comptroller and is desired by the district.
3. Provision of information and technical assistance to a district about the purchasing program.

The comptroller may charge a district its actual costs in providing purchasing services.

*Local Gov't Code 271.082*

DISTRICT  
REQUIREMENTS

A 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.

A district may purchase goods or services directly from a vendor under a contract listed on a schedule. An authorized purchase satisfies any requirement of state law relating to competitive bids or proposals and satisfies any applicable requirements of Government Code 2157.

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

*Gov't Code 2155, Subch. I*

COOPERATIVE  
PURCHASING  
PROGRAM

A district may participate in a cooperative purchasing program with another local government of this state or another state or with a local cooperative organization of this state or another state. If a 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 a 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 school 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 of education may audit the written report.

*Education Code 44.0331*

PURCHASING AND ACQUISITION

CH  
(LEGAL)

STATE COUNCIL ON  
COMPETITIVE  
GOVERNMENT

As approved by the State Council on Competitive Government, a 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)*

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 a 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 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

A 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.

A board shall establish a long-range energy plan to reduce a 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

A district shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. A 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.

A 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, a 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

PURCHASING AND ACQUISITION

CH  
(LEGAL)

in cost and quality to other agricultural products, a 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.

A 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, a 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, a 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

A 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*

PURCHASING AND ACQUISITION

CH  
(LEGAL)

CRIMINAL HISTORY	For provisions pertaining to criminal history record information on contractors, see CJA(LEGAL).
IMPERMISSIBLE PRACTICES	<p>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.</p> <p>“Component purchases” means purchases of the component parts of an item that in normal purchasing practices would be made in one purchase. “Separate purchases” means purchases, made separately, of items that in normal purchasing practices would be made in one purchase. “Sequential purchases” means purchases, over a period, of items that in normal purchasing practices would be made in one purchase.</p> <p>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]</p> <p><i>Education Code 44.032</i></p>
INJUNCTION	<p>A court may enjoin performance of a contract made in violation of Education Code Chapter 44, Subchapter B. A county attorney, district attorney, criminal district attorney, citizen of the county in which a district is located, or any interested party may bring an action for an injunction. A party who prevails in an action brought under this subsection is entitled to reasonable attorney’s fees as approved by the court. <i>Education Code 44.032(f)</i></p>



CONTRACTED SERVICES  
CRIMINAL HISTORY

CJA  
(LEGAL)

NOTIFICATION OF  
CRIMINAL HISTORY

A person or business entity that enters into a contract with a district must give notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. A district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give such notice or misrepresented the conduct resulting in the conviction. A district must compensate the person or business entity for services performed before the termination of the contract. *Education Code 44.034*

CRIMINAL HISTORY  
RECORD  
INFORMATION REVIEW  
CONTRACTOR  
RESPONSIBILITIES  
EMPLOYED  
BEFORE  
JANUARY 1, 2008

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

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

*Education Code 22.0834(g)*

EMPLOYMENT  
OFFERED ON OR  
AFTER  
JANUARY 1, 2008

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

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

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

An entity contracting with a school district and any subcontractor of the entity shall obtain all criminal history record information that relates to a person described above through the criminal history clearinghouse as provided by Government Code 411.0845.

A contracting entity shall require that a subcontracting entity obtain all criminal history record information that relates to a person described above.

*Education Code 22.0834(a), (b), (d), (l)*

CONTRACTED SERVICES  
CRIMINAL HISTORY

CJA  
(LEGAL)

CERTIFICATION TO  
DISTRICT

The entity and any subcontractor of the entity shall certify to the school district that it received all of the criminal history record information required above. The entity and any subcontractor of the entity shall also certify that it will take reasonable steps to ensure that the conditions or precautions that have resulted in a determination that any person is not a covered contract employee continue to exist throughout the time that the contracted services are provided. *Education Code 22.0834(d), (l); 22 TAC 153.1117(c)(5)*

A subcontracting entity must certify to the district and the contracting entity that the subcontracting entity has obtained all criminal history record information that relates to an employee described above at EMPLOYMENT OFFERED ON OR AFTER JANUARY 1, 2008, and has obtained similar written certifications from the subcontracting entity's subcontractors. *Education Code 22.0834(n)*

A contracting entity and any subcontractor of the entity shall provide a school district, at its request, the information necessary for the school district to obtain criminal history record information for all covered contract employees. *22 TAC 153.1117(c)(4)*

A contracting entity complies with the requirements of this section if the contracting entity obtains a written statement from each subcontracting entity certifying that the subcontracting entity has obtained the required criminal history record information for employees of the subcontracting entity and the subcontracting entity has obtained certification from each of the subcontracting entity's subcontractors. *Education Code 22.0834(m)*

DISQUALIFYING  
CONVICTION

A contracting or subcontracting entity may not permit a person described above at EMPLOYMENT OFFERED ON OR AFTER JANUARY 1, 2008, to provide services at a school if the employee has been convicted of a felony or misdemeanor offense that would prevent a person from being employed under Education Code 22.085(a). *Education Code 22.0834(o)*

A service contractor shall not permit a covered contract employee to provide services at a district if the employee has a disqualifying conviction under Education Code 22.085. *22 TAC 153.1117(c)(6)*

DISTRICT  
RESPONSIBILITIES

A district may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person described above at EMPLOYED BEFORE JANUARY 1, 2008. *Education Code 22.0834(h)*

A district may obtain the criminal history record information of a person described above at EMPLOYMENT OFFERED ON OR AFTER JANUARY 1, 2008, through the criminal history clearinghouse

CONTRACTED SERVICES  
CRIMINAL HISTORY

CJA  
(LEGAL)

as provided by Government Code 411.0845. *Education Code 22.0834(e)*

CERTIFICATION FROM CONTRACTOR	A district shall ensure that each of its service contractors certify that the service contractor has obtained all required criminal history record information for covered contract employees. <i>22 TAC 153.1117(b)(1)</i>
DISQUALIFYING CONVICTION	A district may not allow a covered contract employee to serve at the district if the district obtains information through a criminal history record information review that the covered contract employee has a disqualifying conviction under Education Code 22.085. The district may adopt a stricter standard. <i>22 TAC 153.1117(b)(3)</i>
SBEC NOTIFICATION	Pursuant to 19 Administrative Code 249.14(d)(1), if a district obtains information that a covered contract employee who holds a certificate issued by the State Board for Educator Certification (SBEC) has a reported criminal history, the superintendent or the superintendent's designee shall notify SBEC of that criminal history within seven calendar days of the date that information is obtained. <i>19 TAC 153.1117(b)(4)</i> [See DHB(LEGAL)]
EMERGENCY EXCEPTION TO CRIMINAL HISTORY CHECK	In the event of an emergency, a district may allow a covered contract employee to enter district property, without the required criminal history record information review, if the person is accompanied by a district employee. A district may adopt rules regarding an emergency situation. <i>Education Code 22.0834(f); 19 TAC 153.1117(b)(2)</i>
DEFINITIONS "CONTRACTING ENTITY"	A "contracting entity" is an entity that contracts directly with a district to provide services to the district. <i>Education Code 22.0834(p)(1)</i>
"SUBCONTRACTING ENTITY"	A "subcontracting entity" is an entity that contracts with another entity that is not a district to provide services to a school district, open-enrollment charter school, or shared services arrangement. <i>Education Code 22.0834(p)(2)</i>
"SERVICE CONTRACTOR"	A "service contractor" is an entity, including a government entity and an individual independent contractor, that contracts or agrees with a district by written agreement or verbal understanding to provide services through individuals who receive compensation. However, when conducting an investigation or intervention regarding an alleged crime or act of child abuse on a school campus, a law enforcement agency or the Department of Family and Protective Services is not a contracting entity, and the investigator or intervener is not a covered contract employee. <i>19 TAC 153.1101(10)</i>

CONTRACTED SERVICES  
CRIMINAL HISTORY

CJA  
(LEGAL)

“CONTINUING  
DUTIES RELATED  
TO CONTRACTED  
SERVICES”

“Continuing duties related to contracted services” are work duties that are performed pursuant to a contract to provide services to a district on a regular, repeated basis rather than infrequently or one-time only. *19 TAC 153.1101(2)*

“COVERED  
CONTRACT  
EMPLOYEE”

A “covered contract employee” is an individual who:

1. Is employed or offered employment by a service contractor or a subcontractor of a service contractor, is an individual independent contractor of the district, or is an individual subcontractor of a service contractor;
2. Has or will have continuing duties related to the contracted services;
3. Has or will have direct contact with students; and
4. Is not a student of (or enrolled in) the district for which the services are performed.

*19 TAC 153.1101(3)*

“DIRECT  
CONTACT WITH  
STUDENTS”

“Direct contact with students” is the contact that results from activities that provide substantial opportunity for verbal or physical interaction with students that is not supervised by a certified educator or other professional district employee. Contact with students that results from services that do not provide substantial opportunity for unsupervised interaction with a student or students, such as addressing an assembly, officiating a sports contest, or judging an extracurricular event, is not, by itself, direct contact with students. However, direct contact with students does result from any activity that provides substantial opportunity for unsupervised contact with students, which might include, without limitation, the provision of coaching, tutoring, or other services to students. *19 TAC 153.1101(7)*

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**Note:** See DBAA for definitions and provisions regarding confidentiality, consumer credit reports, records retention, and criminal history record checks of employees.

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CONTRACTORS  
PROVIDING  
TRANSPORTATION  
SERVICES

Except as provided below at COMMERCIAL TRANSPORTATION COMPANY, a district that contracts with a person for transportation services shall obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person employed by the person as a bus driver or a person the person intends to employ as a bus driver. A person who contracts with a district to provide transportation services shall submit to the district the name and other identification data required to obtain the criminal history record information of such persons. If a district obtains

CONTRACTED SERVICES  
CRIMINAL HISTORY

CJA  
(LEGAL)

information that such a person has been convicted of a felony or a misdemeanor involving moral turpitude, the district shall inform the chief personnel officer of the person with whom the district has contracted, and the person may not employ that person to drive a bus on which students are transported without the permission of the board. *Education Code 22.084(a)–(b)*

COMMERCIAL  
TRANSPORTATION  
COMPANY

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



FOOD SERVICES MANAGEMENT  
FREE AND REDUCED-PRICE FOOD PROGRAM

COB  
(LEGAL)

SCHOOL MEALS  
PROGRAM

If at least ten percent of the students enrolled in one or more schools in a district are eligible for free or reduced-price breakfasts under the national school breakfast program provided for by the Child Nutrition Act of 1966 (42 U.S.C. 1773), the board shall either:

1. Participate in the national program and extend its benefits to all eligible students in the school or schools; or
2. Develop and implement a locally funded program to provide free meals, including breakfast and lunch, to each student eligible for free meals under federal law and reduced-price meals, including breakfast and lunch, to each student eligible for reduced-price meals under federal law, provided that the reduced price may not exceed the maximum allowable rate under federal law.

The district is permitted to participate in the national program at one or more campuses in the district and provide a locally funded program at one or more other campuses in the district.

A campus participating in the national school breakfast program or providing a locally funded program in which 80 percent or more of the students qualify under the national program for a free or reduced-price breakfast shall offer a free breakfast to each student.

WAIVER

The commissioner of education shall grant a waiver of the free breakfast requirement, not to exceed one year, to a campus if the board votes to request the waiver at the board's annual meeting to discuss and adopt the budget and the proposed tax rate under Education Code 44.044. Before voting to request a waiver, the board shall list the waiver as a separate item for consideration on the meeting's agenda and provide an opportunity for public comment regarding the waiver at the meeting.

*Education Code 33.901*

SUMMER NUTRITION  
PROGRAM

Unless the Texas Department of Agriculture (TDA) grants a district a waiver, a district in which 50 percent or more of the students are eligible to participate in the national free or reduced-price lunch program under 42 U.S.C. Chapter 13 shall provide or arrange for the provision of a summer nutrition program for at least 30 days during the period in which district schools are recessed for the summer. *Agriculture Code 12.0029(b)*

"Summer nutrition program" means the Summer Food Service Program under 42 U.S.C. 1761. The term includes the seamless summer option under 42 U.S.C. 1761(a)(8). *Agriculture Code 12.0029(a)(2)*

FOOD SERVICES MANAGEMENT  
FREE AND REDUCED-PRICE FOOD PROGRAM

COB  
(LEGAL)

- NOTICE FROM TDA Not later than October 31 of each year, TDA shall notify each qualifying district of the district's responsibility concerning provision of a summer nutrition program during the next period in which school is recessed for the summer. *Agriculture Code 12.0029(c)*
- NOTICE TO TDA Each district that receives a notice from TDA shall, not later than January 31 of the year following the year in which the notice was received, inform TDA in writing that the district intends to provide or arrange for the provision of a summer nutrition program during the next period in which district schools are recessed for the summer; or request in writing that TDA grant the district a waiver of the requirement. *Agriculture Code 12.0029(e)*
- REQUIRED DOCUMENTATION A district that arranges for the provision of a summer nutrition program must enter into an agreement to partner or collaborate with a local governmental entity, educational institution, or private non-profit organization to ensure meal service for children in the district's attendance area and must provide TDA with written documentation of the arrangement no later than April 1 of each year. *4 TAC 25.601(b)*.
- WAIVER Not later than November 30 of each year, the board of a district that intends to request a waiver must send written notice of the district's intention to the district's local school health advisory council. The notice must include an explanation of the district's reason for requesting a waiver of the requirement. *Agriculture Code 12.0029(d)*
- The district shall, not later than January 31 of the year following the year in which the notice was received, request in writing that TDA grant the district a waiver of the requirement to provide or arrange for the provision of a summer nutrition program. *Agriculture Code 12.0029(e)*
- TDA may grant a district a one-year waiver of the requirement to provide or arrange for the provision of a summer nutrition program only if:
1. The district has worked with the TDA field offices to identify another possible provider for the program in the district, and the district provides documentation, verified by TDA, showing that:
    - a. There are fewer than 100 children in the district currently eligible for the national free or reduced-price lunch program;
    - b. Transportation to enable district students to participate in the program is an insurmountable obstacle to the district's ability to provide or arrange for the provision of the



FOOD SERVICES MANAGEMENT  
FREE AND REDUCED-PRICE FOOD PROGRAM

COB  
(LEGAL)

program despite consultation by the district with public transit providers;

- c. The district is unable to provide or arrange for the provision of a program due to renovation or construction of district facilities and the unavailability of an appropriate alternate provider or site; or
  - d. The district is unable to provide or arrange for the provision of a program due to another specified extenuating circumstance and the unavailability of an appropriate alternate provider or site; or
2. The cost to the district to provide or arrange for provision of a program would be cost-prohibitive, as determined by TDA using the criteria and methodology established by TDA rule.

*Agriculture Code 12.0029(f); 4 TAC 25.601(d), (e).*

ALTERNATE  
PROVIDER

If a district has requested a waiver and has been unable to provide to TDA a list of possible providers for the summer nutrition program, the TDA field offices shall continue to attempt to identify an alternate provider for the district's summer nutrition program. *Agriculture Code 12.0029(i)*



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**Note:** The following is an index of website posting requirements that are addressed in the legal reference material of the policy manual. The list is not all-inclusive. The list does not address postings that are required in response to a specific incident or postings required under special circumstances.

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REQUIRED INTERNET  
POSTINGS

The following posting requirements apply to a district that maintains an Internet website:

1. A board may not vote on adoption of a proposed local innovation plan unless the final version of the proposed plan has been available on the district website for at least 30 days, and an adopted plan must be clearly posted for the term of the designation as an innovation district, under Education Code 12A.005(a)(1) and 19 Administrative Code 102.1305(3) and 102.1307(a)(1). [See AF]
2. Not later than 30 days after an accreditation status of accredited-warned, accredited-probation, or not accredited-revoked is assigned, a district must post notice on the home page of its website with a link to the required notification under 19 Administrative Code 97.1055(f), and maintain this until the district is assigned the accredited status. [See AIA]
3. A district shall make available on its website three programs or categories selected under Education Code 39.0545(b)(1) under which the district will evaluate district performance and the criteria the district will use to evaluate performance and assign the district a performance rating in community and student engagement, under Education Code 39.0546(a)(1)(C). [See AIB]
4. A campus shall make available on its website three programs or categories selected under Education Code 39.0545(b)(1) under which the campus will evaluate campus performance and the criteria the campus will use to evaluate performance and assign the campus a performance rating in community and student engagement, under Education Code 39.0546(a)(2)(C). [See AIB]
5. A board shall disseminate its Texas Academic Performance Report (TAPR) by posting it on the district website under 19 Administrative Code 61.1022(f). [See AIB]
6. Not later than the tenth day after the first day of instruction of each school year, a district shall make available each campus report card, the district's performance report, the district's ac-

- creditation status and performance rating, and a definition and explanation of each accreditation status, under Education Code 39.362. [See AIB]
7. Not later than August 8 of each year, a district shall post the locally determined performance ratings and compliance status for the district and each campus under 19 Administrative Code 61.1023(h). [See AIB]
  8. A district shall post its annual federal report card under 20 U.S.C. 6311(h)(2). [See AIB]
  9. A district shall post a targeted improvement plan for a campus assigned an unacceptable performance rating on its website before the board hearing on the plan under Education Code 39.106(e-1). [See AIC]
  10. A district shall notify stakeholders of their ability to review the completed campus turnaround plan on the district website at least 30 days before the final plan is submitted to the board of trustees, under 19 Administrative Code 97.1064(d)(1). [See AIC]
  11. A district shall post an election notice required under Election Code 85.007. [See BBB]
  12. A district that is located wholly or partly in a municipality with a population of more than 500,000 and with a student enrollment of more than 15,000 shall post a report filed pursuant to Election Code Chapter 254 by a board member, a candidate for membership on the board, or a specific-purpose committee for supporting, opposing, or assisting a candidate or member of a board under Election Code 254.04011. [See BBBA]
  13. A district shall provide access to the conflicts disclosure statements and questionnaires under Local Government Code 176.009. [See BBFA, CHE]
  14. A district shall post the statements regarding activities to support student health under Education Code 28.004. [See BDF]
  15. A board must post notice of a board meeting and, if the district contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more, the board must also post the agenda for a board meeting under Government Code 551.056. [See BE]

TECHNOLOGY RESOURCES  
DISTRICT, CAMPUS, AND CLASSROOM WEBSITES

CQA  
(LEGAL)

16. A district that has a student enrollment of 10,000 or more shall post the archived recording, or a link thereto, of its meetings under Government Code 551.128(b-1). [See BE]
17. A district issuing capital appreciation bonds shall post the information required by Government Code 1201.0245. [See CCA]
18. A district shall include on the home page of its website the prescribed statement if the district increases the amount of taxes to fund maintenance and operation expenditures under Tax Code 26.05(b). [See CCG]
19. A district shall post a summary of its proposed budget concurrently with publication of the proposed budget under Education Code 44.0041. [See CE]
20. A district shall maintain its adopted budget on the district's website until the third anniversary of the date the budget was adopted, under Education Code 44.0051. [See CE]
21. A district shall continuously post its annual financial report under Local Government Code 140.008 on its website until the district posts the next annual report, or, as an alternative, the district may post a link to the comptroller's website where the district's financial information may be viewed. [See CFA]
22. A district shall continuously post on its website the contact information for the district's main office, including the physical address, the mailing address, the main telephone number, and an e-mail address, under Local Government Code 140.008(f)(2). [See CFA]
23. A district shall report its energy usage information on a publicly accessible Internet website with an interface designed for ease of navigation, if available, under Government Code 2265.001. [See CL]
24. A district that does not participate in the uniform group health insurance program (TRS ActiveCare) shall post its comparability report, together with the policy or contract for the group health coverage plan, under Education Code 22.004(d). [See CRD]
25. A district shall post the board's employment policies under Education Code 21.204(d). [See DCB]
26. A district shall post the transition and employment guide for students enrolled in special education programs and their parents in order to provide information on statewide services

and programs that assist in the transition to life outside the public school system, under Education Code 29.0112.

