

Instruction Sheet

TASB Localized Policy Manual Update 76

District Keller ISD

Code		Action To Be Taken	Note
AC	(LEGAL)	Replace policy	Revised policy
BBB	(LEGAL)	Replace policy	Revised policy
BBBA	(LEGAL)	Replace policy	Revised policy
BE	(LEGAL)	Replace policy	Revised policy
BQ	(LEGAL)	Replace policy	Revised policy
BR	(LEGAL)	Replace policy	Revised policy
CAA	(LOCAL)	Replace policy	Revised policy
CCA	(LEGAL)	Replace policy	Revised policy
CCG	(LEGAL)	Replace policy	Revised policy
CDA	(LEGAL)	Replace policy	Revised policy
CE	(LEGAL)	Replace policy	Revised policy
CH	(LEGAL)	Replace policy	Revised policy
CKC	(LEGAL)	ADD policy	See explanatory note
CKE	(LEGAL)	Replace policy	Revised policy
CRD	(LEGAL)	Replace policy	Revised policy
CRE	(LEGAL)	Replace policy	Revised policy
CS	(LEGAL)	Replace policy	Revised policy
DC	(LEGAL)	Replace policy	Revised policy
DC	(LOCAL)	No policy enclosed	See explanatory note
DEA	(LEGAL)	Replace policy	Revised policy
DHE	(LEGAL)	Replace policy	Revised policy
DK	(LEGAL)	Replace policy	Revised policy
DLB	(LEGAL)	Replace policy	Revised policy
E	(LEGAL)	Replace table of contents	Revised table of contents
EHAC	(LEGAL)	Replace policy	Revised policy
EHB	(LOCAL)	ADD policy	See explanatory note
EHBG	(LEGAL)	ADD policy	See explanatory note
EHBG	(LOCAL)	DELETE policy	See explanatory note
EHBK	(LEGAL)	Replace policy	Revised policy
EIA	(LEGAL)	Replace policy	Revised policy
F	(LEGAL)	Replace table of contents	Revised table of contents

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Code		Action To Be Taken	Note
FD	(LEGAL)	Replace policy	Revised policy
FD	(LOCAL)	Replace policy	Revised policy
FDB	(LEGAL)	Replace policy	Revised policy
FDB	(LOCAL)	Replace policy	Revised policy
FDD	(LEGAL)	Replace policy	Revised policy
FDD	(LOCAL)	Replace policy	Revised policy
FEA	(LEGAL)	Replace policy	Revised policy
FFAC	(LEGAL)	Replace policy	Revised policy
FFAF	(LEGAL)	ADD policy	See explanatory note
FFG	(LEGAL)	Replace policy	Revised policy
FFG	(EXHIBIT)	Replace exhibit	Revised exhibit
FL	(LEGAL)	Replace policy	Revised policy
FL	(LOCAL)	Replace policy	Revised policy
FL	(EXHIBIT)	DELETE exhibit	See explanatory note
FMF	(EXHIBIT)	DELETE exhibit	See explanatory note
FNA	(LOCAL)	No policy enclosed	See explanatory note
FNC	(LEGAL)	Replace policy	Revised policy
FNCF	(EXHIBIT)	ADD exhibit	See explanatory note
FO	(LEGAL)	Replace policy	Revised policy
FOA	(LEGAL)	Replace policy	Revised policy
FOC	(LEGAL)	Replace policy	Revised policy
FOC	(EXHIBIT)	Replace exhibit	Revised exhibit
FOD	(LEGAL)	Replace policy	Revised policy
FOD	(LOCAL)	DELETE policy	See explanatory note
GBA	(LEGAL)	Replace policy	Revised policy
GBAA	(LEGAL)	Replace policy	Revised policy
GND	(LEGAL)	Replace policy	Revised policy

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AC (LEGAL) GEOGRAPHIC BOUNDARIES

SB 427, enacted during the 79th regular session, requires districts that alter their boundaries—or the boundaries of single-member districts—to promptly notify the county voter registrar of the change. Notification must occur within 30 days of the board’s action and must be accompanied by a map (in a format compatible with that used by the registrar’s office) marking the change. This requirement becomes effective for elections ordered after September 1, 2005.

BBB (LEGAL) BOARD MEMBERS
ELECTIONS

While the November uniform election date remains unchanged, the May uniform election date—long pegged to the first Saturday in May and moved last year to the third Saturday to accommodate redistricting time lines—has moved again, to the second Saturday in May, as a result of HB 2339 from the 79th regular session.

Other legislative changes affecting this policy are as follows:

- SB 427 requires that changes in district boundaries—and single-member district boundaries—be promptly communicated to the county voter registrar. (See NOTICE TO VOTER REGISTRAR on page 1.)
- HB 2339 adjusts the filing and write-in deadlines for elections held on the general election day (November of even years). Filing for a place on the ballot must occur no later than the 70th day prior to election day and declaration of a write-in candidacy must occur no later than the 67th day prior to election day. For other elections, the usual time lines—62nd day and 57th day, respectively—apply. (See FILING INFORMATION.)
- HB 2339 also adjusts the deadline for ordering an election on the general election day: the call must occur no later than the 70th day beforehand. For other elections, the usual deadline—the 62nd day—remains. (See NOTICE on page 2.)

In this same section appears the HB 1580 requirement that the district retain—for at least 22 months—a copy of the newspaper notice of the election. Previously state law required that the copy be retained for 60 days.

Also added is the HB 2309 requirement that the board deliver—no later than the 60th day preceding the election—notice of the election to the county clerk of each county in which the district is located.

- HB 1209 requires districts holding elections on the November uniform election date of any year to use regular county polling places. Excluded from this requirement are Harris County and the seven contiguous counties: Galveston, Chambers, Liberty, Montgomery, Waller, Fort Bend, and Brazoria. (See BALLOT, ELECTION OFFICIALS, AND POLLING PLACES.)
- HB 719 provides the Texas secretary of state more detailed direction regarding his authority to promulgate rules pertaining to form and posting of the long-required NOTICE OF VOTING RIGHTS HOTLINE. (See page 3.)
- HB 57 (effective for elections ordered after October 1, 2005) clarifies the timeframe for canvassing May election returns. While November-electing districts still must canvass returns between the 8th day and 11th day after elections, May-electing districts may start canvassing sooner. May-electing districts may begin on whichever of the following dates is latest:
 - the third day after election day,

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- the date on which all early voting ballots and provisional ballots have been counted, or
- the date when all timely received ballots cast outside the country have been counted.

(See CANVASS RETURNS on page 5.)

- HB 2309 requires—for all elections called after January 1, 2006—the person presiding over the canvassing to prepare a report of the precinct results and to deliver that report to the secretary of state—in an electronic form to be specified by the secretary. (See CERTIFICATE OF ELECTION.)

Unless otherwise indicated above, these provisions apply to elections ordered after September 1, 2005.

