

Explanatory Notes

TASB Localized Policy Manual Update 86

District: Brackett ISD
BBB (LEGAL) BOARD MEMBERS
ELECTIONS

At GENERAL ELECTION DATE, provisions from HB 401, effective May 13, 2009, have been added allowing a district that holds its election in May to change its election date to the November uniform election date, provided it does so by December 31, 2010.

We have revised the text at BOUNDARY CHANGE NOTICE to delete text that referred to boundary changes to single-member districts.

SB 1970, effective September 1, 2009, made several changes to election procedures, as reflected in this policy, including:

- A requirement for the ELECTION ORDER and ELECTION NOTICE to include a listing of each early voting polling place rather than just the main early voting place as previously required;
- A requirement for a district to post a public notice containing FILING INFORMATION for school board candidates no later than 30 days before the first day a candidate can file to run for election;
- A change to the filing deadline for candidates in a SPECIAL ELECTION;
- Flexibility to cancel an election if each candidate is unopposed, even if there are propositions on the ballot [see ELECTION OF UNOPPOSED CANDIDATE]; and
- More details on the PROCEDURE FOR CANCELING AN ELECTION.

At USE OF CERTAIN DEVICES PROHIBITED, HB 1493, effective May 27, 2009, adds an exception to the prohibition on the use of wireless communication devices at polling places to allow use by a person who is employed at the polling place and is acting in the scope of employment.

Obsolete effective dates for implementation of VOTING SYSTEMS have been removed.

At OATH OF OFFICE, HB 1285, effective June 19, 2009, amended the list of persons authorized to administer an oath to a newly elected school board member.

Cites have been updated throughout the policy.

BBBB (LEGAL) ELECTIONS
ETHICS

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

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BDF (LEGAL) BOARD INTERNAL ORGANIZATION CITIZEN ADVISORY COMMITTEES

Changes to the composition of the SCHOOL HEALTH ADVISORY COUNCIL are from SB 283, effective September 1, 2009. The school board must now appoint at least five members to the council. A majority of the appointed members must be parents who are not employed by the district, and one of the appointed members must serve as the chair or co-chair of the council. Since the board may appoint individuals other than parents under this provision, the board may, but is not required to, appoint a parent as the chair or co-chair of the council.

Also from SB 283, the council is required to submit an annual written report to the board detailing recommendations regarding the health education curriculum, modifications to previous recommendations, and an explanation of the council's activities since its last report. Although not included in the policy, the bill includes a transition provision for the 2009–10 school year, which is the first year that the annual report is required, stating that the initial report is required no later than April 1, 2010.

BQ (LEGAL) PLANNING AND DECISION-MAKING PROCESS

We have added a new requirement from HB 1041, effective June 19, 2009, for a district to include a "policy" addressing sexual abuse of children in the DISTRICT IMPROVEMENT PLAN and the student handbook. [See item 11 on page 3.] This program will need to be developed by the district-level committee and the superintendent and must address methods for increasing awareness about child sexual abuse, actions that a victim should take to obtain assistance, and counseling options for victims. Because this program will be included in the district improvement plan and the student handbook, it is not necessary to address it in local policy in the district's policy manual. TEA has resources on its Web site to guide districts in creating the program: <http://www.tea.state.tx.us/index.aspx?id=2820>. Information on this issue was added to the post-legislative supplement to the *TASB Model Student Handbook*, available at http://www.tasb.org/services/policy/mytasb/student_handbook/index.aspx.

The CAMPUS-LEVEL PLAN for each elementary or junior high campus must now include goals and objectives for the coordinated health program in accordance with SB 892, effective June 19, 2009.

CBA (LEGAL) STATE AND FEDERAL REVENUE SOURCES STATE

Consistent with the new accountability ratings of unacceptable and acceptable as provided for in HB 3, effective June 19, 2009, we have revised the text at FOUNDATION SCHOOL PROGRAM to change "academically acceptable" to "acceptable."

CFD (LEGAL) ACCOUNTING ACTIVITY FUNDS MANAGEMENT

HB 3646, effective September 1, 2009, requires a district to adopt a local policy addressing expenditure of funds from vending machines, rentals, gate receipts, or other local funds over which the district has direct control. The policy must require that any expenditure relate to the district's educational purpose and provide a commensurate benefit to the district or its students. In addition, the expenditure must comply with prohibitions on the gift of public funds.

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- To help identify contractors and subcontractors, definitions have been added for 'CONTRACTING ENTITY' and 'SUBCONTRACTING ENTITY.'
- At CONTRACTOR RESPONSIBILITIES, we have added new text from the bill stating that subcontractors must now obtain the criminal history records of their employees. In addition, a contractor is responsible for ensuring that its subcontractors obtain the required criminal history record information on the subcontractor's employees. Contractors are no longer required to obtain criminal history records on a subcontractor's employees, as was previously required by TEA rule, if the contractor obtains a written certification that the subcontractor obtained the required information.
- A subcontractor must make certain CERTIFICATION TO THE DISTRICT and to the contractor that the subcontractor complied with the criminal history check requirements.
- At DISQUALIFYING CONVICTION, the bill changes the eligibility standard for contractor employees to work at a district by adding as a disqualifying reason the conviction of a felony or misdemeanor that would disqualify a person from obtaining certification as an educator under Education Code 21.060. This same eligibility standard applies to employees of subcontractors.

CL (LEGAL) BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT

As described above at CH(LLEGAL), SB 300, effective June 19, 2009, requires districts to establish a long-range plan for the REDUCTION OF ENERGY CONSUMPTION. Included at this code are details on the strategies to be included in the plan.

Text at POOLS on page 5 has been amended based on SB 1732, effective September 1, 2009. Under this law, a public swimming pool, spa, or other artificial body of water used for recreational purposes must meet the pool safety standards adopted by the state Health and Human Services Commission, which must be at least as stringent as the federal law addressing pool safety.