27. A district shall publish information from TEA under Education Code 28.02121 explaining the advantages of the distinguished level of achievement and each endorsement. [See EIF]
28. A district shall post the date the PSAT/NMSQT will be administered and the date any college advanced placement tests will be administered, under Education Code 29.916. [See EK]
29. A district that receives funds under Title 1, Part A shall post on its website and the website of each campus for each grade served, information on each assessment required by the state to comply with 20 U.S.C. 6311, other assessments required by the state, and assessments required district-wide, under 20 U.S.C. 6312(e)(2)(B). [See EKB]
30. A district shall post information regarding local programs and services, including charitable programs and services, available to assist homeless students, under Education Code 33.906. [See FDC]
31. A district shall prominently post information about required and recommended immunizations and procedures for claiming an exemption from immunization requirements under Education Code 38.019. [See FFAB]
32. To the extent practicable, a district must post the procedure for reporting bullying established by the district's bullying policy, under Education Code 37.0832(e). [See FFI]

OPTIONAL INTERNET  
POSTINGS

A district that maintains an Internet website may post the following:

1. A campus intervention team may give the required notice of the public meeting for input prior to the development of a targeted improvement plan fifteen days prior to the meeting by way of the district and campus website, under 19 Administrative Code 97.1061(d)(3)(A)(ii). [See AIB]
2. A board may broadcast an open meeting over the Internet, under Government Code 551.128. [See BE]
3. A district may publish the superintendent's employment contract on the district's website instead of publishing it in the annual financial management report under 19 Administrative Code 109.1001(o). [See CFA]
4. Notice of a vacant position for which a certificate or license is required may be provided by posting the position on the dis-

trict's Internet website, rather than on a bulletin board, under Education Code 11.1513. [See DC]

5. A district may place on its Internet website a current copy of the procedural safeguards notice regarding special education and related services, under 34 C.F.R. 300.504(b). [See EHBAE]
6. A district may provide the annual notice to the parent of each student enrolled in grade 9 or above of the availability of programs under which a student may earn college credit, under Education Code 28.010. [See EHDD]

"GEOSPATIAL DATA  
PRODUCTS"

"Geospatial data product" means a document, computer file, or Internet website that contains geospatial data; a map; or information about a service involving geospatial data or a map. *Gov't Code 2051.101(1)*

NOTICE

A district shall include a notice on each geospatial data product that:

1. Is created or hosted by the district;
2. Appears to represent property boundaries; and
3. Was not produced using information from an on-the-ground survey conducted by or under the supervision of a registered professional land surveyor or land surveyor authorized to perform surveys under laws in effect when the survey was conducted.

The notice must be in substantially the following form: "This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries."

The notice may include language further defining the limits of liability of a geospatial data product producer; apply to a geospatial data product that contains more than one map; or for a notice that applies to a geospatial data product that is or is on an Internet website, be included on a separate page that requires the person accessing the website to agree to the terms of the notice before accessing the geospatial data product.

*Gov't Code 2051.102*

EXEMPTION

A district is not required to include the notice on a geospatial data product that:

1. Does not contain a legal description, a property boundary monument, or the distance and direction of a property line;
2. Is prepared only for use as evidence in a legal proceeding;
3. Is filed with the clerk of any court; or
4. Is filed with the county clerk.

*Gov't Code 2051.103*



EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

DBA  
(LEGAL)

NOTICE TO PARENTS  
TEACHER  
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.), a 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 student's teacher:
  - a. Has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction;
  - b. Is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived; and
  - c. Is teaching in the field of discipline of the certification of the teacher.
2. Whether the child is provided services by paraprofessionals and, if so, their qualifications.

*20 U.S.C. 6312(e)(1)(A)*

FEDERALLY  
REQUIRED NOTICE  
WHEN TEACHER  
LACKS  
CREDENTIALS

A school that receives such federal funds shall also provide to each individual parent of a child who is a student in such school, with respect to such student, timely notice that the student has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable state certification or licensure requirements at the grade level and subject area in which the teacher has been assigned. *20 U.S.C. 6312(e)(1)(B)(ii)*

STATE-REQUIRED  
NOTICE WHEN  
TEACHER LACKS  
CREDENTIALS

If a district assigns an inappropriately certified or uncertified teacher (as defined below) to the same classroom for more than 30 consecutive instructional days during the same school year, it shall provide written notice of the assignment to the parents or guardians of each student in that classroom.

A superintendent shall provide the notice not later than the 30th instructional day after the date of the assignment of the inappropriately certified or uncertified teacher. A district shall make a good-faith effort to ensure that the notice is provided in a bilingual form to any parent or guardian whose primary language is not English. A district shall retain a copy of the notice and make information relating to teacher certification available to the public on request.

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An “inappropriately certified or uncertified teacher” includes an individual serving on an emergency certificate or an individual who does not hold any certificate or permit. It does not include an individual who is:

1. Certified and assigned to teach a class or classes outside his or her area of certification, as determined by State Board for Educator Certification (SBEC) rules specifying the certificate required for an assignment;
2. Serving on a certificate issued due to a hearing impairment;
3. Serving on a certificate issued pursuant to enrollment in an approved alternative certification program;
4. Certified by another state or country and serving on a certificate issued under Education Code 21.052;
5. Serving on a school district teaching permit; or
6. Employed under a waiver granted by the commissioner of education.

*Education Code 21.057; 19 TAC 231.1*

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 a 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 a district before the person’s contract with a board is binding.

A person employed by a 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.

A person is not required to hold a certificate under Education Code 21.0487 to be employed by a district as a Junior Reserve Officer Training Corps instructor.

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 21.003(a), .0487(d), .053(a)–(b)*

LICENSE

A person may not be employed by a district as an audiologist, occupational therapist, physical therapist, physician, nurse, school 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

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
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agency that licenses that profession. A person may perform specific services within those professions for a district only if the person holds the appropriate credentials from the appropriate state agency.

A person employed by a 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

A 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. To be eligible for a school district teaching permit, a person must hold a baccalaureate degree. *Education Code 21.055(a)–(b)*

STATEMENT TO  
COMMISSIONER

Promptly after employing a person under a school district permit, a district shall 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 a 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, a 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.

*Education Code 21.055(c)–(d)*

NONCORE CAREER  
AND TECHNICAL  
COURSES

The following requirements do not apply to a person who will teach only noncore academic career and technical education courses:

1. The requirement to hold a baccalaureate degree;
2. The requirement that the district send a written statement to the commissioner identifying the person, the person's qualifications as a teacher, and the subject or class the person will teach; and
3. The requirement that the commissioner inform the district in writing if the commissioner finds the person to be not qualified to teach.

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

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(LEGAL)

A board may issue a school district teaching permit to a person who will teach courses only in career and technical education based on qualifications certified by the superintendent. Qualifications must include demonstrated subject matter expertise such as professional work experience, formal training and education, holding an active professional relevant industry license, certification, or registration, or any combination of work experience, training and education, or industry license, certification, or registration, in the subject matter to be taught.

The superintendent shall certify to the board that a new employee has undergone a criminal background check and is capable of proper classroom management. A district shall require a new employee to obtain at least 20 hours of classroom management training and to comply with continuing education requirements as determined by the board.

A person may teach a career and technical education course immediately upon issuance of a permit. Promptly after employing a person who qualifies under Education Code 21.055(d-1), the board shall send to the commissioner a written statement identifying the person, the course the person will teach, and the person's qualifications to teach the course.

*Education Code 21.055(d-1)*

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. *Education Code 21.055(e)*

EMERGENCY PERMIT

Emergency permits are issued under the authority of SBEC. *19 TAC 230.71(a)*

ACTIVATION

A superintendent or designee who cannot secure an appropriately certified and qualified individual to fill a vacant position may activate an emergency permit for an individual who does not have one of the appropriate credentials for the assignment, as specified in 19 Administrative Code Chapter 231, Requirements for Public School Personnel Assignments.

In order to activate an emergency permit, the superintendent or designee must:

1. Document locally the efforts the district has taken to employ an appropriately certified individual in the position for which an emergency permit is activated;

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

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(LEGAL)

2. Apply for an emergency permit when a vacant position is filled with an uncertified or inappropriately certified individual who will serve as the teacher of record or will serve in the assignment for more than 30 consecutive instructional days. The application must be submitted to TEA within 45 instructional days of the date of assignment;
3. Verify that the district maintains a support system, has assigned a trained mentor, and will provide release time as needed to assist the individual serving on an emergency permit. However, a district shall not be required to provide a mentor for a degreed, certified teacher assigned on an emergency permit if the teacher has one or more creditable years' experience within the district, as defined at 19 Administrative Code Chapter 153, Subchapter CC; and
4. Verify that the individual for whom the emergency permit is activated has been advised of the SBEC rules regarding permits and permit renewal requirements in 19 Administrative Code Chapter 230, Subchapter F.

*19 TAC 230.71(d)*

TEMPORARY  
VACANCIES

A district is not required to activate an emergency permit if an uncertified individual is assigned for a certified teacher who will be absent for more than 30 consecutive instructional days due to documented health-related reasons and has expressed the intention to return to the assignment. A district must, however, comply with the parent notification requirements above. *19 TAC 230.71(i)*

GENERAL  
ELIGIBILITY  
REQUIREMENTS

An individual for whom an emergency permit is activated must meet the following criteria:

1. The individual must hold a bachelor's degree or higher from an accredited institution of higher education. [See 19 Administrative Code 230.75(1) for career and technical and trade and industrial education assignments.]
2. The individual must be at least 18 years of age.
3. The individual must be able to communicate and understand the English language sufficiently to use it easily and readily in daily communication and teaching, as specified in 19 Administrative Code 230.11, General Requirements.
4. The individual must be of good moral character. SBEC may refuse to authorize an emergency permit for an individual, applying the same standards that would be applied to the administrative denial of an applicant for certification under 19 Administrative Code 249.12, Administrative Denial; Appeal.

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
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5. The individual must submit fingerprints in accordance with 19 Administrative Code 232.35(c), Submission of Required Information, and Education Code 22.0831. [See DBAA]

*19 TAC 230.75*

SPECIFIC  
REQUIREMENTS  
FOR INITIAL  
PERMITS

An individual for whom an emergency permit is activated must:

1. Have completed the appropriate semester credit hours or equivalent contact hours required for the emergency permit sought as specified in 19 Administrative Code 230.77, or, for a degreed, certified teacher, have passed the appropriate content specialization portions of the appropriate certification examination required for the target certificate; and
2. Have satisfied the appropriate experience requirement specified in 19 Administrative Code 230.77 for the emergency permit sought.

*19 TAC 230.77(a)*

SBEC rules provide requirements for the following assignments:

1. Elementary grades (early childhood–grade 6) (general education).
2. Secondary grades (grades 7–12) (general education).
3. All grade levels (early childhood–grade 12) (general education).
4. Career and technical education programs.
5. Special populations, such as English language learners (ELLs) and students with special learning needs.
6. Other instructional and support personnel, such as school counselor, educational diagnostician, school librarian, and JROTC instructor.

*19 TAC 230.77 (b)–(g)*

HARDSHIP  
EXCEPTION

An emergency permit may be authorized on a hardship basis for an individual who does not meet all eligibility requirements only if approval has been granted and e-mail notification received from TEA staff. The district must:

1. Document local conditions requiring the assignment of an individual who does not meet emergency permit requirements;
2. Verify that the deficiencies for the certificate sought do not exceed 36 semester credit hours; and

3. Verify:
  - a. That the individual will be enrolled in the first available course listed on the certification plan; or
  - b. Registration for the next available administration of the appropriate content specialization portion of the certification examination for an individual who holds a valid Texas classroom teaching certificate and a bachelor's degree or higher from an accredited institution of higher education and is placed in an assignment requiring a different classroom teaching certificate.

*19 TAC 230.71(h)*

HOLDERS OF  
INTERN OR  
PROBATIONARY  
CERTIFICATES

Candidates who hold an intern certificate under the provisions of 19 Administrative Code 230.36, Intern Certificates, or a probationary certificate under 19 Administrative Code 230.37, Probationary Certificates, may not be employed on an emergency permit during the validity of the intern certificate or probationary certificate. *19 TAC 230.71(j)*

PROCEDURES FOR  
INITIAL PERMIT

The superintendent or his or her designee or authorized representative must verify the individual's eligibility for the emergency permit [see GENERAL ELIGIBILITY REQUIREMENTS and SPECIFIC REQUIREMENTS FOR INITIAL PERMITS above] and submit online to TEA the following information within 45 instructional days of assignment.

For all assignments (except career and technical education assignments based on skill and experience):

1. A completed online emergency permit application;
2. One of the following:
  - a. A certification plan from an approved Texas educator preparation program (EPP); or
  - b. Verification of registration for an appropriate certification examination for a teacher that is already certified; and
3. The appropriate fee (payable by the school district).

For career and technical education assignments based on skill and experience:

1. A completed online emergency permit application;
2. A copy of the individual's statement of qualifications, approved by the certification officer of a Texas EPP;

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
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3. Acceptable license, registration, or certification by a state-authorized or nationally recognized agency in an occupational area appropriate for the assignment;
4. A certification plan from an approved Texas EPP for the career and technical education certificate appropriate for the assignment; and
5. The appropriate fee (payable by the school district).

*19 TAC 230.79*

VALIDITY OF  
EMERGENCY  
PERMIT

The validity date of an activated and authorized emergency permit is specified in 19 Administrative Code 230.97, Effective Dates of Certificates and Permit Issuance.

An emergency permit is valid for the remainder of the school year for which it is activated and authorized by SBEC. The emergency permit must be submitted to TEA within 45 instructional days from the date of assignment. A permit authorized by SBEC is valid for service only in the requesting district and only for the assignments indicated on the emergency permit application.

Effective with the 2017–18 school year, the employment of an individual on an emergency permit, with the exception of the assignment as a JROTC instructor or a teacher of students with visual impairments may not exceed one school year in the same assignment. [See ONE-YEAR LIMITATION below]

Prior to the 2017–18 school year, the individual may serve in a specific assignment no more than one additional school year beyond the initial emergency permit. To continue beyond the initial emergency permit year, the individual must comply with the renewal provisions specified in 19 Administrative Code 230.81. [See RENEWAL REQUIREMENTS AND PROCEDURES below]

Effective with the 2017–18 school year, to continue employment in the assignment beyond the validity of the initial emergency permit, the individual must hold the appropriate certificate, in accordance with 19 Administrative Code, Chapter 231, Requirements for Public School Personnel Assignments. An individual may not serve as a classroom teacher of record in the district for more than three school years without obtaining initial, standard certification.

*19 TAC 230.73*

ONE-YEAR  
LIMITATION

Effective with the 2017–18 school year, an emergency permit will limit an individual to one year of service and no renewal will be allowed.



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EXCEPTIONS

The one-year limitation does not apply to individuals serving in the position of Junior Reserve Officer Training Corps (JROTC) instructor or teachers of students with visual impairments.

As indicated in 19 Administrative Code 230.77(g)(4)(B), emergency permits for JROTC instructors must be reissued every year.

Emergency permits for teachers of students with visual impairments referenced in 19 Administrative Code 230.77(f)(2)(B) may be renewed a maximum of two years.

*19 TAC 230.71(b), (c)*

RENEWAL  
REQUIREMENTS  
AND PROCEDURES

Effective with the 2017–18 school year, these renewal provisions no longer apply for emergency permits, with the exception of teachers of students with visual impairments. *19TAC 230.73(f)*

A superintendent, designee, or authorized representative may renew an emergency permit for the same assignment in the same district for which the initial emergency permit was activated.

No individual may continue in the same assignment for more than one school year of service on an emergency permit, except that emergency permits used fewer than 90 calendar days may be renewed for one additional year of service, if needed.

The total of semester credit hours or the equivalent contact hours required to obtain certification appropriate for the assignment shall determine the number of emergency permit renewals for which the individual may be eligible.

For six semester credit hours or less plus appropriate examination requirements, an individual is not eligible for renewal.

For seven semester credit hours or more plus appropriate examination requirements, an individual is eligible for one renewal.

The superintendent or his or her designee or authorized representative may renew an emergency permit provided the following requirements and procedures are met:

1. The emergency permit must be renewed for the same assignment in the same school district.
2. Official transcripts verifying completion of a minimum of six semester credit hours or documentation of completion of equivalent contact hours toward the appropriate target certificate must be placed in the individual's personnel file.
3. If the individual has not completed permit renewal requirements as indicated above, the superintendent or his or her

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designee must obtain hardship approval from the Texas Education Agency prior to continuation of the assignment.

4. The appropriate renewal of the emergency permit application must be completed online prior to the beginning date of duties for the current school year.
5. The school district shall pay the appropriate fee.

*19 TAC 230.81*

NONRENEWABLE  
PERMITS

A superintendent or designee may activate a nonrenewable permit for an individual who has not completed the appropriate examination requirements specified in 19 Administrative Code 230.21, Educator Assessment.

A nonrenewable permit may be activated for an individual who:

1. Has completed all course and degree requirements of a Texas EPP except for successful completion of all appropriate examination requirements. Nonrenewable permits activated for individuals in this category expire 12 months from the date of activation; or
2. Holds a Texas teacher certificate with an effective date before February 1, 1986, but has not revalidated the certificate for employment purposes by passing an examination. The individual must not have been employed in a Texas school district since the start of the 1985–86 school year. A nonrenewable permit activated for an individual in this category expires six months from the date of activation or at the end of the school year, whichever is less.

A nonrenewable permit may not be activated for an individual in the same assignment area for which another permit had previously been authorized.

The superintendent, designee, or authorized representative must verify that an individual is eligible for the permit and submit the following information within 45 calendar days of assignment:

1. An application for a nonrenewable permit completed before the effective date of the assignment; and
2. The appropriate fee (payable by the district).

*19 TAC 230.83*

EDUCATOR  
CONSENT

A certified teacher must consent to the activation of an emergency permit and be advised of the conditions of the emergency permit.

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
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(LEGAL)

A teacher who refuses to consent to activation of an emergency permit may not be terminated or nonrenewed or otherwise retaliated against because of the teacher's refusal to consent to the activation of the emergency permit. However, a teacher's refusal to consent shall not impair a district's right to implement a necessary reduction in force or other personnel actions in accordance with local policy.