Please note: This (LEGAL) version is for districts whose boards are composed of seven trustees, elected by position/place. If there has been a change in your district’s method of election and this description no longer reflects your practice, please contact your Policy Consultant/Analyst so we can update our files and issue the correct (LEGAL) version for your manual.

BBBA (LEGAL) BOARD MEMBERS
REPORTING CAMPAIGN FUNDS

TERMINATION OF CAMPAIGN TREASURER APPOINTMENT is new material drawn from HB 1863 and effective June 17, 2005. The legislation empowers a board to adopt a process by which its secretary may terminate the appointment of a campaign treasurer for an inactive candidate or political committee.

BE (LEGAL) BOARD MEETINGS

Legislation resulting from the 79th regular session affects board meeting notices as follows:

- At CONTINUED MEETING, on page 2, is new text—from SB 690, effective June 17, 2005—allowing the board to recess a meeting and resume the meeting the following business day without posting further notice. The board cannot continue that meeting, however, to yet another day without the required notice. The legislation effectively embraces as law a 1998 attorney general’s opinion (DM–482) to that effect and specifies that any such continuation must be in good faith and not for the purpose of circumventing the notice requirements of the Texas Open Meetings Act.
- HB 2381 requires a district to post meeting notices on its Internet Web site, if the district maintains a Web site. Previously districts have posted a hard copy of the meeting notice in a continuously accessible place at the central administration office or another continuously accessible location. After September 1, 2005, districts may satisfy the posting requirement by (1) making “a good-faith attempt to continuously post the notice on the Internet” during the 72 hours preceding a meeting AND (2) posting a hard copy notice in the central administration office, where it must be readily accessible to the public during normal business hours. (See TIME OF NOTICE AND ACCESSIBILITY on page 3.) Posting on the Internet, though, is no longer discretionary for a district that maintains an Internet Web site: provisions of SB 1133, reflected at INTERNET POSTING on page 3, require such districts to post meeting notices on the site and—for districts containing a municipality with a population of 48,000 or more—to post also the meeting agenda, if it differs from the posted notice. HB 2381 is effective September 1, 2005; SB 1133, on January 1, 2006.
- At CATASTROPHE, on page 4, is reflected—also from SB 690—language that allows a board prevented by a catastrophe from convening a properly posted meeting to convene the meeting at a convenient location within 72 hours. Whether further notice is needed within the 72-hour period is not clearly stated. TASB attorneys note that the embedded cross-reference to Government Code Section 551.045 (the section providing for emergency meetings or emergency-driven additions to the agenda) might suggest that the district would still be bound to provide a two-hour notice but that the catastrophic delay might in itself constitute a “reasonably unforeseen situation” creating an “urgent public necessity.” Because of this

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ambiguity, districts are urged to confer with local counsel should a catastrophe prevent the board from meeting as initially scheduled.

BQ (LEGAL) PLANNING AND DECISION-MAKING PROCESS

HB 283 (from the 79th regular session and effective June 18, 2005) requires that—within the framework of the District Improvement Plan—each district implement a discipline management program that provides “for the 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.” The new requirement may be found at item 9 on page 2.

BR (LEGAL) REPORTS

Beginning this fall and **within the first ten days of classes**, districts with Internet Web sites must publish on the Web their most recently received AEIS report and School Report Cards (SRCs). Such publication is mandated by HB 3297, from the 79th regular session and effective June 18, 2005, and does not affect existing publishing requirements, keyed to TEA’s release of the reports:

- The AEIS report still must also be published **within two weeks** after the local hearing (convened **within 90 days** after receipt from TEA) and posted in various public places (e.g., school offices, local businesses, and public libraries). (See page 2 for requirements regarding AEIS INTERNET DISSEMINATION.)
- SRCs still must also be distributed to parents **within six weeks** after receipt from TEA, by mail, parent/teacher conferences, or other means identified by the campus. (See page 3 for requirements regarding SRC INTERNET DISSEMINATION.)

CAA (LOCAL) FISCAL MANAGEMENT GOALS AND OBJECTIVES FINANCIAL ETHICS

Three items within the definition of FRAUD AND FINANCIAL IMPROPRIETY have been refined for clarity:

- At item 8—a reference to policy DBD has been added. A reference to “law or District policy” has also been added to clarify when items of material value may be accepted.
- At item 9—“inappropriately” has been moved to the beginning of the phrase so that it modifies all actions described.
- At item 11—“law or District policy” has been added to embrace both legally defined conflicts of interest as well as those established by policy, such as at DBD(LOCAL).

CCA (LEGAL) LOCAL REVENUE SOURCES BOND ISSUES

Various bills from the 79th regular session affect this policy:

- At EXISTING DEBT ALLOTMENT (page 1): SB 1863, effective July 1, 2005, updated the year-eligibility for state funding for servicing of existing bonded indebtedness.
- At ELECTIONEERING (page 1): HB 2339, effective September 1, 2005, clarifies that the board cannot use “state or local funds or other resources of the district to electioneer for or against any candidate, measure, or political party.”

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- At ELECTIONS (page 1): HB 57, effective for elections called after October 1, 2005, now prohibits school districts from holding bond elections (or any other election, for that matter) other than on the May or November general election dates.
- At CALL FOR ELECTION (page 2): HB 2339 also adjusts the deadline for ordering a bond election on the general election day: the call must occur no later than the 70th day beforehand. For other elections, the usual 62-day requirement remains in place.
- At NOTICE OF ELECTION (page 2): a HB 2309 provision requires that the board deliver—no later than the 60th day preceding the election—notice of the election to the county clerk of each county in which the district is located.

CCG (LEGAL) LOCAL REVENUE SOURCES AD VALOREM TAXES

Changes arising from the 79th regular session are as follows:

- TAX RATE (page 2) reflects both SB 1652, effective September 1, 2005, and SB 18, effective June 18, 2005. The former clarifies that the tax rate has separate maintenance/operations and debt service components and requires the actual debt service rate to match the rate posted under Education Code 44.004(c)(2)(A)(ii)(b).

The latter legislation represents a substantial addition to the requirements for adopting a tax rate. Beginning with the current tax rate adoption, the motion to adopt a tax rate that exceeds the effective tax rate must be phrased as an increase in property taxes. Furthermore, the ordinance setting a tax rate that will cause maintenance and operations taxes overall to exceed those levied the previous year must include, in type larger than in any other portion of the document, tax increase language and the amount of the tax increase for a home valued at \$100,000. The legislation also provides specific language that the district must post on its Internet Web site to announce the increase.

- As found at REINVESTMENT ZONES/TAX INCREMENT FINANCING (page 8), counties have been newly authorized by HB 2120 to form reinvestment zones, after September 1, 2005.
- In addition and as with trustee elections at BBB(LEGAL) and bond elections at CCA(LEGAL):
 - At CALL FOR ELECTION (page 3), HB 2339 also adjusts the deadline for ordering an election to ratify school taxes on the general election day: the call must occur no later than the 70th day beforehand. For other elections, the usual 62-day requirement remains in place. (Effective September 1, 2005.)
 - At NOTICE TO COUNTY CLERK (page 4): a HB 2309 provision requires that the board deliver—no later than the 60th day preceding the election—notice of the election to the county clerk of each county in which the district is located. (Effective June 18, 2005.)

