



Policy Reference Manual

Update 91

TASB Policy Reference Manual Update 91 represents the first of two post-legislative updates and encompasses changes in law from the 82nd Legislative Session that have an immediate effect on the governance and management of the district. Update 91 addresses a variety of major topics, including elections, purchasing and construction contracts, investments, instructional materials, employee contracts, student truancy and discipline, student concussions, and district records.

Update 92 will be a much smaller update in late fall 2011 addressing reduction in force and furloughs. Update 93 will be issued in spring 2012 and will address any remaining legislative changes from the session.

To maintain your *Policy Reference Manual* as an up-to-date resource on governance and management of public school districts throughout Texas, please incorporate Update 91 into the manual as soon as possible. Remember that the *Policy Reference Manual* is a comprehensive collection of federal and state statutes and regulations, case law, attorney general opinions, and commissioner's decisions affecting Texas school districts. As such, it is an excellent reference document that recites a broad array of legal requirements, many of which apply to all districts, others to only a certain few. For this reason, these (LEGAL) policies are not suitable for incorporation in localized policy manuals.

PLEASE NOTE: This Update 91 packet may not be considered as legal advice and is not intended as a substitute for the advice of a district's legal counsel.

If you have any questions concerning this update or the *TASB Policy Reference Manual*, please call 800-580-7529 or 512-467-0222.

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Instruction Sheet

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District Policy Reference Manual

Code	Action To Be Taken	Note
AIC (LEGAL)	Replace policy	Revised policy
B (LEGAL)	Replace table of contents	Revised table of contents
BBA (LEGAL)	Replace policy	Revised policy
BBB (LEGAL)	Replace policy	Revised policy
BBFB (LEGAL)	Replace policy	Revised policy
BJCG (LEGAL)	Replace policy	Revised policy
BQ (LEGAL)	Replace policy	Revised policy
BQA (LEGAL)	Replace policy	Revised policy
BQB (LEGAL)	Replace policy	Revised policy
BR (LEGAL)	Replace policy	Revised policy
C (LEGAL)	Replace table of contents	Revised table of contents
CBA (LEGAL)	Replace policy	Revised policy
CCA (LEGAL)	Replace policy	Revised policy
CCG (LEGAL)	Replace policy	Revised policy
CDA (LEGAL)	Replace policy	Revised policy
CDB (LEGAL)	Replace policy	Revised policy
CE (LEGAL)	Replace policy	Revised policy
CEA (LEGAL)	ADD policy	See explanatory note
CH (LEGAL)	Replace policy	Revised policy
CHG (LEGAL)	Replace policy	Revised policy
CHH (LEGAL)	Replace policy	Revised policy
CI (LEGAL)	Replace policy	Revised policy
CJA (LEGAL)	Replace policy	Revised policy
CL (LEGAL)	Replace policy	Revised policy
CMD (LEGAL)	Replace policy	Revised policy
CNA (LEGAL)	Replace policy	Revised policy
CNC (LEGAL)	Replace policy	Revised policy
COB (LEGAL)	Replace policy	Revised policy
CQA (LEGAL)	Replace policy	Revised policy
CV (LEGAL)	Replace policy	Revised policy
CVA (LEGAL)	Replace policy	Revised policy
CVB (LEGAL)	Replace policy	Revised policy

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CVC	(LEGAL)	Replace policy	Revised policy
CVD	(LEGAL)	Replace policy	Revised policy
CVE	(LEGAL)	Replace policy	Revised policy
CVF	(LEGAL)	Replace policy	Revised policy
D	(LEGAL)	Replace table of contents	Revised table of contents
DBA	(LEGAL)	Replace policy	Revised policy
DBD	(LEGAL)	Replace policy	Revised policy
DC	(LEGAL)	Replace policy	Revised policy
DCA	(LEGAL)	Replace policy	Revised policy
DEB	(LEGAL)	Replace policy	Revised policy
DECB	(LEGAL)	Replace policy	Revised policy
DF	(LEGAL)	Replace policy	Revised policy
DFAA	(LEGAL)	Replace policy	Revised policy
DFAB	(LEGAL)	Replace policy	Revised policy
DFBA	(LEGAL)	Replace policy	Revised policy
DFBB	(LEGAL)	Replace policy	Revised policy
DFCA	(LEGAL)	Replace policy	Revised policy
DFD	(LEGAL)	Replace policy	Revised policy
DFE	(LEGAL)	Replace policy	Revised policy
DG	(LEGAL)	Replace policy	Revised policy
DGC	(LEGAL)	ADD policy	See explanatory note
DLB	(LEGAL)	Replace policy	Revised policy
DMA	(LEGAL)	Replace policy	Revised policy
DP	(LEGAL)	Replace policy	Revised policy
E	(LEGAL)	Replace table of contents	Revised table of contents
EF	(LEGAL)	Replace policy	Revised policy
EFAA	(LEGAL)	Replace policy	Revised policy
EHAA	(LEGAL)	Replace policy	Revised policy
EHAC	(LEGAL)	Replace policy	Revised policy
EHB	(LEGAL)	Replace policy	Revised policy
EHBAB	(LEGAL)	Replace policy	Revised policy
EHBAD	(LEGAL)	Replace policy	Revised policy
EHBK	(LEGAL)	Replace policy	Revised policy
EHDD	(LEGAL)	Replace policy	Revised policy

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EHDE (LEGAL)	Replace policy	Revised policy
EIA (LEGAL)	Replace policy	Revised policy
EIE (LEGAL)	Replace policy	Revised policy
EIF (LEGAL)	Replace policy	Revised policy
EKB (LEGAL)	Replace policy	Revised policy
FBA (LEGAL)	Replace policy	Revised policy
FD (LEGAL)	Replace policy	Revised policy
FEA (LEGAL)	Replace policy	Revised policy
FED (LEGAL)	Replace policy	Revised policy
FFAA (LEGAL)	Replace policy	Revised policy
FFAF (LEGAL)	Replace policy	Revised policy
FFC (LEGAL)	Replace policy	Revised policy
FL (LEGAL)	Replace policy	Revised policy
FM (LEGAL)	Replace policy	Revised policy
FNCG (LEGAL)	Replace policy	Revised policy
FNCH (LEGAL)	Replace policy	Revised policy
FNCI (LEGAL)	Replace policy	Revised policy
FO (LEGAL)	Replace policy	Revised policy
FOC (LEGAL)	Replace policy	Revised policy
FOCA (LEGAL)	Replace policy	Revised policy
FOD (LEGAL)	Replace policy	Revised policy
FODA (LEGAL)	Replace policy	Revised policy
FOE (LEGAL)	Replace policy	Revised policy
FOF (LEGAL)	Replace policy	Revised policy
FP (LEGAL)	Replace policy	Revised policy
G (LEGAL)	Replace table of contents	Revised table of contents
GBA (LEGAL)	Replace policy	Revised policy
GBAA (LEGAL)	Replace policy	Revised policy
GKA (LEGAL)	Replace policy	Revised policy
GKG (LEGAL)	Replace policy	Revised policy
GRA (LEGAL)	Replace policy	Revised policy
GRA (EXHIBIT)	DELETE exhibit	See explanatory note
GRAA (LEGAL)	ADD policy	See explanatory note
GRAA (EXHIBIT)	ADD exhibit	See explanatory note

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GRAC (LEGAL)	ADD policy	See explanatory note
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Explanatory Notes

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District: Policy Reference Manual
AIC (LEGAL) ACCOUNTABILITY
INVESTIGATIONS AND SANCTIONS

New provisions from SB 738 have been added on page 6 at PARENT REQUEST. The parents of a majority of the students enrolled at a campus that has had an unacceptable performance rating for three consecutive years after the campus is reconstituted can sign a petition specifying which action—either repurposing, alternative management, or closure—the commissioner should order. The commissioner must order the specific action requested by the petition unless the school board presents a written request specifying a different action, in which case the commissioner may order the action that the board requested.

B (LEGAL) LOCAL GOVERNANCE

We have revised the B section table of contents to rename BJCG Superintendent, Resignation.

BBA (LEGAL) BOARD MEMBERS
ELIGIBILITY/QUALIFICATIONS

To be elected as a board member, a person must be a qualified voter. A change from HB 1226 modifies the definition of QUALIFIED VOTER to clarify that a person is not considered to have been finally convicted of a felony and therefore disqualified from voting if criminal proceedings are deferred without an adjudication of guilt.

BBB (LEGAL) BOARD MEMBERS
ELECTIONS

Multiple bills affected school board elections. Significant changes are described with the relevant bill number in parenthesis. **Please note that the provisions that come from SB 100 are not applicable to November 2011 elections.** TASB Legal Services has published Frequently Asked Questions providing further information on conducting district elections under SB 100 available at: http://www.tasb.org/services/legal/esource/governance/documents/sb100_elec_related_changes_aug11.pdf.

At ADJUSTMENTS on page 2, a board may adopt a resolution by December 31, 2011, to change the length of board member terms, which must consist of staggered three- or four-year terms. Changes are effective with the first regular election occurring after January 1, 2012. (SB 100)

In addition, the Election Code now permits a local governmental entity to change to a November election date, and adjust terms accordingly, if done by December 31, 2012. See CHANGING TO NOVEMBER ELECTION DATE on page 3. (SB 100, HB 1545)

Section 41.0053 of the Election Code, addressing election dates in certain districts, was repealed and the language has been deleted from this policy. (SB 100, HB 1545)

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To satisfy JOINT ELECTION requirements, a school district may now hold a joint election with a college district in which the school district is wholly or partly located. (SB 729) Also at this margin note, we have added existing statutory provisions that define the general election for state and county officers and that allow school districts in certain counties to hold joint elections with hospital districts.

Although a county elections administrator must usually provide ELECTION SERVICES for a school district if requested to do so, a new provision provides that a county elections administrator is not required to provide election services for an election held in May in an even-numbered year. See page 6. (SB 100)

The dates by which a district must complete its ELECTION ORDERS were revised on page 7. For an election held on a date other than the November uniform date, the election must be called not later than the 71st day before election day. For an election held on the November election date, the election must be called by the 78th day, rather than the 70th day, before election day. (SB 100) The election order and the ELECTION NOTICE now only have to state the location of the *main* rather than *each* early voting polling place. (HB 2817)

At PUBLICATION, the notice of election must now be preserved for six months after election day, rather than 22 months. (HB 2817)

A district must post the filing NOTICE TO CANDIDATES not later than the 30th day before the *last* day (rather than the *first* day) on which a candidate may file an application for a place on the ballot. In addition, for a general election for state and county officers, a school district is no longer required to post filing information for candidates. See page 8. (HB 2817)

The filing dates for GENERAL ELECTIONS and SPECIAL ELECTIONS are now earlier, as are the deadlines to submit a declaration of WRITE-IN CANDIDACY. (SB 100)

At ELECTION JUDGES AND CLERKS on page 11, a new provision states that the nepotism prohibitions do not apply to an appointment of an election clerk if the clerk is not related within the first degree by blood or marriage to an elected official of a district. (HB 2194)

We have deleted the factors that the director of the federal census uses to determine whether a district is required to provide bilingual education materials, since the district does not make this determination. If the federal census director determines that a district must provide election materials in a language other than English or Spanish, the district must provide the materials in the same manner in which the district would be required to provide materials in Spanish, to the extent practicable. See BILINGUAL MATERIALS — OTHER LANGUAGES on page 12. (HB 2477)

BBFB (LEGAL) ETHICS
 PROHIBITED PRACTICES

As a result of SB 6 (First Called Session), we have revised provisions on textbook violations, beginning on page 5, to refer to instructional materials and instructional materials funds.

BJCG (LEGAL) SUPERINTENDENT
 RESIGNATION

Provisions from SB 8 (First Called Session) specify that if a board declares a financial exigency, the board may amend the terms of the superintendent’s term contract. If the board amends the superintendent’s contract, the superintendent may resign without penalty by providing notice to the board and may continue to work for the district during the notice period under the terms of the prior contract.

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Also, the subtitle of this legally referenced policy has been changed to Resignation to better reflect the content.

BQ (LEGAL) PLANNING AND DECISION-MAKING PROCESS

This legally referenced policy has been reorganized into several major sections: the requirement for a district to establish a district- and campus-level planning and decision-making process, general requirements that apply to both district- and campus-level plans, and specific provisions governing the district plan and campus plans.

In addition, the following changes were made:

- Existing statutory text requiring the DISTRICT IMPROVEMENT PLAN to address performance of students in special education programs has been added on page 2.
- From SB 471, the district improvement plan (see item 11) must now include a program to address maltreatment, defined as abuse and neglect, of children in addition to the existing requirement to address child sexual abuse.

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

In addition to the reorganization of several provisions in this policy, the following changes were made:

- SB 778 adds a requirement that, if practicable, the PROFESSIONAL STAFF on the district-level planning and decision-making committee will include an individual with the primary responsibility for educating students with disabilities.
- Throughout, the text was revised to better match statutory language and to delete text repeated from BQ(LEGAL).

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

In addition to the reorganization of several provisions in this policy, the following changes were made:

- SB 778 adds a requirement that, if practicable, the PROFESSIONAL STAFF on the campus-level planning and decision-making committee will include an individual with the primary responsibility for educating students with disabilities.
- Throughout, the text was revised to better match statutory language and to delete text repeated from BQ(LEGAL).

BR (LEGAL) REPORTS

Pursuant to SB 1618, all district reports to TEA will be submitted electronically.

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SB 6 (First Called Session) repealed the requirement for the superintendent to report a district's maximum attendance to the commissioner for textbook requisition purposes, and we have deleted that item from the list of reports.

At item 24, SB 149 amends the district reporting requirements regarding the college credit program. Districts must annually report to TEA the number of students who participated in the program, not just those who earned credit, and the courses in which students earned high school credit.

C (LEGAL) BUSINESS AND SUPPORT SERVICES

We have revised the C section table of contents to reflect a new code, CEA, Financial Exigency.

In addition, the CV series has been rearranged to match the structure of new Government Code Chapter 2267 on facilities construction, as follows:

- Construction Manager-Agent has been moved to CVC.
- Construction Manager-At-Risk has been moved to CVD.
- Design-Build has been moved to CVE.

CBA (LEGAL) STATE AND FEDERAL REVENUE SOURCES STATE

SB 8 (First Called Session) requires, by July 1 of each year, the commissioner to determine whether each district is estimated to receive less funding under the foundation school program for maintenance and operations for the following school year than the district received for the 2010–11 school year. If the funding will be less, the commissioner will certify the percentage decrease in funding. A district must receive this certification from the commissioner in order to implement a furlough as allowed by SB 8. See FUNDING LEVELS.

CCA (LEGAL) LOCAL REVENUE SOURCES BOND ISSUES

As reflected on pages 2–3, SB 100 changed the deadline for a district to make a CALL FOR ELECTION for a bond election on the November uniform election date to the 78th day before election day rather than the 70th day. However, for an election held on a uniform election date other than the November uniform date, the election must be called not later than the 71st day before election day. Please note that these provisions from SB 100 are not applicable to November 2011 bond elections.

In each bond PROPOSITION, HB 360 requires a district to state the total principal amount of the bonds to be issued and a general description of the purposes of the bonds. See page 4.

Effective March 7, 2011, new Administrative Code rules add additional requirements regarding ELIGIBILITY and APPLICATION for credit enhancement of bonds. See pages 6–7.

CCG (LEGAL) LOCAL REVENUE SOURCES AD VALOREM TAXES

In the Note on page 1, we have added a link for easy access to the comptroller's Web site.

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SB 1 (First Called Session) provides that if a district has a DECREASE IN DEBT SERVICE RATE after the publication of the required notice of the budget and tax rate meeting, the board is not required to post another notice or call another meeting to discuss and adopt the budget and the proposed lower rate. See page 4.

CEA (LEGAL) ANNUAL OPERATING BUDGET FINANCIAL EXIGENCY

This new policy includes provisions on financial exigency from SB 8 (First Called Session). The bill requires a board to adopt a resolution to declare a financial exigency, limits the duration of the declaration to the end of the fiscal year unless the board adopts another resolution, requires notice to the commissioner, and requires the commissioner to set the minimum standards for the financial conditions that must exist for a declaration of financial exigency.

TASB Legal Services has a Frequently Asked Questions on SB 8 available at:
http://www.tasb.org/services/legal/esource/personnel/documents/sb8_flexibilities_reducing_costs_july11.pdf.

CH (LEGAL) PURCHASING AND ACQUISITION

Changes to this legally referenced policy on purchases of goods and services are from HB 628 unless otherwise noted. HB 628 created Government Code Chapter 2267 to address purchasing methods used for construction contracts. See CV series, below.

In addition to reordering existing provisions, the substantive changes include:

- For PURCHASES VALUED AT OR ABOVE \$50,000, the law specifies that the list of purchasing methods applies to *goods and services*. Two of the listed methods—competitive bidding and competitive sealed proposals—specify that they are for services other than construction services.
- In awarding a contract, a district must consider a new FACTOR—whether the vendor has its principal place of business in or employs at least 500 people in Texas. This requirement does not apply to contracts for telecommunications and information services, building construction and maintenance, or instructional materials.
- Certified public accountants and engineers are considered PROFESSIONAL SERVICES to which Education Code Chapter 44 does not apply. See page 4.
- Specific procedures have been added for COMPETITIVE BIDDING and COMPETITIVE SEALED PROPOSALS, on pages 5–7. These new procedures specify that when using competitive bidding, a board may take into account the SAFETY RECORD of the bidder to determine who is a responsible bidder. If so, the board must adopt a written definition and criteria for determining the safety record of the bidder, give notice in the bid specifications that safety records will be considered, and ensure its determinations are not arbitrary and capricious. Unlike construction contracts, for which there is a generally recognized list of safety factors to consider, the diversity of non-construction related purchases that can be made pursuant to CH makes identification of safety criteria difficult to establish in advance. For example, on a contract for bus services, a board may wish to consider the number of moving traffic violations or employee reprimands for safety violations, whereas on a contract for maintenance services, a board may wish to consider injury reports. For this reason, we recommend that if the district wishes to consider the safety record of bidders in determining to whom to award a contract, the board adopt a definition of safety record and criteria through a resolution prior to publication of the bid specifications, which will allow customization of the definition for the contract at issue.

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- New limitations on district-approved CHANGE ORDERS specify that if a change in plans or specifications is necessary after performance has begun, the district may approve change orders. However, the total contract price may not be increased unless additional money is approved from available money or is provided for through time warrants. A contract with an original contract price of \$1 million or more may not be increased by more than 25 percent. If a contract originally for less than \$1 million is increased to \$1 million or more, subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price. See page 11.