*19 TAC 230.71(e)*

NO PROPERTY  
RIGHT

An emergency permit is authorized for the district for a specific assignment and is not the property of the individual for whom the emergency permit was activated. *19 TAC 230.71(f)*

UNUSED PERMITS

If an emergency permit authorized by SBEC is not used, the district shall notify TEA staff by e-mail. *19 TAC 230.71(g)*

CERTIFICATION OF  
PARAPROFESSIONAL  
EMPLOYEES

Educational aides shall be certified according to standards established by SBEC. *19 TAC 230.51*

FEDERAL  
REQUIREMENTS FOR  
TEACHERS AND PARAPROFESSIONALS

Teachers and paraprofessionals working in a program supported with funds under Title I, Part A of the Elementary and Secondary Education Act (20 U.S.C. 6301 et seq.) shall meet applicable state certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification. *20 U.S.C. 6311(g)(2)(J), 6312(c)(6)*

The state's professional standards for paraprofessionals working in a program supported with Title I funds must include qualifications that were in place under former 20 U.S.C. 6319, as that section existed before December 10, 2015. *20 U.S.C. 6311(g)(2)(M)*

QUALIFICATIONS  
BEFORE  
DECEMBER 10, 2015

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 the following:
  - a. A paraprofessional may be assigned to:
    - (1) Provide one-on-one tutoring for eligible students, if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher;
    - (2) Assist with classroom management, such as organizing instructional and other materials;
    - (3) Provide assistance in a computer laboratory;
    - (4) Conduct parental involvement activities;

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- (5) Provide support in a library or media center;
  - (6) Act as a translator; or
  - (7) Provide instructional services to students in accordance with items (b) and (c).
- b. A paraprofessional may not provide any instructional service to a student unless the paraprofessional is working under the direct supervision of a teacher consistent with this section; and
- c. A paraprofessional may assume limited duties that are assigned to similar personnel who are not working in a program supported with funds under this part, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.
- 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 two 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
    - (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

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2. Whose duties consist solely of conducting parental involvement activities.

*Former 20 U.S.C. 6319 in effect before Dec. 10, 2015*

FEDERAL  
REQUIREMENTS FOR  
SPECIAL EDUCATION  
TEACHERS

Each person employed as a special education teacher who teaches elementary school, middle school, or secondary school must:

1. Have obtained full state certification as a special education teacher [including participating in an alternate route to certification as a special educator, if such alternate route meets minimum requirements described in 34 C.F.R. 2005.56(a)(2)(ii) as in effect November 28, 2008], or passed the state special education teacher licensing examination, and holds a license to teach in the state as a special education teacher;
2. Have not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
3. Hold at least a bachelor's degree.

*20 U.S.C. 1412(a)(14)(C)*

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. A 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]*

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At a minimum, to become employed and maintain employment status as a school bus driver, a person must meet the following requirements:

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.

*Transp. 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

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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 37 Administrative Code 14.14(d) (penalty points for convictions of traffic law violations and crash involvements).

*37 TAC 14.14(b)*

ANNUAL  
EVALUATION

A district shall, at least once every 12 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). *Transp. 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. A 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.

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The service record must be validated by a person designated by a district to sign service records. The service record shall be kept on file at the district.

FORMER  
EMPLOYEES

On request by a classroom teacher, librarian, school counselor, or nurse or by the school 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. A district must maintain a legible copy for audit purposes. A scanned version of the original service record may be considered official if sent directly from one employing district to another employing district.

*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 a 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 a district in the custody of the district is confidential. A 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 a district that relates to the employee and that is protected from public disclosure by laws intended to protect the employee's privacy interests.

A district may not deny to the employee or his or her representative access to information relating to the employee on the grounds that the information is considered confidential by privacy principles under the Public Information Law. A 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 a 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, a 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  
CRIMINAL HISTORY AND CREDIT REPORTS

DBAA  
(LEGAL)

DEFINITIONS

“Criminal history clearinghouse” (Clearinghouse) means the electronic clearinghouse and subscription service established by the Department of Public Safety (DPS) to provide criminal history record information to persons entitled to receive that information and to provide updates to such information. A person who is the subject of the criminal history record information requested must consent to the release of the information. *Gov’t Code 411.0845(a), (h)*

“Criminal history record information” (CHRI) means information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, information, and other formal criminal charges and their dispositions. *Gov’t Code 411.082(2)*

“National criminal history record information” (NCHRI) means criminal history record information obtained from DPS under Government Code Chapter 411, Subchapter F, and the Federal Bureau of Investigation (FBI) under Government Code 411.087. *Education Code 22.081(2)*

“Request for CHRI” is the processing and entry of a person’s complete set of fingerprints in DPS’s tenprint database and the comparison of those prints to DPS’s latent print database and if authorized the entry into FBI’s tenprint and comparison to the FBI’s latent print database. *37 TAC 27.172*

PARTICIPATION IN  
THE CRIMINAL  
HISTORY  
CLEARINGHOUSE

The purpose of the Clearinghouse is to:

1. Provide authorized entities with the Texas and FBI fingerprint-based criminal history results.
2. Provide authorized entities with subscription and notification service to disseminate updated criminal history information.

Districts shall only submit a request for CHRI on a person who has authorized the access of their information.

Districts may subscribe to a person in the Clearinghouse, if the entity has the authority to view the record. Entities shall unsubscribe from a person when it no longer has authority to view a record.

Districts shall validate their subscriptions in accordance with DPS policies. “Validation” is a process whereby the subscriber reviews a subscription to determine whether they are still authorized to receive CHRI on that individual and updates the subscription accordingly. Validations are required on a yearly basis.

Districts shall maintain compliance with the FBI Criminal Justice Information Services Security Policy. Districts shall allow DPS and the FBI to conduct audits of their Clearinghouse accounts to pre-

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

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vent any unauthorized access, use, or dissemination of the information.

*37 TAC 27.171, .172(8), .174*

CERTIFIED PERSONS The State Board for Educator Certification (SBEC) shall review the NCHRI of a person who is an applicant for or holder of a certificate and who is employed by or is an applicant for employment by a district. *Education Code 22.0831(c)*

NONCERTIFIED EMPLOYEES  
APPLICABILITY This section applies to a person who is not an applicant for or holder of a certificate from SBEC and who, on or after January 1, 2008, is offered employment by:

1. A district; or
2. A shared services arrangement, if the employee's or applicant's duties are or will be performed on school property or at another location where students are regularly present.

[For noncertified employees of a district or shared services arrangement hired before January 1, 2008, see ALL OTHER EMPLOYEES, below.]

INFORMATION TO DPS AND TEA Before or immediately after employing or securing the services of a person subject to this section, a district shall send or ensure that the person sends to DPS information that DPS requires for obtaining NCHRI, which may include fingerprints and photographs.

A district shall provide TEA with the name of a person to whom this section applies. TEA shall examine the CHRI of the person and notify the district if the person may not be hired or must be discharged under Education Code 22.085.

EMPLOYMENT PENDING REVIEW After the required information is submitted, the person may begin employment, but that employment is conditional upon the review of that person's CHRI by TEA and must be terminated if TEA makes a determination that the employee or applicant is ineligible for employment.

CRIMINAL HISTORY A district shall obtain all CHRI that relates to a person subject to this section through the Clearinghouse and shall subscribe to the CHRI of that person. A district may require the person to pay any fees related to obtaining the CHRI.

*Education Code 22.0833; 19 TAC 153.1109(d)*

SUBSTITUTE TEACHERS This section applies to a person who is a substitute teacher for a district or shared services arrangement.

APPLICABILITY For purposes of the CHRI review requirements, a "substitute teacher" is a teacher who is on call or on a list of approved substi-

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

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	<p>tutes to replace a regular teacher and has no regular or guaranteed hours. A substitute teacher may be certified or noncertified.</p>
<p>INFORMATION TO DPS AND TEA</p>	<p>A district shall send or ensure that a person to whom this section applies sends to DPS information required for obtaining NCHRI, which may include fingerprints and photographs.</p> <p>A district shall provide TEA with the name of a person to whom this section applies. TEA shall examine the CHRI and certification records of the person and notify the district if the person:</p> <ol style="list-style-type: none"><li>1. May not be hired or must be discharged as provided by Education Code 22.085; or</li><li>2. May not be employed as a substitute teacher because the person's educator certification has been revoked or is suspended.</li></ol>
<p>EMPLOYMENT PENDING REVIEW</p>	<p>After the required information is submitted, the person may begin employment, but that employment is conditional upon the review of that person's CHRI by TEA and must be terminated if TEA makes a determination that the employee or applicant is ineligible for employment.</p>
<p>CRIMINAL HISTORY</p>	<p>A district shall obtain all CHRI that relates to a person to whom this section applies through the Clearinghouse. A district may require the person to pay any fees related to obtaining the CHRI.</p> <p><i>Education Code 22.0836; 19 TAC 153.1101(5), .1111(d)</i></p>
<p>STUDENT TEACHERS APPLICABILITY</p>	<p>This section applies to a person participating in an internship consisting of student teaching to receive a teaching certificate.</p>
<p>CRIMINAL HISTORY</p>	<p>A student teacher may not perform any student teaching until:</p> <ol style="list-style-type: none"><li>1. The student teacher has provided to a district a driver's license or another form of identification containing the person's photograph issued by an entity of the United States government; and</li><li>2. The district has obtained from DPS all CHRI that relates to a student teacher. A district may also obtain CHRI relating to a student teacher from any other law enforcement agency, criminal justice agency, or private consumer reporting agency. A district may require a student teacher to pay any costs related to obtaining the CHRI.</li></ol> <p><i>Education Code 22.0835</i></p>
<p>COORDINATION OF EFFORTS</p>	<p>TEA, SBEC, a district, and a shared services arrangement may coordinate as necessary to ensure that criminal history reviews authorized or required under Education Code Chapter 22, Subchap-</p>

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

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ter C are not unnecessarily duplicated. *Education Code 22.0833(h)*

ALL OTHER  
EMPLOYEES

A district shall obtain CHRI that relates to a person who is not subject to an NCHRI review under Education Code Chapter 21, Subchapter C and who is an employee of:

1. The district; or
2. A shared services arrangement, if the employee's duties are performed on school property or at another location where students are regularly present.

A district may obtain the CHRI from:

1. DPS;
2. A law enforcement or criminal justice agency; or
3. A private consumer reporting agency [see CONSUMER CREDIT REPORTS, below].

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

CONFIDENTIALITY OF  
RECORD

CHRI that a district obtains from DPS, including any identification information that could reveal the identity of a person about whom CHRI is requested and information that directly or indirectly indicates or implies involvement of a person in the criminal justice system:

1. Is for the exclusive use of the district; and
2. May be disclosed or used by the district only if, and only to the extent, disclosure is authorized or directed by a statute, rule, or order of a court of competent jurisdiction.

For purposes of these confidentiality provisions, "criminal history record" information does not refer to any specific document provided by DPS, but to the information contained, wholly or partly, in a document's original form or any subsequent form or use.

A district or an individual may not confirm the existence or nonexistence of CHRI to any person who is not eligible to receive the information.

*Gov't Code 411.084*

CHRI obtained by a district, in the original form or any subsequent form, may not be released to any person except the individual who is the subject of the information, TEA, or SBEC, or by court order. The CHRI is not subject to disclosure under Government Code Chapter 552 (Public Information Act).

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

DBAA  
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An employee of a district may request from the district a copy of any CHRI related to that employee that the district has obtained from DPS. The district may charge a fee to provide the information, not to exceed the actual cost of copying the CHRI.

*Gov't Code 411.097(d), (f)*

DESTRUCTION OF  
CHRI

A district shall destroy CHRI obtained from DPS on the earlier of:

1. The date the information is used for the authorized purpose; or
2. The first anniversary of the date the information was originally obtained.

*Gov't Code 411.097(d)(3)*

CONFIDENTIALITY OF  
INFORMATION  
OBTAINED FROM  
APPLICANT OR  
EMPLOYEE

A district may not release information collected about a person in order to obtain CHRI, including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records, except:

1. To comply with Government Code Chapter 22, Subchapter C (criminal records);
2. By court order; or
3. With the consent of the person who is the subject of the information.

In addition, the information is not subject to disclosure under Government Code Chapter 522 (Public Information Act).

The district shall destroy the information not later than the first anniversary of the date the information is received.

*Education Code 22.08391*

UNAUTHORIZED  
DISCLOSURE OF CHRI

A person commits a Class B misdemeanor if the person knowingly or intentionally:

1. Obtains CHRI in an unauthorized manner, uses the information for an unauthorized purpose, or discloses the information to a person who is not entitled to the information; or
2. Violates a DPS rule adopted under Government Code Chapter 411, Subchapter F.

A person commits a second degree felony if the person:

1. Obtains, uses, or discloses CHRI for remuneration or for the promise of remuneration; or

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

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2. Employs another person to obtain, use, or disclose CHRI for remuneration or for the promise of remuneration.

*Gov't Code 411.085*

SBEC NOTIFICATION

A superintendent shall promptly notify SBEC in writing by filing a report with the TEA staff within seven calendar days of the date the superintendent obtains or has knowledge of information indicating that an educator employed by or seeking employment with the district has a reported criminal history and the district obtained information about the educator's criminal record by a means other than the criminal history clearinghouse established by the Texas Department of Public Safety. [See also DHB for details on reporting requirements.]

"Reported criminal history" means information concerning any formal criminal justice system charges and dispositions. The term includes arrests, detentions, indictments, criminal information, convictions, deferred adjudications, and probations in any state or federal jurisdiction.

*Education Code 22.087; 19 TAC 249.3(43)*

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**Note:** For criminal history record provisions regarding volunteers, see GKG. For provisions on employees of entities that contract with a district, see CJA.

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DISCHARGE OF  
CONVICTED  
EMPLOYEES

A district shall discharge or refuse to hire an employee or applicant for employment if the district obtains information through a CHRI review that:

1. The employee or applicant has been convicted of:
  - a. A felony under Penal Code Title 5;
  - b. An offense requiring registration as a sex offender under Code of Criminal Procedure Chapter 62; or
  - c. An offense under the laws of another state or federal law that is equivalent to an offense under paragraphs a or b; and
2. At the time the offense occurred, the victim of the offense was under 18 years of age or was enrolled in a public school.

EXCEPTION

However, a district is not required to discharge or refuse to hire an employee or applicant if the person committed an offense under Title 5, Penal Code and:

1. The date of the offense is more than 30 years before:



EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

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- a. June 15, 2007, in the case of a person employed by a district as of that date; or
  - b. The date the person's employment will begin, in the case of a person applying for employment with a district after June 15, 2007; and
2. The employee or applicant for employment satisfied all terms of the court order entered on conviction.

CERTIFICATION TO  
SBEC

Each school year, the superintendent shall certify to the commissioner of education that the district has complied with the above provisions at DISCHARGE OF CONVICTED EMPLOYEES as required by Education Code 22.085.

SANCTIONS

SBEC may impose a sanction on an educator who does not discharge an employee or refuse to hire an applicant if the educator knows or should have known, through a criminal history record information review, that the employee or applicant has been convicted of an offense described above.

SBEC may impose a sanction on a superintendent who falsely or inaccurately certified to the commissioner that the district had complied with Education Code 22.085. [See DISCHARGE OF CONVICTED EMPLOYEES, above]

OPTIONAL  
TERMINATION

A district may discharge an employee if the district obtains information of the employee's conviction of a felony or misdemeanor involving moral turpitude that the employee did not disclose to SBEC or to the district. An employee so discharged is considered to have been discharged for misconduct for the purposes of Labor Code 207.044 (unemployment compensation).

*Education Code 22.085; 19 TAC 249.15(b)(12), (13)* [See DF]

CONSUMER CREDIT  
REPORTS

DEFINITIONS

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

"Consumer report" includes any information from a consumer reporting agency that is used or expected to be used as a factor in establishing the person's eligibility for employment.

"Consumer reporting agency" is an agency that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly assembles or evaluates consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

"Employment purposes" when used in connection with a consumer report means a report used for the purpose of evaluating a person

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

DBAA  
(LEGAL)

for employment, promotion, reassignment, or retention as an employee.

*15 U.S.C. 1681a*

OBTAINING  
REPORTS

A district may not procure a consumer report for employment purposes unless:

1. The district has provided the applicant or employee a written disclosure that a consumer report may be obtained for employment purposes; and
2. The applicant or employee has authorized in writing the procurement of the consumer report.

ADVERSE ACTION

Before taking any adverse action based on the consumer report, a district shall provide the applicant or employee a copy of the consumer report and a written description of the person's rights under the Fair Credit Reporting Act, as prescribed by the Federal Trade Commission.

*15 U.S.C. 1681b(b)(2)*

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**Note:** The following provisions apply to a district that uses consumer reports.

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ADDRESS  
DISCREPANCIES

"Notice of address discrepancy" means a notice sent to a user by a consumer reporting agency that informs the user of a substantial difference between the address for the consumer that the user provided to request the consumer report and the address(es) in the agency's file for the consumer.

A district must develop and implement reasonable policies and procedures designed to enable the district, when it receives a notice of address discrepancy, to form a reasonable belief that a consumer report relates to the consumer about whom it has requested the report.

If a district regularly and in the ordinary course of business furnishes information to the consumer reporting agency from which it received the notice of address discrepancy, the district must also develop and implement reasonable policies and procedures for furnishing an address for the consumer, which the district has reasonably confirmed is accurate, to the consumer reporting agency.

*16 C.F.R. 641.1*

DISPOSAL OF  
RECORDS

A district must properly dispose of a consumer report by taking reasonable measures to protect against unauthorized access to or use of the information.

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

DBAA  
(LEGAL)

“Dispose” includes discarding or abandoning the consumer report, or selling, donating, or transferring any medium, including computer equipment, upon which the consumer report is stored.

Examples of reasonable measures include:

1. Burning, pulverizing, or shredding papers containing a consumer report so the information cannot practicably be read or reconstructed;
2. Destroying or erasing electronic media containing a consumer report so that the information cannot practicably be read or reconstructed; or
3. After due diligence, entering into and monitoring compliance with a contract with another party engaged in the business of record destruction to dispose of the consumer report.