CDA (LEGAL) OTHER REVENUES INVESTMENTS

SB 256—from the 79th regular session and effective September 1, 2005—amends the Public Funds Investment Act to clearly allow local governments to invest in certificates of deposit or share certificates issued by a depository institution's branch office. Previously such investments could occur only with a state or national bank, savings bank, or state or federal credit union domiciled in Texas.

The new language may be found in the first paragraph at item 2 on page 6. A new second paragraph under that item lists five additional circumstances allowing investment in certificates of deposit.

CE (LEGAL) ANNUAL OPERATING BUDGET

A new section titled USE OF DISTRICT RESOURCES has been added (on page 1) to reflect the HB 1826 prohibition against the use of district employees, property, or resources in the design, construction, or renova-

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tion of improvements to real property that is not owned or leased by the district. This legislation, from the 79th regular session, was effective June 18, 2005.

Also added within this section is the HB 2339 ban on using state or local funds or other resources for electioneering of any sort. [See also CCA(LEGAL).]

CH (LEGAL) PURCHASING AND ACQUISITION

HB 664 from the 79th regular session allows many districts to favor local bidders in awarding purchasing contracts. The legislation, effective September 1 and reflected under FACTORS on page 2 and LOCATION OF BIDDER on page 3, allows the district to award the purchase contract to a local bidder if that bid is within five percent of the lowest bid and under the following conditions:

- The district's administrative office is located in a municipality with a population under 250,000,
- The bidder's principal place of business is within the district, and
- The purchase is not for telecommunications or information services.

CKC (LEGAL) SAFETY PROGRAM/RISK MANAGEMENT EMERGENCY PLANS

SB 11 from the 79th regular session newly requires districts to put in place "a multihazard emergency operations plan" no later than March 1, 2006, and to conduct a security audit of district facilities at least once every three years.

The plan requirement is specific to security and must address:

- employee emergency response training,
- student and staff emergency drills, and
- coordination with local emergency management agencies, law enforcement, and fire departments.

The Texas School Safety Center, created in 2001 by the Legislature, is charged with the responsibility of providing districts a safety training program that now includes assistance in developing a multihazard emergency operations plan. The center is currently creating a model plan that will form the basis for this training; the training will be delivered through education service centers. Additionally, districts may request on-site technical assistance on school safety issues.

Further information as it becomes available will be posted on the Safety Center Web site at <http://www.txssc.txstate.edu/txssc.htm>.

CKE (LEGAL) SAFETY PROGRAM/RISK MANAGEMENT SECURITY PERSONNEL/PEACE OFFICERS

COMPLAINTS AGAINST PEACE OFFICER, on page 2, has been revised to reflect HB 639 from the 79th regular session. Effective for all complaints filed after September 1, 2005, a peace officer cannot be suspended indefinitely or terminated without an investigation and evidence supporting the action.

CRD (LEGAL) INSURANCE AND ANNUITIES MANAGEMENT HEALTH AND LIFE INSURANCE

Legislation from the 79th regular session prompts the following additions:

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- At PLAN DISCLOSURE STATEMENT on page 1 is a HB 765 requirement that districts not participating in TRS Active Care provide both employees and prospective employees a copy of any plan disclosure statement prepared by the provider. The district must also retain a copy of the notice that has been signed by the recipient. This requirement applies to all policies issued or renewed after January 1, 2006.
- At COMPENSATION SUPPLEMENT on page 3 is found the SB 1691 “clean-up” of the supplemental compensation—Healthcare Reimbursement Account tangle that arose from actions of the 78th Legislature (2003). The amount of the supplement is now clearly pegged to an amount specified in the General Appropriations Act. The legislation does not extend the supplement to retirees eligible for TRS Care (or other coverage through the state, the University of Texas, or Texas A&M University). The supplement will be distributed monthly, rather than annually as before, and administration of the fund transfers will now be handled by TEA rather than TRS.

SB 1691 also includes a provision that effectively eliminates the 90-day waiting period, imposed during the 78th regular session, for new employees to become TRS members. Because this provision is not effective until September 1, 2005, the old law will apply for those who have not completed the 90-day waiting period by that date. As a consequence—and only until September—those employees are not eligible for TRS and must be covered by whatever stop-gap measure the district has in place. As of September 1, coverage by TRS begins, but the district must pay the state’s share for the remainder of the employee’s 90-day period. (See TRS CONTRIBUTIONS FOR NEW HIRES on page 4.)

SB 1691’s scope also includes a requirement that—beginning September 1, 2005—a district that hires a retiree must fund:

- both the state’s and employee’s shares (currently 12.4 percent of the employee’s salary) that would be payable if the employee were not a retiree; and
 - the state contribution rate for the retiree’s health insurance coverage, if the retiree is enrolled in TRS Care. The district does not have to make the TRS Care contribution, however, if the retiree is enrolled in TRS Active Care or if the retiree was reported to TRS by a school district as a retiree in January 2005. (See TRS CONTRIBUTIONS FOR REHIRED RETIREES on page 5.)
- At TERMINATION OF COVERAGE, on page 8, is reflected a SB 1448 provision that makes any district that does not participate in TRS Care subject to the limits on exclusions for preexisting conditions found in the Insurance Code. This requirement becomes effective with the 2005–06 school year.
 - At EMPLOYEE ELECTION on page 11 appears HB 407 language that allows an employee married to another employee to declare himself or herself as dependent so that both are covered by the same policy, conceivably at a lower combined premium rate. This provision is effective with the start of the 2005–06 school year and applies to coverage provided under either a large or small employer health benefit plan.

CRE (LEGAL) INSURANCE AND ANNUITIES MANAGEMENT WORKERS’ COMPENSATION

As a result of HB 7 from the 79th regular session, the Texas Workers’ Compensation Commission has been merged into the Texas Department of Insurance. The many references to “TWCC” in this policy have been replaced by “TDI” and citations have been updated.

CS (LEGAL) FACILITY STANDARDS

At SECURITY CRITERIA, on page 3, a provision of SB 11 from the 79th regular session has been added and is effective with the development of Texas School Safety Center criteria this fall: a district using Instructional Facilities Allotment funds must consider in the design of the facility TSSC security criteria.