CHG (LEGAL) PURCHASING AND ACQUISITION
REAL PROPERTY AND IMPROVEMENTS

Changes to EMINENT DOMAIN, beginning on page 2, are from the addition of existing statutory provisions and include the following changes from SB 18:

- Districts may use eminent domain to construct school buildings or for any other *public use* necessary for the district. Previously the law permitted the use of eminent domain to secure sites on which to construct school buildings or for any other purpose necessary for the district.
- Private property cannot be taken by eminent domain if it is not for a public use.
- Specific PROCEDURES for use of eminent domain are at Government Code Chapter 2206 and Property Code Chapter 21.
- New provisions on REPURCHASE OF REAL PROPERTY require the district to provide notice to the previous property owner so the owner may repurchase the property if the public use for which the property was acquired is cancelled, no actual progress is made toward the public use, or the property becomes unnecessary for the public use.
- A district will lose the authority to exercise eminent domain if by December 31, 2012, it does not submit a letter to the comptroller stating the district's authority and identifying each provision of the law that grants the district that authority. See NOTICE OF RIGHT.

CHH (LEGAL) PURCHASING AND ACQUISITION
FINANCING PERSONAL PROPERTY PURCHASES

For the purpose of financing personal property purchases under the Public Property Finance Act, SB 1393 clarifies that "personal property" includes electricity.

CI (LEGAL) SCHOOL PROPERTIES DISPOSAL

A new provision from SB 6 (First Called Session) requires a board to dispose of INSTRUCTIONAL MATERIAL AND TECHNOLOGICAL EQUIPMENT in accordance with Education Code 31.105. See CMD(LEGAL) below.

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CJA (LEGAL) CONTRACTED SERVICES CRIMINAL HISTORY

At DISQUALIFYING CONVICTION, HB 398 and SB 1042 establish the same standards for acceptable criminal history for a person employed by a contractor with the district as currently apply to a district employee. An employee of the contractor cannot provide services at a district if the individual has been convicted of a Title 5 felony or an offense requiring registration as a sex offender when the victim was a minor or a student at the time of the offense.

CL (LEGAL) BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT

Provisions at REDUCTION OF ENERGY CONSUMPTION are amended by HB 1728, which specifies that the strategies for achieving energy efficiency in a district's long-range energy plan must include facility design and construction. A board may explore with the State Energy Conservation Office whether any state or federal tax incentives are available.

HB 1728 also clarifies that an energy savings performance contract may address *new or existing* facilities. Per HB 628, the new construction procurement provisions in Government Code Chapter 2267 do not apply to energy savings performance contracts. See ENERGY OR WATER CONSERVATION MEASURES beginning on page 1.

HB 1728 also gives districts greater flexibility in FINANCING energy savings performance contracts. At CONTRACT PROCUREMENT, a board may contract with the provider of energy or water conservation measures to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of the energy savings performance contract.

CMD (LEGAL) EQUIPMENT AND SUPPLIES MANAGEMENT INSTRUCTIONAL MATERIALS CARE AND ACCOUNTING

SB 6 (First Called Session) significantly changed the law on instructional materials, as reflected in this legally referenced policy, including:

- References to *textbooks* have been changed to *instructional materials* throughout.
- At INSTRUCTIONAL MATERIALS on page 1, districts may not charge students a fee for materials purchased with the instructional materials allotment (IMA), except if a student fails to return materials in an acceptable condition. In addition, the district rather than the state owns materials purchased with the IMA.
- At FUNDING on page 1, each district is entitled to an annual IMA for each student enrolled in the district on a date during the preceding year specified by the commissioner. The commissioner determines the amount of the IMA based on the money available in the state instructional materials fund. However, there may be an ALLOTMENT ADJUSTMENT for changes in enrollment.

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- IMA funds may be used as specified at PERMITTED EXPENDITURES, and the district must make a CERTIFICATION OF ALLOTMENT USE, as reflected on page 3, that the funds were used only for permitted expenses. Notably, IMA funds can be used to pay for staff training and for salary and other expenses of an employee who provides technical support for use of technological equipment. The ORDER OF PURCHASE is specified by statute, however. First districts must purchase materials that cover all elements of the essential knowledge and skills, except physical education. Then districts can purchase other materials or equipment as needed by the district. For the next biennium, districts must use IMA funds to purchase materials that will assist the district in meeting performance standards on STAAR.
- The commissioner will maintain an INSTRUCTIONAL MATERIALS ACCOUNT for each district. The district will requisition materials to be purchased through the ONLINE REQUISITION SYSTEM by June 1 of each year.
- SUPPLEMENTAL INSTRUCTIONAL MATERIALS and BILINGUAL INSTRUCTIONAL MATERIALS will be purchased with IMA funds rather than textbook credits. See page 4.
- The CERTIFICATION requirements beginning on page 4 have been amended to provide a list for a district to use in determining whether each student has instructional materials that cover all elements of the TEKS.
- At OWNERSHIP on page 5, the requirement that books be covered has been deleted.
- A district must determine appropriate SALE OR DISPOSAL of instructional material and technological equipment, beginning on page 6.

CNA (LEGAL) TRANSPORTATION MANAGEMENT
STUDENT TRANSPORTATION

A new provision from SB 1 (First Called Session) at TRANSPORTATION FUNDING FOR ELIGIBLE STUDENTS authorizes a district to charge a student a reasonable transportation fee if the district does not receive any transportation allotment funds or participate in a county transportation system for which a transportation allotment is provided for the student.

HB 3506 permits a district to use transportation allotment funds to provide BUS PASSES OR CARDS for another transportation system to each student who is eligible to use the regular transportation system but for whom the regular system is not a feasible method of providing transportation.

CNC (LEGAL) TRANSPORTATION MANAGEMENT
TRANSPORTATION SAFETY

A school district is required to equip school buses with a three-point seat belt for each passenger, including the operator, only to the extent that the legislature has appropriated money for the purpose of reimbursing these expenses. However, no funds were appropriated for the biennium beginning September 1, 2011. This change at REQUIRED ON BUSES is from SB 1610.

HB 359 provides that students in grade 6 or below who engage in DISRUPTION OF TRANSPORTATION may no longer be charged with a misdemeanor offense.

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

SB 89 repeals the previous summer nutrition program and creates a new program administered by the Texas Department of Agriculture (TDA). The new program:

- Requires a district in which 50 percent or more of the students qualify for free and reduced-price lunch to provide or arrange for a summer nutrition program for at least 30 days during the summer. Former law required a summer program if 60 percent of a district's students were eligible for free and reduced-price lunch.
- Requires TDA to notify districts that are subject to the requirement.
- Allows a board to request a waiver by January 31st. However, the board must notify the school health advisory council of its intentions and the reasons for seeking a waiver by November 30th of the prior year.
- Includes new waiver standards.

CQA (LEGAL) TECHNOLOGY RESOURCES DISTRICT, CAMPUS, AND CLASSROOM WEB SITES

HB 1147 requires that if, in certain circumstances, an Internet Web site contains geospatial data or a map or includes information about a service involving geospatial data or a map, the district must include a specific disclaimer statement on the site. See GEOSPATIAL DATA PRODUCTS beginning on page 2.

CV (LEGAL) FACILITIES CONSTRUCTION

Changes to this legally referenced policy on facilities construction are from HB 628 unless otherwise noted. HB 628 created Government Code Chapter 2267 to address purchasing methods used for construction contracts.

In addition to reordering existing provisions, we have made substantive changes from HB 628, which include:

- A new statement establishing the BOARD'S AUTHORITY to adopt rules necessary to implement Chapter 2267 and a new DELEGATION OF AUTHORITY statement. The board may delegate its authority regarding an action authorized or required by Chapter 2267 to a designated representative, committee, or other person. Notice of the delegation must be included in the request for bids, proposals, or qualifications. Because of these changes, we have deleted the specific provision from Education Code Chapter 44 allowing delegation in the case of a disaster and authorizing individuals to request an injunction for contracts made in violation of Chapter 44 of the Education Code. A Note on page 1 now refers readers to CH(LEGAL) for these provisions.
- The list of purchasing methods at CONTRACTS VALUED AT OR ABOVE \$50,000 has been revised. Although HB 628 did not add any new methods, the statutory language was amended slightly.
- In considering and SELECTING A CONTRACTING METHOD other than competitive bidding, the board must, before advertising, determine the method that provides the best value for the district.

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- The reverse auction procedure may not be used on a public work contract that requires a payment or performance bond. See EXCEPTIONS on page 2.
- The CONTRACT SELECTION CRITERIA, beginning on page 2, have been amended to require a district to consider any existing laws related to historically underutilized businesses and the use of women- or minority-owned, small, or disadvantaged businesses. In addition, the list of factors that the district may consider in awarding a contract was revised.
- In PUBLISHING CRITERIA on which to evaluate offerors, the district must provide the applicable weighted value for each criterion.
- New limitations on district-approved CHANGE ORDERS specify that if a change in plans or specifications is necessary after performance has begun, the district may approve change orders. However, the total contract price may not be increased unless additional money is approved from available money or is provided for through time warrants. A contract with an original contract price of \$1 million or more may not be increased by more than 25 percent. If a contract originally for less than \$1 million is increased to \$1 million or more, subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price. See page 4.
- A district must provide or contract separately for construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the district. See INSPECTION, VERIFICATION, AND TESTING.
- ENERGY SAVINGS PERFORMANCE CONTRACTS are not subject to Chapter 2267.
- ARCHITECTS AND ENGINEERS must be selected on the basis of demonstrated competence and qualifications—the process used for procuring professional services.
- As reflected at ENFORCEMENT ACTIONS on page 11, a school district that files suit to recover damages for defective design, construction, renovation, or improvement of an instructional facility financed through the Instructional Facilities Allotment must provide written notice of the action to the commissioner. The commissioner may join the action, and a district must send the comptroller any portion of the state's share not used to remedy the defect.

Citations have been updated throughout.

CVA (LEGAL) FACILITIES CONSTRUCTION COMPETITIVE BIDDING

In addition to reordering existing provisions, we have made changes from HB 628 to this legally referenced policy on competitive bids, including:

- On page 1, a new definition of *competitive bidding* and a new requirement to award the contract to the lowest responsible bidder. Under previous law, the contract was awarded to the bidder offering the best value according to the selection criteria.
- A reference at item 4 on page 1 to the procedural requirement in CV(LEGAL) to contract separately for construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the district.
- A requirement for the district to include the construction documents, estimated budget, project scope, estimated project completion date, and other relevant information in the PREPARATION OF A REQUEST.
- An obligation for the district to receive, publicly open, and read aloud the names of the offerors and their bids when OPENING BIDS.

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CVB (LEGAL) FACILITIES CONSTRUCTION COMPETITIVE SEALED PROPOSALS

In addition to reordering existing provisions, we have made changes from HB 628 to this legally referenced policy on competitive sealed proposals, including:

- On page 1, a new definition of *competitive sealed proposals*.
- A reference at item 5 to the procedural requirement in CV(LEGAL) to contract separately for construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the district.
- A requirement to state the weighted value for each criterion and include the estimated project completion date in the REQUEST FOR PROPOSALS.
- Rewording of provisions throughout that were previously included in Chapter 44 of the Education Code but were moved to Chapter 2267 of the Government Code.

CVC (LEGAL) FACILITIES CONSTRUCTION CONSTRUCTION MANAGER-AGENT

As mentioned above, provisions on construction manager-agent have been moved to CVC from CVD.

In addition to reordering existing provisions, we have made substantive changes from HB 628 to this legally referenced policy on construction manager-agent, including:

- A new definition of *construction manager-agent*.
- A list of activities that a construction manager-agent may not perform.
- A reference at item 5 on page 1 to the procedural requirement in CV(LEGAL) to contract separately for construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the district.
- A requirement that to the extent the construction manager-agent's services meet the definition of the practice of architecture or engineering, they be conducted by an appropriately licensed person. See ARCHITECT/ENGINEER on page 2.
- A requirement for a construction manager-agent to maintain professional liability or errors and omissions INSURANCE in the amount of at least 1 million dollars for each occurrence.
- Rewording of provisions throughout that were previously included in Chapter 44 of the Education Code but were moved to Chapter 2267 of the Government Code.

CVD (LEGAL) FACILITIES CONSTRUCTION CONSTRUCTION MANAGER-AT-RISK

As mentioned above, provisions on construction manager-at-risk have been moved to CVD from CVE.

In addition to reordering existing provisions, we have made substantive changes from HB 628 to this legally referenced policy on construction manager-at-risk, including:

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- A new definition of *construction manager-at-risk method*.
- A provision stating that the contracted price may be a guaranteed maximum price. See page 1.
- A reference at item 5 on page 1 to the procedural requirement in CV(LLEGAL) to contract separately for construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the district.
- Clarification that a district must select or designate an ARCHITECT OR ENGINEER to prepare the construction documents *on or before* the selection of the construction manager-at-risk.
- A requirement for the district to state the weighted value for each criterion in the SELECTION PROCESS. The statute no longer includes the specific list of criteria that may be included.
- A requirement for the district to make the proposal rankings public not later than the seventh day after the date the contract is awarded. See NOTICE OF RANKINGS on page 3.
- Deletion of a requirement for the district to review all trade contractor or subcontractor BIDS OR PROPOSALS. Only the construction manager-at-risk is required to conduct this review but the district may request to see the bids or proposals.
- Rewording of provisions throughout that were previously included in Chapter 44 of the Education Code but were moved to Chapter 2267 of the Government Code.

CVE (LEGAL) FACILITIES CONSTRUCTION DESIGN-BUILD

As mentioned above, provisions on design build have been moved to CVE from CVC.

In addition to reordering existing provisions, we have made substantive changes from HB 628 to this legally referenced policy on design-build, including:

- A new definition of *design-build*.
- New provisions stating the circumstances when the design-build method may be used. A district must enter into a single contract with a design-build firm.
- A reference at item 5 on page 1 to the procedural requirement in CV(LLEGAL) to contract separately for construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the district.
- A provision stating that a DESIGN-BUILD FIRM must be a sole proprietorship, partnership, corporation, or other legal entity or team that includes an architect or engineer and a construction contractor.
- A requirement for the district to state the weighted value for each criterion in the REQUEST FOR QUALIFICATIONS and a prohibition on requiring offerors to submit architectural or engineering designs as part of a proposal or a response to a request for qualifications.
- A list of requirements for the DESIGN CRITERIA PACKAGE.
- A provision allowing a district to request information about *costing methodology* and a definition of that term. See PROPOSALS on page 3.
- A requirement for the district to make the proposal rankings public not later than the seventh day after the date the contract is awarded. See NOTICE OF RANKINGS.

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- A requirement for the FINAL CONSTRUCTION DOCUMENTS to note any changes made during construction.
- Rewording of provisions throughout that were previously included in Chapter 44 of the Education Code but were moved to Chapter 2267 of the Government Code.

CVF (LEGAL) FACILITIES CONSTRUCTION JOB ORDER CONTRACTS

In addition to reordering existing provisions, we have made substantive changes from HB 628 to this legally referenced policy on job order contracts, including:

- A new definition of *job order contracting*.
- A reference at item 5 on page 1 to the procedural requirement in CV(LEGAL) to contract separately for construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the district.
- New provisions stating the circumstances under which job order contracting may be used.
- A requirement for a district to establish the maximum aggregate contract price when advertising the proposal and for the board to approve each job, task, or purchase order that exceeds \$500,000.
- A new provision allowing a district to use competitive sealed proposals for job order contracts. See ADVERTISING AND OPENING PROPOSALS on page 2.
- A statement at USE OF CONTRACT, on page 3, that a job order contract may only be used to accomplish work for the district unless the contract specifically provides otherwise.
- Rewording of provisions throughout that were previously included in Chapter 44 of the Education Code but were moved to Chapter 2267 of the Government Code.

D (LEGAL) PERSONNEL

We have revised the D section table of contents to reflect a new code, DGC, Employee Rights and Privileges, Immunity.

DBA (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS CREDENTIALS AND RECORDS

Provisions addressing when an employee's Chapter 21 contract is considered void have been deleted as these provisions are already included in DF(LEGAL).

HB 1386 prohibits a district from employing a person as a marriage and family therapist on or after September 1, 2011, unless the person holds the appropriate LICENSE.

At ACCESS TO EMPLOYEE RECORDS on page 9, an employee may choose whether to allow public access to personal information, which now includes emergency contact information in accordance with SB 1638.

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DBD (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CONFLICT OF INTEREST

As a result of SB 6 (First Called Session), we have revised provisions on textbook violations to refer to instructional materials and instructional materials funds.

DC (LEGAL) EMPLOYMENT PRACTICES

The provision requiring a board to determine acute shortage areas was repealed by SB 1669, which made significant changes to the rules on TRS payments when a retired employee returns to work for a school district.

We have added an existing statutory provision stating that the district's employment policy may include a provision to allow an employee an opportunity to transfer to another school or position. See TRANS-FERS on page 2.

DCA (LEGAL) EMPLOYMENT PRACTICES
PROBATIONARY CONTRACTS

As reflected at VOLUNTARY REASSIGNMENT, HB 2380 allows a district to employ an educator under a probationary contract if the educator is reassigned to a new professional capacity that requires a different class of certificate than required by the educator's previous professional capacity and the educator voluntarily accepts the reassignment.

DEB (LEGAL) COMPENSATION AND BENEFITS
FRINGE BENEFITS

SB 423 amends the provisions governing SURVIVOR BENEFITS to family members upon the death in the line of duty of a peace officer who was employed by a school district. The district must furnish proof of death to the Employees Retirement System as soon as practicable and must provide written notice to eligible survivors of their rights no later than the tenth day after the employee's death.

DECB (LEGAL) LEAVES AND ABSENCES
MILITARY LEAVE

Amendments to CHAPTER 431 of the Texas Labor Code by HB 1178 expand the employment protections given to members of the state military forces. A district is prohibited from terminating employment of a member of the state military or a member of another state's military because the employee is ordered to training or duty. The employee is entitled to reemployment rights at the end of the training or duty period, but the employee must give notice of intent to return to employment as soon as practicable.