*16 C.F.R. 682.3*



TERMINATION OF EMPLOYMENT  
REDUCTION IN FORCE

DFF  
(LEGAL)

BOARD AUTHORITY	<p>A board is charged with the responsibility of governance of a district; governance includes the making of responsible choices in managing the finances and personnel of the district. <u>Stidham v. Anahuac Indep. Sch. Dist., Tex. Comm’r of Educ. Decision No. 205-R2-687 (1990)</u> (upholding reduction in force due to financial exigency)</p> <p>A district is always free to change its organizational structure as it seeks to increase its efficiency. <u>Wasserman v. Nederland Indep. Sch. Dist., Tex. Comm’r of Educ. Decision No. 171-R1-784 (1988)</u></p>
CONSIDERATION FOR OPEN POSITIONS	<p>The commissioner of education has held that, when a position is eliminated due to a necessary reduction in force, a district must transfer the employee to a different position if the teacher meets a district’s objective criteria for that position. Objective criteria may include credentials, education, experience, applying for the position, and interviewing for the position. A district need not offer a position to a teacher who refuses to apply and interview for an open position. <u>Amerson v. Houston Indep. Sch. Dist., Tex. Comm’r of Educ. Decision No. 022-R2-1202 (2003)</u></p>
PROBATIONARY CONTRACT	<p>A probationary contract employee may be discharged at any time for good cause as determined by the board. If the employee is protesting proposed action to terminate a probationary contract before the end of the contract period on the basis of a financial exigency declared under Education Code 44.011 [see CEA], the employee is entitled to a hearing in the manner provided under Education Code 21.207 for nonrenewal of a term contract [see DFBB] or a hearing under Education Code Chapter 21, Subchapter F (hearings before independent hearing examiner) [see DFD], as determined by the board. <i>Education Code 21.104(a), .1041(2)</i></p> <p>A board may terminate a probationary contract at the end of the contract period if in the board’s judgment such termination will serve the best interests of the district. <i>Education Code 21.103(a)</i></p>
TERM CONTRACT	<p>A board may terminate a term contract and discharge a term contract employee at any time due to a financial exigency that requires a reduction in personnel. <i>Education Code 21.211(a)</i></p> <p>An employee who is protesting proposed action to terminate a term contract at any time on the basis of a financial exigency declared under Education Code 44.011 [see CEA] that requires a reduction in personnel must notify the board in writing not later than the tenth day after the date the employee receives notice of the proposed action. The employee is entitled to a hearing in the manner provided under Education Code 21.207 for nonrenewal of a term contract [see DFBB] or a hearing under Education Code Chapter 21, Subchapter F (hearings before independent hearing examiner)</p>

TERMINATION OF EMPLOYMENT  
REDUCTION IN FORCE

DFD  
(LEGAL)

[see DFD], as determined by the board. *Education Code 21.159(a), (b)(2)*

CONTINUING  
CONTRACT

A teacher employed under a continuing contract may be released and the teacher's employment terminated at the end of a school year because of a necessary reduction of personnel by the district. A necessary reduction of personnel shall be made primarily based upon teacher appraisals administered under Education Code 21.352 in the specific teaching fields and other criteria as determined by the board. *Education Code 21.157*

Before a teacher employed under a continuing contract may be released because of a necessary reduction of personnel, the board must notify the teacher in writing of the proposed action and the grounds for the action. *Education Code 21.158(a)*

If the teacher desires to protest the proposed necessary reduction of personnel, the teacher must notify the board in writing not later than the tenth day after the date the teacher receives notice. *Education Code 21.159(a)*

A teacher who timely notifies the board is entitled to a hearing in a manner provided under Education Code 21.207 for nonrenewal of a term contract [see DFBB] or in the manner provided under Education Code Chapter 21, Subchapter F (hearings before independent hearing examiner) [see DFD], as determined by the board. *Education Code 21.159(b)*

If the teacher does not timely request a hearing the board shall take the appropriate action and notify the teacher in writing not later than the 30th day after the date the board sent the notice of the proposed necessary reduction in personnel. *Education Code 21.159(c)*

FINANCIAL EXIGENCY

A board may adopt a resolution declaring a financial exigency for the district. *Education Code 44.011* [See CEA]

HEARING  
EXAMINER

The independent hearing examiner process does not apply to a decision to terminate a probationary or term contract before the end of the contract period or terminate a continuing contract at any time, based on a financial exigency declared under Education Code 44.011 [see CEA] that requires a reduction in personnel, unless the board has decided to use this hearing process. *Education Code 21.251*

WARN ACT

Local governments are not covered by the federal Worker Adjustment and Retraining Notification Act (WARN Act) (plant closings and mass layoffs). *20 C.F.R. 639.3(a)(ii)*

EMPLOYEE STANDARDS OF CONDUCT  
REPORTS TO STATE BOARD FOR EDUCATOR CERTIFICATION

DHB  
(LEGAL)

PERMISSIVE REPORTS	The superintendent may notify the State Board for Educator Certification (SBEC) of any educator misconduct that he or she believes in good faith may be subject to sanctions under 19 Administrative Code, Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, and/or Chapter 247, Educators' Code of Ethics. <i>19 TAC 249.14(d)</i>
REQUIRED REPORTS	In addition to the reporting requirement under Family Code 261.101 [see FFG], a superintendent shall notify SBEC if:
CRIMINAL HISTORY	<ol style="list-style-type: none"><li>1. An educator employed by or seeking employment with the district has a reported criminal history and the district obtained information about the educator's criminal record by a means other than the criminal history clearinghouse established by the Texas Department of Public Safety;</li><li>2. An applicant for or a holder of a certificate has a reported criminal history;</li></ol>
TERMINATION	<ol style="list-style-type: none"><li>3. A certificate holder's or educator's employment at the district was terminated based on evidence that the educator engaged in an act of misconduct listed below;</li></ol>
RESIGNATION	<ol style="list-style-type: none"><li>4. A certificate holder or educator has submitted a notice of resignation and evidence exists that the educator engaged in an act of misconduct listed below; or</li></ol>
ASSESSMENT INSTRUMENT	<ol style="list-style-type: none"><li>5. The educator engaged in conduct that violated the assessment instrument security procedures established under Education Code 39.0301.</li></ol> <p><i>Education Code 21.006, 22.087; 19 TAC 249.14(d)</i></p>
REPORTABLE MISCONDUCT	A superintendent shall make a report to SBEC under Education Code 21.006 if there is evidence that the educator: <ol style="list-style-type: none"><li>1. Sexually or physically abused or engaged in any other illegal conduct with a student or minor;</li><li>2. Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor;</li><li>3. Possessed, transferred, sold, or distributed a controlled substance, as defined by Health and Safety Code Chapter 481 or by 21 U.S.C. Section 801 et seq.;</li><li>4. Illegally transferred, appropriated, or expended school property or funds;</li><li>5. Attempted by fraudulent or unauthorized means to obtain or alter any certificate or permit that would entitle the individual to be employed in a position requiring such certificate or per-</li></ol>

EMPLOYEE STANDARDS OF CONDUCT  
REPORTS TO STATE BOARD FOR EDUCATOR CERTIFICATION

DHB  
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mit or to receive additional compensation associated with a position;

6. Committed a criminal offense or any part of a criminal offense on school property or at a school-sponsored event; or
7. Solicited or engaged in sexual conduct or a romantic relationship with a student or minor.

*Education Code 21.006(b); 19 TAC 249.14(d)*

COMPLETION OF  
INVESTIGATION

A superintendent shall complete an investigation of an educator if there is reasonable cause to believe the educator may have engaged in misconduct described above despite the educator's resignation from district employment before completion of the investigation. *19 TAC 249.14(d)(3)(C)*

DEFINITIONS

"ABUSE"

"Abuse" includes the following acts or omissions:

1. Mental or emotional injury to a student or minor that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;
2. Causing or permitting a student or minor to be in a situation in which the student or minor sustains a mental or emotional injury that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;
3. Physical injury that results in substantial harm to a student or minor, or the genuine threat of substantial harm from physical injury to the student or minor, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline; or
4. Sexual conduct harmful to a student's or minor's mental, emotional, or physical welfare.

*19 TAC 249.3(1)*

"REPORTED  
CRIMINAL HISTORY"

"Reported criminal history" means information concerning any formal criminal justice system charges and dispositions. The term includes arrests, detentions, indictments, criminal informations, convictions, deferred adjudications, and probations in any state or federal jurisdiction. *19 TAC 249.3(43)*

"SOLICITATION OF A  
ROMANTIC  
RELATIONSHIP"

"Solicitation of a romantic relationship" means deliberate or repeated acts that can be reasonably interpreted as the solicitation by an educator of a relationship with a student that is romantic in nature. A romantic relationship is often characterized by a strong emotional or sexual attachment and/or patterns of exclusivity, but does not



include appropriate educator-student relationships that arise out of legitimate contexts such as familial connections or longtime acquaintance. The following acts, considered in context, may constitute prima facie evidence of the solicitation by an educator of a romantic relationship with a student:

1. Behavior, gestures, expressions, or communications with a student that are unrelated to the educator's job duties and evidence a romantic intent or interest in the student, including statements of love, affection, or attraction. Factors that may be considered in determining the romantic intent of such communications or behavior include:
  - a. The nature of the communications;
  - b. The timing of the communications;
  - c. The extent of the communications;
  - d. Whether the communications were made openly or secretly;
  - e. The extent that the educator attempts to conceal the communications;
  - f. If the educator claims to be counseling a student, SBEC may consider whether the educator's job duties included counseling, whether the educator reported the subject of the counseling to the student's guardians or to the appropriate school personnel, or, in the case of alleged abuse or neglect, whether the educator reported the abuse or neglect to the appropriate authorities; and
  - g. Any other evidence tending to show the context of the communications between educator and student.
2. Making inappropriate comments about a student's body, creating or transmitting sexually suggestive photographs or images, or encouraging the student to transmit sexually suggestive photographs or images.
3. Making sexually demeaning comments to a student.
4. Making comments about a student's potential sexual performance.
5. Requesting details of a student's sexual history.
6. Requesting a date, sexual contact, or any activity intended for the sexual gratification of the educator.

EMPLOYEE STANDARDS OF CONDUCT  
REPORTS TO STATE BOARD FOR EDUCATOR CERTIFICATION

DHB  
(LEGAL)

7. Engaging in conversations regarding the sexual problems, preferences, or fantasies of either party.
8. Inappropriate hugging, kissing, or excessive touching.
9. Providing the student with drugs or alcohol.
10. Suggestions that a romantic relationship is desired after the student graduates, including post-graduation plans for dating or marriage.
11. Any other acts tending to show that the educator solicited a romantic relationship with the student.

*19 TAC 249.3(50)*

A superintendent may notify SBEC of any educator misconduct that the superintendent believes in good faith may be subject to sanctions by SBEC. *19 TAC 249.14(d)*

DEADLINE TO REPORT The superintendent must notify SBEC by filing a report in writing in a form prescribed by SBEC not later than the seventh day after the date the superintendent knew about an employee's criminal record under Education Code 21.006(b)(1) or a termination of employment or resignation following an alleged incident of misconduct described by Education Code 21.006(b)(2). [See REQUIRED REPORT, above] *Education Code 21.006(c)*

CONTENTS OF REPORT The report shall include the name or names of any student or minor who is the victim of abuse or unlawful conduct by an educator. The report shall, at a minimum, describe in detail the factual circumstances requiring the report and identify the subject of the report by providing the following available information:

1. Name and any aliases;
2. Certificate number, if any, or social security number;
3. Last known mailing address and home and daytime phone numbers;
4. All available contact information for any alleged victim or victims; and
5. Name or names and any available contact information of any relevant witnesses to the circumstances requiring the report.

*Education Code 21.006(c); 19 TAC 249.14(e)*

A superintendent shall include the name of a student or minor who is the victim of abuse or unlawful conduct by an educator, but the name of the student or minor is not public information under Gov-

EMPLOYEE STANDARDS OF CONDUCT  
REPORTS TO STATE BOARD FOR EDUCATOR CERTIFICATION

DHB  
(LEGAL)

	ernment Code Chapter 552. [See GBAA] <i>Education Code 21.006(h)</i>
NOTICE TO EDUCATOR AND BOARD	A superintendent shall notify the board and the educator of the filing of a written report with SBEC. <i>Education Code 21.006(d)</i>
ACCEPTING RESIGNATION	Before accepting an employee's resignation that requires filing a report, the superintendent shall inform the educator in writing that a report will be filed and that sanctions against his or her certificate may result as a consequence. The superintendent shall notify the board before filing the report. <i>19 TAC 249.14(d)(3)(A), (B)</i>
SANCTIONS FOR FAILURE TO REPORT	A superintendent who fails to timely make a required report is subject to sanctions by SBEC under 19 Administrative Code 249.15(b)(4), Disciplinary Action by State Board for Educator Certification. <i>Education Code 21.006(f); 19 TAC 249.14(d), (e)</i>
IMMUNITY	A superintendent who, in good faith and while acting in an official capacity, files a report with SBEC is immune from civil or criminal liability that might otherwise be incurred or imposed. <i>Education Code 21.006(e)</i>



ASSIGNMENT AND SCHEDULES

DK  
(LEGAL)

CREDENTIALS OR  
PERMIT REQUIRED

A public school employee must have the appropriate credentials for his or her current assignment specified in 19 Administrative Code Chapter 231, Requirements for Public School Personnel Assignments, unless the appropriate permit has been issued under Chapter 230, Subchapter F, Permits. *19 TAC 231.1(a)* [See DBA]

PRINCIPAL'S  
APPROVAL

The principal of a campus shall approve all teacher and staff appointments for the campus from a pool of applicants selected by a district or of applicants who meet the hiring requirements established by a district, based on criteria developed by the principal after informal consultation with the faculty. A superintendent or designee has final placement authority for a teacher transferred because of enrollment shifts or program changes. *Education Code 11.202; Atty. Gen. Op. DM-27 (1991)*

TRANSFERS

A 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)*

PARENT  
NOTIFICATION

If a district assigns an inappropriately certified or uncertified teacher to the same classroom for more than 30 consecutive instructional days during the same school year, it shall provide written notice of the assignment to the parents or guardians of each student in that classroom. *Education Code 21.057* [See DBA]



## **State Board for Educator Certification Criteria for Assignment of Public School Personnel**

A public school employee must have the appropriate credentials for his or her current assignment unless the appropriate permit has been issued. The credentials appropriate to each assignment are set forth in the State Board for Educator Certification (SBEC) rules at 19 Administrative Code Chapter 231.

The following sections indicate where the credentialing requirements for various positions are located in the SBEC rules.

### **Teachers in general**

<b>Grade Level</b>	<b>SBEC Rule</b>
Prekindergarten–Grade 6	19 TAC 231, Subchapter B
Grades 6–8	19 TAC 231, Subchapter C
Grades 9–12	19 TAC 231, Subchapter E

### **Teachers of elective, disciplinary, local credit, and innovative courses for grades 6–12**

The following positions and assignments are addressed at 19 Administrative Code 231, Subchapter D.

- ROTC
- Athletics, cheerleading, drill team, and marching band
- Disciplinary alternative education programs
- Innovative course
- Local credit course
- Advanced Placement and International Baccalaureate courses
- Driver education

### **Teachers of special education and related services personnel**

The following positions and assignments are addressed at 19 Administrative Code 231, Subchapter F.

- Special education teacher
- Teacher of adaptive physical education
- Full-time teacher of orthopedically impaired or other health impaired in a hospital class or home-based instruction
- Teacher of students with visual impairments

## ASSIGNMENT AND SCHEDULES

DK  
(EXHIBIT)

- Teacher of students with auditory impairments
- Teacher of gifted and talented students
- Special education counseling services
- Educational diagnostician
- Speech therapy services
- Vocational adjustment coordinator

### **Paraprofessional personnel**

Educational aides are addressed at 19 Administrative Code 231.641.

### **Administrators and other instructional and professional support personnel**

The following positions are addressed at 19 Administrative Code 231.643.

- Superintendent
- Principal
- Assistant principal
- School counselor
- Librarian
- Athletic director

### **Licensed professional support personnel**

The following positions are addressed at 19 Administrative Code 231.645.

- Associate school psychologist
- Audiologist
- Licensed professional counselor
- Marriage and family therapist
- Nurse
- Occupational therapist
- Physical therapist
- Physician
- School psychologist
- Social worker
- Speech language pathologist



**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 E: INSTRUCTION

EA	INSTRUCTIONAL GOALS AND OBJECTIVES
EB	SCHOOL YEAR
EC	SCHOOL DAY
ED	ORGANIZATION OF INSTRUCTION
EE	INSTRUCTIONAL ARRANGEMENTS
EEA	Grouping for Instruction
EEB	Class Size
EEC	Scheduling for Instruction
EED	Student Schedules
EEH	Homebound Instruction
EEJ	Individualized Learning
EEL	Contracts with Outside Agencies
EEM	Juvenile Residential Facilities
EEP	Lesson Plans
EF	INSTRUCTIONAL RESOURCES
EFA	Instructional Materials
EFB	Library Media Programs
EFC	Community Instructional Resources
EFD	Field Trips
EH	CURRICULUM DESIGN
EHA	Basic Instructional Program
EHAA	Required Instruction (All Levels)
EHAB	Required Instruction (Elementary)
EHAC	Required Instruction (Secondary)
EHAD	Elective Instruction
EHB	Special Programs
EHBA	Special Education
EHBAA	Identification, Evaluation, and Eligibility
EHBAB	ARD Committee and Individualized Education Program
EHBAC	Students in Non-District Placement
EHBAD	Transition Services
EHBAAE	Procedural Requirements
EHBAAF	Video/Audio Monitoring
EHBAB	Gifted and Talented Students
EHBAC	Compensatory/Accelerated Services
EHBAD	Federal Title I
EHBE	Bilingual Education/ESL
EHBFA	Career and Technical Education

**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 E: INSTRUCTION

EHBG	Prekindergarten
EHBH	Other Special Populations
EHBI	Adult and Community Education
EHBJ	Innovative and Magnet Programs
EHBK	Other Instructional Initiatives
EHBL	High School Equivalency
EHBM	Travel Study
EHBN	Honors
EHD	Alternative Methods for Earning Credit
EHDA	Summer School
EHDB	Credit by Examination With Prior Instruction
EHDC	Credit by Examination Without Prior Instruction
EHDD	College Course Work/Dual Credit
EHDE	Distance Learning
EI	ACADEMIC ACHIEVEMENT
EIA	Grading/Progress Reports to Parents
EIAA	Examinations
EIAB	Makeup Work
EIB	Homework
EIC	Class Ranking
EID	Honor Rolls
EIE	Retention and Promotion
EIF	Graduation
EJ	ACADEMIC GUIDANCE PROGRAM
EK	TESTING PROGRAMS
EKB	State Assessment
EKBA	English Language Learners/LEP Students
EKC	Reading Assessment
EKD	Mathematics Assessment
EL	CAMPUS CHARTERS
EM	MISCELLANEOUS INSTRUCTIONAL POLICIES
EMA	Academic Freedom
EMB	Teaching About Controversial Issues
EMD	Ceremonies and Observances
EMG	Non-Service Animals
EMI	Study of Religion

INSTRUCTIONAL RESOURCES

EF  
(LEGAL)

SCHOOL LIBRARY	<p>A district possesses significant discretion to determine the content of its school libraries. A district must, however, exercise its discretion in a manner consistent with the First Amendment.</p>
REMOVAL OF LIBRARY MATERIALS	<p>Students' First Amendment rights are implicated by the removal of books from the shelves of a school library. A district shall not remove materials from a library for the purpose of denying students access to ideas with which the district disagrees. A district may remove materials because they are pervasively vulgar or based solely upon the educational suitability of the books in question.</p> <p><i>Bd. of Educ. v. Pico, 457 U.S. 853 (1982)</i></p>
INSTRUCTIONAL MATERIALS	<p>Instructional materials selected for use in the public schools shall be furnished without cost to students attending those schools. Except as provided by Education Code 31.104(d), a district may not charge a student for instructional material or technological equipment purchased by the district with the district's instructional materials allotment [see CMD]. <i>Education Code 31.001</i></p>
PARENTAL ACCESS	<p>A parent is entitled to review all teaching materials, instructional materials, and other teaching aids used in the classroom of the parent's child and to review each test administered to the child after the test is administered. A district shall make teaching materials and tests readily available for parental review and may specify reasonable hours for such review.</p> <p>A student's parent is entitled to request that a district allow the student to take home any instructional materials used by the student. Subject to the availability of the instructional materials, a district or school shall honor the request. A student who takes home instructional materials must return the instructional materials to school at the beginning of the next school day if requested to do so by the student's teacher.</p> <p><i>Education Code 26.006</i></p>
INFORMATION COLLECTION AND ACCESS	<p>No student shall be required, as part of any program funded in whole or in part by the U.S. Department of Education (DOE), to submit to a survey, analysis, or evaluation that reveals information concerning the topics listed at PROTECTED INFORMATION, below, without the prior consent of the student (if the student is an adult or emancipated minor), or, in the case of an unemancipated minor, without the prior written consent of the parent. <i>20 U.S.C. 1232h(b)</i></p>
U.S. DOE FUNDED SURVEYS	
CONSENT REQUIRED	
PARENTAL INSPECTION	<p>All instructional materials, including teacher's manuals, films, tapes, or other supplementary material, that will be used in connection with any survey, analysis, or evaluation as part of any program funded in whole or in part by the U.S. DOE shall be available for</p>

inspection by the parents or guardians of the children. *20 U.S.C. 1232h(a)*

INFORMATION  
COLLECTION  
FUNDED BY OTHER  
SOURCES  
POLICIES

Except as provided by 20 U.S.C. 1232h(a) or (b) [see U.S. DOE FUNDED SURVEYS, above], as a condition of receiving funds for a program funded in whole or in part by the U.S. DOE, a district shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), regarding the following:

1. The parent's right to inspect a survey created by a third party before the survey is administered or distributed by a school to the student and any applicable procedures for granting a request by a parent for reasonable access to such survey within a reasonable period of time after the request is received.
2. A district's arrangements to protect student privacy in the event a survey containing one or more of the items listed under PROTECTED INFORMATION, below, is administered or distributed to a student.
3. The parent's right to inspect any instructional material used in the educational curriculum for the student and any applicable procedures for granting a request by a parent for reasonable access to instructional material within a reasonable period of time after the request is received.
4. The administration of physical examinations or screenings that a district may administer to the student.
5. The collection, disclosure, or use of personal information collected from students for the purpose of marketing or selling that information. This provision does not apply to use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for or to students or educational institutions, such as recruiters, book clubs, curriculum and instructional materials used by schools, sale by students of products or services to raise funds for school-related or education-related activities, or student recognition programs.
6. The parent's right to inspect any instrument used in collection of personal information in item 5 above, before the instrument is administered and any applicable procedures for granting a request by a parent for reasonable access to such instrument within a reasonable period of time after the request is received.