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DC (LEGAL) EMPLOYMENT PRACTICES

This policy has been redeveloped to present topics and subtopics in a more logical manner and to more closely track statutory language. Substantive changes attributable to the 79th regular session are as follows:

- Under EMPLOYMENT POLICIES on page 1, SB 387 newly defines posting of vacancies as an “employment policy” essential. Further requirements in this regard are found at POSTING OF VACANCIES. These provisions become effective with the 2005–06 school year and require the district to post vacancies for positions requiring certification or licenses in specified locations for at least ten school days and to allow current employees “a reasonable opportunity” to apply. The notice requirement is waived for filling vacancies in positions affecting “the safety and security of students as determined by the board.” The ten-day requirement, waived for filling a vacancy that occurs during the school year, embraces the broad definition of “teacher” found at Education Code 21.201 that includes such positions as classroom teachers, counselors, and administrative personnel required to have SBEC certification.
- At EMPLOYMENT OF RETIREES on page 2, SB 1691 provisions, effective September 1, 2005, have been added. These reporting requirements replace previous TRS rules regarding the monthly reporting statement.

DC (LOCAL) EMPLOYMENT PRACTICES

Policy Service records indicate that your district has not yet completed and returned the worksheet found in the **Contractual/Noncontractual Employment Starting Points** policy development tool kit. As a consequence your current policies may not adequately reflect district practice in light of changes in law and in the certification structure enacted by the State Board for Educator Certification.

For further information, refer to this **Starting Points**, found at <http://www.tasb.org/services/policy/starting/contract.aspx>, or contact your district’s Policy Consultant/Analyst.

DEA (LEGAL) COMPENSATION AND BENEFITS SALARIES, WAGES, AND STIPENDS

In addition to being reorganized for clarity and to more closely track statutory language, the policy has been revised to include SB 1691 provisions pertaining to COMPENSATION SUPPLEMENT (on page 2), TRS CONTRIBUTIONS FOR NEW HIRES (on page 3), and TRS CONTRIBUTIONS FOR REHIRED RETIREES. Further information on each of these additions may be found in the explanatory note at CRD(LEGAL) in this update packet.

At RETIREMENT INCENTIVES, found on page 4, is an additional SB 1691 provision that prohibits districts from offering incentives for employees to retire from TRS.

DHE (LEGAL) EMPLOYEE STANDARDS OF CONDUCT SEARCHES AND ALCOHOL/DRUG TESTING

Beginning September 1, 2005, districts will be required to report to the Department of Public Safety anomalous results of driver drug tests required by the U.S. Department of Transportation. The provisions of SB 217 from the 79th regular session require these reports when:

- a test indicates an alcohol concentration of 0.04 or greater or a result above the level set by DOT regulations for drug concentration;
- the employee refuses to provide a specimen for testing; or

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- the specimen is found to be adulterated, diluted, or switched.

In addition to these revisions, found at REPORTS on pages 2 and 3, the policy has been reorganized and lightly edited to more closely track statutory language. A lengthy listing, drawn from DOT regulations, of materials that must be made available to those subject to DOT-required testing has been deleted as excessively detailed for policy.

DK (LEGAL) ASSIGNMENT AND SCHEDULES

While the addition to the policy—the TRANSFERS provision on page 2—is modest, the policy itself has been refined to more closely track the language of statute. The new TRANSFERS provision is language drawn from SB 387—effective with the 2005–06 school year—that permits a district to include in its employment policies provisions for employee transfers within the district.

DLB (LEGAL) WORK LOAD REQUIRED PLANS AND REPORTS

SB 493 from the 79th regular session permits the commissioner of education to authorize an accreditation investigation of a district in response to “repeated complaints of excessive paperwork requirements on classroom teachers.” This provision becomes effective with the 2005–06 school year.

While not added to this policy, the legislation also requires the commissioner to limit written reports and other paperwork TEA requires of principals or classroom teachers and, at least once every even-numbered year, to review and reduce paperwork requirements imposed by TEA on districts.

E (LEGAL) INSTRUCTION

We have revised the E–Section Table of Contents to accommodate policy EHBG: Prekindergarten.

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

At COORDINATED HEALTH PROGRAM on page 1 has been added new law extending to middle and junior high students a health initiative that has previously been focused only on elementary students. From the program mandate in the 77th regular session, amended during the 78th regular session, to SB 42 in the 79th regular session, differing effective dates emerge: districts must receive training in the implementation of the elementary program by September 1, 2007, while training for the middle and junior high program must begin in the 2006–07 school year.

At item 5, on page 2, of the list of required course offerings in grades 9–12, language from HB 492 from the 79th regular session has been added. Beginning with the 2006–07 school year, districts must include instruction in personal financial literacy in any course meeting the economics course credit requirement. The State Board of Education must adopt—by March 1, 2006—rules that include a transition period for 2006–07 juniors and seniors and must adopt TEKS on personal financial literacy by the 2008–2009 school year.

EHB (LOCAL) CURRICULUM DESIGN SPECIAL PROGRAMS

The district’s locally developed provisions regarding the New Directions Learning Center have been moved from EHBG and placed in this code. In my discussion with the district policy contact, Dr. Bill Newton, he indi-

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cated that these provisions are still current but that the name of the center had been changed to the New Directions Learning Center, which is reflected in this updated policy.

EHBG (LEGAL) SPECIAL PROGRAMS PREKINDERGARTEN

We have created this new code to specifically focus on prekindergarten programs and moved provisions, previously found at FD(LEGAL) and elsewhere, to this new policy. This material has been supplemented with Education Code provisions on grants, specifically the PREKINDERGARTEN EXPANSION GRANT and the READY TO READ GRANT, found on page 2.

Also new is a requirement—from HB 2048 from the 79th regular session and effective June 18, 2005—that the district participate in the Texas Information and Referral Network (TIRN), an initiative of the Health and Human Services Commission. Participation will take two forms:

- Information collection: Each district, each local workforce development board, and the Texas Head Start State Collaboration Office will provide TIRN information regarding available child-care and education services and eligibility information. This information will be published on the Internet (in a manner prescribed by the legislation) and will provide—in the language of the bill—“a point of access through which a person may be directed on how or where to apply for all child-care and education services available in the person’s community.”
- Contact management: TIRN staff will provide the person’s contact information to the local Head Start or Early Head Start center, local workforce development center, and school district. Each entity is then required to contact the person regarding eligibility and to match the person’s need with child-care and education services it provides or that are available through other providers in the community.

EHBG (LOCAL) SPECIAL PROGRAMS PREKINDERGARTEN

Your (LOCAL) policy at this code regarding the alternative education services provided by the New Directions Learning Center has been more appropriately recoded to EHB(LOCAL). With its recodification, we recommend deletion of the policy at this code.

EHBK (LEGAL) SPECIAL PROGRAMS OTHER INSTRUCTIONAL INITIATIVES

Revisions are as follows:

- At CONSTITUTION DAY, on page 1, a requirement embedded in the Federal Appropriations Act of 2004 has been added: districts that receive federal funds from any source must observe U.S. Constitution Day each September 17. That observance marks the date in 1787 that delegates to the Constitutional Convention convened to sign the document. [Further information is available on the National Archives Web site at <http://www.archives.gov/education/lessons/constitution-day/>.]
- At WOMEN’S INDEPENDENCE DAY, on page 3, provisions of HB 67 from the 79th regular session and effective May 9, 2005, have been added. The day commemorates the ratification of the 19th Amendment (women’s suffrage) of the U.S. Constitution on August 26, 1920.