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DF (LEGAL) TERMINATION OF EMPLOYMENT

HB 1610 imposes new termination standards when an educator is convicted of certain offenses:

- A district must terminate as soon as practicable a person employed under a Chapter 21 contract if the district receives notice from SBEC that the educator's certificate was revoked because the educator was convicted of a Title 5 felony or an offense requiring registration as a sex offender. This is a MANDATORY TERMINATION. See page 2.
- However, it is a DISCRETIONARY TERMINATION if the district becomes aware that a person employed under a Chapter 21 contract has been convicted or received deferred adjudication for a felony offense that does not meet the criteria for a mandatory termination.
- If the district provides NOTICE TO THE EMPLOYEE under either termination procedure, the employee's contract is void. There is NO APPEAL permitted under these provisions.

At INVALID OR EXPIRED CERTIFICATION, SB 8 (First Called Session) expands the circumstances under which a district may declare an employee's Chapter 21 contract void to include if the educator does not hold a valid certificate or permit or fails to renew or extend a probationary certificate or other permit or certificate. A district may also declare an employee's Chapter 21 contract void if the educator's certificate is suspended or revoked because the employee failed to comply with a criminal history review requirement. Under HB 1334, a certificate or permit is not considered expired if the employee has taken certain actions toward renewal.

Also from SB 8, when a district learns that an employee's contract is void, the DISTRICT'S OPTIONS include termination, suspension, or reassignment. However, a district may not terminate or suspend an employee because the employee lacks or does not have a current certificate if the employee requests an extension from SBEC and, within ten days of the date the contract becomes void, takes measures to renew, extend, or otherwise validate the certificate or permit. See EXCEPTION on page 4.

DFAA (LEGAL) PROBATIONARY CONTRACTS SUSPENSION/TERMINATION DURING CONTRACT

An employee on a probationary contract can now be suspended without pay for good cause pending discharge. Prior law only permitted SUSPENSION in lieu of discharge. This change is from SB 8 (First Called Session).

HEARING procedures for probationary contracts have also been amended by SB 8. Hearings involving a mid-year termination for good cause continue to go through the independent hearing examiner process. However there is an EXCEPTION for hearings to protest a mid-year termination based on financial exigency. The school board may now decide whether to use the hearing process for term contract nonrenewals or the independent hearing examiner process.

DFAB (LEGAL) PROBATIONARY CONTRACTS TERMINATION AT END OF YEAR

SB 8 changed the deadline for the district to give NOTICE of a decision to terminate a probationary contract at the end of the school year to the tenth day before the last day of instruction and amended the procedure to give notice. The notice must be delivered by hand to the employee on the campus. If the employee is not present on the campus on the date that hand delivery is attempted, the district must mail the notice by prepaid certified mail or express delivery service to the employee's address of record. Notice is timely if postmarked on or before the tenth day before the last day of instruction.

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Other revisions were made to better match statutory language.

DFBA (LEGAL) TERM CONTRACTS
SUSPENSION/TERMINATION DURING CONTRACT

HEARING procedures for term contracts have been amended by SB 8. Hearings about a mid-year termination for good cause continue to go through the independent hearing examiner process. However, there is an exception for hearings to protest a mid-year termination based on FINANCIAL EXIGENCY. The school board may now decide whether to use the hearing process for term contract nonrenewals or the independent hearing examiner process. In addition, the employee now only has ten days to submit an appeal regarding a proposed termination based on financial exigency.

Changes at BACK PAY were made to more closely track statutory language.

DFBB (LEGAL) TERM CONTRACTS
NONRENEWAL

SB 8 changed the deadline for the district to give NOTICE of proposed nonrenewal to the tenth day before the last day of instruction and amended the procedure to give notice. The notice must be delivered by hand to the employee on the campus. If the employee is not present on the campus on the date that hand delivery is attempted, the district must mail the notice by prepaid certified mail or express delivery service to the employee's address of record. Notice is timely if postmarked on or before the tenth day before the last day of instruction.

As a result of these changes, the REQUEST FOR HEARING runs from the date the employee receives hand delivery or the date the notice is delivered to the address of record.

In districts with an enrollment of at least 5,000 students, the board has a new option to designate an attorney who meets certain criteria to hold the hearing on behalf of the board. See LARGE DISTRICT OPTION.

DFCA (LEGAL) CONTINUING CONTRACTS
SUSPENSION/TERMINATION

An employee on a continuing contract can now be suspended without pay for good cause pending discharge. Prior law only permitted SUSPENSION in lieu of discharge. This change is from SB 8 (First Called Session).

The standard for terminating a continuing contract because of a REDUCTION IN FORCE was also changed by SB 8. Previously, decisions had to be made in the reverse order of seniority. Now decisions must be based primarily on appraisals and other criteria as determined by the board.

HEARING procedures for continuing contracts have also been amended by SB 8. Hearings about a discharge or suspension without pay for good cause continue to go through the independent hearing examiner process. However, for hearings to protest a termination based on financial exigency, the school board may now decide whether to use the hearing process for term contract nonrenewals or the independent hearing examiner process.

Other revisions were made to better match statutory language.

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DFD (LEGAL) TERMINATION OF EMPLOYMENT HEARINGS BEFORE HEARING EXAMINER

From SB 8 (First Called Session), the appeal process before an independent hearing examiner does not automatically apply to a decision based on financial exigency to terminate a term or probationary contract in the middle of the contract period or to terminate a continuing contract at any time. Instead, the board will decide whether to use the process for a nonrenewal hearing or the independent hearing examiner process. See APPLICABILITY on page 1.

SB 8 also includes provisions on the board's options in responding to a hearing examiner's recommendations. The law clarifies that a determination by a hearing officer regarding good cause is a conclusion of law and the board or board committee may adopt, reject, or change the determination. Previously a board could change this determination only if it was not supported by substantial evidence. See DECISION on page 4.

DFE (LEGAL) TERMINATION OF EMPLOYMENT RESIGNATION

HB 1610 requires a superintendent to complete an INVESTIGATION of an employee who has resigned under suspicion of abuse of a student, despite the resignation.

DG (LEGAL) EMPLOYEE RIGHTS AND PRIVILEGES

Provisions on immunity for employees have been moved, unchanged, to new code DGC(LEGAL).

A new provision at REPORTING CHILD ABUSE OR MALTREATMENT, beginning on page 3, is from SB 471. This new law specifies that a district may not discharge, nonrenew, or suspend an employee for complying with the law regarding prevention of abuse and other maltreatment of children.

An existing statutory provision has also been added on page 4. This provision specifies that a district may not discharge, nonrenew, or suspend an employee for an employee's USE OF PHYSICAL FORCE against a student to the extent justified by Penal Code 9.62. However, a district may enforce a policy relating to corporal punishment.

As a result of SB 6 (First Called Session), we have revised provisions on employee responsibility for textbooks to refer to instructional materials.

HB 1682 prohibits a district from coercing or requiring an employee to make or to refrain from making CHARITABLE CONTRIBUTIONS. This includes requiring employees to attend meetings at which charitable contributions are solicited.

DGC (LEGAL) EMPLOYEE RIGHTS AND PRIVILEGES IMMUNITY

Provisions on immunity for employees have been moved, unchanged, from DG(LEGAL) to this new code.

A new provision at CHILD ABUSE AND MALTREATMENT on page 3 is from SB 471. This new law clarifies that an employee's actions to comply with the law regarding prevention of abuse and other maltreatment of children are considered to involve an employee's judgment and discretion for purposes of immunity from liability. In general, professional employees are not personally liable for actions within the scope of their duties that involve the exercise of judgment or discretion.

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DLB (LEGAL) WORK LOAD
REQUIRED PLANS AND REPORTS

As a result of SB 6 (First Called Session), we have revised item 5 at RESTRICTIONS ON WRITTEN REPORTS to refer to instructional materials instead of textbooks.

DMA (LEGAL) PROFESSIONAL DEVELOPMENT
REQUIRED STAFF DEVELOPMENT

SB 471 requires a district to train employees regarding child sexual abuse and other maltreatment of children. The training, which will include the listed elements, must be provided to new employees at orientation and may be provided annually to other employees through staff development. A district must maintain records of participation. A district without sufficient resources to conduct the training may partner with a community organization. See CHILD ABUSE AND MALTREATMENT beginning on page 1.

As reflected beginning on page 5, certain district employees who are involved in athletic activities are required to take a training course on CONCUSSIONS at least once every two years as a result of HB 2038. Each listed employee must submit proof of completion to the superintendent or designee. See FM(LEGAL) for other new provisions on concussions.

DP (LEGAL) PERSONNEL POSITIONS

SB 6 (First Called Session) repealed the requirement for the principal to report a district's maximum attendance to the superintendent for textbook requisition purposes. We have deleted that item from the list of DUTIES.

E (LEGAL) INSTRUCTION

We have revised the E section table of contents to reflect the new subtitle of EFA, Instructional Materials, and the new title and subtitle of EFAA, Instructional Materials, Selection and Adoption.

EF (LEGAL) INSTRUCTIONAL RESOURCES

Changes from SB 6 (First Called Session) reflect the change from the term *textbooks* to *instructional materials* throughout.

New language provides that instructional materials purchased with instructional materials allotment (IMA) funds must be provided to students free of charge, except as specified at Texas Education Code section 31.104(d) regarding loss or damage of instructional materials.

EFAA (LEGAL) INSTRUCTIONAL MATERIALS
SELECTION AND ADOPTION

SB 6 (First Called Session) made significant revisions to the law on instructional materials, as reflected in this legally referenced policy, including the following:

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- References to *textbooks* have been changed to *instructional materials* throughout.
- DEFINITIONS of *instructional material and technological equipment* have been added.
- References throughout to the conforming and nonconforming lists have been deleted. The State Board of Education (SBOE) will produce a single list of approved materials that cover at least half of the TEKS in each subject and grade level, rather than a conforming list and a nonconforming list. See SBOE INSTRUCTIONAL MATERIALS LIST.
- The COMMISSIONER INSTRUCTIONAL MATERIALS LIST must address instruction in personal financial literacy for students in kindergarten through grade eight.
- A requirement has been added for a district to notify the SBOE of any LOCAL SELECTION of instructional materials.
- If a board selects supplemental instructional materials, the district must certify to TEA that the supplemental instructional materials, in combination with any other instructional materials or supplemental instructional materials used by the district, cover the essential knowledge and skills for the course. See SUPPLEMENTAL MATERIALS on page 2.
- A new provision permits a district to adopt state-developed open-source instructional material at any time, regardless of the instructional material review and adoption cycle. See OPEN-SOURCE MATERIAL on page 2.
- References to the classroom set of textbooks have been deleted as these are no longer required.

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

SB 6 (First Called Session) removes economics from the ENRICHMENT CURRICULUM. Economics is now a subject within social studies in the FOUNDATION CURRICULUM but is not specifically listed there because that section of the Education Code was not amended.

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

At GRADES 9–12 COURSE OFFERINGS, HB 34 requires an economics course to provide instruction in personal financial literacy, including instruction in completing the federal student aid application. A district may use an existing program that provides students the instruction at no charge. A district must ensure that a district student enrolled in an economics dual credit course receives the financial literacy instruction.

A district must include the financial literacy instruction with students entering ninth grade on or after June 17, 2011. The SBOE materials will be available beginning with the 2013–14 school year.

EHB (LEGAL) CURRICULUM DESIGN
SPECIAL PROGRAMS

At REASSESSMENT, SB 866 prohibits a district from retesting a student for dyslexia for the purpose of reassessing the student's need for accommodations until the district reevaluates information obtained from previous testing.

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

At INDIVIDUALIZED EDUCATION PROGRAM (IEP), beginning on page 5, SB 1788 provides that the written statement of the student's IEP may be required to include only the information on the model IEP form that TEA must create by December 1, 2011. A district may use TEA's model form to comply with the federal IEP requirements.

At TEACHER REQUEST TO REVIEW IEP on page 9, HB 1335 requires a district to develop a process for a teacher who instructs a student with a disability in a regular classroom setting to request review of a student's IEP. The process must provide for a timely district response to a teacher's request and provide for notification to the student's parent or guardian of the district response.

EHBAD (LEGAL) SPECIAL EDUCATION
TRANSITION SERVICES

SB 1788 requires that transition planning for students receiving special education services begin by the time a student is 14 years old. See INDIVIDUAL TRANSITION PLANNING.

EHBK (LEGAL) SPECIAL PROGRAMS
OTHER INSTRUCTIONAL INITIATIVES

We have added a new provision from HB 3616, which designates the month of October as PERSONS WITH DISABILITIES HISTORY AND AWARENESS MONTH. Districts may but are not required to observe Persons with Disabilities History and Awareness Month with appropriate activities as determined by the school.

On page 3, HB 2909 renames "Education: Go Get It" Week to GENERATION TEXAS WEEK. During this week districts are now required to provide students with information on college readiness standards and expectations.

EHDD (LEGAL) ALTERNATIVE METHODS FOR EARNING CREDIT
COLLEGE COURSE WORK/DUAL CREDIT

SB 149 amends the district reporting requirements regarding the COLLEGE CREDIT PROGRAM. Districts must annually report to TEA the number of students who participated in the program, not just those who earned credit, and the courses in which students earned high school credit.

EHDE (LEGAL) ALTERNATIVE METHODS FOR EARNING CREDIT
DISTANCE LEARNING

SB 1 (First Called Session) included several revisions to the Texas Virtual School Network (TxVSN):

- A PROVIDER SCHOOL DISTRICT may now offer electronic courses to students and adults who reside in Texas and students who reside outside Texas who meet eligibility requirements.

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- At STUDENT ELIGIBILITY on page 2, a student may enroll in a TxVSN course if the student is younger than 26 on September 1 of a school year and has been admitted by a school district to complete the requirements for a high school diploma. Previously enrollment was limited to students younger than 21 years of age.
- As reflected on page 3, a district must adopt a POLICY that provides students with the opportunity to enroll in electronic courses through the TxVSN. The policy must be consistent with parental rights under Texas Education Code 26.0031 regarding notice about and an opportunity to seek their child's enrollment in TxVSN courses.
- For purposes of the policy requirement, the determination of whether an electronic course will meet the needs of STUDENTS WITH DISABILITIES will be made by the student's admission, review, and dismissal committee in a manner consistent with federal law. See page 4.

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

An amendment at NOTICE OF STUDENT PERFORMANCE, beginning on page 2, is from SB 6 (First Called Session). When a student fails to perform satisfactorily on a state-mandated assessment, a district must provide the student's parent notice of *educational resources* instead of *online educational resources* and is no longer required to provide information on educational resources described by Education Code 32.252(b)(2).

EIE (LEGAL) ACADEMIC ACHIEVEMENT
RETENTION AND PROMOTION

Revisions to this legally referenced policy are from HB 2135, which exempts certain students from the administration of a fifth or eighth grade state assessment instrument, as indicated at PROMOTION. Further details are included at EXCEPTION on page 3. A student enrolled in the fifth or eighth grade need not be administered the fifth or eighth grade assessment in a subject if the student is enrolled in a course in that subject that is intended for students above the student's grade level and the student will be administered an assessment instrument for the course, including an end-of-course assessment. If the student does take an assessment the student is not required to take, the district may not deny the student promotion for failure to perform satisfactorily on the assessment.

EIF (LEGAL) ACADEMIC ACHIEVEMENT
GRADUATION

We have added provisions on DIPLOMAS FOR VETERANS on page 1. SB 966 modifies existing statutory provisions, not previously included in the policy manual, that allowed a district to issue a diploma to a person who was scheduled to graduate between 1940 and 1975 and who served in World War II, the Korean War, or the Vietnam War. The new provisions allow a district to issue a diploma to a person who was scheduled to graduate after 1989. It also expands eligible service to include the Persian Gulf War, the Iraq War, the war in Afghanistan, or other listed military engagements.

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At STUDENT WITH DISABILITY OR ILLNESS on page 7, HB 692 permits, in accordance with SBOE rules, a student who cannot participate in physical activity because of disability or illness to substitute a credit in English language arts, mathematics, science, or social studies or an academic elective credit for the required physical education credit. The student cannot use the selected course to satisfy another graduation requirement in addition to physical education. The determination regarding a student's ability to participate must be made by the student's ARD committee, Section 504 committee, or, if neither committee applies, a committee of persons with appropriate knowledge regarding the student.

EKB (LEGAL) TESTING PROGRAMS STATE ASSESSMENT

HB 2135 creates an EXCEPTION from certain state-mandated testing. A student is not required to take a state-mandated test in grades 3–8 at the student's grade level if the student is enrolled in a course intended for a higher grade level that has a required state-mandated assessment instrument, including an end-of-course (EOC) assessment. See page 4.

Another provision from HB 2135 has been added at STUDENTS ENROLLED BELOW HIGH SCHOOL LEVEL, on page 5. A student who is not yet in high school but who takes a high school course is not prohibited from being administered the EOC assessment for that course. The commissioner must adopt rules to ensure the student's performance is considered in the same manner as that of a high school student's performance. The student's performance will be aggregated with the performance of other students enrolled at the same grade level.

FBA (LEGAL) EQUAL EDUCATIONAL OPPORTUNITY SERVICE ANIMALS

On March 11, 2011, the federal rules on SERVICE DOGS were corrected to clarify that the work or tasks performed by the animal must be directly related to the *individual's* rather than the *handler's* disability. This change was made because the animal handler may not always be the same person as the individual with the disability.

FD (LEGAL) ADMISSIONS

To better reflect the holding of *Plyler v. Doe*, on page 4, we have changed the margin note to IMMIGRATION STATUS.

Changes at AUTHORIZATION AGREEMENT are from SB 482 and expand the list of persons with whom a parent may enter into an authorization agreement. A parent may enter into an agreement with a relative or other person with whom the Department of Family and Protective Services (DFPS) has placed the child during an investigation of abuse or neglect or while DFPS is providing services to the parent. In addition, a new provision explains that only one authorization agreement may be in effect for a child at one time.

As reflected on page 5, SB 653 created the TEXAS JUVENILE JUSTICE DEPARTMENT, effective December 1, 2011, to take over the responsibilities previously held by the Texas Youth Commission, which has been abolished.

HB 742 requires a district to request, on enrollment, FOOD ALLERGY INFORMATION that the parent decides to disclose so that the district can take any necessary precautions regarding the child's safety. A district may disclose the information to teachers, counselors, nurses, and other appropriate personnel consistent with FERPA and the laws on student medical records. See pages 6–7.