A district need not develop and adopt new policies if TEA or the district had in place, on January 8, 2002, policies covering the re-

PARENTAL  
NOTIFICATION

quirements of 20 U.S.C. 1232h(c)(1). [See CRD, FFAA, FL, and FNG]

A district shall provide for reasonable notice of the adoption or continued use of such policies directly to the parents of the students enrolled in schools served by the district. At a minimum, a district shall:

1. Provide notice at least annually, at the beginning of the school year and within a reasonable time after any substantive change in the policies; and
2. Offer an opportunity for the parent to opt the student out of participation in an activity described below.

A district shall directly notify the parent of a student, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when activities, described below, are scheduled or expected to be scheduled. The following activities require notification under this section:

1. Activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information.
2. The administration of any survey containing one or more items described at PROTECTED INFORMATION, below.
3. Any nonemergency, invasive physical examination or screening that is required as a condition of attendance, administered and scheduled by the school in advance, and not necessary to protect the immediate health and safety of the student or of other students.

*20 U.S.C. 1232h(c)(1)–(4)* [See FFAA]

PROTECTED  
INFORMATION

Protected information addressed by 20 U.S.C. 1232h includes:

1. Political affiliations or beliefs of the student or the student's parents.
2. Mental and psychological problems of the student or the student's family.
3. Sex behavior and attitudes.
4. Illegal, anti-social, self-incriminating, and demeaning behavior.
5. Critical appraisals of other individuals with whom respondents have close family relationships.

6. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.
7. Religious practices, affiliations, or beliefs of the student or student's parent.
8. Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

*20 U.S.C. 1232h(b), (c)(1)(B)*

'PERSONAL  
INFORMATION'  
DEFINED

The term "personal information" means individually identifiable information, including a student's:

1. First and last name;
2. Home or physical address, including street name and city or town;
3. Telephone number; or
4. Social security identification number.

*20 U.S.C. 1232h(c)(6)(E)*

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**Note:** For information related to the selection process and accounting of instructional materials, as this term is defined by state law and rule, see CMD and EFA.

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OBJECTIVES

The District shall provide a wide range of instructional resources for students and faculty that present varying levels of difficulty, diversity of appeal, and a variety of points of view. Although professional staff members may select instructional resources for their use in accordance with District policy and administrative regulations, the ultimate authority for determining and approving the curriculum and instructional program of the District lies with the Board.

In this policy, “instructional resources” may include textbooks, library acquisitions, supplementary resources for classroom use, and any other instructional resources, including electronic resources, used for formal or informal teaching and learning purposes. The primary objectives of instructional resources are to implement, enrich, and support the District’s educational program.

The Board shall rely on District professional staff to select and acquire instructional resources that:

1. Enrich and support the curriculum, taking into consideration students’ varied interests, abilities, learning styles, and maturity levels.
2. Stimulate growth in factual knowledge, enjoyment of reading, literary appreciation, aesthetic values, and societal standards.
3. Present various sides of controversial issues so that students have an opportunity to develop, under guidance, skills in critical analysis and in making informed judgments in their daily lives.
4. Represent many ethnic, religious, and cultural groups and their contributions to the national heritage and world community.
5. Provide a wide range of background information that will enable students to make intelligent judgments in their daily lives.

SELECTION CRITERIA

In the selection of instructional resources, professional staff shall ensure that the resources:

1. Support and are consistent with the general educational goals of the state and District and the aims and objectives of individual schools and specific courses consistent with the District and campus improvement plans.

INSTRUCTIONAL RESOURCES

EF  
(LOCAL)

2. Meet high standards for artistic quality and/or literary style, authenticity, educational significance, factual content, physical format, presentation, readability, and technical quality.
3. Are appropriate for the subject area and for the age, ability level, learning styles, and social and emotional development of the students for whom they are selected.
4. Are designed to help students gain an awareness of our pluralistic society.
5. Are designed to provide information that will motivate students and staff to examine their own attitudes and behavior; to understand their duties, responsibilities, rights, and privileges as citizens participating in our society; and to make informed choices in their daily lives.
6. For library selections, are integral to the instructional program, are appropriate for the reading levels and understanding of students, reflect the interests and needs of the students and faculty, are included because of their literary or artistic value and merit, and present information with the greatest degree of accuracy and clarity.

Administrators, teachers, library media specialists, other District personnel, parents, and community members, as appropriate, may recommend instructional resources for selection. Gifts of instructional resources shall be evaluated according to these criteria and accepted or rejected in accordance with CDC(LOCAL).

Selection of resources is an ongoing process that includes the removal of resources no longer appropriate and the periodic replacement or repair of resources that still have educational value.

CONTROVERSIAL  
ISSUES

District professional staff shall endeavor to maintain a balanced collection representing various views when selecting instructional resources on controversial issues. Resources shall be chosen to clarify historical and contemporary forces by presenting and analyzing intergroup tension and conflict objectively, placing emphasis on recognizing and understanding social and economic problems. [See also EMB regarding instruction about controversial issues and EHAA regarding human sexuality instruction.]

CHALLENGED  
RESOURCES

A parent of a District student, any employee, or any District resident may formally challenge an instructional resource used in the District's educational program on the basis of appropriateness.

INFORMAL  
RECONSIDERATION

The school receiving a complaint about the appropriateness of an instructional resource shall try to resolve the matter informally using the following procedure:



INSTRUCTIONAL RESOURCES

EF  
(LOCAL)

1. The principal or designee shall explain the school's selection process, the criteria for selection, and the qualifications of the professional staff who selected the questioned resource.
2. The principal or designee shall explain the intended educational purpose of the resource and any additional information regarding its use.
3. If appropriate, the principal or designee may offer a concerned parent an alternative instructional resource to be used by that parent's child in place of the challenged resource.
4. If the complainant wishes to make a formal challenge, the principal or designee shall provide the complainant a copy of this policy and a form to request a formal reconsideration of the resource.

FORMAL  
RECONSIDERATION

A complainant shall make any formal objection to an instructional resource on the form provided by the District and shall submit the completed and signed form to the principal. Upon receipt of the form, the principal shall appoint a reconsideration committee.

The reconsideration committee shall include at least one member of the instructional staff who has experience using the challenged resource with students or is familiar with the challenged resource's content. Other members of the committee may include District-level staff, library staff, secondary-level students, parents, and any other appropriate individuals.

All members of the committee shall review the challenged resource in its entirety. As soon as reasonably possible, the committee shall meet and determine whether the challenged resource conforms to the principles of selection set out in this policy. The committee shall prepare a written report of its findings and provide copies to the principal, the Superintendent or designee, and the complainant.

APPEAL

The complainant may appeal the decision of the reconsideration committee in accordance with appropriate complaint policies, starting with the appropriate administrator. [See DGBA, FNG, and GF]

GUIDING PRINCIPLES

The following principles shall guide the Board and staff in responding to challenges of instructional resources:

1. A complainant may raise an objection to an instructional resource used in a school's educational program, despite the fact that the professional staff selecting the resources were qualified to make the selection, followed the proper procedure, and adhered to the objectives and criteria for instructional resources set out in this policy.

INSTRUCTIONAL RESOURCES

EF  
(LOCAL)

2. A parent's ability to exercise control over reading, listening, or viewing matter extends only to his or her own child.
3. Access to a challenged resource shall not be restricted during the reconsideration process, except the District may deny access to a child if requested by the child's parent.

The major criterion for the final decision on challenged resources is the appropriateness of the resource for its intended educational use. No challenged instructional resource shall be removed solely because of the ideas expressed therein.

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**Note:** For provisions regarding inventory and requisition of instructional materials, see CMD.

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DEFINITIONS

“Instructional material” is defined as content that conveys the essential knowledge and skills of a subject in the public school curriculum through a medium or a combination of media for conveying information to a student. The term includes a book, supplementary materials, a combination of a book, workbook, and supplementary materials, computer software, magnetic media, DVD, CD-ROM, computer courseware, online services, or an electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means, including open-source instructional material. *Education Code 31.002(1)*

“Open-source instructional material” is electronic instructional material that is available for downloading from the Internet at no charge to a student and without requiring the purchase of an unlock code, membership, or other access or use charge, except for a charge to order an optional printed copy of all or part of the instructional material. *Education Code 31.002(1-a)*

“Technological equipment” is hardware, a device, or equipment necessary for instructional use in the classroom, including to gain access to or enhance the use of electronic instructional materials; or professional use by a classroom teacher. *Education Code 31.002(4)*

SBOE INSTRUCTIONAL  
MATERIALS LIST

For each subject and grade level, the State Board of Education (SBOE) shall adopt a list of instructional materials.

The list includes each instructional material that meets applicable physical specifications and contains material covering at least half of the elements of the essential knowledge and skills of the subject and grade level.

*Education Code 31.023(a)*

A district may requisition instructional materials on the SBOE’s list for grades above the grade level in which the student is enrolled. *19 TAC 66.104(b)*

OPEN-SOURCE  
INSTRUCTIONAL  
MATERIAL

The SBOE shall place open-source instructional material for a secondary-level course submitted for adoption by an eligible institution on the list if it satisfies the requirements described in Education Code 31.0241. *Education Code 31.0241(b)*

INSTRUCTIONAL RESOURCES  
INSTRUCTIONAL MATERIALS

EFA  
(LEGAL)

COMMISSIONER  
INSTRUCTIONAL  
MATERIALS LIST

The commissioner of education, with input from the SBOE, shall adopt a list of:

1. Electronic instructional material; and
2. Material that conveys information to the student or otherwise contributes to the learning process, including tools, models, and investigative materials designed for use as part of the foundation curriculum for science in kindergarten through grade 5 and personal financial literacy in kindergarten through grade 8.

*Education Code 31.0231(a)*

SUPPLEMENTAL  
INSTRUCTIONAL  
MATERIALS LIST

The SBOE may adopt supplemental instructional materials that are not on the SBOE instructional materials list. Supplemental instructional material contains material covering one or more primary focal points or primary topics of a subject in the required curriculum but is not designed to serve as the sole textbook for a full course. *Education Code 31.035(a)*

LOCAL SELECTION

A board shall select instructional materials in an open meeting as required by the Texas Open Meetings Act, including public notice. *19 TAC 66.104(a)*

NOTICE TO SBOE

Each year, during a period established by the SBOE, a board shall notify the SBOE of instructional materials selected in accordance with Education Code 31.101. *Education Code 31.101(a)*

FOUNDATION  
CURRICULUM

For subjects in the foundation curriculum, a board shall notify the SBOE of the instructional materials it selects from the instructional materials list, including the commissioner's instructional materials list. *Education Code 31.101(a)(1)*

ENRICHMENT  
CURRICULUM

For a subject in the enrichment curriculum, a board shall notify the SBOE of instructional material it selects from the instructional materials list, including the commissioner's instructional materials list, or that it selected instructional materials that do not appear on the list. *Education Code 31.101(a)(2)*

SUPPLEMENTAL  
MATERIALS

A board may select supplemental instructional materials adopted by the SBOE, as set forth at Education Code 31.035 [see CMD]. If a board selects supplemental instructional materials, the district shall certify to TEA that the supplemental instructional materials, in combination with any other instructional materials or supplemental instructional materials used by the district, cover the essential knowledge and skills for the course. *Education Code 31.035(d), (f)*

INSTRUCTIONAL RESOURCES  
INSTRUCTIONAL MATERIALS

EFA  
(LEGAL)

OPEN-SOURCE MATERIAL A district may adopt state-developed open-source instructional material at any time, regardless of the instructional material review and adoption cycle. *Education Code 31.073(c)*

SPECIAL EDUCATION Adopted instructional materials shall be supplied to a student in special education classes as appropriate to the level of the student's ability and without regard to the grade for which the instructional material is adopted or the grade in which the student is enrolled. *19 TAC 66.104(c)*

DURATION OF SELECTION LISTED MATERIALS A district that selects subscription-based instructional material on the SBOE instructional materials list or electronic instructional material on the commissioner's instructional materials list may cancel the subscription and subscribe to new instructional material on the SBOE list or electronic instructional material on the commissioner's list before the end of the state contract period if:

1. The district has used the instructional material for at least one school year; and
2. TEA approves the change based on a written request to TEA by the district that specifies the reasons for changing the instructional material used by the district.

*Education Code 31.101(e)*

OTHER MATERIALS For instructional material that is not on the instructional materials list, a district must use the instructional material for the period of the review and adoption cycle the SBOE has established for the subject and grade level for which the instruction material is used. *Education Code 31.101(d)*

CRIMINAL OFFENSE A board member, administrator, or teacher commits an offense if the person receives any commission or rebate on any instructional materials or technological equipment used in the schools with which the person is associated.

A board member, administrator, or teacher commits an offense if the person accepts a gift, favor, or service that:

1. Is given to the person or the person's school;
2. Might reasonably tend to influence the person in the selection of instructional material or technological equipment; and
3. Could not be lawfully purchased with state instructional materials funds.

"Gift, favor, or service" does not include:

1. Staff development, in-service, or teacher training; or

INSTRUCTIONAL RESOURCES  
INSTRUCTIONAL MATERIALS

EFA  
(LEGAL)

2. Ancillary materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.

*Education Code 31.152*

HUMAN SEXUALITY  
MATERIALS

Course materials relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS) shall be selected by a board with the advice of the local school health advisory council. *Education Code 28.004(e)* [See EHAA]

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. A 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. A district must ensure that sufficient time is provided for teachers to teach and for students to learn English language arts, mathematics, science, social studies, at least one of the four disciplines in fine arts (art, dance, music, theatre), health, physical education, technology applications, and to the extent possible, languages other than English. The school 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

A 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.

A 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

A 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.

A 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

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 school 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)*

A district shall offer and maintain evidence that students have the opportunity to take courses in at least three of the four disciplines in fine arts. The requirement to offer three of the four disciplines in fine arts may be reduced to two by the commissioner of education upon application of a school district with a total middle school enrollment of less than 250 students. *19 TAC 74.3(a)(3)*

INSTRUCTION IN  
HIGH SCHOOL,  
COLLEGE, AND  
CAREER  
PREPARATION

Each district shall provide instruction to students in grade 7 or 8 in preparing for high school, college, and a career. The instruction must include information regarding:

1. The creation of a high school personal graduation plan under Education Code 28.02121;
2. The distinguished level of achievement described by Education Code 28.025(b-15);
3. Each endorsement described by Education Code 28.025(c-1);
4. College readiness standards; and
5. Potential career choices and the education needed to enter those careers.

A district may provide the instruction as part of an existing course in the required curriculum; provide the instruction as part of an existing career and technology course designated by the State Board of Education (SBOE) as appropriate for that purpose; or establish a new elective course through which to provide the instruction.

*Education Code 28.016*



BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (SECONDARY)

EHAC  
(LEGAL)

HIGH SCHOOL  
COURSES AT EARLIER  
GRADES

A 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. A 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)*

A 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, and at least one additional advanced English course.
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;
  - n. Scientific Research and Design; and
  - o. Principles of Engineering.

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, Personal Financial Literacy, and Economics with Emphasis on the Free Enterprise System and Its Benefits.
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 — Computer Science I and Computer Science II or Advanced Placement (AP) Computer Science and at least two of the following:
- a. Computer Science III;
  - b. Digital Art and Animation;
  - c. Digital Communications in the 21st Century;
  - d. Digital Design and Media Production;
  - e. Digital Forensics;
  - f. Digital Video and Audio Design;
  - g. Discrete Mathematics for Computer Science;
  - h. Fundamentals of Computer Science;
  - i. Game Programming and Design;
  - j. Independent Study in Evolving/Emerging Technologies;
  - k. Independent Study In Technology Applications;
  - l. Mobile Application Development;
  - m. Robotics Programming and Design;
  - n. 3-D Modeling and Animation;
  - o. Web Communications;
  - p. Web Design; and
  - q. Web Game Development.
10. Speech — Communications Applications.

11. Each 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 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, a 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)*

A 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 a 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.

A 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, a 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)*

A district may offer additional courses from the complete list of courses approved by the SBOE to satisfy graduation requirements.  
*19 TAC 74.3(b)(3)*

APPLIED COURSES

A school district may offer the foundation curriculum in an applied manner. The courses delivered in an applied manner must cover the essential knowledge and skills, and the student shall be administered the applicable end-of-course assessment instrument. *Education Code 28.025(b-4)*

RESEARCH WRITING  
COMPONENT

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. *19 TAC 74.3(b)(5)*

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (SECONDARY)

EHAC  
(LEGAL)

PARENTING  
AWARENESS  
PROGRAM

A district shall use the parenting and paternity awareness program developed by the SBOE in its high school health curriculum.

HIGH SCHOOL

MIDDLE AND  
JUNIOR HIGH  
SCHOOL

A district may use the program in the district's middle or junior high school curriculum.

PROGRAM  
REQUIREMENTS

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.

A district may add elements at its discretion but must include the following areas of instruction:

1. Parenting skills and responsibilities, including child support;
2. Relationship skills, including money management, communication, and marriage preparation; and
3. 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.