CLB (LEGAL) BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT MAINTENANCE

New rules on pest management from the Texas Department of Agriculture, effective July 7, 2009, have prompted changes to this policy:

- As reflected at INTEGRATED PEST MANAGEMENT PROGRAM on page 1, the rules require a district to establish, implement, and maintain an Integrated Pest Management (IPM) program, which must include a board approved policy containing certain elements, a program to monitor pest problems, the use of non-chemical and lower risk pesticides, a record keeping system, a plan for educating and informing employees who are involved in the IPM program, and guidelines for identifying thresholds for pest control actions.
- Each district must appoint an IPM COORDINATOR and report that person's contact information to the Department of Agriculture. The coordinator must complete a TRAINING course within six months of appointment and obtain at least six hours of continuing education units at least every three years.
- IPM coordinators are responsible for performing an expanded set of DUTIES as listed beginning on page 2.
- A district that engages in pest control activities must employ or contract with a LICENSED APPLICATOR who may also be the IPM coordinator. The licensed applicator is responsible for performing the duties listed.

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- Also from HB 4294, districts that subscribe to an approved subscription-based electronic textbook or instructional material may cancel the subscription and subscribe to a different approved electronic textbook or instructional material if the district used the textbook or material for at least a year and TEA approves the change. See DURATION OF SELECTION, EXCEPTION.
- If a district selects an open-source textbook, the district shall obtain a sufficient number of printed copies for use by students who cannot access the textbook electronically unless the district provides electronic access at no cost to students or provides printed copies of the relevant portions of the textbook used in the course. This provision is from HB 2488 and appears at AVAILABILITY OF OPEN-SOURCE TEXTBOOKS.
- A new CERTIFICATION requirement has been added from HB 4294 and HB 2488. Districts must annually certify to the SBOE and the Commissioner that the district provides students with textbooks, electronic textbooks, or instructional materials that cover all elements of the TEKS for subjects in the foundation curriculum.
- Approved electronic textbooks and instructional materials and technological equipment are included in the list of items on which districts may spend their textbook credits. This change is from HB 4294 and appears at DISTRIBUTION.
- At BOOK OWNERSHIP AND COVERS, electronic textbooks and printed copies of open-source textbooks are exempted by HB 2488 from the requirement for students to cover their textbooks. In addition, open-source textbooks do not need to be returned by students at the end of the year if the district does not intend to use the textbook again.
- HB 1332, effective June 19, 2009, expands provisions on student RESPONSIBILITY FOR BOOKS AND EQUIPMENT to electronic textbooks and technological equipment.

See also the explanatory note for EFAA(LLEGAL).

CNC (LEGAL) TRANSPORTATION MANAGEMENT TRANSPORTATION SAFETY

Reflected at SEAT BELTS and pursuant to HB 3646, effective September 1, 2009, school buses and school activity buses purchased on or after September 1, 2010, must be equipped with three-point seat belts for each passenger and the operator. A district is required to comply with this new law only if TEA pays the district for the expenses incurred in complying with this requirement.

We have also revised the SCHOOL BUS EMERGENCY EVACUATION TRAINING provisions on page 2 based on SB 300, effective June 19, 2009. Districts are no longer required to conduct such trainings. If they do conduct trainings, however, they are encouraged to conduct a one-hour training in the fall, to focus the training on passengers, and to conduct a portion of the training on a bus. Districts are also encouraged to review evacuation procedures with passengers before each field trip.

At WIRELESS COMMUNICATION DEVICES, we have updated the text in accordance with HB 55, effective September 1, 2009, which prohibits the use of wireless communication devices within a school crossing zone unless the vehicle is stopped or the device is used hands-free.

COA (LEGAL) FOOD SERVICES MANAGEMENT FOOD PURCHASING

Based on HB 987, effective June 19, 2009, we have deleted from this policy the provision addressing produce purchases. HB 987 repealed the legal provisions governing district purchasing procedures for personal property valued from \$10,000 to \$25,000, which formerly applied to produce purchases in these amounts.

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CS (LEGAL) FACILITY STANDARDS

On page 4, we have added a new definition of RELOCATABLE EDUCATIONAL FACILITY from HB 2763, effective September 1, 2009. This bill requires such facilities that are purchased or leased after January 1, 2010, to comply with all provisions applicable to industrialized buildings under Occupations Code Chapter 1202.

Additional requirements also apply to PLAYGROUNDS pursuant to HB 4127, effective September 1, 2009. Playground equipment and surfacing must comply with applicable consumer safety performance standards, and metal platforms, steps, and slides must be covered from direct sunlight.

At LP-GAS SYSTEMS TESTING on page 7, HB 3918, applicable for the 2009–10 school year, changed the required test for LP-gas piping systems from a pressure test to a leakage test and added documentation requirements for these tests.

CV (LEGAL) FACILITIES CONSTRUCTION

Legislative changes affecting this policy include:

- On page 1, a new DISASTER EXCEPTION has been added at DELEGATION OF AUTHORITY. HB 4102, effective June 19, 2009, permits a board to delegate to the superintendent in the event of a disaster or emergency the authority to contract for the replacement, construction, or repair of school equipment or facilities if it is necessary for the health and safety of district students and staff. Such delegation will occur at the time of the disaster; districts should not include a delegation statement in local policy.
- At CONTRACTS VALUED AT OR ABOVE \$50,000 on page 1, HB 987, effective June 19, 2009, increases the dollar amount that triggers competitive procurement procedures from \$25,000 to \$50,000.
- Districts are now permitted to receive ELECTRONIC BIDS OR PROPOSALS, in accordance with HB 987, if the board adopts rules to ensure that the bids or proposals are secure and remain unopened until the appropriate time. See page 2.

See also the explanatory note for CH(LEGAL).