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FEA (LEGAL) ATTENDANCE
COMPULSORY ATTENDANCE

As reflected at STUDENT LIABILITY on page 6, SB 1489 limits the application of the offense of failure to attend school to a student who is 12 to 17 years old. Per HB 734, these children may be prosecuted for nonattendance in a constitutional county court of the county in which the child resides or in which the school is located if the county has a population of 1.75 million or more. Previous law required the county to have a population of two million or more.

SB 1489 also changed provisions at CONDUCT IN NEED OF SUPERVISION, on page 7. For purposes of this provision, "child" is defined as a person who is ten years old or older who engaged in the relevant acts before turning 18 and who is required to attend school.

In addition, SB 1489 amended the FILING REQUIREMENTS when there is a court referral for truancy. A referral must be accompanied by a statement that the school applied truancy prevention measures and the measures failed to meaningfully address the attendance issue and must specify whether the student is eligible for or receives special education services.

FED (LEGAL) ATTENDANCE
ATTENDANCE ENFORCEMENT

As mentioned at FEA(LEGAL), above, a district must apply truancy prevention measures before referring a student to court for truancy. The powers and duties of ATTENDANCE OFFICERS and PEACE OFFICERS have been updated to include this requirement, as amended by SB 1489. Timelines for referrals have not changed.

The TRUANCY PREVENTION MEASURES must address student conduct related to truancy in the school setting, minimize the need for court referrals, and minimize the filing of complaints in court.

As described in SB 61, a district that employs a JUVENILE CASE MANAGER may pay the salary, benefits, and other expenses of the case manager from the juvenile case manager fund. In addition, a board that employs a juvenile case manager must adopt and implement reasonable rules for case managers that address ethics and training. If the district currently employs a case manager, the rules must be adopted by December 1, 2011.

FFAA (LEGAL) WELLNESS AND HEALTH SERVICES
PHYSICAL EXAMINATIONS

The PHYSICAL FITNESS ASSESSMENT is now only required for students in grades three or higher who are enrolled in a physical education course. This change is from SB 8 (First Called Session).

SB 226 changes how districts will REPORT to TEA on physical fitness assessments. A district will provide the results of individual student performance rather than summary results. However the results cannot contain teacher names or the names, dates of birth, or social security numbers of students.

Explanatory Notes

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FFAF (LEGAL) WELLNESS AND HEALTH SERVICES INDIVIDUALIZED HEALTH PLAN

New material at CERTAIN STUDENTS AT RISK FOR ANAPHYLAXIS is from SB 27. Under this new law, the commissioner of state health services in consultation with an ad hoc committee must create guidelines by May 1, 2012, to help districts develop a policy for the care of students with a diagnosed food allergy who are at risk for anaphylaxis. The required policy must be in place by August 1, 2012. The commissioner's guidelines may not require a district to purchase prescription anaphylaxis medicine or require the administration of anaphylaxis medication to a student unless the medication is prescribed for that student.

At the end of this legally referenced policy, we have added a note to direct you to policy FB for application of Section 504 of the Rehabilitation Act to students who qualify for individualized health plans.

FFC (LEGAL) STUDENT WELFARE STUDENT SUPPORT SERVICES

HB 826 requires a district to appoint an employee to serve as a liaison for children in the conservatorship of the state who enroll in or transfer to the district. The *TASB 2011–12 Model Student Handbook* post-legislative supplement includes a place for the district to insert the name or position of this liaison.

SB 8 (First Called Session) deleted the requirement for a district to call public hearings to consider the need for and availability of child care before and after school and during school holidays and vacations.

FL (LEGAL) STUDENT RECORDS

On page 3, new provisions on records that include FOOD ALLERGY INFORMATION are from HB 742. These records must be retained in the student's record, but may not be placed in the student's health record maintained by the district unless a physician provides the documentation. However, a registered nurse may enter appropriate notes about a food allergy in a student's health record, including that the child's student record includes parental notification that the student has a possible food allergy.

SB 1106 amends the provisions on release of records to JUVENILE JUSTICE OFFICIALS, on page 8. A district must disclose information from a student's educational record to a juvenile service provider if the student has been taken into custody or referred to a juvenile court for engaging in conduct that was delinquent or indicated a need for supervision.

From HB 1907, a superintendent who receives WRITTEN NOTICE OF ARREST OR REFERRAL of a student must send the information to any district employee who has direct supervisory responsibility over the student. Under previous law, a superintendent could but was not required to send this information. See page 20.

Upon receiving ORAL NOTICE OF CONVICTION OR ADJUDICATION or NOTICE OF TRANSFER OR REENROLLMENT of a student, a superintendent must within 24 hours of receiving the notice or before the next school day, whichever is earlier, notify instructional and support personnel who have regular contact with the student. Under previous law, a superintendent was only required to notify staff within 24 hours of receiving the notice from law enforcement. The CONTENTS OF THE NOTICE are specified by law. These changes are from HB 1907.

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FM (LEGAL) STUDENT ACTIVITIES

HB 2038 adds provisions on PREVENTION, TREATMENT, AND OVERSIGHT OF CONCUSSIONS, beginning on page 2, including definitions of “interscholastic athletic activity” and “concussion.” Other new provisions include:

- The board of a district with students who participate in an interscholastic activity must appoint or approve a CONCUSSION OVERSIGHT TEAM. The team must include a physician and, to the extent practicable, one or more of the following: an athletic trainer, advanced practice nurse, neuropsychologist, or physician assistant. If the district employs an athletic trainer, the trainer must be on the team. Each member of the team must have training on concussions at the time of appointment and every two years.
- The concussion oversight team must establish a RETURN-TO-PLAY PROTOCOL. Before a student can participate in an interscholastic activity, the student and the student’s parent must sign a UIL-approved REQUIRED ANNUAL FORM acknowledging they received the district information on concussions.
- At REMOVAL FROM PLAY, a student must be removed from practice or competition if a coach, physician, licensed health-care professional, or the student’s parent believes the student might have sustained a concussion. Detailed procedures on RETURN TO PLAY have also been added, including requiring the student to be evaluated and complete the return-to-play protocol and requiring the student and parent to sign a consent form. A coach may not authorize a student to return to play.
- The new law preserves IMMUNITY for a district and its employees.

New FOOTBALL HELMET SAFETY REQUIREMENTS are from HB 675 and prohibit a district from using a helmet that is 16 years old or older, require helmets that are 10 years old or older to be reconditioned every two years, and require a district to make documentation available to parents about helmets used in the football program. See page 5.

New provisions addressing PROTECTIVE GEAR FOR BULL RIDING are from Administrative Code rules, effective August 1, 2011, and require a child to wear a protective vest and helmet to engage in bull riding. See page 6.

FNCG (LEGAL) STUDENT CONDUCT WEAPONS

SB 1416 adds a tire deflation device to the list of OTHER PROHIBITED WEAPONS. See item 10 on page 3.

FNCH (LEGAL) STUDENT CONDUCT ASSAULTS

SB 24 expands the definition of AGGRAVATED SEXUAL ASSAULT to include acts or words that place a victim in fear that a person will become the victim of an offense of smuggling persons and acts or words occurring in the presence of the victim that threatens or causes a person to become the victim of the offense of smuggling of persons.

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FNCI (LEGAL) STUDENT CONDUCT DISRUPTIONS

Under HB 359, a student in grade 6 or below may no longer be charged with a Class C misdemeanor for DISRUPTION OF CLASSES.

FO (LEGAL) STUDENT DISCIPLINE

The following changes are from HB 359:

- A district peace officer or school resource officer is subject to the same prohibitions on use of seclusion that apply to other district employees, except when the officer is performing LAW ENFORCEMENT DUTIES as defined in the policy. See page 4.
- A district must file electronic RESTRAINT REPORTS with TEA to disclose the use of restraint by a peace officer performing law enforcement duties on school property or during a school activity.
- In districts where the board has adopted a policy permitting the use of CORPORAL PUNISHMENT as a disciplinary method, an educator may not use corporal punishment if the parent provides a signed statement to the board in the manner established by the board prohibiting its use with the parent's child. This statement must be provided annually. A parent may revoke at any time a previously submitted statement prohibiting the use of corporal punishment. The new DEFINITION of corporal punishment includes the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline. It does not include physical pain caused by reasonable physical activities associated with athletic activities or the use of restraint as permitted by law. See page 5.

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

HB 968 adds to the acts that require mandatory DAEP placement the felony offense of aggravated robbery that occurs off campus and while the student is not attending a school-sponsored or school-related activity if the student has received deferred prosecution for this conduct, a court or jury finds that the student has engaged in the conduct, or the superintendent or designee has a reasonable belief that the student has engaged in the conduct. See CONDUCT UNRELATED TO SCHOOL on page 2. Because the felony offense of aggravated robbery now requires mandatory DAEP placement along with offenses under Title 5, it has been added as an exception at PERMISSIVE REMOVAL — NON-TITLE 5 FELONY on page 3.

HB 1907 amends Section 15.27 of the Code of Criminal Procedure to require the superintendent or designee to consider information in the written notification from a law enforcement agency regarding a student's arrest when making a determination as to whether there is a REASONABLE BELIEF that the student engaged in conduct defined as a felony offense by the Penal Code.

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FOCA (LEGAL) PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING
DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM OPERATIONS

SB 49 requires a district to provide parents of a student removed to a DAEP with written notice of the district's obligation to provide the student an OPPORTUNITY TO COMPLETE A COURSE required for graduation. The notice must include the methods available for completing the coursework and state that the methods are available at no charge.

FOD (LEGAL) STUDENT DISCIPLINE
EXPULSION

At FEDERAL FIREARM PROVISION, on page 2, we have added existing statutory language from the Gun-Free Schools Act to clarify that the one-year expulsion required by federal law for bringing a firearm to school does not apply if the firearm is lawfully stored inside a locked vehicle on school property.

HB 1224 adds the offense of BREACH OF COMPUTER SECURITY under the Penal Code as a permissive expellable offense if a student accesses without consent a district's computers, computer system, or computer network and knowingly alters, damages, or deletes district property or information. See page 4.

If a district is located in Smith County, which now is exempt from providing a JJAEP even though the county population is 125,000 or more, the district must provide services to an expelled student. However, the district can count the student in ADA. These provisions were added by SB 1 (First Called Session). See CERTAIN DISTRICTS on page 8.

FODA (LEGAL) EXPULSION
JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

SB 653 created the Texas Juvenile Justice Department, effective December 1, 2011, to take over the responsibilities previously held by the Texas Juvenile Probation Commission, which has been abolished. This change is reflected throughout this legally referenced policy.

At COUNTY POPULATION, we have added two new exemptions from the requirement for a county with a population greater than 125,000 to operate a JJAEP. The following counties are considered to have a population of 125,000 or less for this purpose:

- A county with a population of 180,000 or less that is adjacent to two counties with populations of more than 1.7 million each and that has seven or more school districts within the county's boundaries – Ellis County (HB 592); and
- A county with a population of more than 200,000 and less than 220,000 that has five or more school districts within the county's boundaries and that has a JJAEP within the county that, on May 1, 2011, served fewer than 15 students – Smith County (SB 1, First Called Session).

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FOE (LEGAL) STUDENT DISCIPLINE EMERGENCY AND ALTERNATIVE PLACEMENT

HB 968 adds aggravated robbery to the acts that can result in an optional expulsion to a DAEP or a JJAEP after an opportunity for a hearing. See TITLE 5 FELONY OR AGGRAVATED ROBBERY beginning on page 1.

FOF (LEGAL) STUDENT DISCIPLINE STUDENTS WITH DISABILITIES

HB 359 provides that district peace officers and school resource officers are subject to the same limitations on use of confinement, seclusion, restraint, and time-out that apply to other district employees. See BEHAVIOR MANAGEMENT TECHNIQUES beginning on page 6. In addition, a district must submit a report to TEA any time a peace officer who is performing law enforcement duties uses restraint on school property or during a school-sponsored or school-related activity. Commissioner rules will provide additional requirements on this DOCUMENTATION requirement, beginning on page 8.

FP (LEGAL) STUDENT FEES, FINES, AND CHARGES

A new provision at AUTHORIZED FEES, item 16, from SB 1 (First Called Session) allows a district to require payment of a reasonable fee for transportation of a student to and from the school the student attends if the district does not receive transportation allotment funds and does not participate in a county transportation system for which a transportation allotment is provided.

In accordance with terminology changes from SB 6 (First Called Session) references to *textbooks* and *books* have been changed to *instructional materials* and *materials* at PROHIBITED FEES.

G (LEGAL) COMMUNITY AND GOVERNMENTAL RELATIONS

We have revised the G section table of contents to reflect a subtitle change at GRA to State and Local Governmental Authorities. Two new codes are at GRAA and GRAC, subtitled Law Enforcement Agencies and Juvenile Service Providers, respectively.

GBA (LEGAL) PUBLIC INFORMATION PROGRAM ACCESS TO PUBLIC INFORMATION

SB 602 reworded the provision in the first paragraph at INFORMATION THAT MUST BE DISCLOSED, on page 1, to state that the listed categories of information are public information and not excepted from required disclosure unless made confidential under Government Code Chapter 522 or other law. Previously the attorney general had opined that Chapter 522 did not make information confidential, only other law could make information confidential. The new provision clarifies that Chapter 522 can make information confidential in addition to other law. At this same margin note, we have deleted a provision that addressed when a court could order a district to withhold information, since this is not a district responsibility.

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A current or former employee or board member or a peace officer or security officer may choose whether to allow public access to PERSONAL INFORMATION, which now includes emergency contact information in accordance with SB 1638. See page 2. This change is also reflected in the list of information excepted from public disclosure, beginning on page 5. Rewording at NOTICE TO REQUESTOR, on page 3, is to better match statutory language.

Beginning on page 3, SB 602 authorizes a district to redact CREDIT CARD, DEBIT CARD, CHARGE CARD, AND ACCESS DEVICE NUMBERS without first seeking a determination from the attorney general.

Except for certain information, such as social security numbers, INFORMATION EXCEPTED FROM PUBLIC DISCLOSURE, beginning on page 5, is no longer excepted from disclosure after the 75th anniversary of the date the district created or received the information.

Several different bills affect the categories of information that are excepted from disclosure to the public, including the following:

- On page 9, item 24, SB 602 authorizes a district to redact certain driver's license or motor vehicle record information without first seeking a determination from the attorney general. SB 1638 expands the information covered by this provision to include driver's license or motor vehicle record information from another state or country.
- On page 11, item 29, SB 1638 expands the confidential information relating to network security to include a copy of an identification badge issued to an official or employee of a district.
- On page 12, item 32, HB 2460 adds records of a TRS member or of another retirement system, if the records are in the custody of a district acting in cooperation with or on behalf of the retirement system.
- SB 1 (First Called Session) deleted the category of investment information from the list of information that is excepted from disclosure. However, a district may still consider Government Code 552.0225 if a request for investment information is received.

GBAA (LEGAL) INFORMATION ACCESS REQUESTS FOR INFORMATION

HB 2866 and SB 602 provide information on CALCULATING TIMELINES, on page 8, under the Public Information Act (PIA):

- SB 602 clarifies that if a district cannot establish an actual date of receipt for a mailed request, the request is considered to have been received on the third business day after the postmark date.
- HB 2866 provides that if the PIA requires a request, notice, or other document to be submitted or otherwise given to the attorney general within a specified period, the submission will be considered timely if it is submitted through the attorney general's designated electronic filing system within that period. A district may continue to submit information to the attorney general by mail, interagency mail, or contract carrier. Similarly, the attorney general may electronically transmit a notice, decision, or other document under the PIA. The transmission will be considered timely if the document is electronically transmitted by the attorney general within the period specified by statute.

On page 14, if a requestor modifies a request in response to a requirement to pay a deposit or bond, the MODIFIED REQUEST is considered a separate request and is considered to be received on the date the district receives the modified request. This change is from SB 602.

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At UNPAID AMOUNTS, on page 14, SB 8 (First Called Session) provides that if a district receives a request from a requestor who, within the preceding 180 days, has accepted but failed to pay a written itemized statement of estimated charges, the district may require the requestor to pay the estimated charges for the request before fulfilling the request.

GKA (LEGAL) COMMUNITY RELATIONS
CONDUCT ON SCHOOL PREMISES

Under HB 359, a student in grade 6 or below may no longer be charged with a Class C misdemeanor for DISRUPTION OF CLASSES.

Other revisions are to better reflect current statutory wording.

GKG (LEGAL) COMMUNITY RELATIONS
SCHOOL VOLUNTEER PROGRAM

We have added an existing statutory provision addressing immunity when a volunteer health-care practitioner conducts a PHYSICAL EXAMINATION or other medical screening to assess the physical health and fitness of a student for participation in extracurricular activities. Under these circumstances, a health-care practitioner has immunity provided certain conditions are met, as listed.

A licensed health-care professional who volunteers for the concussion oversight team must have had training on concussions at the time of appointment to the team. In addition, the professional must take an approved course on concussions at least once every two years and must submit proof of completion of the course to the superintendent. If the professional fails to meet these requirements, he or she may not serve on the concussion oversight team. These new provisions at VOLUNTEER TRAINING – CONCUSSION OVERSIGHT TEAM are from HB 2038.

GRA (LEGAL) RELATIONS WITH GOVERNMENTAL ENTITIES
STATE AND LOCAL GOVERNMENTAL AUTHORITIES

We have reorganized the GRA policy series, which previously focused generally on other local governmental authorities. With this update, we have shifted the emphasis of this legally referenced policy to focus on CPS investigations and taking students into custody. Provisions on other topics, such as notices to and from law enforcement agencies and sharing information with juvenile service providers, were moved to GRAA(LEGAL) and GRAC(LEGAL), respectively. See the explanatory notes for those codes, below.

At this code, text at STUDENTS TAKEN INTO CUSTODY and STUDENTS IN CUSTODY was revised to better reflect statutory structure and wording.

GRA (EXHIBIT) RELATIONS WITH GOVERNMENTAL ENTITIES
STATE AND LOCAL GOVERNMENTAL AUTHORITIES

To conform with the reorganization of the GRA policy series, this exhibit addressing student offenses that principals must report to local law enforcement authorities has been moved to GRAA(EXHIBIT). GRAA now addresses notices to and from law enforcement agencies.

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GRAA (LEGAL) STATE AND LOCAL GOVERNMENTAL AUTHORITIES LAW ENFORCEMENT AGENCIES

This new legally referenced policy focuses on notices to and from law enforcement agencies and dissemination of notices from law enforcement agencies to district employees. Much of the material was moved from GRA(LLEGAL) and was revised to better reflect current statutory wording.