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

NOTICE OF PERFORMANCE RATINGS has been added to reflect HB 3297 from the 79th regular session and effective June 18, 2005: districts are now required to provide campus rating information with the first report card of the year.

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F (LEGAL) STUDENTS

To better accommodate increasingly detailed law and regulations pertaining to chronic health conditions, we have created—at FFAF—a new code for INDIVIDUALIZED HEALTH PLANS.

FD (LEGAL) ADMISSIONS

Legislation from the 79th regular session is incorporated as follows:

- At RESIDENT GRANDPARENT, on page 3, appears the HB 25 language (effective May 27, 2005, and replicated in HB 283 with a June 18, 2005, effective date) that requires a district to admit any nonresident student for whom a grandparent, residing in the district, provides a “substantial amount of after-school care.” The determination of what constitutes a “substantial amount” is left to the board.
- AT REQUIRED DOCUMENTATION, on page 5, is found language, also from HB 25, that significantly shortens the time lines within which records of transfers must occur. Previously law required the sending district to provide records to the receiving district within 30 days of the request; new law requires that this occur within ten working days of the request. Moreover, the law now requires the sending district to notify the parent that he or she may request an unofficial copy to take to the new district.

Please note also that the prekindergarten provisions previously in this policy have been moved to EHBG(LEGAL) and provisions regarding the U.S. Immigration’s Student and Exchange Visitor Information System (SEVIS) have been deleted since they do not apply to public school districts in Texas.

FD (LOCAL) ADMISSIONS

We reorganized the district’s current policy and placed information on REGISTRATION FORMS at the beginning. We have also added a new margin note titled MINOR LIVING APART and new provisions addressing MISCONDUCT and EXCEPTIONS. Additional revisions to this local policy are as follows:

- At RESIDENCY REVIEW, we have deleted a statement specifically addressing the appeal of a superintendent’s decision. Since all decisions may be appealed under the appropriate complaint policy, the statement was unnecessary and potentially confusing.
- At NONRESIDENT STUDENT IN GRANDPARENT’S AFTER–SCHOOL CARE, there is new language resulting from HB 25 on admission of nonresident students for whom grandparents, residing in the district, provide a “substantial amount of after-school care.” The local policy text:
 - obligates the parent and grandparent to provide residency information and **to complete a form** to document the extent of after-school care provided, and
 - delegates to the superintendent authority to approve these admission requests.

Admission of the student is based on whether the care provided by the grandparent is determined by the board to be “substantial.” Because of differing needs and circumstances of children at different ages and stages of development, formulating objective criteria to be used to measure “substantial amount” will likely yield a range of decisions governed by exception rather than rule. We suggest that the superintendent propose administrative regulations setting forth guidelines. Such guidelines might establish a threshold for approval—e.g., a minimum number of hours per day, of days per school week, of months per school year—and provide for consideration of age and special needs or circumstances.

To assist districts in making this determination, Policy Service has prepared a “boilerplate” administrative procedure and a sample form that the parent and grandparent would be required to complete. These documents

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may be found at FD(REGULATION) and FD(EXHIBIT), respectively, in the *TASB Regulations Resource Manual*, available via MyTASB to policy administrators.

The district's locally developed provisions at PAYMENT FOR ILLEGAL ATTENDANCE and EXCHANGE STUDENTS have been retained unchanged.

FDB (LEGAL) ADMISSIONS
INTRADISTRICT TRANSFERS

This policy has been revised to more closely track statutory language and reorganized for clarity. In addition, HB 283 provisions relating to transfers prompted by bullying are reflected on page 2. That legislation from the 79th regular session and effective June 18, 2005, defines bullying and allows victims of bullying to be assigned to another classroom or transferred to another campus. The transfer is not automatic—the board or its designee must determine that the bullying occurred—nor is the district required to provide transportation to another campus.

FDB (LOCAL) ADMISSIONS
INTRADISTRICT TRANSFERS

At TRANSFERS BETWEEN CLASSES AND CAMPUSES, we have added a provision reflecting the need for the board to formally delegate authority to investigate and approve requests for class changes or transfers pursuant to an allegation of bullying. The language of delegation is generalized to all intradistrict transfers whether from classroom to classroom or campus to campus. If this language is not consistent with district practice, please contact your Policy Consultant/Analyst for appropriate text.

The remaining locally developed provisions have been lightly edited for clarity.

FDD (LEGAL) ADMISSIONS
SCHOOL SAFETY TRANSFERS

A new section titled SEXUAL ASSAULT TRANSFER reflects HB 308 from the 79th regular session. Effective June 18, 2005, the new law requires a district to permit a student who is the victim of a sexual assault by another student to transfer to another campus in the district. If no other campus exists, the victim's parent may request a transfer to another district. If, however, the victim does not want a transfer, the district must transfer the assailant to another campus or—if only a single campus exists at that grade level—to the district's alternative education program or juvenile justice alternative education program. The law requires the district to notify, to the extent permitted by federal privacy laws, the victim's parent of where the assailant has been transferred or placed. The district is not required to provide transportation to either student.

This new law echoes to some extent the No Child Left Behind Act's Unsafe School Choice Option (renamed School Safety Choice Option in Texas), found on page 1 of this policy. This NCLBA transfer provision is triggered when the sexual assault occurred on the grounds of the school the victim attends; the HB 308 transfer provision applies regardless of where the sexual assault occurred but only if both students were attending the same school at the time of the assault.

In addition to the significant change described above, the policy has been revised throughout to more closely track statutory language.

FDD (LOCAL) ADMISSIONS
SCHOOL SAFETY TRANSFERS

The No Child Left Behind Act requires districts receiving ESEA funds to notify students of their right to transfer within the district from a school identified as "persistently dangerous" or when the student becomes a victim

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of violent crime at school. Recent guidance from TEA strongly encourages districts in which an intradistrict transfer is not possible to work with another district to arrange an interdistrict transfer. In this light, we have reorganized your current (LOCAL) policy to avoid redundancy and have added a provision that the district “explore transfer options with another school district.” With the generalization of the transfer statement, we have deleted a provision—not required by law or TEA guidance—that the district would transport these students to their new school. New to the policy is language:

- delegating to the superintendent (or the superintendent’s designee) authority to receive and expedite school safety transfer requests.
- establishing time lines—as specified by TEA—for notification of transfer rights and for approval of transfer requests.
- requiring retention of relevant records for five years, as specified by TEA.

ADDITIONAL TRANSFER OPTIONS, on page 2, has been added to acknowledge the right of a parent whose student has been the victim of a sexual assault—within circumstances added to the Education Code by HB 308—to transfer to another classroom or school OR to request that the assailant, if on the same campus as the student, be transferred to another school. [See FDD(LEGAL) explanatory note and text for additional information.]

TEA’s July 22, 2005, “To the Administrator Addressed” communique on NCLBA transfer requirements may be found at <http://www.tea.state.tx.us/nclb/PDF/SSCONotice0705.pdf>.