CV (LOCAL) FACILITIES CONSTRUCTION

As indicated in the explanatory note at CV(LEGAL), above, districts are no longer required to follow competitive purchasing procedures for CONSTRUCTION CONTRACTS valued below \$50,000. This means that the board is no longer required to determine the project delivery/contract award method for construction contracts valued below \$50,000. Consistent with this new law, we recommend a policy revision to the dollar amount that triggers a board determination of the project delivery/contract award method from \$25,000 to \$50,000.

Please also review the dollar amount listed in the district's policy governing which construction contracts the superintendent must bring to the board for approval. This dollar amount is not dependent on the dollar amount that triggers competitive purchasing and may differ. If you wish to revise the amount listed, please contact your policy consultant.

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DAA (LEGAL) EMPLOYMENT OBJECTIVES
EQUAL EMPLOYMENT OPPORTUNITY

As a result of HB 978, effective September 1, 2009, which modified the Texas Commission on Human Rights Act to be more consistent with the ADA (Americans with Disabilities Act Amendments Act of 2008), we have updated citations throughout this policy. We have also moved to a new margin note at DISCRIMINATION BASED ON LACK OF DISABILITY a provision explaining that an individual cannot bring a reverse disability discrimination claim—a claim in which an individual without a disability alleges he was discriminated against because of his lack of a disability.

DBA (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CREDENTIALS AND RECORDS

As a result of new rules in the Administrative Code for SCHOOL BUS DRIVERS, we have revised this policy, beginning on page 6, to:

- Add a definition of a "school bus driver";
- Update the requirements a person must meet to be employed and maintain employment as a school bus driver;
- Include details on information school bus driver applicants must disclose to the district and added the affirmative duties placed on the school district regarding applicants, such as checking and reviewing the applicant's driving record;
- Add detail about the annual check of each school bus driver's driving record that the district must conduct; and
- Add information regarding disqualification from being a school bus driver.

Provisions from HB 1365, effective June 19, 2009, have also been added on pages 8–9. This new law requires a district to send a copy of the SERVICE RECORD of a former teacher, librarian, counselor, or nurse to the employee's new district upon request by the employee or new district. The copy must be provided within 30 days of the request or of the employee's last day of service, whichever is later.

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

Significant changes to the confidentiality of criminal history background checks are added from HB 2730, effective September 1, 2009:

- At CONFIDENTIALITY OF RECORD, the new law clarifies that CHRI (criminal history record information) does not refer to any specific document provided by DPS, but to the information contained in a document's original form or any subsequent form or use.
- A new provision on page 4 prohibits the district and individuals from confirming or denying that the district has received criminal history record information from DPS regarding a person.
- The law now clarifies that CHRI is confidential both as it appears in the original record and when it is used "in a subsequent form." This will protect from release to the public CHRI data incorporated by the district into reports or spreadsheets.

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- An employee may now obtain from the district a copy of any CHRI related to the employee. Previously, this was prohibited. The district may charge the employee a copy cost.

HB 2730 also addresses DESTRUCTION OF CHRI. Districts are now required to destroy CHRI after the data is used or within one year after the district obtained the information, whichever occurs first.

Finally, except in certain circumstances, districts are prohibited from releasing information collected about a person for the purpose of obtaining CHRI. Such data is not subject to disclosure under the Public Information Act, and the district must destroy such data within one year. See CONFIDENTIALITY OF INFORMATION OBTAINED FROM APPLICANT OR EMPLOYEE beginning on page 4.

DBB (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS MEDICAL EXAMINATIONS AND COMMUNICABLE DISEASES

Provisions on physical examinations of SCHOOL BUS DRIVERS have been updated in accordance with rules revised by the Texas Department of Public Safety (DPS). The rules continue to require a school bus driver to obtain certification that he or she has submitted to an examination of physical and mental conditions and is qualified to be a driver. Under the new rules, however, drivers of school activity buses and multifunction school activity buses must also comply with the certification requirement. A person who has been disqualified on the basis of a medical examination may request special consideration.

DC (LEGAL) EMPLOYMENT PRACTICES

The provision regarding POSTING OF VACANCIES, on page 2, was modified by SB 300, effective June 19, 2009. Districts now must post notices of job vacancies at the central and campus administrative offices *or* on the district's Web site. Previously, districts had to post the notices of vacancies at the relevant administrative offices *and* on the district's Web site.

DEA (LEGAL) COMPENSATION AND BENEFITS SALARIES AND WAGES

Salary provisions from HB 3646, effective June 19, 2009, have been added at SALARIES FOR 2009–10 AND 2010–11. Districts must give teachers and full-time employees on the state minimum salary schedule and full-time speech pathologists a salary increase, the amount of which will depend on formulas included in the policy. TASB HR Services has released guidance on the salary increase at: http://www.tasb.org/services/hr_services/documents/guidance_on_teacher%20.pdf. A district may not reduce the salary of a teacher or a full-time speech pathologist, librarian, counselor, or nurse below what the person made in 2010–11 for as long as the person is employed by the district.

Other changes to the policy include:

- Deletion of the provision on STATE FUNDING on page 1, since this is a funding provision that is no longer necessary to include in the policy;
- Deletion of unnecessary detail regarding EMPLOYEES FORMERLY ON THE CAREER LADDER; and

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

We have added a new provision as a result of HB 2512, effective September 1, 2009, requiring a district grievance policy to permit an employee who reports a grievance to make an AUDIO RECORDING of any meeting or proceeding at which the substance of the grievance is investigated or discussed. The district is not required to provide the audio recording equipment, nor is the district required to delay timelines because of this requirement.

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

Text at AUDIO RECORDING reflects a new statutory requirement that a district grievance policy must permit an audio recording by an employee who reports a grievance. As it relates to the grievance policy, this would include a conference or hearing conducted in accordance with the policy at which the substance of the employee's complaint is discussed. To avoid the element of surprise, this new local policy recommendation requires that the employee notify others who are present that an audio recording is taking place.