At NOTICES TO LAW ENFORCEMENT AGENCIES, moved from GRA(LLEGAL), we simplified the text in the first paragraph to require the principal or designee to notify local law enforcement of relevant acts of misconduct and moved the detailed information about to whom the principal reports below the list of misconduct. We also added an existing statutory provision requiring the principal or designee to notify each instructional or support employee of the school who has regular contact with a student whose conduct is the subject of the notice.

At NOTICES FROM LAW ENFORCEMENT AGENCIES, we have provided a general outline of the circumstances when law enforcement agencies are required to give notice to a district.

HB 1907 added detail on the CONTENTS OF THE NOTICE, which must include details of the offense or conduct.

An existing statutory provision explains that a juvenile justice system representative may provide ELECTRONIC NOTICE instead of oral notice. If so, written notice is not required.

HB 1907 amended provisions requiring notice of a student's ARREST or referral to the juvenile board, beginning on page 3:

- The ORAL NOTICE must come from the *head of the agency or designee* instead of the *agency*.
- The oral notice must be made within 24 hours or *before* rather than *on* the next school day, whichever is earlier.
- The WRITTEN NOTICE must include the facts in the oral notice, the name of the person notified, and the date and time of the oral notice.
- The superintendent *shall*, rather than *may*, consider information in the notice from law enforcement in determining whether there is a reasonable belief that the student committed a felony.
- A superintendent or principal who learns that the law enforcement agency failed to give notice to the district as required must report the failure to the Commission on Law Enforcement Officer Standards and Education. See FAILURE TO PROVIDE NOTICE TO DISTRICT.
- A superintendent who receives notice must *immediately*, rather than *promptly*, notify relevant district personnel. A superintendent no longer has discretion to notify relevant employees; the superintendent must send notice to relevant staff. A superintendent can delegate this notice requirement. See NOTICE TO EMPLOYEES.
- If a board learns that the superintendent or principal fails to provide notice of the arrest to employees as required, the board must report the failure to the State Board for Educator Certification (SBEC). See FAILURE TO PROVIDE NOTICE TO EMPLOYEES.

HB 1907 also amended provisions requiring notice of a student's CONVICTION OR ADJUDICATION, on page 4:

- The prosecuting attorney must give ORAL NOTICE to the superintendent or designee within 24 hours or *before* rather than *on* the next school day, whichever is earlier.
- Within seven days of giving oral notice, the prosecuting attorney must mail to the district WRITTEN NOTICE, which must include information about the offense.

Note: The following provisions apply beginning with the 2010–11 school year. For transition provisions relating to interventions and sanctions pending implementation of the accreditation and accountability system adopted by the 81st Legislature, see Education Code 39.116.

ON-SITE
INVESTIGATIONS

The Commissioner may direct TEA to conduct an on-site investigation of a district at any time to answer questions concerning a program, including special education, required by federal law or for which the district receives federal funds.

The agency shall give written notice to the superintendent and the board of any impending investigation of the district's accreditation. In conducting the investigation, the investigators shall obtain information from administrators, teachers, and parents of students enrolled in the district.

The investigators shall report orally and in writing to the board and, as appropriate, to campus administrators and shall make recommendations concerning any necessary improvements or sources of aid such as regional education service centers. As a result of the investigation, the Commissioner may change the accreditation status of a district, change the accountability rating of a district or campus, or withdraw a distinction designation.

Education Code 39.056

SPECIAL
ACCREDITATION
INVESTIGATIONS

The Commissioner shall authorize a special accreditation investigation:

1. When excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;
2. When excessive numbers of allowable exemptions from the required state assessment are determined;
3. In response to complaints to the agency of alleged violations of civil rights or other requirements imposed on the state by federal law or court order;
4. In response to established compliance reviews of the district's financial accounting practices and state and federal reporting requirements;
5. When extraordinary numbers of student placements in disciplinary alternative education programs, other than placements under Education Code 37.006 and 37.007, are determined;
6. In response to an allegation involving a conflict between members of the board or between the board and the district

administration if it appears that the conflict involves a violation of a role or duty of the board members or the administration clearly defined by the Education Code. If the agency's findings indicate the board has observed a lawfully adopted policy, the agency may not substitute its judgment for that of the board;

7. When excessive numbers of students in special education programs are assessed through modified assessment instruments;
8. In response to an allegation regarding, or an analysis using a statistical method result indicating, a possible violation of an assessment instrument security procedure;
9. When a significant pattern of decreased academic performance has developed as a result of the promotion in the preceding two school years of students who did not perform satisfactorily on the state assessments;
10. When excessive numbers of students graduate under the Minimum High School Program;
11. When excessive numbers of students eligible to enroll fail to complete an Algebra II course or any other course determined by the Commissioner as distinguishing between students participating in the Recommended High School Program from students participating in the Minimum High School Program;
12. When resource allocation practices indicate a potential for significant improvement in resource allocation;
13. In response to repeated complaints concerning imposition of excessive paperwork requirements on classroom teachers; or
14. As the Commissioner otherwise determines necessary.

Education Code 39.057(a)–(c)

Based on the results of a special accreditation investigation, the Commissioner may take one of the actions listed below, lower the district's accreditation status or a district's or campus's performance rating, or both. Regardless of whether the Commissioner takes such actions, the Commissioner may impose one of the district- or campus-level interventions or sanctions listed at INTERVENTIONS AND SANCTIONS. *Education Code 39.057(d), (e)*

INTERVENTIONS AND
SANCTIONS

DISTRICT-LEVEL

If a district does not satisfy the accreditation criteria, the academic performance standards, or any financial accountability standard, the Commissioner shall take any of the following actions to the extent the Commissioner determines necessary:

1. Issue public notice of the deficiency to the board;
2. Order the board to conduct a hearing to notify the public of insufficient performance, expected improvements, and potential interventions and sanctions;
3. Order the preparation of a student achievement improvement plan;
4. Order the president of the board and superintendent to appear at a hearing before the Commissioner or designee to explain the district's low performance, lack of improvement, and plans for improvement;
5. Arrange an on-site investigation;
6. Appoint a TEA monitor to participate in and report to TEA on the activities of the board and superintendent;
7. Appoint a conservator to oversee district operations. The duties and powers of a conservator are set forth at Education Code 39.111;
8. Appoint a management team to direct the operations of the district in areas of insufficient performance, or require the district to obtain certain services under contract with another person. The duties and powers of a management team are set forth at Education Code 39.111;
9. If the district's status is accredited-warned or accredited-probation, or if the district fails to satisfy any standard under Education Code 39.054(e) (student achievement indicators in relation to state standards and required improvement), appoint a board of managers to exercise the powers and duties of the board. The duties and powers of a board of managers are set forth at Education Code 39.112;
10. If the district has received a status of accredited-warned or accredited-probation for two consecutive school years, including the current school year, has failed to satisfy any standards under Section 39.054(e) (student achievement indicators in relation to state standards and required improvement), or has failed to satisfy financial accountability standards, revoke the district's accreditation and:
 - a. Order closure of the district and annex it to one or more adjoining districts; or
 - b. In the case of a home-rule school district charter, order closure of all programs operated under the district's charter; or

11. If the district has failed to satisfy any student achievement indicator standard, impose sanctions designed to improve high school completion rates.

Education Code 39.102(a)

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

CAMPUS-LEVEL

If a campus's performance satisfies the standards under Education Code 39.054(e) (student achievement indicators in relation to state standards and required improvement) for the current school year, but would not satisfy the standards for the following school year, the Commissioner may request that the campus-level committee revise and submit the portions of the campus improvement plan that are relevant to those areas for which the campus would not satisfy performance standards. *Education Code 39.105*

If a campus's performance is below any standard under Education Code 39.054(e) (student achievement indicators in relation to state standards and required improvement), the Commissioner shall take actions, to the extent the Commissioner determines necessary, under Education Code Chapter 39, Subchapter F. If the Commissioner determines that a campus subject to interventions or sanctions has implemented substantially similar interventions under federal accountability requirements, the Commissioner may accept those measures. *Education Code 39.103(a), (c)*

In addition, the Commissioner may:

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

Education Code 39.103(b)

CAMPUS
INTERVENTION
TEAM

The Commissioner shall assign a campus intervention team to a campus whose performance is below any standard. [See Education Code 39.113 for composition of campus intervention team.]
The campus intervention team shall:

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

Education Code 39.106

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

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

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

RECONSTITUTION
AND OTHER
MEASURES

The Commissioner shall order the reconstitution of a campus that has been identified as unacceptable for two consecutive school years.

A campus intervention team shall assist the campus in:

1. Developing an updated targeted improvement plan;
2. Submitting the plan to the board for approval and presenting the plan in a public hearing;
3. Obtaining approval of the plan from the Commissioner; and
4. Executing the plan.

Education Code 39.107(a)

The campus shall implement the updated targeted improvement plan. The Commissioner may appoint a monitor, conservator,

management team, or board of managers to ensure and oversee district-level support to low-performing campuses and the implementation of the updated targeted plan. *Education Code 39.107(c)*

RETENTION OF
STAFF

The campus intervention team shall decide which educators may be retained on the campus. A principal who has been employed by the campus in that capacity during the full period may not be retained at that campus unless the campus intervention team determines that retention of the principal would be more beneficial to student achievement and campus stability than removal.

A teacher of a subject assessed by a state assessment may be retained only if the campus intervention team determines that a pattern exists of significant academic improvement by students taught by the teacher. If an educator is not retained, the educator may be assigned to another position in the district.

Education Code 39.107(b), (b-1)

RECONSTITUTION
UNSUCCESSFUL

If the Commissioner determines that the campus is not fully implementing the updated targeted improvement plan or if the students enrolled at the campus fail to demonstrate substantial improvement in the areas targeted by the plan, the Commissioner may order repurposing, alternative management, or closure of the campus.

Education Code 39.107(d)

**UNACCEPTABLE
AFTER THREE
YEARS**

If the campus is considered to have an unacceptable performance rating for three consecutive school years after the campus is reconstituted, the Commissioner shall order repurposing, alternative management, or closure. *Education Code 39.107(e)*

The Commissioner may waive this requirement for not more than one school year if the Commissioner determines, on the basis of significant improvement in student performance over the preceding two school years, the campus is likely to be assigned an acceptable performance rating for the following school year. *Education Code 39.107(e)-(e-1)*

**PARENT
REQUEST**

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

If the board of the district in which the campus is located presents a written request that the Commissioner order a specific action (repurposing, alternative management, or closure) other than the action requested in the parents' petition and a written explanation of the basis for the board's request, the

Commissioner may order the action requested by the board. The board's request must be presented to the Commissioner in the time and manner specified by Commissioner rule.

Education Code 39.107(~~e~~)-(e-12)-(e-3)

REPURPOSING

If the Commissioner orders repurposing, the district shall develop a comprehensive plan for repurposing the campus and submit the plan to the board and the Commissioner for approval.

The Commissioner may not approve the repurposing of the campus unless:

1. All students in the assigned attendance zone are provided with the opportunity to enroll in and are provided transportation on request to another campus, unless the Commissioner grants an exception because there is no other campus in the district in which the students may enroll;
2. The principal is not retained at the campus, unless the Commissioner determines that students enrolled at the campus have demonstrated significant academic improvement; and
3. Teachers employed at the campus are not retained at the campus, unless the Commissioner or designee grants an exception, at the request of a district, for:
 - a. A teacher who provides instruction in a subject other than one for which an assessment instrument is administered who demonstrates satisfactory performance; or
 - b. A teacher who provides instruction in a subject for which an assessment is administered if the district demonstrates that the teacher's students demonstrated satisfactory performance or improved academic growth on that assessment instrument.

If an educator is not retained, the educator may be assigned to another position in the district.

Education Code 39.107(f)

ALTERNATIVE
MANAGEMENT

If the Commissioner orders alternative management, the Commissioner shall solicit proposals from qualified nonprofit entities to assume management of the campus, or may appoint another district in the boundaries of the same regional education service center to assume management. If a non-profit entity has not responded to the Commissioner's request for proposal, the Commissioner may solicit proposals from qualified for-profit entities. *Education Code 39.107(h)*

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

The funding for a campus operated by a managing entity must be not less than the funding of the other campuses in the district on a per student basis so that the managing entity receives at least the same funding the campus would otherwise have received. *Education Code 39.107(o)*

NO NAME CHANGE

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

PROFESSIONAL
SERVICES

In addition to the other authorized interventions and sanctions, the Commissioner may order a district or campus to acquire professional services at the expense of the district or campus to address the applicable financial, assessment, data quality, program, performance, or governance deficiency. The Commissioner's order may require the district or campus to:

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

Education Code 39.109

COSTS OF
INTERVENTIONS AND
SANCTIONS

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

If the district fails or refuses to pay the costs in a timely manner, the Commissioner may pay the costs using amounts withheld from any funds to which the district is otherwise entitled, or recover the costs in the manner provided for recovery of an overallocation of state funds under Education Code 42.258. *Education Code 39.110*

APPEALS

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

Please Note: This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

SECTION B: LOCAL GOVERNANCE

BA	BOARD LEGAL STATUS
BAA	Powers and Duties
BB	BOARD MEMBERS
BBA	Eligibility/Qualifications
BBB	Elections
BBBA	Reporting Campaign Funds
BBBB	Ethics
BBC	Vacancies and Removal From Office
BBD	Training and Orientation
BBE	Authority
BBF	Ethics
BBFA	Conflict of Interest Disclosures
BBFB	Prohibited Practices
BBG	Compensation and Expenses
BBH	Conventions, Conferences, and Workshops
BBI	Technology Resources and Electronic Communications
BC	BOARD MEMBERSHIPS
BD	BOARD INTERNAL ORGANIZATION
BDA	Officers and Officials
BDAA	Duties and Requirements of Board Officers
BDAE	Duties and Requirements of Depository
BDAF	Selection and Duties of Chief Tax Officials
BDB	Internal Committees
BDD	Attorney
BDE	Consultants
BDF	Citizen Advisory Committees
BE	BOARD MEETINGS
BEC	Closed Meetings
BED	Public Participation
BEE	News Coverage
BEF	Staff Participation
BF	BOARD POLICIES
BG	BOARD SELF-EVALUATION
BI	ADMINISTRATIVE GOALS AND OBJECTIVES

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SECTION B: LOCAL GOVERNANCE

BJ	SUPERINTENDENT
BJA	Qualifications and Duties
BJB	Recruitment and Appointment
BJC	Contract
BJCA	Travel
BJCB	Professional Development
BJCC	Consulting
BJCD	Evaluation
BJCE	Suspension/Termination During Contract
BJCF	Nonrenewal
BJCG	Retirement or Resignation
BK	ADMINISTRATIVE ORGANIZATION
BKA	Organization Charts
BKB	Line and Staff Relations
BM	ADMINISTRATIVE COUNCILS, CABINETS, AND COMMITTEES
BP	ADMINISTRATIVE REGULATIONS
BQ	PLANNING AND DECISION-MAKING PROCESS
BQA	District-Level
BQB	Campus-Level
BR	REPORTS

ELIGIBILITY

To be eligible to be a candidate for, or elected or appointed to, the office of school board **trustee** **member**, a person must:

1. Be a United States citizen.
2. Be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable.
3. Have not been determined by a final judgment of a court exercising probate jurisdiction to be:
 - a. Totally mentally incapacitated and the person's mental capacity has not subsequently been completely restored by a final judgment of a court exercising probate jurisdiction; or
 - b. Partially mentally incapacitated without the right to vote and the person's guardianship has not been modified to include the right to vote or the person's mental capacity has not been completely restored by a subsequent final judgment of a court exercising probate jurisdiction.
4. Have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities. *Atty. Gen. Op. LO 96-114 (1996)*
5. Be a resident of Texas and the territory from which the office is elected for the period of time described at CANDIDATE'S RESIDENCY TERM, below. *Tex. Const. Art. XVI, Sec. 14*

Election Code 1.020; 141.001(a); Brown v. Patterson, 609 S.W.2d 287 (Tex. Civ. App.—Dallas 1980, no writ)

QUALIFIED VOTER

A person may not be elected **trustee** **board member** of an independent school district unless the person is a qualified voter. *Education Code 11.061(b)*

"Qualified voter" means a person who:

1. Is 18 years of age or older;
2. Is a United States citizen;
3. Has not been determined by a final judgment of a court exercising probate jurisdiction to be:
 - a. Totally mentally incapacitated and the person's mental capacity has not subsequently been completely restored by a final judgment of a court exercising probate jurisdiction; or

- b. Partially mentally incapacitated without the right to vote and the person's guardianship has not been modified to include the right to vote or the person's mental capacity has not been completely restored by a subsequent final judgment of a court exercising probate jurisdiction;
- 4. Has not been finally convicted of a felony or, if so convicted:
 - a. Has fully discharged his or her sentence, including any term of incarceration, parole, or supervision;
 - b. Has completed a period of probation ordered by any court; or
 - c. Has been pardoned or otherwise released from the resulting disability to vote;

For purposes of determining a qualified voter, a person is not considered to have been finally convicted of a felony if criminal proceedings are deferred without an adjudication of guilt.

- 5. Is a resident of this state; and
- 6. Is a registered voter.

Election Code 1.020, 11.002

OFFICIAL OATHS	After each election or appointment, the elected or appointed board members member shall file their the official oaths oath with the board president. <i>Education Code 11.061(a)</i>
COMPENSATION	Trustees Board members serve without compensation. <i>Education Code 11.061(d)</i>
SINGLE-MEMBER DISTRICTS	A candidate for trustee board member representing a single-member district must be a resident of the trustee board member district he or she seeks to represent. <i>Education Code 11.052(g)</i>
CANDIDATE'S RESIDENCY TERM	An individual seeking election to the office of trustee board member by having his or her name placed on the ballot must have been a resident of the state for 12 months, and a resident of the territory from which the office is elected for six months, prior to the last date on which the candidate could file to be listed on the ballot.
PREFILED CANDIDACY	
WRITE-IN CANDIDACY	An individual seeking election to the office of trustee board member by write-in vote must have been a resident of the state for 12 months, and a resident of the territory from which the office is elected for six months, prior to the day of the election.
APPOINTMENT TO OFFICE	An individual appointed to the office of trustee board member must have been a resident of the state for 12 months, and a resident of

the territory from which the office is elected for six months, prior to the day on which the appointment is made.