FEA (LEGAL) ATTENDANCE COMPULSORY ATTENDANCE

HB 1575 from the 79th regular session prompts two changes to this policy. Both changes became effective on June 18, 2005:

- At AFFIRMATIVE DEFENSE—STUDENT, on page 5: the affirmative defense to prosecution of a student for nonattendance may now be used only if—after deducting involuntary absences and excused absences—the number of remaining unexcused or voluntary absences is insufficient to constitute an offense.
- At DISTRICT COMPLAINT OR REFERRAL, the district now has only seven school days—from the student’s last absence—to file a complaint for nonattendance or refer the student to a juvenile court for conduct indicating a need for supervision.

In addition to these changes, the policy has been refined throughout to more closely track statutory language and, with new margin notes, to improve the mapping of the material.

For more information, see TEA’s August 2, 2005, “To the Administrator Addressed” correspondence regarding attendance, admission, enrollment records, and tuition at <http://www.tea.state.tx.us/taa/legal080205.html>.

FFAC (LEGAL) HEALTH REQUIREMENTS AND SERVICES MEDICAL TREATMENT

At PRESCRIPTION MEDICATION AND SPECIAL EDUCATION STUDENTS, on page 4, appears a new section drawn from the December 2004 reauthorization of the Individuals with Disabilities Education Act. The Act now prohibits an employee of the district from requiring a student to obtain—as a condition of attending school or being evaluated for or receiving special education services—a prescription for a controlled substance.

FFAF (LEGAL) HEALTH REQUIREMENTS AND SERVICES INDIVIDUALIZED HEALTH PLAN

FFAF is a new policy code established to house provisions applicable to INDIVIDUALIZED HEALTH PLANS, such as those called for by HB 984 (from the 79th regular session) for students with diabetes.

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The legislation, effective June 18, 2005, requires a three-pronged approach by parents and schools:

- Development of a diabetes management and treatment plan (DMTP) by the parent and the physician responsible for treating the student's diabetes.

This plan, signed by the parent and physician, must identify the health-care services the student may receive at school and assess the student's ability to manage his or her diabetes. The plan must be submitted to the school by the beginning of the school year or upon the later enrollment of the student, or as soon as practicable after diagnosis.

- Development of an individualized health plan (IHP) for the student by the principal or designee and the school nurse (if one is assigned to the school).

This plan must be developed in collaboration with the parent, the physician (to the extent practicable) and at least one of the student's teachers.

- Development of campus procedures and resources to provide the required care to diabetic students.

The campus will attempt to ensure the availability of a school nurse or unlicensed diabetes care assistant (UDCA), under the supervision of the principal. A UDCA may be a school employee who volunteers to perform this duty or an employee of the local health department or other entity with which the district has contracted for this service. Each UDCA must be appropriately trained by the school nurse or a health-care professional having expertise in the care of diabetics. Training must be in accordance with guidelines promulgated by the Texas Diabetes Council of the Texas Department of State Health Services.

Additionally, the principal must make efforts to have at least one UDCA if a school nurse is assigned full-time to the campus and at least three UDCA's if there is no full-time nurse. School employees who transport or supervise students during off-campus activities must be given specific information regarding diabetic students in their charge: the identification of the diabetic student, potential emergencies and appropriate responses to emergencies that may arise as a consequence of the diabetes, and an emergency contact number.

The law provides UDCA's liability protection under the general immunity applicable to school district professional employees. They are also sheltered from claims regarding unlicensed practice of medicine, while school nurses are held harmless for the actions of a UDCA.

The Texas Diabetes Council released its "Guidelines for Training Unlicensed Diabetes Care Assistants" in July. This and many other resources relating to diabetes in a school setting may be found at <http://www.tdh.state.tx.us/diabetes/default.htm>.

FFG (LEGAL) STUDENT WELFARE CHILD ABUSE AND NEGLECT

HB 1970, from the 79th regular session and effective September 1, 2005, prompts the following changes:

- At TO WHOM REPORTED on page 2: new language in the introductory paragraph clarifies that a report of alleged or suspected abuse or neglect must always be made to the Texas Department of Family and Protective Services:
 - **if** the abuse or neglect involves a person who is responsible for the care, custody, or welfare of the child, and
 - **unless** the report is made to the state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred OR the report involves a juvenile justice program or facilities (e.g., a juvenile justice alternative education program).

Otherwise the report should be made to any of the four agencies that continue to be specified by law.

- At REPORTS TO DISTRICT on page 3: DFPS is newly required to provide the superintendent a written report if its investigation of abuse or neglect involves a student and a district employee. Previously DFPS was obligated only to orally notify the superintendent that an investigation had been initiated.

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FFG (EXHIBIT) STUDENT WELFARE CHILD ABUSE AND NEGLECT

This exhibit has been revised to reflect HB 1970 changes described at FFG(LEGAL): reports of alleged or suspected abuse or neglect must always be made to the Texas Department of Family and Protective Services (Child Protective Services) in the circumstances described in the explanatory note at FFG(LEGAL).

We have retained unchanged the contact information for the three local law enforcement agencies included in this exhibit.

FL (LEGAL) STUDENT RECORDS

At DESIGNATION OF DIRECTORY INFORMATION, beginning on page 7, are key provisions of SB 256 from the 79th regular session that became effective on June 17, 2005. The text attempts to reconcile “public information” under the Texas Public Information Act with “directory information” under the federal Family Educational Rights and Privacy Act (FERPA). In short, FERPA now controls what is subject to public disclosure for purposes of student records.

The legislation also addresses the content and form of the ANNUAL NOTICE that FERPA requires to be given to parents regarding their right to withhold some or all directory information on their children:

- specific language that the district must use to fulfil the FERPA requirement;
- a requirement that this language appear in 14 point (or larger) boldface type; and
- the inclusion of a form—on that page or the next—that allows the parent to check off or list directory information he or she does not wish disclosed, to object to the required release of directory information to a military recruiter or institution of higher education, and to consent to release certain directory information for limited school-sponsored purposes.

On page 4, a federal provision regarding release of visa information—previously found in FD(LEGAL)—has been moved to this policy. That provision, from the Enhanced Border Security and Visa Entry Reform Act of 2002, requires the release—to any of the federal and state agencies listed at item 3 on page 3—of personally identifiable information otherwise protected from disclosure when the student is holding an F, J, or M visa.

FL (LOCAL) STUDENT RECORDS

DIRECTORY INFORMATION, on page 4, includes the full list of categories so defined by the Family Educational Rights and Privacy Act (FERPA). To fulfill SB 256 requirements, each district must designate, in policy, the categories of information it will treat as “directory information” and make accessible to third parties without parental consent. FERPA also requires districts to allow parents to object to the release of one or more categories of this information.

If you wish to delete any of the items listed as directory information on page 4, please contact your Policy Consultant/Analyst.