Please note: DGBA(LOCAL) is an employment policy that we recommend the district provide to each teacher pursuant to Education Code 21 204(d).

EEB (LEGAL) INSTRUCTIONAL ARRANGEMENTS
CLASS SIZE

Districts are now required to address student-to-teacher ratios in their PHYSICAL EDUCATION curriculum objectives. This requirement is from SB 891, effective June 19, 2009.

SB 300, effective June 19, 2009, revised the EXCEPTION TO CLASS SIZE LIMITS on page 1. Exceptions are now valid for an entire school year, rather than a semester. Districts seeking an exception must apply by October 1 or the 30th day after the first school day for which the district exceeds the size limit, whichever occurs later.

EFAA (LEGAL) INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION
TEXTBOOK SELECTION AND ADOPTION

Changes arising from the 81st Legislative Session are as follows:

- The SBOE shall include OPEN-SOURCE TEXTBOOKS that meet certain statutory requirements on the conforming or nonconforming textbook lists pursuant to HB 2488, effective September 1, 2009.
- HB 4294, effective June 19, 2009, creates an ELECTRONIC TEXTBOOK AND INSTRUCTIONAL MATERIALS LIST. A district shall select textbooks from this list or from the conforming or nonconforming lists. Districts may still select textbooks for the enrichment curriculum that do not appear on any of these lists.
- A new requirement from HB 4294 has been added on page 2. The bill requires districts to purchase a CLASSROOM SET OF TEXTBOOKS for each subject in the foundation and enrichment curricula, even if the textbooks are otherwise purchased from the electronic textbook and instructional materials list.

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- Also from HB 4294, districts that subscribe to an approved subscription-based electronic textbook or instructional material may cancel the subscription and subscribe to a different approved electronic textbook or instructional material if the district used the textbook or material for at least a year and TEA approves the change. See DURATION OF SELECTION, EXCEPTION.
- The existing statute making the receipt of commissions, rebates, gifts, services, or favors related to textbook purchases a CRIMINAL OFFENSE has been expanded by HB 4294 to apply to electronic textbooks, instructional materials, and technological equipment.

See also the explanatory note for CMD(LLEGAL).

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

New provisions from SB 891, effective June 19, 2009, have been added at PHYSICAL EDUCATION. In accordance with this bill, a district must establish specific objectives and goals for its physical education curriculum, including student-to-teacher ratios.

NOTICE TO PARENTS regarding whether the district will provide human sexuality instruction must be provided before each school year. This new law, added by SB 283, effective September 1, 2009, also requires the notice to include a summary of the content, a statement of the parent's right to review the curriculum and remove his or her child from any part of the instruction without academic or other penalty, and information about the parent's opportunities to be involved in developing the curriculum by serving on the local school health advisory council. Appropriate provisions regarding these new requirements have been added to the *TASB Model Student Handbook*.

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

HB 3, the bill addressing school district accountability, made several changes to instructional requirements. The bill imposed a FINE ARTS REQUIREMENT for students in grades 6–8 beginning with the 2010–11 school year. The bill also allows a district to offer the foundation curriculum in an applied manner as long as the APPLIED COURSES cover the TEKS.

Changes from HB 3076, effective June 19, 2009, are reflected at PARENTING AWARENESS PROGRAM on pages 4–5. A district is now required to use the SBOE program in its high school health curriculum and may use the program in its middle school curriculum. A district may use locally adopted or developed programs and instructional materials in conjunction with the SBOE program for certain areas of the instruction. Parental permission is required before a student under 14 years of age can participate in a parenting awareness program. SB 1219, effective June 19, 2009, permits, at the discretion of the district, a teacher to modify the sequence or pace of the program.

As reflected on page 5, SB 1344, effective June 19, 2009, requires a district to choose an ALCOHOL AWARENESS PROGRAM from a list of such programs maintained by TEA for the district to use in its health curriculum.

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

With SB 90, effective May 5, 2009, Texas joins the Interstate Compact on Educational Opportunity for Military Students. The purpose of the Compact is to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents. A new provision from this bill has been added on page 5 and specifies that for MILITARY DEPENDENTS who are also eligible for special education services, the district will initially provide services that are comparable to the student's IEP developed by the district that the student previously attended. The district is permitted, however, to perform subsequent evaluations to ensure the appropriate placement of the student.

See also the explanatory note at FDD for other applicable provisions from this compact.

**EHBC (LEGAL) SPECIAL PROGRAMS
COMPENSATORY/ACCELERATED SERVICES**

HB 2703, effective June 19, 2009, modifies the DEFINITION OF AT-RISK STUDENT at item 3 on page 2 to exclude a student who did not advance from prekindergarten or kindergarten to the next grade level only as a result of the parent's request. We have also revised item 6 regarding students placed in a DAEP to better match statutory text.

STUDENT ELIGIBILITY for participation in an optional flexible school day program is modified on page 6 by HB 1297, effective June 19, 2009, and HB 3646, effective September 1, 2009, to include a student who needs to earn credit for a class for which the student did not meet the attendance requirements. The Commissioner may limit FUNDING for the attendance necessary for such a student to earn class credit.

**EHBG (LEGAL) SPECIAL PROGRAMS
PREKINDERGARTEN**

For purposes of student eligibility to enroll in free prekindergarten classes, HB 3643, effective June 19, 2009, defines "child" to include a stepchild, and "parent" to include a stepparent. See DEFINITIONS on page 1. By broadening these definitions, this bill expands the number of children who are eligible for prekindergarten under provisions allowing certain children of members of the armed forces to enroll.

Districts must now require full-time prekindergarten students, and to the extent practicable half-day students, to participate in DAILY PHYSICAL ACTIVITY pursuant to SB 891, effective June 19, 2009, in the same amount as is required for students in kindergarten through grade five.

Districts must now REPORT to TEA the strategies that the district has implemented to increase community awareness of prekindergarten programs offered by the district. This requirement is from HB 136, effective September 1, 2009.