Election Code 141.001(a)(5)

'RESIDENCE' DEFINED

"Residence" shall mean domicile, one's home and fixed place of habitation to which one intends to return after any temporary absence; one does not lose one's residence status by leaving to go to another place for temporary purposes only. A person does not acquire a residence in a place to which the person has come for temporary purposes only and without the intention of making that place the person's home. Residence shall be determined in accordance with the common-law rules, as enunciated by the courts of this state, except as otherwise provided by the Election Code. *Election Code 1.015*

Note: The issue of whether a candidate has satisfied residency requirements should be judicially determined. *State v. Fischer*, 769 S.W.2d 619 (Tex. App.—Corpus Christi 1989, writ *dism'd w.o.j*)

This introductory page outlines the contents of the elections policy.
See the following sections for statutory provisions on:

SECTION I	Elections Generally	pages 2–6
	<ol style="list-style-type: none">1. Membership and terms2. Election dates3. Joint elections4. Methods of election5. Boundary change notice6. Preclearance7. Voting rights hotline	
SECTION II	Conducting Elections	pages 6– 13 14
	<ol style="list-style-type: none">1. Election services1.2. Election order and notices2.3. Filing information3.4. Election of unopposed candidate4.5. Ballot5.6. Election judges and clerks6.7. Polling places7.8. Bilingual materials8.9. Voting systems9.10. Early voting10.11. Conducting elections	
SECTION III	Post-Election Procedures	pages 13–16 14–17
	<ol style="list-style-type: none">1. Determination of results2. Canvass returns3. Certificate of election4. Officer’s statement5. Oath of office	

SECTION I: ELECTIONS GENERALLY

MEMBERSHIP

A board consists of the number of members that a district had on September- 1, 1995. *Education Code 11.051(b)*

INCREASE IN
MEMBERSHIP

A board ~~of trustees~~ that has three or five members may, by resolution, increase the membership to seven. A board that votes to increase its membership shall consider whether a district would benefit from also adopting a single-member election system under Education Code 11.052.

A resolution increasing the number of ~~trustees~~**board members** takes effect with the second regular election of ~~trustees~~**members** that occurs after the adoption of the resolution. The resolution must provide for a transition in the number of ~~trustees~~**board members** so that when the transition is complete, the ~~trustees~~**members** are elected as provided by Education Code 11.059.

Education Code 11.051(c)

TERMS

A ~~trustee~~**board member** of a district serves a term of three or four years.

Elections for ~~trustees~~**board members** with three-year terms shall be held annually. The terms of one-third of the ~~trustees~~**board members**, or as near to one-third as possible, expire each year.

Elections for ~~trustees~~**board members** with four-year terms shall be held biennially. The terms of one-half of the ~~trustees~~**board members**, or as near to one-half as possible, expire every two years.

Board policy shall state the schedule on which specific terms expire.

Education Code 11.059

ADJUSTMENTS

Not later than December 31, 2011, a board may adopt a resolution changing the length of the terms of its members. The resolution must provide for staggered terms of either three or four years and specify the manner in which the transition from the length of the former term to the modified term is made. The transition must begin with the first regular election for board members that occurs after January 1, 2012, and a member who serves on that date shall serve the remainder of that term. *Education Code 11.059(e)*

Not later than December 31, 2012, a district that elects its board members to a term that consists of an odd number of years may adopt a resolution changing the length of the terms of its members to an even number of years. The resolution must specify the manner in which the transition from the

length of the former term to the modified term is made. The transition must begin with the first regular election for members of the governing body that occurs after January 1, 2013, and a member who serves on that date shall serve the remainder of that term. *Act of the 82nd Legislative Session, Senate Bill 100, Sec. 52*

GENERAL ELECTION
DATES

Election of ~~trustees~~**board members** of a district shall be on one of the following dates:

1. The second Saturday in May.
2. The first Tuesday after the first Monday in November.

Election Code 41.001

~~ELECTION DATES IN
CERTAIN
DISTRICTS~~**CHANGI
NG TO NOVEMBER
ELECTION DATE**

~~A district with a service area that is primarily the same as that of a city with a population of more than 450,000 in which all members of the city's governing body are elected at large shall hold a board that holds its~~ general ~~or special~~ election ~~offor~~ officers ~~on the spring uniform election date.~~ *Election Code 41.0053*

~~CHANGING TO
NOVEMBER
ELECTION DATE~~

~~A district that holds its election~~ in May is authorized to change its ~~elections~~**general election for officers** to the November uniform election date. The district must take such action not later than December 31, ~~2010~~**2012**. **A district that changes its election date under this provision shall adjust the terms of office to conform to the new election date.** *Election Code 41.0052(a-1), (b)*

JOINT ELECTIONS
REQUIRED

A school district ~~trustee~~**board member** election shall be held on the same date as:

1. The election for the members of the governing body of a municipality located in the school district; ~~or~~
- ~~2.~~—The general election for state and county officers.
2. ~~Elections held on~~ **The general election for state and county officers is the same date as the first Tuesday after the first Monday in November in even-numbered years;**
3. **The** election for the members of the governing body of a ~~municipality~~**hospital district, if the school district:**
 - a. **Is wholly or partly** located in a ~~district or the same date as~~**county with a population of less than 40,000 that is adjacent to a county with a population of more than three million; and**
 - b. **Held its election for board members jointly with the** ~~general~~-election for ~~state and county officers~~**the members of the governing body of the hospital district before May 2007; or**

4. The election for the members of the governing board of a public junior college district in which the school district is wholly or partly located.

The election shall be held as a joint election under Election Code Chapter 271.

The and the voters of a joint election under this section shall be served by common polling places consistent with Election Code 271.003(b).

A board shall adjust the terms of office of its members to conform to the new election date if the election date is changed to comply with Education Code 11.0581. [see ADJUSTMENTS, above].

Education Code 11.0581; Election Code 41.002

ADMINISTRATOR

A district may seek to create the position of joint elections administrator under Election Code Chapter 31, Subchapter F. *Election Code 31.152*

METHODS OF
ELECTION

AT LARGE

Unless elected by position or place or through single member districts, election of trusteesboard members shall be at large in accordance with Texas law. *Education Code 11.057(b)*

POSITION OR
PLACE

The positions on a board of trustees shall be designated by number in any district in which the procedure of designating and electing the trusteesboard members by number has been authorized and instituted whether under general or special law and whether by resolution of the trusteesboard members in accordance with Education Code 11.058 or by operation of law. The decision to elect trusteesboard members by this method shall not be rescinded. *Education Code 11.058*

SINGLE-MEMBER
DISTRICTS

ON BOARD'S
MOTION

In a district located in a county with a population of 10,000 or more, a board, on its own motion, may order that trusteesboard members of the district are to be elected from single-member trustee districts or that not fewer than 70 percent of the members of the board are to be elected from single-member trustee districts with the remaining trusteesboard members to be elected from the district at large. If a majority of the area of a district is located in a county with a population of less than 10,000, a board, on its own motion, may order that trusteesboard members of the district are to be elected from single-member trustee districts or that not fewer than 50 percent of the members of the board are to be elected from single-member trustee districts with the remaining trusteesboard members to be elected from the district at large. Before entering the order, a board shall:

1. Hold a public hearing at which registered voters of a district are given an opportunity to comment on whether or not they favor the election of **trusteesboard members** in the manner proposed by a board.
2. Publish notice of the hearing in a newspaper that has general circulation in a district, not later than the seventh day before the day of the hearing.

Such order shall be entered not later than the 120th day before the day of the first election at which all or some of the **trusteesboard members** are elected from single-member ~~trustee~~ districts authorized by the order.

Education Code 11.052(a)–(d)

BY VOTER
PETITION

If at least 15 percent or 15,000 of the registered voters of a district, whichever is less, sign and present to a board a petition requesting submission to the voters of the proposition that **trusteesboard members** be elected in a specific manner, which must be generally described on the petition and which must be a manner of election the board could have ordered on its own motion, the board shall order that the appropriate proposition be placed on the ballot at the first regular election of **trusteesboard members** held more than 120 days after the day the petition is submitted to the board. The proposition must specify the number of **trusteesboard members** to be elected from single-member districts. Beginning with the first regular election of **trusteesboard members** held after an election at which a majority of the registered voters voting approve the proposition, **trusteesmembers** shall be elected in the manner prescribed by the approved proposition. *Education Code 11.052(e)*

**TRUSTEEBOARD
MEMBER
DISTRICTS**

If single-member districts are provided by either of the methods described above, a board shall divide a district into the appropriate number of **trusteeboard member** districts, based on the number of members that are to be elected from single-member ~~trustee~~ districts, and shall number each **trusteeboard member** district. The **trusteeboard member** districts shall be compact and contiguous and shall be as nearly as practicable of equal population according to the last preceding federal census. In a district with an ADA of 150,000 or more students, the boundary of a **trusteeboard member** district shall not cross a county election precinct boundary except at a point at which a district boundary crosses the county election precinct boundary. **TrusteeBoard member** districts shall be drawn not later than the 90th day before the day of the first election of **trusteesmembers** from those districts. *Education Code 11.052(f)*

BOARD MEMBERS
ELECTIONS

BBB
(LEGAL)

RESIDENCY FOR FIRST ELECTION	Residents of each trusteeboard member district are entitled to elect one trusteemember to a board. A trusteemember elected to represent a trusteeboard member district at the first election of trusteesmembers shall be a resident of the district he or she represents not later than the 90th day after the day election returns are canvassed, or not later than the 60th day after the day of a final judgment in an election contest filed concerning that trusteeboard member district. A trusteeboard member vacates the office if he or she fails to move into the district the trusteemember represents within the time provided. [See also BBA, BBC] <i>Education Code 11.052(g)</i>
NUMBER AND TERM	At the first election at which some or all of the trusteesboard members are elected in a manner authorized by Education Code 11.052 and after each redistricting, all positions on a board shall be filled. The trusteesboard members then elected shall draw lots for staggered terms as provided by Education Code 11.059. <i>Education Code 11.052(h)</i>
REDISTRICTING	Not later than the 90th day before the day of the first regular board election at which trusteesmembers may officially recognize and act on the last preceding federal census, a board shall redivide a district into the appropriate number of trusteeboard member districts if the census data indicates that the population of the most populous district exceeds the population of the least populous district by more than ten percent. Redivision of a district shall be in the manner provided at TRUSTEEBOARD MEMBER DISTRICTS . <i>Education Code 11.052(i)</i>
PHASE-IN OPTION	A board of a district that adopts a redistricting plan under Education Code 11.052 may provide for the trusteesmembers in office when the plan is adopted or the district is redistricted to serve for the remainder of their terms in accordance with this provision. The trusteeboard member district and any at-large positions provided by the district's plan shall be filled as the staggered terms of trusteesmembers then in office expire. Not later than the 90th day before the date of the first election from trusteeboard member districts and after each redistricting, a board shall determine the order in which the positions will be filled. <i>Education Code 11.053</i>
BOUNDARY CHANGE NOTICE	A district that changes its boundaries or the boundaries of districts used to elect members to the board shall not later than the 30th day after the date the change is adopted: <ol style="list-style-type: none">1. Notify the voter registrar of the county in which the area subject to the boundary change is located of the adopted boundary change; and

2. Provide the voter registrar with a map of an adopted boundary change in a format that is compatible with the mapping format used by the registrar's office.

Election Code 42.0615

PRECLEARANCE

A board, being subject to the Voting Rights Act of 1965, shall submit any changes that affect elections to the U.S. Justice Department for preclearance and shall implement such changes unless the justice department interposes an objection within 60 days after the date of submission. *42 U.S.C. 1973c; 28 CFR 51.6; Garza v. Gates, 482 F. Supp. 1211 (D.C. Tex. 1980)*

NOTICE OF VOTING
RIGHTS HOTLINE

A notice of voter's rights, in the form prescribed by the secretary of state and including information required by the secretary of state, shall be publicized as provided by the secretary of state. The notice shall, in part, inform voters of the telephone number and purpose of the secretary of state's toll-free hotline for reporting existing or potential abuse of voting rights. *Election Code 31.0055, 62.0115*

SECTION II: CONDUCTING ELECTIONS

ELECTION SERVICES

If requested to do so by a school district, a county elections administrator shall enter into a contract to furnish election services, as set forth at Election Code Chapter 31, Subchapter D. A county elections administrator is not required to enter into a contract to furnish elections services for an election held on the second Saturday in May in an even-numbered year. *Election Code 31.093, 41.001(d)*

ELECTION ORDER

A call for an election shall be made not later than the ~~62nd~~**71st** day before election day, except that for an election to be held on the date of the general election for state and county officers; **(the November uniform election date of even-numbered years)**, the election shall be called not later than the ~~70th~~**78th** day before the election day. A board shall order an election. *Election Code 3.004-.005*

Each election order must state the date of the election, the offices or measures to be voted on, the location of ~~each~~**the main** early voting polling place, the dates and hours for early voting, the dates and hours of any Saturday and Sunday early voting, and the early voting clerk's official mailing address. A board shall retain the election order for at least 22 months after election day. *Election Code 3.006, ~~3.008~~, 66.058(a), 83.010, 85.004, ~~85.007~~*

FAILURE TO ORDER
AN ELECTION

Failure to order a general election does not affect the validity of the election. *Election Code 3.007*

ON NOTICE

ELECTION NOTICE
CONTENTS

Notice of the election shall state:

1. The nature and date of the election;
2. The location of each polling place;
3. The hours the polls will be open; and
4. For early voting:
 - a. The location of the main early voting place, as determined under Election Code 85.002;
 - b. The dates and hours for early voting, including the dates and hours of any Saturday and Sunday early voting; and
 - c. The early voting clerk's official mailing address.

Election Code 4.004(a), 83.010, 85.004, .007

NOTICE OF
SPECIAL ELECTION

The notice of a special election must also state each office to be filled or the proposition stating each measure to be voted on. *Election Code 4.004(b)*

PUBLICATION

Notice of the election shall be published at least once, not earlier than the 30th day or later than the tenth day before election day, in a newspaper published within a district's boundaries or in a newspaper of general circulation in a district if none is published within the district's boundaries. ~~*Election Code 4.003(a)(1), (c)*~~

~~The notice shall state the nature and date of the election, the location of each polling place the hours the polls will be open, the location of each early voting polling place, the dates and hours for early voting, the dates and hours of any Saturday and Sunday early voting, and the early voting clerk's official mailing address.~~

~~The notice of a special election must also state each office to be filled or the proposition stating each measure to be voted on, unless the notice regards an election on a proposed constitutional amendment.~~ A board shall retain a copy of the published notice that contains the name of the newspaper and the date of publication ~~and~~. **The board** shall preserve that copy for at least ~~22~~**six** months after election day. *Election Code 4.003(a)(1), (c), .005(a), 66.058(a)(2)*

~~*Election Code 4.004, 4.005, 66.058(a), 83.010, 85.004, 85.007*~~

POSTING

In addition to the notice described above, a district shall, not later than the 21st day before election day, post a copy of the notice on the bulletin board used for posting notices of the meetings of a board. **The notice must remain posted continuously through**

	<p>election day. The notice must include the location of each polling place. The person posting the notice shall make a record at the time of posting stating the date and place of posting. The person shall sign the record and deliver it to the board after the last posting is made. <i>Election Code 4.003(b), 4.005(b)</i></p>
NOTICE TO COUNTY CLERK AND VOTER REGISTRAR	A board shall also deliver notice of the election to the county clerk and voter registrar of each county in which a district is located not later than the 60th day before election day. <i>Election Code 4.008(a)</i>
NOTICE TO ELECTION JUDGE	<p>Not later than the 15th day before election day or the seventh day after the date the election is ordered, whichever is later, the board shall deliver to the presiding judge of each election precinct in which the election is to be held in the district a written notice of:</p> <ol style="list-style-type: none">1. The nature and date of the election;2. The location of the polling place for the precinct served by the judge;3. The hours that the polls will be open;4. The judge'sjudge's duty to hold the election in the precinct specified by the notice; and5. The maximum number of clerks that the judge may appoint for the election. <p><i>Election Code 4.007</i></p>
FAILURE TO GIVE NOTICE OF ELECTION	Failure to give notice of a general election does not affect the validity of the election. <i>Election Code 4.006</i>
FILING INFORMATION NOTICE TO CANDIDATES	<p>Not later than the 30th day before the first day on which a candidate may file an application for a place on the ballot, theA district shall post notice of the dates of the filing period in a public place in a building where applications are filed. not later than the 30th day before the last day on which a candidate may file an application for a place on the ballot. This requirement does not apply to an office to be filled at the general election for state and county officers (the November uniform election date of even-numbered years). <i>Election Code 141.040</i></p>
GENERAL ELECTION	<p>An application for a place on the ballot may not be filed earlier than the 30th day before the date of the filing deadline.</p> <p>An application must be filed not later than 5:00 p.m. of the 62nd day before election day, except for an election to be held on the general election date for state and county officers, when the day of the filing deadline is the 70th day before election day.of:</p>
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1. **The 78th day before election day, if the election is to be held on the date of the general election for state and county officers (the November uniform election date of even-numbered years); or**
2. **The 71st day before election day, if the election is to be held on any other uniform election date.**

Education Code 11.055(a), (c); Election Code 144.005

SPECIAL ELECTION

An application for a place on a special election ballot may not be filed before the election is ordered.

An application must be filed not later than:

1. 5:00 p.m. of the 62nd day before election day if election day is on or after the 70th day after the election is ordered;
2. 5:00 p.m. of the 31st day before election day, if election day is on or after the 36th day and before the 70th day after the date the election is ordered; or
3. 5:00 p.m. of a day fixed by the district, which day must be not earlier than the fifth day after the date the election is ordered and not later than the 20th day before election day, if election day is before the 36th day after the date the election is ordered.

EXCEPTION

For a special election to be held on the date of the general election for state and county officers, **(the November uniform election date of even-numbered years)**, the day of the filing deadline is the ~~67th~~**75th** day before election day.

Election Code 201.054(a), (d), (f)

WRITE-IN
CANDIDACY

A declaration of write-in candidacy must be filed no later than 5:00 p.m. ~~of the fifth day after the date an application for a place on the ballot is required to be filed, except for an election to be held on the general election date for state and county officers, when the day of the filing deadline is the 67th day before election day. Education Code 11.056(b), (e)~~ of:

1. **The 74th day before election day, if the election is to be held on the date of the general election for state and county officers (the November uniform election date of even-numbered years); or**
2. **The 71st day before election day, if the election is to be held on any other uniform election date.**

Education Code 11.056(b); Election Code 146.054

BOARD MEMBERS
ELECTIONS

BBB
(LEGAL)

APPLICATION

The application shall include all statutorily required information, including that found at Election Code 141.031 and 141.039, such as an oath and a statement that the candidate is aware of the nepotism law [see BBBB]. *Election Code 31.0021, 141.031, ~~141.039~~*

ELECTION OF
UNOPPOSED
CANDIDATE

A board may declare each unopposed candidate elected to office if each candidate for an office that is to appear on the ballot is unopposed.