Please note: This (LOCAL) policy version is for districts in which the principal is custodian of all records for currently enrolled students at the assigned school and for students who have withdrawn or graduated. If this information does not reflect your current practice, please contact your Policy Consultant/Analyst so we can update our records and issue you the correct policy text.

FL (EXHIBIT) STUDENT RECORDS

The information contained in this exhibit—addressing the confidentiality of personally identifiable information for students, the limitations on directory information, and the rights of parents under the Family Educational

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Rights and Privacy Act—is more appropriately published in student handbooks or, if the district prefers, distributed separately at the beginning of each year or when a student later enrolls. In that light and because of the specific requirements of SB 256 governing the directory information notice and parental consent form, we recommend deletion of this exhibit from the district’s policy manual.

This exhibit has long been incorporated in the TASB Model Student Handbook issued each spring. The 2005–06 version was rereleased on July 7 to address SB 256 requirements—as well as other legislative changes—and to provide districts with a directory information consent form compatible with SB 256.

Both this exhibit and the new parental consent form may also be found in the FL(EXHIBIT) in the **TASB Regulations Resource Manual**, available via MyTASB to policy administrators.

FMF (EXHIBIT) STUDENT ACTIVITIES
CONTESTS AND COMPETITION

This notice regarding anabolic steroids has been more appropriately moved to FNCF (Student Conduct: Alcohol and Drug Use). Please delete FMF(EXHIBIT) in favor of FNCF(EXHIBIT), included in this update packet.

FNAA (LOCAL) STUDENT EXPRESSION
DISTRIBUTION OF NONSCHOOL LITERATURE

In June 2005, Policy Service issued the second of a two-part response to two issues—distribution of non-school literature on school premises and use of district facilities for nonschool purposes—that have given rise to First Amendment challenges against district policies and practices in Texas and around the nation. Four policy codes are implicated:

- regarding students: FNAA and FNAB.
- regarding the community: GKD and GKDA

The **Starting Points** policy development tool kits on these issues guide the district in reviewing and refining these policies in light of these challenges and to ensure that local policy provisions for these four policies are coordinated. The tool kits are available to policy administrators via MyTASB at https://www.tasb.org/docs-myntasb/gov_svcs/policy_svc/amendment_sp/index.shtml.cfm.

FNC (LEGAL) STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT CONDUCT

HB 283 from the 79th regular session further specified the scope of each district’s discipline management program. The legislation, effective June 18, 2005, requires the program to address education regarding and prevention of unwanted physical or verbal aggression, sexual harassment, and other forms of bullying on school grounds and in school vehicles.

FNCF (EXHIBIT) STUDENT CONDUCT
ALCOHOL AND DRUG USE

This exhibit, recoded from FMF, addresses the long-standing requirement that districts post cautionary notices regarding use of anabolic steroids in school gyms and other places where physical education classes are conducted.

Please note: The 79th Legislature—in the form of HB 3563—ordered the University Interscholastic League to adopt rules prohibiting a student from participating in an athletic competition sponsored or sanctioned by the League unless the student agrees not to use steroids and the parent acknowledges in writing the statements that are found in this exhibit.

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UIL is also required to:

- develop an education program—before September 1, 2005—for students participating in UIL athletic activities and for their parents and coaches regarding the health effects of steroid use.
- make the program available to districts.
- work with public or private entities to study the effectiveness of the program.

During the 2005–06 school year, UIL must measure the extent of illegal steroid use by high school students and the number of districts that test high school students for illegal steroids. UIL is further charged with the responsibility of developing a plan for testing students engaged in UIL athletic activities for illegal steroids.

Finally, UIL must file a written report with the Legislature—not later than December 1, 2006—regarding the use survey, the effectiveness study of educational programs, and the testing plan. The bill directly states that, if the Legislature is not satisfied that the educational program has significantly reduced student use of illegal steroids, it may require UIL to implement the testing plan (and authorizes UIL to raise membership fees to pay for the testing).

Concurrently, TEA, working with the Department of State Health Services, must develop information about the use of anabolic steroids and associated health risks and distribute the information to school districts. (This was apparently accomplished more than a month before passage of the legislation by a joint communication from the commissioner of education and the commissioner of health: <http://www.tea.state.tx.us/taa/comm042605.pdf>.) The State Board of Education has not yet determined at which grade levels this information is to be distributed.

FO (LEGAL) STUDENT DISCIPLINE

Legislation enacted in the 2003 regular session required a district to specify in its student code of conduct whether self-defense might be considered a mitigating factor for offenses that would ordinarily prompt suspension, placement in a disciplinary alternative education program, or expulsion. In the 2005 regular session, by means of HB 603 (effective June 17, 2005), the Legislature added three further considerations:

- Intent or lack of intent at the time the student engaged in the conduct,
- A student's disciplinary history, or
- A disability that "substantially impairs the student's capacity to appreciate the wrongfulness of [his or her] conduct."

A district is not required to take these factors into consideration but, if it does, the decision to do so must be expressed in the student code of conduct. (See **STUDENT CODE OF CONDUCT**, item 4, on page 1)

At item 5, on page 1, text—also from HB 603—has been added to clarify that districts are not required to specify minimum terms of DAEP placement or expulsion (except as otherwise provided by statute).

HB 283, also from the 79th regular session, expands the scope of the student code of conduct to include two new items:

- A prohibition of bullying, harassment, and making hit lists and ensuring that district employees enforce these prohibitions. (See item 7 on pages 1 and 2 for the specific language and the definitions of "bullying," "harassment," and "hit list.")
- Providing grade level–appropriate methods for managing and disciplining students and preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists. (See item 8 on page 2 for the specific language.)

These new student code of conduct requirements are addressed in the **TASB Model Student Code of Conduct**, released on June 21, 2005.

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Please note: HB 383 from the 79th regular session amends Family Code 151.001 to include the following language (effective September 1, 2005):

“Only the following persons may use corporal punishment for the reasonable discipline of a child:

- the parent or grandparent of the child;
- a stepparent of the child who has the duty of control and reasonable discipline of the child; and
- an individual who is a guardian of the child and who has the duty of control and reasonable discipline of the child.”

Close review by TASB attorneys has found that the intent of the language was to clearly empower grandparents, stepparents, and guardians to use corporal punishment without fear of a *de facto* claim of child abuse. Moreover, the legislature left intact existing authority permitting districts to administer corporal punishment (see page 4 for cites to federal cases in that regard and DH(LEGAL) regarding professional immunity relating to student discipline). Believing that sufficient legal authority exists for school personnel to administer corporal punishment, TASB Legal Services has not included those provisions of HB 383 in this (LEGAL) policy but urges districts to confer with local legal counsel regarding that reading.

Be aware also that, on July 27, 2005, the commissioner requested an attorney general's opinion on the applicability of Family Code 151.001 to corporal punishment administered within a school setting. The request went on to pose related questions: whether corporal punishment may be administered with the consent of or over the objection of the parent (or other person named in the new provision). Full text of the request may be found at http://www.oag.state.tx.us/opinions/requests_ga/RQ0369GA.pdf.