At the discretion of the district, a teacher may modify the suggested sequence and pace of the program at any grade level.

LOCAL PROGRAMS  
AND MATERIALS

A 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:

1. Child development;
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

A 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.

A 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)*

CPR INSTRUCTION

For all students who entered grade 7 in the 2010–11 school year and thereafter, a district shall provide instruction to students in grades 7–12 in cardiopulmonary resuscitation (CPR). The instruction may be provided as a part of any course. A student shall receive the instruction at least once before graduation from high school.

CPR instruction must include training that has been developed by the American Heart Association or the American Red Cross or using nationally recognized, evidence-based guidelines for emergency cardiovascular care and incorporating psychomotor skills to support the instruction.

A district may use emergency medical technicians, paramedics, police officers, firefighters, representatives of the American Heart Association or the American Red Cross, teachers, other school employees, or other similarly qualified individuals to provide instruction and training. Instruction is not required to result in CPR certification. If instruction is intended to result in certification, the course instructor must be authorized to provide the instruction by the American Heart Association, the American Red Cross, or a similar nationally recognized association; otherwise, an instructor is not required to be certified in CPR.

WAIVERS FOR  
STUDENTS WITH  
DISABILITIES

A district may waive this requirement for a student who, due to a disability, is unable to complete the instruction. The determination regarding a student's ability to complete the CPR requirement must be made by:

1. The student's admission, review, and dismissal (ARD) committee if the student receives special education services under Education Code, Chapter 29, Subchapter A; or
2. The committee established for the student under Section 504, if the student does not receive special education services, but is covered by Section 504.

*Education Code 28.0023 (c)–(e), (g); 19 TAC 74.38*

DONATIONS

A 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. A district may accept other donations, including donations of equipment, for use in providing CPR instruction. *Education Code 29.903*





SPECIAL PROGRAMS  
INNOVATIVE AND MAGNET PROGRAMS

EHB  
(LEGAL)

INNOVATIVE COURSES  
AND PROGRAMS

A district may offer innovative courses to enable students to master knowledge, skills, and competencies not included in the essential knowledge and skills of the required curriculum.

To request approval for an innovative course from the State Board of Education or the commissioner of education, a district must submit a request for approval at least six months before planned implementation. The request must address the elements listed at 19 Administrative Code 74.27(3).

With the approval of the board, a district may offer, without modifications, any state-approved innovative course.

*19 TAC 74.27*

MAGNET SCHOOLS  
OR PROGRAMS

A district may operate a magnet program, academy, or other innovative program to serve student populations with specialized interests and aptitudes. *19 TAC 74.22(b)*



	<p>The purpose of a High School Equivalency Program (HSEP) approved by the commissioner of education is to prepare eligible students to take the high school equivalency examination. <i>19 TAC 89.1401</i></p>
AUTHORIZATION FOR PROGRAM	<p>A district may apply for authorization to operate an HSEP. A board must hold a public hearing concerning the proposed application before applying to operate an HSEP. <i>Education Code 29.087(b), (k)(1); 19 TAC 89.1405(a), .1407</i></p> <p>A cooperative of districts may apply for permission to operate a cooperative HSEP if it operates pursuant to a written agreement. The fiscal agent of a cooperative HSEP is responsible for complying with the requirements of 19 Administrative Code Chapter 89, Subchapter DD. <i>19 TAC 89.1405(b)</i></p> <p>A district authorized by the commissioner on or before August 31, 2003, to operate an HSEP may continue to operate the program in accordance with Education Code 29.087. <i>Education Code 29.087(b-1)</i></p>
OPERATION OF PROGRAM	<p>A student enrolled in an HSEP must be offered, at a minimum, 420 minutes of instruction per school day and 75,600 instructional minutes per calendar year. However, a student may attend the HSEP a maximum of 600 minutes, or ten hours of instruction per day. A student may be enrolled in only an HSEP or may be enrolled in an HSEP in combination with regular attendance and/or special program attendance during the school day. <i>Education Code 29.087(c); 19 TAC 89.1411(a), (d), .1417(b)</i></p>
ANNUAL REVIEW	<p>A board must hold a public hearing annually to review the performance of the HSEP. <i>Education Code 29.087(k)(2); 19 TAC 89.1407(b)</i></p>
STUDENT ELIGIBILITY	<p>A student is eligible to participate in the HSEP if:</p>
COURT-ORDERED	<ol style="list-style-type: none"><li>1. The student has been ordered by a court under Family Code 65.103, or by the Texas Juvenile Justice Department, to:<ol style="list-style-type: none"><li>a. Participate in a preparatory class for the high school equivalency examination; or</li><li>b. Take the high school equivalency examination administered under Education Code 7.111; or</li></ol></li></ol>
STUDENT AT RISK	<ol style="list-style-type: none"><li>2. The following conditions are satisfied:<ol style="list-style-type: none"><li>a. The student is at least 16 years of age at the beginning of the school year or semester;</li></ol></li></ol>

SPECIAL PROGRAMS  
HIGH SCHOOL EQUIVALENCY

EHBL  
(LEGAL)

- b. The student is a student at risk of dropping out of school [see EHBC];
- c. The student and the student's parent or guardian agree in writing to the student's participation; and
- d. At least two school years have elapsed since the student first enrolled in ninth grade and the student has accumulated less than one-third of the credits required to graduate under the minimum graduation requirements of a district.

*Education Code 29.087(d); 19 TAC 89.1403*

STATE ASSESSMENT

A student entering an HSEP must take:

1. Each state assessment instrument required for the student's applicable grade or cohort prior to entering the program; and
2. Each state assessment instrument required for the student's applicable grade or cohort during the period in which the student is enrolled in the program.

A student entering an HSEP by order of the court under Family Code 65.103, or by order of the Texas Juvenile Justice Department, is exempt from these assessment requirements.

*Education Code 29.087(f); 19 TAC 89.1409(a)–(b)* [See EKB]

HIGH SCHOOL  
EQUIVALENCY  
TESTING

A district operating an approved HSEP must present to TEA proof that a student has been administered the assessment instruments required above. TEA will not allow an HSEP student to take the high school equivalency examination without proof from the approved HSEP that the student has been administered the required assessment instruments. A student who is enrolled in an HSEP and withdraws before taking the required assessment instruments cannot take the high school equivalency examination until after the individual's 18th birthday.

A district operating an approved HSEP must inform each student who has completed the program of the time and place at which the student may take the high school equivalency examination.

*19 TAC 89.1409(c), (d)*

EXTRACURRICULAR  
PARTICIPATION

A student enrolled in an HSEP may not participate in a competition or activity sanctioned by the University Interscholastic League.  
*Education Code 29.087(g); 19 TAC 89.1415*

ALTERNATIVE METHODS FOR EARNING CREDIT  
CREDIT BY EXAMINATION WITH PRIOR INSTRUCTION

EHDB  
(LOCAL)

The principal or designee or the attendance committee, as applicable, shall have authority to offer a student the opportunity to demonstrate mastery in a subject or to earn course credit by examination when the student has had prior instruction in a subject and when:

1. The student is enrolling in the District from a nonaccredited school [see FD];
2. The student has failed a subject or course; or
3. The student has earned a passing grade in a subject or course but has failed to earn credit or a final grade because of excessive absences [see FEC].

The Board-approved examinations shall assess the student's mastery of the essential knowledge and skills and shall be administered according to established District procedures.

Prior to offering a student an opportunity to demonstrate mastery or earn credit by this method, an appropriate District employee shall review the student's educational records to determine whether the student has had prior instruction in the subject or course.



ACADEMIC ACHIEVEMENT  
GRADUATION

EIF  
(LOCAL)

COURSE REQUIREMENTS	To graduate, a student must complete the courses required by the District in addition to those mandated by the state.
FOUNDATION PROGRAM	<p>A student shall enroll in courses specified by the District to complete the distinguished level of achievement under the foundation program.</p> <p>A student may graduate under the foundation program without earning the distinguished level of achievement if:</p> <ol style="list-style-type: none"><li>1. The student and the student's parent or person standing in parental relation to the student are advised by the school counselor of the specific benefits of graduating from high school under the distinguished level of achievement; and</li><li>2. The student's parent or person standing in parental relation to the student files with a school counselor written permission, on a form provided by the District, allowing the student to graduate with an endorsement without earning the distinguished level of achievement.</li></ol> <p>The courses that satisfy District requirements under the foundation program, including courses for the distinguished level of achievement and courses for endorsements offered by the District, shall be listed in appropriate District publications.</p>
WITHOUT AN ENDORSEMENT	The District requires no additional credits beyond the number mandated by the state to graduate under the foundation program without an endorsement. Graduation under the foundation program without an endorsement shall be permitted only as authorized under state law and rules.
WITH AN ENDORSEMENT	The District requires no additional credits beyond the number mandated by the state to graduate under the foundation program with an endorsement.
DISTINGUISHED LEVEL OF ACHIEVEMENT	The District requires no additional credits beyond the number mandated by the state to graduate under the foundation program with the distinguished level of achievement.
NO FINE ARTS SUBSTITUTIONS	The District shall not award state graduation credit in fine arts for participation in a community-based fine arts program.
PHYSICAL EDUCATION SUBSTITUTIONS ACTIVITIES AND COURSES	To the extent permitted by state rules, the District shall award state graduation credit in physical education for participation in approved activities and elective courses.
PRIVATE OR COMMERCIAL PROGRAMS	The District shall award state graduation credit in physical education for appropriate private or commercially sponsored physical ac-

tivity programs conducted either on or off campus, upon approval by the commissioner of education. [See also EHAC]



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**Note:** The terms English language learner and limited English proficient student are used interchangeably. *19 TAC 89.1203*

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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; and
4. The reason for a postponement under 19 Administrative Code 101.1023.

*19 TAC 101.1003(b), (c), .1005(a), (c), .1023*

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;
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 English to measure the student's academic progress in a valid, reliable manner.

MINIMUM DAYS FOR  
ENROLLMENT

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).

*Education Code 39.027(a)(1)–(2), (a-1), (a-2), (g)*

TESTING IN GRADES  
3–8

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.

SPANISH-VERSION  
ASSESSMENT

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.

LINGUISTICALLY  
ACCOMMODATED  
ASSESSMENTS

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:

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]; and
3. 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].

EXEMPTION FOR  
ASYLEE OR  
REFUGEE

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.

*19 TAC 101.1005(b), (c)*

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. *19 TAC 101.1005(f)*

STATE ASSESSMENT  
ENGLISH LANGUAGE LEARNERS/LEP STUDENTS

EKBA  
(LEGAL)

END-OF-COURSE  
ASSESSMENTS

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. *19 TAC 101.1005(b)*

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.

EXCEPTION

If an English language learner enrolled in English I or English for Speakers of Other Languages I 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 un-schooled 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 retake the applicable English I assessment in which the student is enrolled each time it is administered if the student passes the course but fails to achieve the passing standard on the assessment [See EKB]

*19 TAC 101.1007(a), (b)*

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. *19 TAC 101.1021*

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 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*

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)*

STATE ASSESSMENT  
ENGLISH LANGUAGE LEARNERS/LEP STUDENTS

EKBA  
(LEGAL)

SPECIAL EDUCATION SELECTING ASSESSMENTS	<p>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.</p> <p>The ARD committee shall document the decisions and justifications in the student's individualized education program (IEP).</p> <p><i>19 TAC 101.1005(a)</i></p>
ENGLISH LANGUAGE PROFICIENCY TESTS	<p>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. <i>19 TAC 101.1003(b)</i></p> <p>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. <i>19 TAC 101.1003(c)</i></p>
ALTERNATIVE ASSESSMENT INSTRUMENTS	<p>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. <i>19 TAC 101.1005(b)</i></p> <p>An unschooled asylee or refugee who meets these 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. <i>19 TAC 101.1005(c)</i></p>
TESTING ACCOMMODATIONS	<p>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. <i>19 TAC 101.1005(e)</i></p>
GRADE ADVANCEMENT REQUIREMENTS	<p>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. <i>19 TAC 101.2003(e)</i> [See EIE]</p>



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**Note:** For purposes of this policy, the term campus charter includes a program charter.

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CAMPUS CHARTERS The Board shall consider an application for a campus charter if the applicant:

1. Complies with the statutory requirements for a campus charter;
2. Follows the application process established by the District; and
3. Supplies evidence to the Board that the applicant will comply with the statutory and District requirements for a campus charter.

COMPLIANCE WITH LAW Campus charters shall comply with all federal law and with state law governing such charters and shall be nonsectarian.

APPLICATION PROCESS The Superintendent or designee shall schedule an informational meeting for anyone expressing interest in establishing a campus charter. Applications and petition forms for a campus charter shall be available in the central administration office or in a designated place that is accessible to parents and teachers in the District.

Applicants shall present a draft of the application to the Superintendent or designee in accordance with a timeline established in administrative regulations. The Superintendent or designee shall work with the applicants in completing the application process.

A public forum shall be held to allow the applicants an opportunity to present their proposal to the Board and to the community prior to formal consideration by the Board.

Final applications and any applicable petitions for campus charters shall be submitted to the District prior to January 1 for Board consideration of a charter to begin the following school year.

CONTENT OF FINAL APPLICATION A final application for a campus charter shall include the following:

1. The purpose and need for such a campus or program;
2. The unique distinction between the proposed campus or program and the District's current campuses and programs;
3. A mission and goals statement;
4. The curriculum to be offered;
5. A plan for measuring student achievement;

6. A governance and decision-making plan, including a list of local Board policies that shall apply, as well as a list of any local policies the applicant is requesting the Board to waive;
7. An enrollment and withdrawal process;
8. A plan for maintaining and reporting PEIMS data in accordance with state requirements;
9. Discipline procedures;
10. A safety and security plan;
11. A plan for providing facilities and student transportation;
12. A facility and maintenance plan that includes routine maintenance as well as emergency procedures for managing potential danger to the health and safety of students and employees;
13. An employment plan consistent with federal and applicable state guidelines, due process requirements, and contract non-renewal and termination procedures; and
14. The role of the chief operating officer responsible for personnel, the budget, purchasing, program funds, and other areas of management.

Applicants shall submit with the application any required petitions indicating evidence of support for the approval of a campus charter.

CONTENT OF  
CHARTER

A charter shall be a written contract signed by the Board President, the Superintendent, and the chief operating officer of the campus charter.

Each charter shall satisfy the requirements of the law governing campus charters and include the items listed in the application, with any modifications required by the Board.

In addition to the legally required contents of a charter, each charter contract shall:

1. Stipulate a term length for the charter; and
2. Establish a date for review or renewal of the charter.

REVISING THE  
CHARTER

Revisions or amendments to a charter shall follow the same process outlined at APPLICATION PROCESS, as applicable.

PROVISIONS FOR  
PROBATION OR  
REVOCATION

The Board may place on probation or revoke a campus charter in accordance with the charter contract if it finds that the campus charter:



CAMPUS CHARTERS

EL  
(LOCAL)

1. Violates a provision of applicable state or federal law;
2. Violates a provision of the charter, which may include failure to meet academic or financial accountability requirements; or
3. Fails to meet generally accepted accounting standards for fiscal management.

PROCEDURE

The Superintendent shall investigate any allegation that a campus charter has violated federal or applicable state law or provisions of the charter or fails to meet generally accepted accounting standards for fiscal management. The Superintendent shall hold a conference with the chief operating officer and governing body of the charter campus or program to discuss any such allegation.

If the Superintendent determines that a violation or mismanagement has occurred, the chief operating officer of the campus charter shall respond to the allegation at the next regularly scheduled Board meeting. The Superintendent shall ensure that the issue is on the agenda.

The Board shall hear the presentation and take action, if necessary, to place the campus charter on probation.

If the Board decides to consider revocation of the campus charter, it shall schedule a public hearing to be held on the respective campus.



ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LEGAL)

COMPULSORY  
ATTENDANCE

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 19th birthday shall attend school for the entire period the program is offered, unless exempted as indicated below. On enrollment in prekindergarten or kindergarten, a student shall attend school.  
*Education Code 25.085(a)–(c)*

VOLUNTARY  
ENROLLMENT OF  
STUDENTS 19 AND  
OVER

A person who voluntarily enrolls in school or voluntarily attends school after the person's 19th birthday shall attend school each school day for the entire period the program of instruction is offered. A board may adopt a policy requiring the student who is under 21 years of age to attend school until the end of the school year.

After the third unexcused absence of a person who voluntarily enrolls, a district shall issue a warning letter to the person that states the person's enrollment may be revoked for the remainder of the school year if the person has more than five unexcused absences in a semester.

A 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, except a school district may not revoke the enrollment of a person under this provision on a day on which the person is physically present at school.

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.

As an alternative to revoking a person's enrollment, a school district may impose a behavior improvement plan described by Education Code 25.0915(a-1)(1).

*Education Code 25.085(e)–(h)*

ACCELERATED /  
COMPENSATORY  
PROGRAMS

Unless specifically exempted, a student must also attend:

1. An extended-year program for which the student is eligible that is provided by a 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];

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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 before the beginning of the next school year each course in which the student was enrolled at the time of removal. *Education Code 37.021* [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. *Education Code 37.008(l)* [See FOCA]

*Education Code 25.085(d)*

EXEMPTIONS

A student is exempt from compulsory attendance requirements if:

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 a 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 makes attendance infeasible and the student has a certificate from a qualified physician specifying the temporary condition, indicating the prescribed treatment, and covering the anticipated period of absence for the purpose of receiving and recuperating from remedial treatment.

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(LEGAL)

EXPULSION—NO JJAEP	5. The student is 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.
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:  a. The student is recommended to take the course by a public agency that has supervision or custody of the student under a court order; or  b. 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	A 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

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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.

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. If the student is in the conservatorship of the Department of Family and Protective Services (DFPS), participating, as determined and documented by DFPS, in an activity:
  - a. 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, or
  - b. Required under a service plan under Family Code Chapter 263, Subchapter B.

*Education Code 25.087(b)(1); 19 TAC 129.21(j)(3)*

HEALTH-CARE  
APPOINTMENTS

7. 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 must 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(j)(3) [See FEB]*

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HIGHER  
EDUCATION  
VISITS

A 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(j)(3)*

EARLY VOTING  
CLERKS

A district may adopt a policy excusing a student from attending school for service as a student early voting clerk in an election. A 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. *Education Code 25.087(b-1), (e)*

MILITARY  
DEPENDENTS

A 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. A 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(b-4)* [See FDD]

TAPS AT MILITARY  
FUNERAL

In addition, a 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. *Education Code 25.087(c)*

NO PENALTY

A student whose absence is excused for a reason described beginning at EXCUSED ABSENCES FOR COMPULSORY ATTENDANCE DETERMINATIONS, above, may not be penalized for that absence and shall be counted as if the student attended school for purposes of calculating the average daily attendance of students in the district.

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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.

*Education Code 25.087(d)*

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. *Education Code 25.087(a)*

NOTICES TO PARENTS  
WARNING NOTICE

A 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, the student's parent is subject to prosecution under Education Code 25.093, and the student is subject to referral to a truancy court for truant conduct under Family Code 65.003(a).

NOTICE OF  
ABSENCES

A 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 student is subject to truancy prevention measures under Education Code 25.0915; 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 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 Family Code 65.003(a).



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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 a district to determine whether to excuse the absence for another purpose.