For purposes of determining whether all offices on a ballot are unopposed, a special election of the district is considered to be a separate election with a separate ballot from:

1. A general election for officers of the district held at the same time as the special election; or
2. Another special election of the district held at the same time as the special election.

SINGLE-MEMBER
DISTRICTS

If any members of a board are elected from single-member districts, the unopposed candidate procedures apply to the election in a particular single-member district if each candidate for an office that is to appear on the ballot in that single-member district is unopposed and no opposed at-large race is to appear on the ballot.

Election Code 2.051

PROCEDURE FOR
CANCELING
ELECTION

A board may declare each unopposed candidate elected to the office upon receipt of certification from the authority responsible for having the official ballot prepared. The certification must state that if the election were held, only the votes cast for that candidate in the election for that office may be counted. If a board makes such a declaration, the election is not held. *Election Code 2.052, ~~2.053(a), (b)~~*

If no election is to be held by the district on election day, a copy of the order shall be posted on election day at each polling place used or that would have been used in the election.

If a ~~trustee~~**board member** election has been canceled but a separate election is to be held by the district on election day, the ballots used at the separate election shall include the offices and names of the candidates declared elected. The offices and names of unopposed candidates shall be listed separately, after the measures or contested races in the separate election, under the heading "Unopposed Candidates Declared Elected." The candidates shall be grouped in the same relative order prescribed for the ballot generally. No votes are cast in connection with the unopposed candidates.

BOARD MEMBERS
ELECTIONS

BBB
(LEGAL)

Election Code 2.053(a), (c)

BALLOT

The ballot shall be printed in the form required by law. *Election Code 52.061-.064, 52.069, 52.093-.094; Education Code 11.058(g)*

BALLOT POSITION

Except as otherwise provided by law, for an election at which the names of more than one candidate for the same office are to appear on the ballot in an independent column or are to appear on a general or special election ballot that does not contain a party nominee, the order of the candidates' names shall be determined by a drawing consistent with the requirements of Election Code 52.094. *Election Code 52.094*

ELECTION JUDGES
AND CLERKS

A board shall appoint election judges and set the maximum number of election clerks. The judges and clerks shall be selected and serve in accordance with Election Code Chapter 32. *Election Code Chapter 32*

The nepotism prohibitions [see DBE] do not apply to appointment of an election clerk under Election Code 32.031 if the clerk is not related in the first degree by consanguinity or affinity to an elected official of the district. Gov't Code 573.061(8)

POLLING PLACES

A board shall designate polling places. Each polling place shall be accessible to and usable by the elderly and physically handicapped. *Election Code 43.004, 43.034*

If a district holds an election on the November uniform election date, the district shall follow procedures from the secretary of state and designate as the polling places for the election the regular county polling places in the county election precincts that contain territory from the district. *Election Code 42.002(a)(5), 42.0621, 43.004(b)*

POSTING SIGNS
PROHIBITED

A person other than an election officer commits an offense if the person posts a sign, card, poster, or similar material at a polling place, including the area within 100 feet of an outside door through which a voter may enter the building in which the polling place is located. *Election Code 62.013(b)*

USE OF CERTAIN
DEVICES
PROHIBITED

A person may not use a wireless communication device or any mechanical or electronic means of recording images or sound within 100 feet of a voting station.

EXCEPTION

The prohibition does not apply to:

1. An election officer in conducting the officer's official duties;

2. The use of election equipment necessary for the conduct of the election; or
3. A person who is employed at the location in which a polling place is located, while the person is acting in the course of the person's employment.

Election Code 61.013

~~BILINGUAL MATERIALS~~

~~A district shall provide bilingual election materials, as specified by law, when the director of the federal census determines that:~~

- ~~1. More than five percent of the citizens of voting age of the district are members of a single language minority and are limited English proficient, or more than 10,000 of the citizens of voting age of the district are members of a single language minority and are limited English proficient; and~~
- ~~2. The illiteracy rate of the citizens in the language minority as a group is higher than the national illiteracy rate, illiteracy defined as the failure to complete the fifth primary grade.~~

~~The term "limited English proficient" means unable to speak or understand English adequately enough to participate in the electoral process.~~

~~The term "language minorities" or "language minority group" means people who are American Indian, Asian American, Alaskan natives, or of Spanish heritage.~~

~~42 U.S.C. 1973aa-1a~~

~~EXCEPT AS PROVIDED
BY ELECTION CODE
272.003,~~

~~BILINGUAL BILINGUAL
MATERIALS~~

~~SPANISH~~

Bilingual election materials shall be used in each election precinct situated wholly or partly in a county in which five percent or more of the inhabitants are persons of Spanish origin or descent according to the most recent federal decennial census that may be officially recognized or acted upon by the state or political subdivisions.

Election Code 272.002

An election precinct may ~~be exempt~~ **apply for an exemption** from the ~~bilingual~~ requirement **to provide election materials in Spanish** if official census information or other information indicates that persons of Spanish origin or descent comprise less than five percent of the precinct's inhabitants. ***Election Code 272.003***

~~*Election Code 272.002, 272.003*~~

~~OTHER
LANGUAGES~~

If the director of the census determines that a district must provide election materials in a language other than English or Spanish, the district shall provide election materials in that language in the same manner in which the district would be

required to provide materials in Spanish, to the extent practicable. *Election Code 272.011; 42 U.S.C. 1973aa-1a*

VOTING SYSTEMS

A voting system shall be selected and utilized in accordance with Election Code Title 8. *Election Code Title 8*

VOTING MACHINES
AND PUNCH-CARD
BALLOTS

A voting system may not be used in an election if the system uses mechanical voting machines or a punch-card ballot or similar form of tabulating card. *Election Code 122.001(d)*

VOTERS WITH
DISABILITIES
ACCESSIBLE
VOTING
STATIONS

Each polling place in an election of an independent school district must provide at least one voting station that complies with Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 794) and its subsequent amendments, Title II of the federal Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) and its subsequent amendments, and the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) and its subsequent amendments, and that provides a practical and effective means for voters with physical disabilities to cast a secret ballot. *Election Code 61.012(a)*

ELECTRONIC
VOTING SYSTEM
EXCEPTIONS

Upon providing the notice detailed in Election Code 61.013(d), a district is not required to meet the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) and its subsequent amendments if the district's election is not held jointly with another election in which a federal office appears on the ballot and if the district is located in a county:

1. With a population of less than 2,000;
2. With a population of 2,000 or more but less than 5,000, and the district provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day;
3. With a population of 5,000 or more but less than 10,000, and the district provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day and during the period for early voting by personal appearance;
4. With a population of 10,000 or more but less than 20,000, and the district:
 - a. Makes a showing in the manner provided by Election Code 61.103(c) that compliance with Section 61.012(a)(1)(C) constitutes an undue burden on the county;

- b. Provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) on election day and during the period for early voting by personal appearance; and
- c. Provides a mobile voting station that meets the requirements for accessibility under 42 U.S.C. Section 15481(a)(3) that during the period for early voting by personal appearance is deployed at least once at each polling place used for early voting by personal appearance.

For purposes of the above requirement, a district located in more than one county may choose:

- a. To be considered located in the county that contains the greatest number of registered voters of the district; or
- b. For each portion of the district located in a different county, to be considered a separate political subdivision.

Election Code 61.013

<p>MULTIPLE VOTING SYSTEMS PERMITTED</p>	<p>A district may use more than one type of voting system in a single polling place in order to provide a person with physical disabilities with a method of casting a secret ballot. 1- TAC 81.55 [See GA]</p>
<p>VOTING SYSTEM MALFUNCTION</p>	<p>If no private vendor supports a district's voting system, the district must give notice to the secretary of state within 24 hours of a malfunction of the district's voting system software or equipment in an election. The notice may be verbal or in writing. 1 TAC 81.64</p>
<p>EARLY VOTING</p>	<p>A board shall provide for early voting in board elections by personal appearance at an early voting polling place and by mail in accordance with Election Code Title 7. <i>Election Code 81.001</i></p>
<p>CONDUCTING ELECTIONS</p>	<p>Elections shall be conducted in accordance with Election Code Title 6. <i>Election Code Title 6</i></p>

SECTION III: POST-ELECTION PROCEDURES

<p>DETERMINATION OF RESULTS PLURALITY</p>	<p>To be elected to a public office, a candidate must receive a plurality of votes, more votes than any other candidate, except as otherwise provided by law. <i>Election Code 2.001</i></p>
<p>AT LARGE BY POSITION AND SINGLE-MEMBER DISTRICTS</p>	<p>In a district in which the positions of trusteesboard members are designated by number as provided by Education Code 11.058 or in which the trusteesmembers are elected from single-member trustee districts as provided by Education Code 11.052, the candidate</p>

receiving the highest number of votes for each respective position voted on is elected.

AT LARGE

In a district in which the positions of **trusteesboard members** are not designated by number or in which the **trusteesmembers** are not elected from single-member-~~trustee~~ districts, the candidates receiving the highest number of votes shall fill the positions the terms of which are normally expiring.

Education Code 11.057(a), (b)

CUMULATIVE
VOTING

A board of a district that elects its **trusteesmembers** at large or at large by position may order that elections for **trusteesboard members** be held using the cumulative voting procedure.

At an election at which more than one **trusteeboard member** position is to be filled, all of the positions that are to be filled at the election shall be voted on as one race by all the voters of a district. Each voter is entitled to cast a number of votes equal to the number of positions to be filled at the election.

A voter may cast one or more of the specified number of votes for any one or more candidates in any combination. Only whole votes may be cast and counted. If a voter casts more than the number of votes to which the voter is entitled in the election, none of the voter's votes may be counted in that election. If a voter casts fewer votes than entitled, all of the voter's votes are counted in that election.

The candidates who are elected are those, in the number to be elected, receiving the highest number of votes.

If a board adopts an order requiring the use of cumulative voting, only the **trusteeboard member** positions that were scheduled to be filled at the election are filled through the use of cumulative voting.

A district that adopts an order requiring the use of cumulative voting may not elect its members by position as provided by Education Code 11.058.

Education Code 11.054

MAJORITY VOTE
OPTION

The board of an independent school district in which the positions of **trusteesboard members** are designated by number or in which the **trusteesmembers** are elected from single-member-~~trustee~~ districts as provided by Education Code 11.052 may provide by resolution, not later than the 180th day before the date of an election, that a candidate must receive a majority of the votes cast for a position or in a **trusteeboard member** district, as applicable, to be elected.

The resolution is effective until rescinded by a subsequent resolution adopted not later than the 180th day before the date of the first election to which the rescission applies.

Education Code 11.057(c)

RUNOFF ELECTION	If no candidate for a particular office receives the vote necessary to be elected in an election requiring a majority vote, a runoff election for that office is required. <i>Election Code 2.021 et seq.</i>
WRITE-IN VOTING	A write-in vote may not be counted for a person who has not filed a declaration of write-in candidacy with the secretary of the board in the manner provided for write-in candidates in a general election for state and county officers. To the extent practicable and in accordance with rules adopted by the secretary of state, Election Code Chapter 146, Subchapter B, shall govern write-in voting in trusteeboard member elections. <i>Education Code 11.056</i>
TIE VOTES	In accordance with Election Code 2.002, if two or more candidates for the same office tie for the number of votes required to be elected, a second election to fill the office shall be held, unless the candidates agree to cast lots, one candidate withdraws, or an automatic recount resolves the tie. <i>Election Code 2.002</i>
CANVASS RETURNS	<p>Except as provided below, a board shall canvass the returns at the time set by the presiding officer not earlier than the eighth day or later than the 11th day after election day.</p> <p>For an election held on the uniform election date in May, the local canvass must occur not later than the 11th day after election day and not earlier than the later of:</p> <ol style="list-style-type: none">1. The third day after election day;2. The date on which the early voting ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election; or3. The date on which all timely received ballots cast from addresses outside of the United States are counted, if a ballot to be voted by mail in the election was provided to a person outside of the United States. <p>Two members of a board constitute a quorum for purposes of canvassing an election.</p> <p><i>Election Code 67.003, 67.004(a)</i></p>
CERTIFICATE OF ELECTION	After the completion of a canvass, the presiding officer shall prepare a certificate of election for each candidate who is elected to

an office for which the official result is determined by that authority's canvass. A certificate of election must contain:

1. The candidate's name;
2. The office to which the candidate is elected;
3. A statement of election to an unexpired term, if applicable;
4. The date of the election;
5. The signature of the officer preparing the certificate; and
6. Any seal used by the officer preparing the certificate to authenticate documents that the officer executes or certifies.

The authority preparing a certificate of election shall promptly deliver it to the person for whom it is prepared, subject to the submission of a recount petition.

A recount petition shall delay the issuance of a certificate of election and qualification for the office involved in the recount pending completion of the recount. A candidate may not qualify for an office involved in a recount before completion of the recount. A candidate who has received a certificate of election and qualified for an office before the submission of a recount petition shall not be affected by the recount petition.

A certificate of election may not be issued to a person who has been declared ineligible to be elected to the office.

The presiding officer of the canvass shall also prepare a report of the precinct results as contained in the election register and shall deliver the report to the secretary of state as required by law.

Election Code 67.016, ~~67.017~~, 212.0331

CERTIFICATE OF
ELECTION FOR
UNOPPOSED
CANDIDATE

A certificate of election shall be issued to each unopposed candidate in the same manner and at the same time as provided for a candidate elected at the election. The candidate must qualify for the office in the same manner as provided for a candidate elected at the election. *Election Code 2.053(c)*

OFFICER'S
STATEMENT

Newly elected and appointed **trusteesboard members**, before taking the oath or affirmation of office and entering upon the duties of office, shall sign the required officer's statement. The statement shall be retained with the official records of the office. *Tex. Const. Art. XVI, Sec. 1(b)* [See BBB(EXHIBIT)]

OATH OF OFFICE

After the officer's statement has been signed and certificates of election have been issued, but before entering upon the duties of the office, the **trusteeboard member** shall take the oath or affirma-

tion of office and shall file it with the president of the board. *Tex. Const. Art. XVI, Sec. 1(a); Education Code 11.061* [See BBB(EXHIBIT)]

The oath may be administered and a certificate of the fact given by the individuals listed at Government Code 602.002, including:

1. A judge, retired judge, or clerk of a municipal court.
2. A judge, retired judge, senior judge, clerk, or commissioner of a court of record.
3. A notary public.
4. A justice of the peace or clerk of a justice court.
5. The secretary of state or a former secretary of state.
6. The speaker of the house of representatives or a former speaker of the house of representatives.
7. The lieutenant governor or a former lieutenant governor.
8. The governor or a former governor.
9. A legislator or retired legislator.
10. The attorney general or a former attorney general.

Gov't Code 602.002

RESTRICTIONS ON
PUBLIC SERVANTS —
PENAL CODE

“Public servant” shall mean a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if the person has not yet qualified for office or assumed his or her duties:

1. An officer, employee, or agent of government; or
2. A candidate for nomination or election to public office.

Penal Code 1.07(a)(41)(A), (E)

Prohibited activities are covered by, but are not limited to, the following:

BRIBERY

1. A public servant shall not intentionally or knowingly offer, confer, agree to confer on another, solicit, accept, or agree to accept a benefit:
 - a. As consideration for the public servant’s decision, opinion, recommendation, vote, or other exercise of discretion as a public servant.
 - b. As consideration for a violation of a duty imposed on the public servant by law.
 - c. That is a political contribution as defined by Title 15 of the Election Code or an expenditure made and reported as a lobbying expense in accordance with Government Code, Chapter 305, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion, if such exercise of official discretion would not have been taken or withheld but for the benefit.
 - d. “Benefit” means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

Penal Code -36.01(3), ~~36.02~~

ILLEGAL GIFTS

2. A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions shall not solicit, accept, or agree to accept any benefit from a person the public servant knows is interested in or likely to become interested in any such transactions of a district. *Penal Code 1.07(41)(A), (E), 36.08(d)*

A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under this section may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a rec-

ognized tax exempt charitable organization formed for educational, religious, or scientific purposes. *Penal Code 36.08(i)*

EXCEPTIONS

“Illegal gifts to public servants” does not apply to:

- a. A fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he or she gives legitimate consideration in a capacity other than as a public servant;
- b. A gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;
- c. A benefit to a public servant required to file a statement under Chapter 572, Government Code, or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:
 - (1) The benefit and the source of any benefit in excess of \$50 is reported in the statement; and
 - (2) The benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or political subdivision;
- d. A political contribution as defined by Title 15, Election Code;
- e. An item with a value of less than \$50, excluding cash or a negotiable instrument as described by Business and Commerce Code 3.104;
- f. An item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity; or
- g. Food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.

Penal Code 36.10

HONORARIA AND
EXPENSES

3. A public servant commits a class A misdemeanor offense if he or she solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for his or her official position or duties. However, a public servant is not prohibited from accepting transportation and lodging expenses or meals

in connection with a conference or similar event in which he or she renders services, such as addressing an audience or engaging in a seminar, to the extent those services are more than merely perfunctory. *Penal Code 36.07*

ABUSE OF OFFICE

4. A public servant shall not, with intent to obtain a benefit or with intent to harm or defraud another, intentionally or knowingly violate a law relating to the office or misuse district property, services, personnel, or any other thing of value, belonging to a district, that has come into his or her custody by virtue of his or her office or employment. *Penal Code 39.02(a)*

“Law relating to the office” means a law that specifically applies to a person acting in the capacity of a public servant and that directly or indirectly imposes a duty on the public servant or governs the conduct of the public servant. *Penal Code 39.01(1)*

“Misuse” means to deal with property contrary to:

- a. An agreement under which the public servant holds the property;
- b. A contract of employment or oath of office of a public servant;
- c. A law, including provisions of the General Appropriations Act specifically relating to government property, that prescribes the manner of custody or disposition of the property; or
- d. A limited purpose for which the property is delivered or received.