**EHBK (LEGAL) SPECIAL PROGRAMS
OTHER INSTRUCTIONAL INITIATIVES**

Several new recognition dates and programs were added by the 81st Legislature.

- October is HYDROCEPHALUS AWARENESS MONTH. HB 3597, effective September 1, 2009, requires this month to be regularly observed by appropriate activities in public schools. Hydrocephalus is a neurological condition characterized by the abnormal buildup of cerebrospinal fluids in the ventricles of the brain.

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- The third Wednesday of September is DR. HECTOR P. GARCIA DAY. SB 495, effective September 1, 2009, provides that districts *may* regularly observe this day with ceremonies and activities. Dr. Hector P. Garcia made significant contributions to the Mexican American civil rights movement.
- The third week in October is TEXAS NATIVE PLANT WEEK. HB 1739, effective September 1, 2009, provides that districts *may* regularly observe this week with programs to appreciate, explore, and study Texas native plants.

**EHDD (LEGAL) EXTENDED INSTRUCTIONAL PROGRAMS
COLLEGE COURSE WORK/DUAL CREDIT**

Two changes from HB 3646, effective September 1, 2009, are reflected in this policy. Existing statutory provisions require districts to implement a COLLEGE CREDIT PROGRAM under which students may earn the equivalent of at least 12 semester credit hours of college credit in high school. HB 3646 clarifies that a district is not required to pay a student's tuition or other associated costs for taking a course under this program. The second change appears at ATTENDANCE ACCOUNTING on page 2. A new provision includes time a student spends in a course under the college credit program when calculating the minimum instructional hours required for a student to be considered a full-time student in ADA.

**EHDE (LEGAL) EXTENDED INSTRUCTIONAL PROGRAMS
DISTANCE LEARNING**

HB 3646, effective September 1, 2009, repeals Education Code section 29.909 addressing a district's authority to offer electronic courses to students enrolled in the district or in another district. A district may now provide these courses through the STATE VIRTUAL SCHOOL NETWORK as reflected in the policy.

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

We have added a new provision from SB 2033, effective June 19, 2009, requiring a district to adopt a grading policy before each year. The policy must include provisions for the assignment of grades on class assignments and examinations, must require a classroom teacher to assign a grade that reflects the student's relative mastery of an assignment, may not require a teacher to assign a minimum grade for an assignment without regard to the student's quality of work, and may allow a student a reasonable opportunity to make up or redo a class assignment or examination for which the student received a failing grade. See the explanatory note for EIA(LOCAL).

A student who is appointed as a STUDENT ELECTION CLERK may apply the service toward one of the following: a school project, a service requirement for an advanced course, or a service requirement for a school-sponsored extracurricular activity. This new provision is from SB 1134, effective September 1, 2009.

At NOTICE OF PERFORMANCE RATING we have added the requirement from HB 3, applicable with the 2009–10 school year, that each student's first report card include a statement of whether the campus has been awarded a distinction designation or has been identified as unacceptable and an explanation of the significance of those ratings.

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Another notice provision from HB 3 has been added at NOTICE OF STUDENT PERFORMANCE. This provision requires the district to provide parents with comparisons of student performance and information about online educational resources if the parent's child failed an assessment instrument.

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

Recommended revisions to this policy are based on SB 2033 [see the explanatory note for EIA(LEGAL), above]. The new law requires a district to adopt a grading policy before each year. A district's policy may not require a teacher to assign a minimum grade for an assignment without regard to the student's quality of work. The district's EIA(LOCAL) on grading already requires the superintendent to ensure that each campus or instructional level develops grading guidelines for teachers to follow in determining student grades. Consistent with this new law, grading guidelines should be reviewed each year and should ensure that grading reflects a student's relative mastery of an assignment.

The district's policy may allow a student a reasonable opportunity to redo a class assignment or retake a test for which the student received a failing grade. A new provision at GUIDELINES FOR GRADING reflects this option. The grading guidelines should include the criteria for when the district will allow a redo or retake. For example, the district may decide not to allow a redo or retake if a student received a failing grade because of academic dishonesty or other such circumstances. If your district never allows a student to redo an assignment or retake a test that the student failed, please contact your policy consultant so that this provision can be removed.

We recommend that the district delete its provision governing recording failing grades in a student's cumulative record since this would be more appropriately addressed in the grading guidelines.

EIC (LEGAL) ACADEMIC ACHIEVEMENT CLASS RANKING

SB 175, effective June 19, 2009, amends the automatic admission statute that guarantees admission of students in the top ten percent of their class to institutions of higher education. Beginning with the 2011–12 academic year, the University of Texas at Austin may cap the number of students it admits under this law to 75 percent of the enrollment for incoming resident undergraduate students. We have added provisions from the new law at AUTOMATIC ADMISSION TO INSTITUTION OF HIGHER EDUCATION, EXCEPTION on page 1.

Several new notice provisions are included at DISSEMINATION on page 2, including a requirement for a district to provide information about the automatic admission law to each student when the student first registers for high school classes; a requirement for counselors, at the beginning of the school year, to explain the requirements of automatic admission to students in grades 10–11 who are in the top 25 percent of their high school class; and a requirement for a district to provide junior and senior students in the top ten percent of their classes with information about the law. The Commissioner will develop forms that districts must use for these notices. See also the explanatory note for EJ(LEGAL).

EIE (LEGAL) ACADEMIC ACHIEVEMENT RETENTION AND PROMOTION

HB 3, the bill addressing school district accountability, made several changes to retention and promotion requirements, effective for the 2009–10 school year.