*Education Code 25.093*

STUDENT LIABILITY

A child engages in truant conduct if the child is required to attend school under the compulsory attendance laws, and fails to attend school on ten or more days or parts of days within a six-month period in the same school year. Truant conduct may be prosecuted only as a civil case in a truancy court. *Family Code 65.003(a), (b)*

“Child” means a person who is 12 years of age or older and younger than 19 years of age. *Family Code 65.002(1)*

TRUANCY  
COURTS

The following are designated as truancy courts:

1. The constitutional county court in a county with a population of 1.75 million or more;
2. Justice courts; and
3. Municipal courts.

A truancy court has exclusive original jurisdiction over cases involving allegations of truant conduct.

*Family Code 65.004(a), (b)*

AFFIRMATIVE  
DEFENSE—  
STUDENT

It is an affirmative defense to an allegation of truant conduct that one or more of the absences required to be proven have been 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 truant conduct. The burden is on the child to show by a preponderance of the evidence that the absence has been or should be excused or that the absence was involuntary. A decision by the court to excuse an absence does not affect the ability of the district to determine whether to excuse the absence for another purpose.

*Family Code 65.003(c)*

TRUANCY  
PREVENTION  
MEASURES

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 described below, the district shall initiate truancy prevention measures on the student. [See FED] *Education Code 25.0915(a-4)*

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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, a district shall within ten school days of the student's tenth absence refer the student to a truancy court for truant conduct under Family Code 65.003(a). [See FED] *Education Code 25.0951*

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DISTRICT COMPLAINT OR REFERRAL AGAINST STUDENT	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, a district shall within ten school days of the student's tenth absence refer the student to a truancy court for truant conduct under Family Code 65.003(a). [See FEA]
AGAINST PARENT	<p>The district may file a complaint against the student's parent in a county, justice, or municipal court for an offense under Education Code 25.093 if the district provides evidence of the parent's criminal negligence.</p> <p>A court shall dismiss a complaint made by a district against a parent that does not comply with Education Code 25.0951; does not allege the elements required for the offense; is not timely filed, unless the district delayed the referral as provided below; or is otherwise substantively defective.</p>
DELAYING A REFERRAL	<p>A district may delay a referral of a student for truant conduct, or may choose to not refer a student for truant conduct, if the district:</p> <ol style="list-style-type: none"><li>1. Is applying truancy prevention measures to the student under Education Code 25.0915; and</li><li>2. Determines that the truancy prevention measures are succeeding and it is in the best interest of the student that a referral be delayed or not be made.</li></ol> <p><i>Education Code 25.0951</i></p>
REFERRAL PROHIBITED	<p>A district may not refer a student to truancy court if the school determines that the student's truancy is the result of pregnancy, being in the state foster program, homelessness, or being the principal income earner for the student's family. [See TRUANCY PREVENTION MEASURES, below] <i>Education Code 25.0915(a-3)</i></p>
FILING REQUIREMENTS	<p>Each referral to truancy court for conduct described by Family Code 65.003(a) must:</p> <ol style="list-style-type: none"><li>1. Be accompanied by a statement from the student's school certifying that the school applied the truancy prevention measures to the student, and the measures failed to meaningfully address the student's school attendance; and</li><li>2. Specify whether the student is eligible for or receives special education services under Education Code Chapter 29, Subchapter A.</li></ol> <p>A truancy court shall dismiss a petition filed by a truant conduct prosecutor under Family Code 65.054, if the court determines that the district's referral:</p>

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1. Does not comply with the requirement above;
2. Does not satisfy the elements required for truant conduct;
3. Is not timely filed, unless the school district delayed the referral as provided above [see DELAYING A REFERRAL, above]; or
4. Is otherwise substantively defective.

*Education Code 25.0915(b), (c)*

EXPUNCTION OF  
RECORDS

An individual who was convicted of a truancy offense under former Education Code 25.094 or has had a complaint for a truancy offense dismissed is entitled to have the conviction or complaint and records relating to the conviction or complaint expunged.

Regardless of whether the individual has filed a petition for expunction, the court in which the individual was convicted or a complaint for a truancy offense was filed shall order the conviction, complaints, verdicts, sentences, and other documents relating to the offense, including any documents in the possession of a district or law enforcement agency, to be expunged from the individual's record. After entry of the order, the individual is released from all disabilities resulting from the conviction or complaint, and the conviction or complaint may not be shown or made known for any purpose.

*Code of Crim. Proc. 45.0541*

ATTENDANCE  
OFFICER

A 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 a 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 a 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 Educa-

tion Code 25.0915 to the student and if the measures fail to meaningfully address the student's conduct:

- a. Referring the student to a truancy court if the student has unexcused absences for the amount of time specified under Family Code 65.003(a); 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; and
  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.

*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 truancy court if the student has unexcused absences for the amount of time specified under Family Code 65.003(a); 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;

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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; and
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 residence except to lawfully serve court-ordered legal process on the parent.

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

A district shall adopt truancy prevention measures designed to address student conduct related to truancy in the school setting before the student engages in conduct described by Family Code 65.003, and minimize the need for referrals to truancy court for conduct described by Family Code 65.003(a). *Education Code 25.0915(a)*

A district shall take one or more of the following actions as a truancy prevention measure:

1. Impose:
  - a. A behavior improvement plan on the student that must be signed by an employee of the school, that the district has made a good faith effort to have signed by the student and the student's parent or guardian, and that includes:
    - (1) A specific description of the behavior that is required or prohibited for the student;
    - (2) The period for which the plan will be effective, not to exceed 45 school days after the date the contract becomes effective; or

- (3) The penalties for additional absences, including additional disciplinary action or the referral of the student to a truancy court; or
  - b. School-based community service; or
2. Refer the student to counseling, mediation, mentoring, a teen court program, community-based services, or other in-school or out-of-school services aimed at addressing the student's truancy. A referral may include participation by the child's parent or guardian if necessary.

A school district shall offer additional counseling to a student and may not refer the student to truancy court if the school determines that the student's truancy is the result of:

1. Pregnancy;
2. Being in the state foster program;
3. Homelessness; or
4. Being the principal income earner for the student's family.

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 described by Education Code 25.0951(a), the district shall initiate truancy prevention measures on the student.

*Education Code 25.0915*

MINIMUM  
STANDARDS

The minimum standards for the truancy prevention measures implemented by a district under Education Code 25.0915 include:

1. Identifying the root cause of the student's unexcused absences and actions to address each cause;
2. Maintaining ongoing communication with students and parents on the actions to be taken to improve attendance;
3. Establishing reasonable timelines for completion of the truancy prevention measure; and
4. Establishing procedures to notify the admission, review, and dismissal committee or the Section 504 committee of attendance issues relating to a student with a disability and ensure that the committee considers whether the student's attendance issues warrant an evaluation, a reevaluation, and/or modifications to the student's individualized education program or Section 504 plan, as appropriate.

19 TAC 129.1043

BEST PRACTICES

A district shall consider the following best practices for truancy prevention measures:

1. Develop an attendance policy that clearly outlines requirements related to truancy in accordance with Education Code, Chapter 25, Subchapter C, and communicate this information to parents at the beginning of the year.
2. Create a culture of attendance that includes training staff to talk with students and parents about the attendance policy and the root causes of unexcused absences.
3. Create incentives for perfect attendance and improved attendance.
4. Educate students and their families on the positive impact of school attendance on performance.
5. Provide opportunities for students and parents to address causes of absence and/or truancy with district staff and link families to relevant community programs and support.
6. Develop collaborative partnerships, including planning, referral and cross-training opportunities, between appropriate school staff, attendance officers, program-related liaisons, and external partners, such as court representatives, community and faith-based organizations, state or locally funded community programs for truancy intervention or prevention, and law enforcement to assist students.
7. Determine root causes of unexcused absences and review campus- and district-level data on unexcused absences to identify systemic issues that affect attendance.
8. Use existing school programs such as Communities in Schools, 21st Century Community Learning Centers, restorative discipline, and positive behavior interventions and supports (PBIS) to provide students and their parents with services.
9. At the beginning of each school year, conduct a needs assessment and identify and list, or map, services and programs available within the district and the community that a school, a student, or a student's parent or guardian may access to address the student's barriers to attendance and make the information available to staff, students, and parents. The information must include, but is not limited to:
  - a. Services for pregnant and parenting students;
  - b. Services for students experiencing homelessness;



- c. Services for students in foster care;
  - d. Federal programs including, but not limited to, Title 1, Part A, of the Elementary and Secondary Education Act;
  - e. State programs including, but not limited to, state compensatory education programs;
  - f. Dropout prevention programs and programs for “at risk” youth;
  - g. Programs that occur outside of school time;
  - h. Counseling services;
  - i. Tutoring programs and services available at no or low cost;
  - j. Mental health services;
  - k. Alcohol and substance abuse prevention and treatment programs;
  - l. Mentoring programs and services;
  - m. Juvenile justice services and programs;
  - n. Child welfare services and programs;
  - o. Other state or locally funded programs for truancy prevention and intervention; and
  - p. Other supportive services that are locally available for students and families through faith-based organizations, local governments, and community-based organizations.
10. After identifying and listing, or mapping, services available in the district and community, school districts should target any new resources, programs, or services to gaps in services identified during the needs assessment.
11. School districts should ensure that personnel, including truancy prevention facilitators or juvenile case managers, attendance officers, McKinney-Vento (homeless) liaisons, foster care liaisons, Title IX coordinators, 504 coordinators, pregnancy and parenting coordinators, dropout prevention coordinators, special education staff, and other appropriate student services personnel, meet to contribute to the needs assessment, discuss opportunities to work together, and identify strategies to coordinate both internally and externally to address students’ attendance barriers.

In determining services offered to students identified in Education Code 25.091(a-3), a district shall consider:

1. Offering an optional flexible school day program and evening and online alternatives;
2. Working with businesses that employ students to help students coordinate job and school responsibilities; and
3. Offering before school, after school, and/or Saturday prevention or intervention programs or services that implement best and promising practices.

*19 TAC 129.1045*

SANCTIONS

An aggrieved party may file a written complaint with TEA regarding an allegation that a district has failed to comply with Education Code 25.0915 or 19 Administrative Code Chapter 129, Subchapter BB related to truancy prevention measures. TEA may request that a district provide documentation regarding its compliance in response to a complaint. If, after a review of this documentation or a district's failure to provide this documentation, TEA determines that the district is not in compliance with required truancy prevention measure provisions, TEA may issue a preliminary report of its findings to the district in accordance with 19 TAC 157.1122 (relating to Notice). A district may request in writing an informal review of TEA's preliminary report in accordance with 19 TAC 157.1123 (relating to Informal Review). Following the informal review, or if no informal review is requested by the deadline, a final report will be issued. The commissioner of education may implement any sanction listed in Education Code 39.102(a) against a district found to be out of compliance with Education Code 25.0915 or 19 Administrative Code Chapter 129, Subchapter BB. *19 TAC 129.1047*

TRUANCY  
PREVENTION  
FACILITATOR OR  
JUVENILE CASE  
MANAGER

A district shall employ a truancy prevention facilitator or juvenile case manager to implement the truancy prevention measures required by Education Code 25.0915 and any other effective truancy prevention measures as determined by the district or campus. At least annually, the truancy prevention facilitator shall meet to discuss effective truancy prevention measures with a case manager or other individual designated by a truancy court to provide services to students of the district in truancy cases.

Instead of employing a truancy prevention facilitator, a school district may designate an existing district employee or juvenile case manager to implement the truancy prevention measures and any other effective truancy prevention measures as determined by the district or campus.

*Education Code 25.0915(d), (e)*

On approval of the board, a district may employ or agree in accordance with Government Code Chapter 791, with any appropriate governmental entity to jointly employ or to jointly contribute to the costs of another entity employing:

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

A 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*

STUDENT ASSISTANCE PROGRAMS/COUNSELING  
COMPREHENSIVE GUIDANCE PROGRAM

FFEA  
(LEGAL)

CERTIFIED SCHOOL  
COUNSELOR

A district with 500 or more students enrolled in elementary school grades shall employ a certified school counselor for each elementary school and at least one school counselor for each 500 elementary school students [see DBA].

A district with fewer than 500 students enrolled in elementary school grades shall provide guidance and counseling services to elementary school students by any of the following methods:

1. Employing a part-time certified school counselor.
2. Employing a part-time teacher who is also certified as a school counselor.
3. Entering into a shared services agreement with one or more other districts to share a certified school counselor.

*Education Code 33.002*

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**Note:** The provision above regarding CERTIFIED SCHOOL COUNSELOR applies *only* to school districts that apply for, receive, and allocate funds under Education Code 33.002(a). The provisions below apply to all school districts.

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SCHOOL COUNSELOR  
DUTIES

The primary responsibility of a school counselor is to counsel students to fully develop each student's academic, career, personal, and social abilities. In addition, a school counselor shall:

1. Participate in planning, implementing, and evaluating a comprehensive developmental guidance program to serve all students and to address the special needs of students who are:
  - a. At risk of dropping out of school, becoming substance abusers, participating in gang activity, or committing suicide;
  - b. In need of modified instructional strategies; or
  - c. Gifted and talented, with emphasis on identifying and serving gifted and talented students who are educationally disadvantaged.
2. Consult with students' parents or guardians and make referrals as appropriate in consultation with parents or guardians.
3. Consult with school staff, parents, and other community members to help them increase the effectiveness of students' education and promote student success.

STUDENT ASSISTANCE PROGRAMS/COUNSELING  
COMPREHENSIVE GUIDANCE PROGRAM

FFEA  
(LEGAL)

4. Coordinate people and resources in the school, home, and community.
5. With the assistance of school staff, interpret standardized test results and other assessment data that help a student make educational and career plans.
6. Deliver classroom guidance activities or serve as a consultant to teachers conducting lessons based on the school's guidance curriculum.

*Education Code 33.006*

PROGRAM DESIGN

The school counselor shall design the developmental guidance and counseling program to include:

1. A guidance curriculum to help students develop their full educational potential, including the student's interests and career objectives.
2. A responsive services component to intervene on behalf of any student whose immediate personal concerns or problems put the student's continued educational, career, personal, or social development at risk.
3. An individual planning system to guide a student as the student plans, monitors, and manages the student's own educational, career, personal, and social development.
4. System support to support the efforts of teachers, staff, parents, and other members of the community in promoting the educational, career, personal, and social development of students.

*Education Code 33.005*

PARENTAL  
CONSENT AND  
REVIEW

A board shall adopt guidelines to ensure that written consent is obtained from the parent, legal guardian, or other person entitled to enroll the student under Education Code 25.001(j) for the student to participate in those activities for which parental consent is required. *Education Code 33.003*

Each school shall obtain, and keep as part of the student's permanent record, this written consent by the parent or legal guardian. The consent form shall include specific information on the content of the program and the types of activities in which the student will be involved.

Each school, before implementing a comprehensive and developmental guidance and counseling program, shall annually conduct a preview of the program for parents and guardians. All materials,

including curriculum to be used during the year, must be available for a parent or guardian to preview during school hours. Materials or curriculum not included in the materials available on the campus for preview may not be used.

*Education Code 33.004*





STUDENT CONDUCT  
ALCOHOL AND DRUG USE

FNCF  
(LEGAL)

ALCOHOL	A 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>
ALCOHOL-FREE ZONES	A board shall attempt to provide a safe alcohol-free environment to students coming to or going from school.
COOPERATIVE EFFORTS	A board may cooperate with local law enforcement officials and the Texas Alcoholic Beverage Commission in attempting to provide this environment and in enforcing the alcohol-free zone provisions in the Alcoholic Beverage Code.  <i>Education Code 38.007(b)</i>
DISTRICTS IN LARGE MUNICIPALITIES	If the majority of the area of a district is located in a municipality with a population of 900,000 or more, the board may petition the commissioners court of the county in which the district is located or the governing board of an incorporated city or town in which the district is located to adopt a 1,000-foot alcohol-free zone. <i>Educ-ation Code 38.007(b); Alcoholic Beverage Code 101.75, 109.33, .59</i>
CRIMINAL OFFENSE	A person commits an offense (a Class C misdemeanor) if the person possesses an intoxicating beverage for consumption, sale, or distribution while:  <ol style="list-style-type: none"><li>1. On the grounds or in a building of a public school; or</li><li>2. Entering or inside any enclosure, field, or stadium where an athletic event sponsored or participated in by a public school is being held.</li></ol> <i>Education Code 37.122</i>
DRUG-FREE ZONES	The punishment is enhanced for offenses under the Texas Con-rolled Substances Act, Health and Safety Code, Chapter 481, if the offense was committed:  <ol style="list-style-type: none"><li>1. In, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school district or a playground; or</li><li>2. On a school bus.</li></ol> <i>Health and Safety Code 481.134</i>
ABUSABLE VOLATILE CHEMICALS	A person commits an offense (Class B misdemeanor) if the person inhales, ingests, applies, uses, or possesses an abusable volatile chemical with intent to inhale, ingest, apply, or use the chemical in a manner:  <ol style="list-style-type: none"><li>1. Contrary to directions for use, cautions, or warnings appear- ing on a label of a container of the chemical; and</li></ol>

2. Designed to affect the person's central nervous system; create or induce a condition of intoxication, hallucination, or elation; or change, distort, or disturb the person's eyesight, thinking process, balance, or coordination.

*Health and Safety Code 485.031*

DELIVERY TO A  
MINOR

A person commits an offense if the person knowingly delivers an abusable volatile chemical to a person who is younger than 18 years of age. *Health and Safety Code 485.032*

PARAPHERNALIA

A person commits an offense (Class B misdemeanor) if the person knowingly uses or possesses with intent to use inhalant paraphernalia to inhale, ingest, or otherwise introduce into the body an abusable volatile chemical.

A person commits an offense (Class A misdemeanor) if the person delivers or sells, possesses with intent to deliver or sell, or manufactures with intent to deliver or sell, inhalant paraphernalia, and at that time knows that the person who receives or is intended to receive the paraphernalia intends that it be used to inhale, ingest, apply, use, or otherwise introduce into the body an abusable volatile chemical.

*Health and Safety Code 485.033*

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**Note:** For disciplinary consequences associated with the offenses above, see FOC and FOD.

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STEROID LAW NOTICE

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 the following notice:

Anabolic steroids are for medical use only. State law prohibits possession, dispensing, delivery, or administering an anabolic steroid in any manner not allowed by state law. State law provides that body building, muscle enhancement, or the increase of muscle bulk or strength through the use of an anabolic steroid or human growth hormone by a person who is in good health is not a valid medical purpose. Only a medical doctor may prescribe an anabolic steroid or human growth hormone for a person. A violation of state law concerning anabolic steroids or human growth hormones is a criminal offense punishable by confinement in jail or imprisonment in the Texas Department of Criminal Justice.

*Education Code 38.008*

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

REMOVAL UNDER  
STUDENT CODE OF  
CONDUCT

The Student Code of Conduct must specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program (DAEP). *Education Code 37.001(a)(2)*

MANDATORY  
PLACEMENT IN DAEP

A student shall be removed from class and placed in a DAEP if the student engages in conduct described in Education Code 37.006 that requires placement. *Education Code 37.006*

SCHOOL-RELATED  
MISCONDUCT

A student shall be removed from class and placed in a DAEP if the student engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Penal Code 42.06, or terroristic threat under Penal Code 22.07.