Please also note: This (LEGAL) version, which includes provisions on corporal punishment, is for districts that allow that method as one of their discipline management techniques. If your district does not allow the use of corporal punishment, please contact your Policy Consultant/Analyst so we can update our files and issue the correct (LEGAL) version for your manual.

FOA (LEGAL) STUDENT DISCIPLINE REMOVAL BY TEACHER

HB 603 from the 79th regular session newly requires that a student removed from class by a teacher for assault or sexual assault on the teacher or attempted murder against the teacher cannot be returned to the class without the teacher's consent. Effective on June 17, 2005, this addition to Chapter 37 prevents a placement review committee from returning the student to the teacher's class—over the teacher's objection—as it might for other removals by the teacher and further provides that consent cannot be coerced. (See RETURN TO CLASS on page 1.)

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

Changes from the 79th regular session are as follows:

- At SEXUAL ASSAULT OF ANOTHER STUDENT, on page 2, are provisions of HB 308 that provide for the transfer of a student convicted or otherwise adjudicated for sexually assaulting another student assigned to the campus. If the district does not have another campus serving the grade level of the assailant and upon request of the parent of the victim, the assailant must be placed in a disciplinary alternative education program or a juvenile justice alternative education program. Time limits ordinarily associated with DAEP or JJAEP placements do not apply. This provision is reflected in the **TASB Model Student Code of Conduct** released June 21, 2005.
- At ACTIVITIES, on pages 5 and 6, is new language from HB 603 from the 79th regular session that adds to the tangle of notification requirements. Previously, the superintendent was required to notify all instructional and support personnel:

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- responsible for supervising a student arrested or taken into custody by a law enforcement agent, or
- who have regular contact with a student convicted (or otherwise adjudicated) of a reportable offense.

The law in the first circumstance above includes a specific confidentiality requirement; in the second circumstance, it does not.

Effective June 17, 2005, the law also now requires:

- the principal or designee to notify “each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of [the] student.”
- notification for ANY offense for which the student must or may be placed in a DAEP or expelled— independent of any action taken by the criminal justice system. [FOC(LEGAL) addresses the DAEP component of this requirement; FOD(LEGAL), the expulsion component.]
- the information be kept confidential from any person not entitled to the information. Intentional failure to keep the information confidential may prompt suspension or revocation of an educator’s certificate.
- At ENROLLMENT IN ANOTHER DISTRICT, on page 6 and also from SB 603, is new language requiring notification of staff when a student in a DAEP in one district attempts to enroll in another district before the expiration of the term of placement. The provision mirrors that at ACTIVITIES regarding who must be notified and confidentiality.

ADDITIONAL PROCEEDINGS, on page 9, has been added to reflect legislation enacted in the 78th regular session: a student in a DAEP who engages in further misconduct (for which DAEP placement is appropriate) may be assessed an additional term of placement.

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

HB 1095 from the 79th regular session expands Section 22.11, found on page 2, to include intentional harassment of a public servant (a term encompassing district employees). The language expands the existing bodily fluids statute to protect any public servant performing an official duty. The effective date of this language is September 1, 2005.

FOD (LEGAL) STUDENT DISCIPLINE EXPULSION

The SB 603 notice requirement added to FOC(LEGAL) applies to expulsions as well. This revised requirement appears at NOTICE OF EXPULSION ORDER: TO STAFF, on page 6. [See the explanatory note at FOC(LEGAL) for further information.]

FOD (LOCAL) STUDENT DISCIPLINE EXPULSION

Your current (LOCAL) policy at this code—addressing the expulsion hearing process—was adopted in 1997 and includes time-sensitive information most relevant to students and parents. Because the board-adopted Student Code of Conduct is the primary vehicle of information for students and parents on issues of discipline, these provisions belong in that document rather than in the board policy manual. To eliminate redundancy and prevent confusion, we recommend deletion of this policy.

GBA (LEGAL) PUBLIC INFORMATION PROGRAM ACCESS TO PUBLIC INFORMATION

Changes arising from the 79th regular session are as follows:

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- A new INVESTMENT INFORMATION section has been added to page 2 to reflect SB 121 (effective immediately). This section is essentially a highly summarized reference pointing to a lengthy list of disclosable information that will soon be codified in Government Code 552.0225. In the interim, this information is accessible at the Texas Legislature Online: <http://www.capitol.state.tx.us>. [79th regular session, SB 121 text, enrolled version]
- A companion piece—regarding investment information that is not disclosable—is found at item 28, on page 8.
- At item 27 appears a new SOCIAL SECURITY NUMBERS section. In accordance with SB 1485, effective immediately, districts are now authorized to withhold Social Security numbers of living persons.

GBAA (LEGAL) INFORMATION ACCESS REQUESTS FOR INFORMATION

Changes arising from the 79th regular session and effective September 1, 2005, are as follows:

- SB 727 transfers the Texas Building and Procurement Division's responsibility regarding public records to the attorney general's office. This shift is reflected at SIGN, on page 1, and throughout this policy. In addition:
 - The law newly considers as withdrawn any public information request for which the requestor does not complete examination of the records within ten business days after the records are made available, if a request for additional time is not filed. (See EXAMINATION, on page 2).
 - Previous law specified that, for requests that require programming or manipulation of data, the officer for public information has 20 days (plus an additional ten if an extension is needed) in which to provide the requestor a statement of estimated cost and time required to fulfill the request. The legislation newly requires that the requestor has 30 days to respond after this information is received. If the requestor does not respond within this time frame, the request is to be considered withdrawn. (See FURTHER ACTION on page 4).
 - Finally, the legislation requires that when a district sends to the attorney general written comments stating why an exception to the Opens Records Law applies the district also send a copy to the person who requested the information. The district must redact from the copy any comments disclosing the substance of the information in question. (See ADDITIONAL INFORMATION, on pages 6 and 7.)
- SB 623 specifies that the district has ten days—from the day that the requestor pays the deposit or posts bond for payment of the anticipated cost of preparing a copy of public information—to provide the information or request an attorney general's opinion. Also, if the requestor fails to make the deposit or post bond in a timely manner, the request must be considered withdrawn. (See DEPOSIT OR BOND, on page 10.)

GND (LEGAL) RELATIONS WITH EDUCATIONAL ENTITIES STATE EDUCATION AGENCY

Changes arising from the 79th regular session are as follows:

- At INTERNET DISSEMINATION, on page 4, is added the SB 3297 requirement—also found at BR (LEGAL) in this update—regarding Internet posting of the most recent performance ratings of the district.
- At PAPERWORK REQUIREMENTS, on page 5, is found the SB 493 provision—also appearing at DLB(LEGAL) in this update—authorizing the commissioner to undertake a special accreditation investigation of a district for repeated complaints regarding excessive paperwork imposed on teachers.

See the explanatory notes for these referenced codes for further information.