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- A district must give NOTICE of its PROMOTION standards by the start of each school year. The law now requires districts to consider the recommendation of the student's teacher, the student's grade in each subject or course, the student's score on a state mandated assessment instrument, and any other necessary academic information as determined by the district.
- Students are no longer required by law to pass the third grade reading assessment instrument in order to be promoted to fourth grade. See REQUIRED ASSESSMENT on page 2.
- At UNSATISFACTORY PERFORMANCE ON ASSESSMENT INSTRUMENTS, we have added a new provision requiring accelerated instruction for all students in grades three through eight who fail an assessment instrument.
- If the grade placement committee decides to promote a fifth or eighth grade student who failed to pass an assessment instrument, the student must complete accelerated instruction before placement in the next grade level. In addition, these students must be assigned to a highly qualified teacher in the subject of the failed assessment. See RETENTION AND APPEAL beginning on page 7.

EIE (LOCAL) ACADEMIC ACHIEVEMENT
RETENTION AND PROMOTION

As indicated at EIE(LEGAL), above, a district must give notice of its promotion standards by the start of each school year and must consider the recommendation of the student's teacher, the student's grade in each subject or course, the student's score on a state mandated assessment instrument, and any other necessary academic information as determined by the district. These have been noted in policy EIE(LOCAL) through the addition at STANDARDS FOR MASTERY of the phrase referencing the factors in law that must be considered for promotion. Please review the other standards for mastery included in your policy to make sure that these are still accurate. If the district has additional standards for mastery that are not included, please contact your policy consultant.

A recommended revision at STANDARDS FOR PROMOTION UPON APPEAL reflects new accelerated instruction requirements for students whom the GPC unanimously decides to promote. In addition to the existing provision requiring such students to complete accelerated instruction during the following school year, these students must also complete before the beginning of the school year accelerated instruction in the subject area for which the student failed to achieve proficiency. If the student does not complete the required instruction before the school year begins, the student may not be promoted.

The text at ASSIGNMENT OF RETAINED STUDENTS has been reworded for clarity.

EIF (LEGAL) ACADEMIC ACHIEVEMENT
GRADUATION

To enroll in the MINIMUM HIGH SCHOOL PROGRAM, the student's parent and a counselor or administrator must agree in writing that the student should be allowed to take courses under the minimum program and the student:

- Is at least 16 years old;
- Has completed two credits required for graduation in each of the foundation curriculum subjects; or
- Has failed to be promoted to the tenth grade on one or more occasions.

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In addition, a district must provide to the parent a written NOTICE that will be developed by TEA explaining the benefits of the recommended program before the parent may agree to the minimum program. This change comes from HB 3, effective for the 2009–10 school year.

Citations to information about the recommended and advanced/distinguished achievement programs have been changed to reflect HB 3 amendments. HB 3 specifies that course CURRICULUM MAY NOT VARY based on which graduation program the student is completing. Students may, however, comply with foundation and language-other-than-English curriculum requirements by completing COLLEGE COURSES in the core curriculum of an institution of higher education.

Based on HB 3, we have revised the required number of P.E. credits included at PHYSICAL EDUCATION SUBSTITUTIONS and have added a new statutory provision on PRIVATE OR COMMERCIALY SPONSORED PHYSICAL ACTIVITY PROGRAMS, which essentially restates rules from the Administrative Code. See TEA's FAQs on HB 3 at <http://www.tea.state.tx.us/graduation.aspx>.

New provisions from SB 90, effective May 5, 2009, govern GRADUATION OF MILITARY DEPENDENTS. To facilitate on-time graduation of military dependents who transfer from another state, districts are required to waive specific courses required for graduation if such a student completed similar coursework in the previously attended district or to provide reasonable justification for denying a waiver. See COURSE WAIVER for this provision. If, despite all alternatives, a student who TRANSFERS DURING SENIOR YEAR is ineligible to graduate, the district and the sending district must ensure the student receives a diploma from the sending district if the student meets the graduation requirements of the sending district. The Commissioner shall develop a passing standard on one or more national norm-referenced achievement tests that if met by the student may serve as a substitute for completing a specific course otherwise required for graduation. This passing standard may only be applied to certain students. See also the explanatory note for FDD(LEGAL).

EIF (LOCAL) ACADEMIC ACHIEVEMENT GRADUATION

Because graduation requirements for physical education credits now depend on which graduation program a student is enrolled in, we recommend a revision at PHYSICAL EDUCATION SUBSTITUTIONS to delete the specific number of credits listed. We also recommend deletion of the list of activities that may be substituted for physical education requirements. These activities are included in EIF(LEGAL); it is not necessary to also list them in the district's local policy.

Please review for accuracy the number of graduation credits required in the district's policy. Contact your policy consultant if any changes are needed.

EJ (LEGAL) ACADEMIC GUIDANCE PROGRAM

As noted in the explanatory note for EIC(LEGAL), SB 175, effective June 19, 2009, amends the statute addressing automatic admission of top students to institutions of higher education and includes several new notice provisions. We have added to this policy a requirement for counselors, at the beginning of the school year, to explain the requirements of AUTOMATIC ADMISSION to tenth and eleventh grade students who are in the top 25 percent of their high school class.

See also the explanatory note for EIC(LEGAL).

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EK (LEGAL) TESTING PROGRAMS

HB 3 modifies provisions governing the administration of locally required assessments that are given to prepare students for state assessments. Now the campus-level planning and decision-making committee may limit administration of such tests to 10 percent or fewer instructional days in a school year. This provision is effective with the 2009–10 school year and was added at LOCAL ACHIEVEMENT TESTING.

EKB (LEGAL) TESTING PROGRAMS STATE ASSESSMENT

SPECIAL EDUCATION students are no longer exempt from state assessments pursuant to HB 3, effective for the 2009–10 school year. The ARD committee, however, is still authorized to select an appropriate assessment in accordance with procedures developed by TEA.