A student shall also be removed from class and placed in a DAEP if the student commits the following on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

1. Engages in conduct punishable as a felony.
2. Engages in conduct that contains the elements of assault, under Penal Code 22.01(a)(1).
3. Sells, gives, or delivers to another person or possesses, uses, or is under the influence of:
  - a. Marijuana or a controlled substance, as defined by the Texas Controlled Substances Act, Health and Safety Code Chapter 481, or by 21 U.S.C. 801, et seq.;
  - b. A dangerous drug, as defined by the Texas Dangerous Drug Act, Health and Safety Code Chapter 483.
4. Sells, gives, or delivers to another person an alcoholic beverage, as defined by Alcoholic Beverage Code 1.04, or commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage.
5. Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Health and Safety Code 485.031 through 485.034.
6. Engages in conduct that contains the elements of the offense of public lewdness under Penal Code 21.07.
7. Engages in conduct that contains the elements of the offense of indecent exposure under Penal Code 21.08.

*Education Code 37.006(a)*

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

EXCEPTION	Removal to a DAEP for school-related misconduct is not required if the student is expelled for the same conduct. <i>Education Code 37.006(m)</i>
RETALIATION	Except where a student engages in retaliatory acts against a district employee for which expulsion is mandatory [see FOD], a student shall be removed from class and placed in a DAEP if the student engages in conduct on or off school property containing the elements of retaliation under Penal Code 36.06, against any school employee. <i>Education Code 37.006(b)</i>
CONDUCT UNRELATED TO SCHOOL	<p>In addition to the circumstances listed above, a student shall be removed from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:</p> <ol style="list-style-type: none"><li>1. The student receives deferred prosecution under Family Code 53.03 for conduct defined as a felony offense in Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03;</li><li>2. A court or jury finds that the student has engaged in delinquent conduct under Family Code 54.03 for conduct defined as a felony offense in Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03; or</li><li>3. The superintendent or designee has a reasonable belief that the student has engaged in conduct defined as a felony offense in Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03.</li></ol> <p><i>Education Code 37.006(c)</i></p>
REASONABLE BELIEF	<p>In determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense, a superintendent or a superintendent's designee may consider all available information and must consider the information furnished under Code of Criminal Procedure Article 15.27. <i>Education Code 37.006(e); Code of Criminal Procedure 15.27(a)</i> [See GRAA]</p>
TITLE 5 FELONIES	<p>The following are felony offenses listed in Penal Code, Title 5, Offenses Against the Person.</p> <ol style="list-style-type: none"><li>1. Murder. <i>Penal Code 19.02</i></li><li>2. Capital Murder. <i>Penal Code 19.03</i></li><li>3. Manslaughter. <i>Penal Code 19.04</i></li><li>4. Criminally Negligent Homicide. <i>Penal Code 19.05</i></li></ol>

5. Unlawful Restraint, if:
  - a. The person restrained was younger than 17 years of age; or
  - b. The actor recklessly exposes the victim to a substantial risk of serious bodily injury, restrains an individual the actor knows is a public servant while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty, or while in custody restrains any other person.

*Penal Code 20.02*

6. Kidnapping. *Penal Code 20.03*
7. Aggravated Kidnapping. *Penal Code 20.04*
8. Smuggling of Persons. *Penal Code 20.05*
9. Continuous Smuggling of Persons. *Penal Code 20.06*
10. Trafficking of Persons. *Penal Code 20A.02*
11. Continuous Trafficking of Persons. *Penal Code 20A.03*
12. Continuous Sexual Abuse of Young Child or Children. *Penal Code 21.02*
13. Indecency with a Child. *Penal Code 21.11*
14. Improper Relationship between Educator and Student. *Penal Code 21.12*
15. Invasive Visual Recording. *Penal Code 21.15*
16. Voyeurism, if the victim was younger than 14 years of age at the time of the offense. *Penal Code 21.16*
17. Assault, if the offense is punishable as a felony as specified in Penal Code 22.01(b) and (b-1). *Penal Code 22.01*
18. Sexual Assault. *Penal Code 22.011*
19. Aggravated Assault. *Penal Code 22.02*
20. Aggravated Sexual Assault. *Penal Code 22.021*
21. Injury to a Child, Elderly Individual, or Disabled Individual. *Penal Code 22.04*
22. Abandoning or Endangering a Child. *Penal Code 22.041*

23. Deadly Conduct, if the person knowingly discharges a firearm at or in the direction of one or more individuals, or at or in the direction of a habitation, building, or vehicle and is reckless as to whether the habitation, building, or vehicle is occupied.

*Penal Code 22.05*

24. Terroristic Threat, if the actor threatens to commit any offense involving violence to any person or property with intent to:

a. Prevent or interrupt the occupation or use of a building, room, place of assembly, place to which the public has access, place of employment or occupation, aircraft, automobile, or other form of conveyance, or other public place if the prevention or interruption causes pecuniary loss of \$1,500 or more to the owner;

b. Cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service;

c. Place the public or a substantial group of the public in fear of serious bodily injury; or

d. Influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision.

*Penal Code 22.07*

25. Aiding Suicide, if the conduct causes suicide or attempted suicide that results in serious bodily injury. *Penal Code 22.08*

26. Tampering with Consumer Product. *Penal Code 22.09*

27. Harassment by Persons in Certain Correctional Facilities or of Public Servant. *Penal Code 22.11*

SEXUAL ASSAULT  
OF ANOTHER  
STUDENT

A student shall be removed from class and placed in a DAEP or juvenile justice alternative education program (JJAEP) if:

1. The student was convicted of, received adjudication for, or was placed on probation for sexual assault of another student while the students were assigned to the same campus, regardless of whether the assault occurred on or off school property;

2. The parent of the victim of the assault has requested that the student be transferred to a campus other than that to which the victim is assigned; and

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(LEGAL)

3. There is only one campus in a district serving the grade level in which the student is enrolled.

*Education Code 25.0341, 37.0051(a)* [See FDE at SEXUAL ASSAULT TRANSFER, TRANSFER OF ASSAILANT]

A limitation imposed by Education Code Chapter 37 on the length of placement in a DAEP or a JJAEP does not apply to a placement under this provision. *Education Code 37.0051(b)*

PERMISSIVE  
REMOVAL

NON-TITLE 5  
FELONY

A student may be removed from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

1. The superintendent or designee has a reasonable belief [see REASONABLE BELIEF, above] that the student has engaged in conduct defined as a felony offense other than aggravated robbery under Penal Code 29.03, or those offenses listed in Penal Code Title 5 [see above at TITLE 5 FELONIES]; and
2. The continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

*Education Code 37.006(d)–(e)*

ONE YEAR AFTER  
CONDUCT

A principal or other appropriate administrator may, but is not required to, remove a student to a DAEP for off-campus conduct, for which removal would otherwise be required, if the principal or other appropriate administrator did not have knowledge of the conduct before the first anniversary of the date the conduct occurred. *Education Code 37.006(n)*

CERTAIN  
ORGANIZATION AND  
GANG MEMBERSHIP  
AND SOLICITATION

A board or an educator shall recommend placing in DAEP any student who commits the misdemeanor offenses described in Education Code 37.121(a) and (c), regarding membership in or solicitation to join a public school fraternity, sorority, secret society, or gang [see FNCC]. *Education Code 37.121(b)*

OLDER STUDENTS

A person who is 21 years of age or older and is admitted by a district for the purpose of completing the requirements for a diploma is not eligible for placement in a DAEP if the person engages in conduct that would require or authorize such placement for a student under the age of 21. If the student engages in such conduct, the district shall revoke the student's admission. *Education Code 25.001(b-1)*

PLACEMENT OF  
YOUNGER STUDENTS

A student who is younger than ten shall be removed from class and placed in a DAEP if the student engages in conduct for which ex-

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PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

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	<p>pulsion would be required by Section 37.007. <i>Education Code 37.006(f), .007(e)</i> [See FOD]</p>
STUDENTS YOUNGER THAN SIX	<p>Notwithstanding any other provision of the Education Code, a student who is younger than six years of age may not be removed from class and placed in a DAEP, except that a student younger than six years of age who has been expelled pursuant to the Gun Free Schools Act [see FOD] shall be provided educational services in a DAEP. <i>Education Code 37.006(l), .007(e)(2)</i></p>
PROCESS FOR REMOVAL CONFERENCE	<p>Not later than the third class day after a student is removed by a teacher or by the school principal or other appropriate administrator, the campus behavior coordinator (CBC) or other appropriate administrator shall schedule a conference among the CBC or other appropriate administrator, the student's parent or guardian, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular class pending the conference.</p>
MITIGATING FACTORS	<p>Before ordering removal to a DAEP, the CBC must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the behavior coordinator concerns a mandatory or discretionary action.</p>
ORDER	<p>Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the CBC, after considering any mitigating factors under Education Code 37.001(a)(4) [see FO], shall order the placement of the student for a period consistent with the Student Code of Conduct.</p>
APPEAL	<p>If district policy allows a student to appeal to the board or the board's designee a decision of the CBC or other appropriate administrator, the decision of the board or the board's designee is final and may not be appealed.</p> <p><i>Education Code 37.009(a)</i> [See Student Code of Conduct]</p>
TERM OF REMOVAL	<p>A board or designee shall set a term for a student's placement in a DAEP. If the period of placement is inconsistent with the guidelines in the Student Code of Conduct, the order must give notice of the inconsistency. The period of the placement may not exceed one</p>



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PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

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	<p>year unless, after a review, a district determines that the student is a threat to the safety of other students or to district employees. <i>Education Code 37.009(a), (d)</i></p>
BEYOND GRADING PERIOD OR 60 DAYS	<p>If placement in a DAEP is to extend beyond 60 days or the end of the next grading period, whichever is earlier, the student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before a board or designee.</p>
NO APPEAL	<p>Any decision of a board or designee concerning placement beyond 60 days or the end of the next grading period is final and cannot be appealed. <i>Education Code 37.009(b)</i></p>
BEYOND END OF SCHOOL YEAR	<p>Before a student may be placed in a DAEP for a period that extends beyond the end of the school year, a board or designee must determine that:</p> <ol style="list-style-type: none"><li>1. The student's presence in the regular classroom program or at the student's regular campus presents a danger of physical harm to the student or another individual; or</li><li>2. The student has engaged in serious or persistent misbehavior that violates the Student Code of Conduct.</li></ol> <p><i>Education Code 37.009(c)</i></p>
ORDER OF REMOVAL	<p>A board or designee shall deliver to the student and the student's parent or guardian a copy of the order placing the student in a DAEP. <i>Education Code 37.009(g)</i></p> <p>Not later than the second business day after the date of the removal conference, a board or designee shall deliver a copy of the order placing the student in a DAEP and any information required under Family Code 52.04 to the authorized officer of the juvenile court in the county in which the juvenile resides. <i>Education Code 37.010(a)</i></p>
ACTIVITIES	<p>The terms of a placement under Education Code 37.006 must prohibit the student from attending or participating in school-sponsored or school-related activities. <i>Education Code 37.006(g)</i></p> <p>In addition to any notice required under Code of Criminal Procedure 15.27 [see GRAA], a principal or designee shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in conduct for which DAEP placement must or may be ordered.</p>

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as provided by state or federal law. An educator's certificate may be suspended or revoked for intentional failure to keep such information confidential.

*Education Code 37.006(o)*

COMPLETION OF  
PROCEEDINGS UPON  
WITHDRAWAL

If a student withdraws from a district before an order for placement in a DAEP is entered, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student re-enrolls in the district the same or subsequent school year, the district may enforce the order at that time except for any period of the placement that has been served by the student in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order.

*Education Code 37.009(i)*

ENROLLMENT IN  
ANOTHER DISTRICT

If a student placed in a DAEP enrolls in another district before the expiration of the placement, a board shall provide to the district in which the student enrolls a copy of the placement order at the same time it provides other records. The district in which the student enrolls shall inform each educator who will have responsibility for, or will be under the direction and supervision of an educator who will have responsibility for, the instruction of the student of the contents of the placement order. Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as provided by state or federal law.

The district in which the student enrolls may continue the placement or allow the student to attend regular classes. [See FO] The district in which the student enrolls may take any of these actions if:

1. The student was placed in a DAEP by an open-enrollment charter school and the charter school provides the district a copy of the placement order; or
2. The student was placed in a DAEP by a district in another state and:
  - a. The out-of-state district provides a copy of the placement order; and
  - b. The grounds for placement are the same as grounds for placement in the enrolling district.

*Education Code 37.008(j)*

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

OUT-OF-STATE  
PLACEMENT

If a student was placed in a DAEP in another state for more than one year and the enrolling district continues the placement under Education Code 37.008(j), the enrolling district shall reduce the period of placement so that the aggregate period does not exceed one year unless the enrolling district determines that:

1. The student is a threat to the safety of other students or to district employees; or
2. Extended placement is in the best interest of the student.

*Education Code 37.008(j-1)*

COURT-ORDERED  
PLACEMENT

Unless a board and the juvenile board for the county in which a district's central administrative office is located have entered into a memorandum of understanding concerning the juvenile probation department's role in supervising and providing other support services for students in DAEP programs:

EXPELLED  
STUDENT

1. A court may not order a student expelled under Section 37.007 to attend a school district DAEP as a condition of probation;

MULTIPLE  
REFERRALS

2. A court may not order a student to attend a DAEP without a district's consent, until the student has successfully completed any sentencing requirements, if the court has ordered the student to attend a DAEP as a condition of probation once during a school year and the student is referred to juvenile court again during that school year.

*Education Code 37.010(c)-(d)*

SCHOOL ACTIVITIES

Any court placement in a DAEP must prohibit the student from attending or participating in school-sponsored or school-related activities. *Education Code 37.010(d)*

PLACEMENT AFTER  
COURT  
DISPOSITION

After the student has successfully completed any court disposition requirements, including conditions of deferred prosecution or conditions required by the prosecutor or probation department, a district may not refuse to admit the student if the student meets the requirements for admission into the public schools. A district may place the student in the DAEP.

Notwithstanding Education Code 37.002(d) [see FOA], the student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

*Education Code 37.010(f)*

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

NOT GUILTY /  
INSUFFICIENT  
EVIDENCE / CHARGES  
DROPPED

The office of the prosecuting attorney or the office or official designated by the juvenile board shall, within two working days, notify the school district that removed a student to a DAEP under Education Code 37.006 if:

1. Prosecution of a student was refused for lack of prosecutorial merit or insufficient evidence, and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or
2. A court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice.

On receipt of the notice, the superintendent or designee shall review the student's placement in the DAEP. The student may not be returned to the regular classroom pending the review. The superintendent or designee shall schedule a review of the student's placement with the student's parent or guardian not later than the third class day after the superintendent or designee receives notice from the office or official designated by the court.

After reviewing the notice and receiving information from the student's parent or guardian, the superintendent or designee may continue the student's placement in the DAEP if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

*Education Code 37.006(h); Code of Criminal Procedure 15.27(g)*

APPEAL AFTER  
PLACEMENT  
UPHELD

The student or the student's parent or guardian may appeal a superintendent's decision to the board. The student may not be returned to the regular classroom pending the appeal. A board shall, at the next scheduled meeting, review the notice provided by the office of the prosecuting attorney or the office or official designated by the juvenile board; receive information from the student, the student's parent or guardian, and the superintendent or designee; and confirm or reverse the superintendent's decision. The board shall make a record of the proceedings.

If a board confirms the decision, the board shall inform the student and the student's parent or guardian of the right to appeal to the commissioner of education. The student may not be returned to the regular classroom pending the appeal to the commissioner.

*Education Code 37.006(i)–(j)*

120-DAY REVIEW OF  
STATUS

A student placed in a DAEP shall be provided a review of the student's status, including a review of the student's academic status, by a board's designee at intervals not to exceed 120 days. In the

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

case of a high school student, the board's designee, with the student's parent or guardian, shall review the student's progress toward meeting high school graduation requirements and shall establish a specific graduation plan for the student. The district is not required to provide a course in the DAEP, except as required by Education Code 37.008(l). [See FOCA] At the review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of the teacher who removed the student without that teacher's consent. The teacher may not be coerced to consent. *Education Code 37.009(e)*

ADDITIONAL  
PROCEEDINGS

If, during the term of placement, a student engages in additional conduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted and the principal or board, as appropriate, may enter an additional order. *Education Code 37.009(j)*

REPORTING

A district may include the number of students removed to a DAEP in its annual performance report. *Education Code 39.306(e)(5)*  
[See AIB]

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**Note:** See FOF for provisions concerning students with disabilities.

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**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 G: COMMUNITY AND GOVERNMENTAL RELATIONS**

GA	ACCESS TO PROGRAMS, SERVICES, AND ACTIVITIES
GB	PUBLIC INFORMATION PROGRAM
GBA	Information Access
GBAA	Requests for Information
GBB	School Communications Program
GBBA	News Media Relations
GC	PUBLIC NOTICES
GE	RELATIONS WITH PARENT ORGANIZATIONS
GF	PUBLIC COMPLAINTS
GK	COMMUNITY RELATIONS
GKA	Conduct on School Premises
GKB	Advertising and Fundraising
GKC	Visitors to the Schools
GKD	Nonschool Use of School Facilities
GKDA	Distribution of Nonschool Literature
GKE	Business, Civic, and Youth Groups
GKF	Cultural Institutions
GKG	School Volunteer Program
GN	RELATIONS WITH EDUCATIONAL ENTITIES
GNA	Other Schools and Districts
GNB	Regional Education Service Centers
GNC	Colleges and Universities
GND	State Education Agency
GNE	Education Accreditation Agencies
GR	RELATIONS WITH GOVERNMENTAL ENTITIES
GRA	State and Local Governmental Authorities
GRAA	Law Enforcement Agencies
GRAC	Juvenile Service Providers
GRB	Interlocal Cooperation Contracts
GRC	Emergency Management





COMMUNITY RELATIONS  
ADVERTISING AND FUNDRAISING

GKB  
(LOCAL)

PROMOTIONAL  
ACTIVITIES

District facilities shall not be used to advertise, promote, sell tickets, or collect funds for any nonschool-related purpose without prior approval of the Superintendent or designee.

[For information relating to nonschool use of facilities, see GKD.]

ADVERTISING

For purposes of this policy, "advertising" shall mean a communication designed to attract attention or patronage by the public or school community and communicated through means under the control of the District in exchange for consideration to the District. "Advertising" does not include public recognition of donors or sponsors who have made contributions, financial or otherwise, to the District or school support organizations.

Advertising shall be accepted solely for the purpose of generating revenue for the District and not for the purpose of establishing a forum for communication. The District shall retain final editorial authority to accept or reject submitted advertisements in a manner consistent with the First Amendment. The District shall retain the authority to determine the size and location of any advertising. The District shall also reserve the right to reject advertising that is inconsistent with federal or state law, Board policy, District or campus regulations, or curriculum, as well as any content the District determines has a reasonable likelihood of exposing the District to controversy, litigation, or disruption.

The District shall not accept paid political advertising.

Acceptance of advertising shall not constitute District approval or endorsement of any product, service, organization, or issue referenced in the advertising, nor shall acceptance of advertising from a vendor determine whether the District will purchase goods or services from the vendor through the District's formal procurement process.

[For information relating to school-sponsored publications, see FMA.]