New provisions from SB 90, effective May 5, 2009, govern MILITARY DEPENDENTS and assessment instruments. To facilitate on-time graduation of such students who transfer from another state, districts are required to accept exit or end-of-course exams from another state, national norm-referenced achievement tests, or alternative testing in lieu of testing requirements for graduation in the receiving state. The Commissioner shall develop a passing standard on one or more national norm-referenced achievement tests as a substitute for achieving a passing score on an assessment instrument otherwise required for graduation. This passing standard may only be applied to certain students. See also the explanatory note for FDD(LEGAL).

Cites throughout the policy have also been updated.

EKBA (LEGAL) STATE ASSESSMENT LEP STUDENTS

Also from HB 3 are changes to state assessment requirements for limited English proficiency (LEP) students, effective for the 2009–10 school year. Rather than being exempt from testing during the FIRST YEAR after the student enrolls in a U.S. school as was previously stated, such students may now be administered an accommodated or alternative assessment instrument, may be exempted from testing, or may receive a postponement from testing during the first year of enrollment.

Further revisions provide that during SUBSEQUENT YEARS, LEP students may be administered an accommodated or alternative assessment instrument, may be exempted from testing, or may receive a postponement from testing for:

- Up to two more years if the student was exempt during the first year and is a recent unschooled immigrant or is in a grade for which there is no assessment instrument in the student's primary language; or
- Up to four more years if the student was exempt during the first year of enrollment and was initially enrolled as an unschooled asylee or refugee. A DEFINITION of "unschooled asylee or refugee" has been added to the policy.

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F (LEGAL) STUDENTS

We have revised the F section table of contents to move provisions on School Safety Transfers to FDE and to rename FDD Military Dependents.

FB (LEGAL) EQUAL EDUCATIONAL OPPORTUNITY

New provisions from SB 90, effective May 5, 2009, govern evaluation and placement of MILITARY DEPENDENTS who are disabled. To provide such students who transfer from another state equal access to education, districts are required to make reasonable accommodations and modifications subject to the student's existing Section 504 plan or Americans with Disabilities Act Title II accommodations plan. Districts are not precluded from performing subsequent evaluations to ensure appropriate placement.

See also the explanatory note for FDD(LEGAL).

FD (LEGAL) ADMISSIONS

SB 1598, effective June 19, 2009, permits a parent to enter into an AUTHORIZATION AGREEMENT with certain relatives to authorize the relative to perform specific acts as listed in statute in the parent's absence. These include the ability to enroll the child in school.

A provision on military dependents has been moved to FDD(LEGAL).

FDD (LEGAL) ADMISSIONS MILITARY DEPENDENTS

With SB 90, effective May 5, 2009, Texas joins the Interstate Compact on Educational Opportunity for Military Students. The purpose of the Compact is to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents. As a result we have changed the subtitle of this policy to focus on law specific to military dependents and moved to FDE(LEGAL) the provisions on school safety that were previously at this code. Because the Compact includes provisions affecting several other policies, we have added at the end of this code a reference list to those relevant policies. New to this policy are:

- A DEFINITIONS section with relevant terms;
- An APPLICABILITY section explaining to which military dependents the Compact applies;
- A provision at ELIGIBILITY FOR ENROLLMENT specifying that a special power of attorney is sufficient for enrollment and all other actions requiring parental consent;
- A provision addressing CONTINUED ATTENDANCE, which permits a student who lives with a noncustodial parent or other person serving in the role of a parent to attend the school in which the child was enrolled while residing with the custodial parent;
- A section on EDUCATION RECORDS, which requires the sending state to give the parent an unofficial set of records if the official records cannot be released and requires a receiving district to enroll and place the student based on the unofficial records;
- A prohibition against charging such students TUITION;

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- HB 192 also adds a clarification—that temporary absences for health-care appointments include the absence of a student with autism spectrum disorder to attend an appointment with a health-care practitioner to receive services for autism, including applied behavioral analysis, speech therapy, and occupational therapy.

The Administrative Code was amended, effective April 26, 2009, to allow a student who is attending a required court appearance up to one day of excused travel for traveling to and one day of travel from the site where the student will attend the required court appearance. The Administrative Code was also amended, effective April 27, 2008, to repeal language related to absences for human services activities.

Districts may excuse a student for up to two days during the student's junior year and for up to two days during the student's senior year to visit an institution of higher education if the district adopts a policy to determine when an absence will be excused for this purpose and a procedure to verify the visit. This new provision has been added at CAMPUS VISITS and comes from HB 2542, effective June 19, 2009. If a district excuses a student's absence to visit a college campus and the student makes up the work missed, the absences shall be counted as days of attendance for compulsory attendance.

We have moved existing provisions allowing excused absences for any cause acceptable to the district and for special education matters to OTHER EXCUSED ABSENCES beginning on page 4. From SB 90, effective May 5, 2009, we have added a new provision on MILITARY DEPENDENTS, requiring a district to grant, at the superintendent's discretion, additional excused absences to a student to visit with a parent who has been called to active duty for, is on leave from, or has just returned from deployment to a combat zone or support posting. See also the explanatory note at FDD(LEGAL).

FEA (LOCAL) ATTENDANCE COMPULSORY ATTENDANCE

As described at FEA(LEGAL), districts that choose to excuse students for absences to visit an institution of higher education must adopt a policy to determine when an absence will be excused for this purpose and a procedure to verify the visit. A new provision at HIGHER EDUCATION VISITS permits such absences for the maximum amount stated in law—up to two days during a student's junior year and up to two days during the student's senior year. Contact your policy consultant for revisions if the district will not grant this many excused absences or will not grant any excused absences for this purpose.

FEB (LEGAL) ATTENDANCE ATTENDANCE ACCOUNTING

The Administrative Code was amended, effective April 26, 2009, to reference the Commissioner's ALTERNATIVE ATTENDANCE ACCOUNTING PROGRAM. As a result of the amendments to the Administrative Code, we have also updated text at ATTENDANCE FOR STATE FUNDING PURPOSES to refer to alternative attendance accounting programs. Please note that existing language from the rules permits a district that wishes to record attendance other than in the second or fifth period to do so if the district adopts a "policy" for recording absences in an alternate period or hour. TEA has not required this designation to be included in the board-adopted policy manual.

Also amended in the Administrative Code is the provision regarding absences for court appearances. A student who is attending a required COURT APPEARANCE is now allowed up to one day of excused absence to travel to the court appearance and another day to travel from the court appearance.

Several bills add to the list of reasons for which a student who is not on campus when attendance is taken may be considered in attendance for attendance accounting purposes:

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**FFAB (LEGAL) WELLNESS AND HEALTH SERVICES
IMMUNIZATIONS**

New Administrative Code rules, effective March 5, 2009, on IMMUNIZATION REQUIREMENTS dictate that students in grades 7–12 must have the meningococcal vaccine. The Texas Department of State Health Services (TDSHS) immunization chart at the link provided in the policy has been updated accordingly. More information on the requirement may be found at: <http://www.dshs.state.tx.us/immunize/school/default.shtm#schools>. The new rules also clarify that TDSHS may require additional vaccines when circumstances warrant.

New provisions from SB 90, effective May 5, 2009, govern provisional enrollment of MILITARY DEPENDENTS who enroll in the district while waiting for the transfer of the immunization records.

Parents, a school nurse, or a physician may submit a written statement that a student has had varicella disease (chickenpox) or is immune from varicella in lieu of presenting EVIDENCE OF IMMUNIZATION for that disease. This change comes from the new Administrative Code rules.

**FFAD (LOCAL) WELLNESS AND HEALTH SERVICES
COMMUNICABLE DISEASES**

This local policy is recommended for deletion. Information on exclusion of students because of a communicable condition and readmittance of students who were excluded is included in FFAD(LEGAL). In addition, the Texas Guide to School Health Programs, published by the Texas Department of State Health Services, has school attendance guidelines and a table of diseases for which students should be excluded from schools. The Guide is available at <http://www.dshs.state.tx.us/schoolhealth/shpguide/chap8.pdf>. Removal of special education students from school attendance or activities is adequately addressed in the EHBA policy series, regarding special education students.

**FFG (LEGAL) STUDENT WELFARE
CHILD ABUSE AND NEGLECT**

SB 643, effective June 1, 2009, amends the penalty from a class B to a class A misdemeanor for the FAILURE TO REPORT child abuse or neglect.

The language at FALSE REPORT has been updated to match existing statutory text.

FM (LEGAL) STUDENT ACTIVITIES

As reflected at RODEOS, we have added provisions from SB 2505, which applies to rodeo activity after January 1, 2010. This new law applies to a primary or secondary school that sponsors, promotes, or otherwise is associated with a rodeo in which its students are likely to participate. "Rodeo" is defined in the policy. Before the first rodeo, these schools must conduct a mandatory safety educational program, including information on the wearing of protective gear, for participating children. The training may consist of a video. A student may not participate in a rodeo associated with the student's school unless the student has completed the safety program within one year before the first rodeo.

A new provision from SB 90, effective May 5, 2009, governs MILITARY DEPENDENTS and extracurricular activities. Districts are required to facilitate participation in extracurricular activities by a military dependent student who transfers from another state and is qualified for the activity regardless of application deadlines.

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A student who is appointed as a STUDENT ELECTION CLERK may apply the service toward a requirement for participation in a school-sponsored extracurricular activity. This new provision is from SB 1134, effective September 1, 2009. See also the explanatory note for EIA(LEGAL).

FNCG (LEGAL) STUDENT CONDUCT
WEAPONS

HB 1020, effective June 19, 2009, provides an EXCEPTION from mandatory expulsion for a student's use, exhibition, or possession of a firearm at an approved off-campus target range facility while participating in or preparing for certain shooting sports, competitions, or activities sponsored by the district or affiliated with the Texas Parks and Wildlife Department. The bill also clarifies that there is not an exception for similar use or possession of a firearm *on* school property. See also the explanatory note at FOD(LEGAL).

HB 4456, effective September 1, 2009, amends the definition of switchblade in the Penal Code to except knives designed to be opened by one-handed operation, often referred to as one-handed openers or assisted openers. These knives have a spring, detent, or other mechanism that is designed to create a bias toward closure and that requires exertion applied to the blade by hand, wrist, or arm to overcome the bias toward closure and open the knife. See OTHER PROHIBITED WEAPONS beginning on page 1.

FO (LEGAL) STUDENT DISCIPLINE

HB 171, effective June 19, 2009, requires the STUDENT CODE OF CONDUCT to specify that the district will consider certain factors when making decisions regarding out-of-school suspension, placement in a DAEP, expulsion, or placement in a JJAEP, regardless of whether the decision involves a mandatory or discretionary action. The factors are self-defense, intent, disciplinary history, or a student's disability. Previously, consideration of these factors had been left to the district's discretion except that consideration of a student's disability was always required under federal law. This bill eliminates a district's ability to apply "zero tolerance" in making these disciplinary decisions.

We have added an existing statutory provision requiring districts to provide COPIES TO STAFF of Chapter 37, Subchapter A of the Education Code and the Student Code of Conduct.

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

We have revised this exhibit, which lists offenses under Title 5 of the Penal Code, to remove the offense of coercing, soliciting, or inducing gang membership. HB 2187, effective September 1, 2009, moved this offense from Title 5 to Chapter 71 of the Penal Code.

FOD (LEGAL) STUDENT DISCIPLINE
EXPULSION

HB 1020, effective June 19, 2009, provides an EXCEPTION from mandatory expulsion for a student's use, exhibition, or possession of a firearm at an approved off-campus target range facility while participating in or preparing for certain shooting sports, competitions, or activities sponsored by the district or affiliated with the Texas Parks and Wildlife Department. The bill also clarifies that there is not an exception for similar use or possession of a firearm *on* school property.