Penal Code 39.01(2)

NEPOTISM

5. Except as provided by law, a public official may not appoint a person to a position that is to be directly or indirectly compensated from public funds or fees of office if:
- a. The person is related to the public official by blood (consanguinity) within the third degree or by marriage (affinity) within the second degree; or
 - b. The public official holds the appointment or confirmation authority as a member of a local board and the person is related to another member of the board by blood or marriage within a prohibited degree.

Gov't Code 573.002, 573.041; Atty. Gen. Op. JC-184 (2000)
[See DBE]

DEFINITION OF
PUBLIC OFFICIAL

“Public official” shall mean:

- a. An officer of this state or of a district, county, municipality, precinct, school district, or other political subdivision of this state; or
- b. An officer or member of a board of this state or of a district, county, municipality, school district, or other political subdivision of this state.

Gov’t Code 573.001(3)

The nepotism law governs the hiring of an individual, whether the individual is hired as an employee or an independent contractor. *Atty. Gen. Op. DM-76 (1992)*

A public official may not approve an account or draw or authorize the drawing of a warrant or order to pay the compensation of an ineligible individual if the official knows the individual is ineligible. *Gov’t Code 573.083*

COUNTIES WITH
POPULATION
35,000 OR MORE

In a district located wholly in, or whose largest part is located in, a county with a population of 35,000 or more, if, under the district’s employment policy [see DC], a board delegates to a superintendent the final authority to select district personnel:

- a. The superintendent is a public official for the purposes of the nepotism prohibitions only with respect to a decision made under that delegation of authority; and
- b. Each member of the board remains subject to the nepotism prohibitions with respect to all district employees.

For purposes of this provision, a person hired by a district before September 1, 2007, is considered to have been in continuous employment [see DBE] and is not prohibited from continuing employment with the district subject to the abstention requirements.

Education Code 11.1513(f)–(h)

COUNTIES WITH
POPULATION
LESS THAN
35,000

In a district located wholly in, or whose largest part is located in, a county with a population of less than 35,000:

- a. A **trusteemember** of a board that has delegated to a superintendent final authority for personnel selection is not subject to the nepotism provisions to the extent of such delegation. *Atty. Gen. Op. GA-123 (2003)*
- b. Nevertheless, a **trusteeboard member** may remain the relevant public official for nepotism purposes concerning

some employment decisions, such as renewal. *Atty. Gen. Op. GA-177 (2004)*

FORMER
~~TRUSTEE~~BOARD
MEMBER
EMPLOYMENT

6. A ~~trustee~~board member of a district may not accept employment with the district until the first anniversary of the date the ~~trustee's~~board member's membership on the board ends. *Education Code 11.063*

INCOMPATIBILITY OF
OFFICE

7. One person may not occupy two legally incompatible offices. Offices are legally incompatible when the faithful and independent exercise of one would necessarily interfere with the faithful and independent exercise of the other. A person may not serve in one branch of government while exercising any powers properly attached to either of the other branches of government. *Texas Constitution, Art. II, Sec. 1; State v. Martin, 51 S.W.2d 815 (Tex. Civ. App. 1932); Thomas v. Abernathy County Line Indep. Sch. Dist., 290 S.W. 152 (Tex. Comm. App. 1927); Turner v. Trinity Indep. Sch. Dist., 700 S.W.2d 1 (Tex. Ct. App. 1983); Atty. Gen. Op. JM-634 (1987)*

DEPOSITORY
CONFLICT

8. A ~~trustee~~board member who is a stockholder, officer, director, or employee of a bank that has bid or submitted a proposal to become a depository for a district shall not vote on the awarding of a depository contract to said bank. *Education Code 45.204(b)*

~~TEXTBOOK~~INSTRUCTI
ONAL MATERIALS
VIOLATIONS—
COMMISSIONS

9. A ~~trustee~~board member commits a class B misdemeanor offense if the ~~trustee~~board member receives any commission or rebate on any ~~textbooks, electronic textbooks,~~ instructional materials, or technological equipment used in the schools with which the ~~trustee~~board member is associated. *Education Code 31.152(a)*

~~TEXTBOOK~~INSTRUCTI
ONAL MATERIALS
VIOLATIONS—
CONFLICT

10. A ~~trustee~~board member commits a class B misdemeanor offense if the ~~trustee~~board member accepts a gift, favor, or service that:
- a. Is given to the ~~trustee~~board member or the ~~trustee's~~board member's school;
 - b. Might reasonably tend to influence the ~~trustee~~board member in the selection of ~~textbooks, electronic textbooks,~~ instructional materials, or technological equipment; and
 - c. Could not be lawfully purchased with ~~funds from the state textbook fund~~instructional materials funds.

"Gift, favor, or service" does not include staff development, in-service, or teacher training; or ~~instructional~~ancillary mate-

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

Education Code 31.152(b)–(d)

~~TEXTBOOK~~INSTRUCTI
ONAL MATERIALS
VIOLATIONS—
PURCHASE AND
DISTRIBUTION

A ~~trustee~~board member commits a Class C misdemeanor offense if the ~~trustee~~board member knowingly violates any law providing for the purchase or distribution of free ~~textbooks~~instructional materials for the public schools. *Education Code 31.153*

A superintendent may ~~relinquish the position and~~ leave the employment of a district at the end of a school year without penalty by filing a written resignation with the board. The resignation must be addressed to the board and filed not later than the 45th day before the first day of instruction of the following school year.

A superintendent may resign, with the consent of a board, at any other time ~~mutually agreeable~~.

Education Code 21.212(e)

If a board chooses to amend a superintendent's term contract on the basis of a financial exigency declared under Education Code 44.011 [see CEA], the superintendent may resign without penalty by providing reasonable notice to the board. The superintendent may continue employment for the notice period under the prior contract. *Education Code 21.212(f)*

PLANNING AND
DECISION-MAKING
PROCESS

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

The planning and decision-making requirements do not:

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

Education Code 11.251(g), .252(e)

EVALUATION

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

ADMINISTRATIVE
PROCEDURE

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

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

Education Code 11.251(d)

**FEDERAL
REQUIREMENTS**

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

SINGLE-CAMPUS DISTRICT

In a district that has only one campus, the district- and campus-level committees may be one committee and the district and campus plans may be one plan. Education Code 11.252(c)

REQUIRED PLANS

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

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

Education Code 11.251(a)

SHARED SERVICES ARRANGEMENT FOR DAEP SERVICES

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

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

19 TAC 103.1201(b)

DISTRICT IMPROVEMENT PLAN

Each A district shall have a district improvement plan that is developed, evaluated, and revised annually, in accordance with district policy, by the superintendent with the assistance of the district-level committee. The purpose of the district improvement plan is to guide district and campus staff in the improvement of student performance for all student groups, **including students in special education programs under Education Code Chapter 29, Subchapter A**, in order to attain state standards in respect to the stu-

dent achievement indicators. *Education Code 11.252(a)* [See AIA]

The district improvement plan must include provisions for:

1. A comprehensive needs assessment addressing ~~district student~~ performance on the student achievement indicators, and other appropriate measures of performance, that are disaggregated by all student groups served by a district, including categories of ethnicity, socioeconomic status, sex, and populations served by special programs, including students in special education programs under Education Code Chapter 29, Subchapter A.
2. Measurable district performance objectives for all appropriate student achievement indicators for all student populations, including students in special education programs under Education Code Chapter 29, Subchapter A, and other measures of student performance that may be identified through the comprehensive needs assessment.
3. Strategies for improvement of student performance that include:
 - a. Instructional methods for addressing the needs of student groups not achieving their full potential.
 - b. Methods for addressing the needs of students for special programs, such as suicide prevention⁷; conflict resolution⁷; violence prevention⁷; or dyslexia treatment programs.
 - c. Dropout reduction.
 - d. Integration of technology in instructional and administrative programs.
 - e. Discipline management.
 - f. Staff development for professional staff of a district.
 - g. Career education to assist students in developing the knowledge, skills, and competencies necessary for a broad range of career opportunities.
 - h. Accelerated education.
4. Strategies for providing to middle school, junior high school, and high school students, those students' teachers and counselors, and those students' parents information about:

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

Education Code 11.252(a)

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

Education Code 37.0831 [See FFH]

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

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

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

Education Code 38.0041

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

CAMPUS-LEVEL
PLAN

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

Each campus improvement plan must:

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

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

Education Code 11.253(e), (d)

~~SHARED SERVICES
ARRANGEMENT
FOR DAEP
SERVICES~~

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

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

4. ~~Dropout rates;~~
5. ~~Graduation rates; and~~
6. ~~Recidivism rates.~~

~~19 TAC 103.1201(b)~~

~~SINGLE CAMPUS DISTRICT~~

~~In a district that has only one campus, the district and campus-level committees may be one committee and the district and campus plans may be one plan. Education Code 11.252(c)~~

~~EVALUATION~~

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

~~PLANNING AND DECISION-MAKING PROCESS~~

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

~~ADMINISTRATIVE PROCEDURE~~

~~A board shall ensure that an administrative procedure is provided to clearly define the respective roles and responsibilities of the superintendent, central office staff, principals, teachers, district-level committee members, and campus-level committee members in the areas of planning, budgeting, curriculum, staffing patterns, staff development, and school organization. A board shall also ensure that the district-level planning and decision-making committee will be actively involved in establishing the administrative procedure that defines the respective roles and responsibilities pertaining to planning and decision-making at the district and campus levels. Education Code 11.251(d)~~

~~REQUIREMENTS~~

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

~~The planning and decision-making requirements do not:~~

1. ~~Prohibit a board from conducting meetings with teachers or groups of teachers other than the district-level committee meetings.~~
2. ~~Prohibit a board from establishing policies providing avenues for input from others, including students or paraprofessional~~

~~staff, in district or campus level planning and decision making.~~

3. ~~Limit or affect the power of a board to govern the public schools.~~
4. ~~Create a new cause of action or require collective bargaining.~~

~~Education Code 11.251(g)~~

~~PROCESS~~
~~COMMITTEE~~

~~A **board** district's policy and procedures shall establish a **procedure under which meetings are held regularly by a** district-level planning and decision-making committee **that includes as provided by Education Code 11.251(b)–(e).**~~

~~**The committee shall include** representative professional staff, parents of students enrolled in the district, business representatives, and community members. **The committee shall include a business representative, without regard to whether the representative resides in the district or whether the business the person represents is located in the district.** A board, or a board's designee, shall periodically meet with the district-level committee to review the district-level committee's deliberations. *Education Code 11.251(b)*~~

~~ADMINISTRATIVE
PROCEDURE~~

~~A board shall ensure that the district-level planning and decision-making committee will be actively involved in establishing the administrative procedure that defines the respective roles and responsibilities pertaining to planning and decision-making at the district and campus levels. *Education Code 11.251(d)*~~

~~COMMITTEE~~

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

~~PROFESSIONAL
STAFF~~

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

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

~~Board policy must provide procedures for:~~

- ~~1. The selection of parents to the district-level committee.~~
- ~~2. The selection of community members and business representatives to serve on the district-level committee in a manner that provides for appropriate representation of the community's diversity.~~

~~*Education Code 11.251(e)*~~

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

DEFINITIONS

PARENTS

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

For purposes of establishing the composition of ~~committees~~**the committee**:

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

Education Code 11.251(c), (e)

BUSINESS REPRESENTATIVES AND COMMUNITY MEMBERS

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

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

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

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

MEETINGS

A board shall establish a procedure under which the district-level committee holds regular meetings. The board or designee shall periodically meet with the district-level committee to review the committee's deliberations. *Education Code 11.251(b)*

PUBLIC MEETINGS

The district-level committee shall hold at least one public meeting per year. The required meeting shall be held after receipt of the annual district performance report from TEA for the purpose of discussing the performance of a district and the district performance objectives. *Education Code 11.252(e)*

COMMUNICATIONS

District policy and procedures must be established to ensure that systematic communications measures are in place to periodically obtain broad-based community, parent, and staff input and to provide information to those persons regarding the recommendations of the district-level committee. *Education Code 11.252(e)*

CONSULTATION

A superintendent shall regularly consult the district-level committee in the planning, operation, supervision, and evaluation of the district educational program. *Education Code 11.252(f)*

RESPONSIBILITIES

DISTRICT
IMPROVEMENT
PLAN

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

DROPOUT
PREVENTION
REVIEW

~~Each~~ **A** district-level ~~planning and decision-making~~ committee shall analyze information related to dropout prevention, including:

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

Each district-level ~~planning and decision-making~~ committee shall use the information ~~reviewed under this policy~~ in developing ~~the~~ district improvement ~~plans~~ **plan**.

Education Code 11.255

Note: See BF for information on the committee's role in requesting waivers. ~~Education Code 11.255~~

~~PUBLIC MEETINGS~~

~~The district-level committee established under Education Code 11.251 shall hold at least one public meeting per year. The required meeting shall be held after receipt of the annual district performance report from the agency for the purpose of discussing the performance of a district and the district performance objectives. District policy and procedures must be established to ensure that systematic communications measures are in place to periodically obtain broad-based community, parent, and staff input and to provide information to those persons regarding the recommendations of the district-level committee. This does not create a new cause of action or require collective bargaining. Education Code 11.252(e)~~

	<p>Each school A district shall maintain current policies and procedures to ensure that effective planning and site-based decision making occur at each campus to direct and support the improvement of student performance for all students. <i>Education Code 11.253(a)</i></p>
COMMITTEES	<p>Each A district's policy and procedures shall establish campus-level planning and decision-making committees as provided by Education Code 11.251(b)–(e). Education Code 11.253(b)</p> <p>The committees shall include representative professional staff, parents of students enrolled in a district, business representatives, and community members.</p> <p><i>Education Code 11.251(b), .253(b)</i></p>
PROFESSIONAL STAFF	<p>A board shall adopt a procedure, consistent with Education Code 21.407(a) [see DGA], for the professional staff to nominate and elect the professional staff representatives who shall serve on the campus-level committees. If practicable, a committee shall include at least one professional staff representative with the primary responsibility for educating students with disabilities.</p> <p><u>At least two-thirds of the elected professional staff representatives must be classroom teachers. The remaining staff representatives shall include both campus- and district-level professional staff members.</u></p> <p><i>Education Code 11.251(e)</i></p>
PARENTS	<p>Board policy shall provide procedures for the selection of parents to the campus-level committees.</p> <p>For purposes of establishing the composition of committees:</p> <ol style="list-style-type: none">1. <u>A person who stands in parental relation to a student is considered a parent.</u>2. <u>A parent who is an employee of a district is not considered a parent representative on the committee.</u>3. <u>A parent is not considered a representative of community members on the committee.</u> <p><i>Education Code 11.251(c), (e)</i></p>
BUSINESS REPRESENTATIVES AND COMMUNITY MEMBERS	<p>Board policy shall provide procedures for the selection of community members and business representatives to serve on the committee in a manner that provides for appropriate representation of the community's diversity.</p>

	<p>A committee must include business representatives without regard to whether a representative resides in a district or whether the business the person represents is located in the district.</p> <p><u>Community members must reside in the district and must be at least 18 years of age.</u></p> <p><u>Education Code 11.251(b), (c), (e)</u></p>
MEETINGS	<p>A board shall establish a procedure under which campus-level committees hold regular meetings. <i>Education Code 11.251(b)</i></p>
<u>PUBLIC MEETING</u>	<p><u>Each campus-level committee shall hold at least one public meeting per year. The required meeting shall be held after receipt of the annual campus rating from TEA to discuss the performance of the campus and the campus performance objectives. <i>Education Code 11.253(g)</i></u></p>
COMMUNICATIONS	<p><u>District policy and campus procedures must be established to ensure that systematic communications measures are in place to periodically obtain broad-based community, parent, and staff input, and to provide information to those persons regarding the recommendations of the campus-level committees. <i>Education Code 11.253(g)</i></u></p>
CONSULTATION	<p>A principal shall regularly consult the campus-level committee in the planning, operation, supervision, and evaluation of the campus educational program. <i>Education Code 11.253(h)</i></p>
RESPONSIBILITIES	<p>In accordance with the administrative procedures established under Education Code 11.251(b),) [see BQ], the campus-level committee shall be involved in decisions in the areas of planning, budgeting, curriculum, staffing patterns, staff development, and school organization. <i>Education Code 11.251(d)</i></p>
CAMPUS IMPROVEMENT PLAN	<p>Each school year, the principal of each school campus, with the assistance of the campus campus-level committee, shall develop assist the campus principal with the development, review, and reviserevision of revision of the campus improvement plan for the purpose of improving student performance for all student populations with respect to the student achievement indicators and any other appropriate performance measures for special needs populations.. <i>Education Code 11.253(c)</i> -[See CAMPUS-LEVEL PLAN at BQ](LEGAL)]</p>
STAFF DEVELOPMENT	<p>The campus-level committee must approve the portions of the campus plan addressing campus staff development needs. <i>Education Code 11.253(e)</i></p>

DROPOUT
PREVENTION
REVIEW

~~The above paragraphs do not create a new cause of action or require collective bargaining.~~

~~Education Code 11.253(e), (f)~~

~~Each~~**A** campus-level ~~planning and decision-making~~ committee for a junior, middle, or high school campus shall analyze information related to dropout prevention, including::

- ~~4.1.~~ The results of the audit of dropout records;
- ~~5.2.~~ Campus information related to graduation rates, dropout rates, high school equivalency certificate rates, and the percentage of students who remain in high school more than four years after entering grade ~~level~~9;
- ~~6.3.~~ The number of students who enter a high school equivalency certificate program and:
 - a. Do not complete the program;
 - b. Complete the program but do not take the high school equivalency examination; or
 - c. Complete the program and take the high school equivalency examination but do not obtain a high school equivalency certificate;
- ~~7.4.~~ For students enrolled in ~~grade levels~~**grades** 9 and 10, information related to academic credit hours earned, retention rates, and placements in disciplinary alternative education programs and expulsions under Chapter 37; and
- ~~8.5.~~ The results of an evaluation of each school-based dropout prevention program in the district.

~~Each~~**A** campus-level ~~planning and decision-making~~ committee shall use the information ~~reviewed under this policy~~ in developing ~~district or~~**the** campus improvement ~~plans~~**plan**.

Education Code 11.255

PROCESS

~~A board shall establish a procedure under which meetings are held regularly by campus-level planning and decision-making committees that include representative professional staff, parents of students enrolled in a district, business representatives, and community members. The committees shall include a business representative, without regard to whether the representative resides in a district or whether the business the person represents is located in the district. Education Code 11.251(b)~~

~~ADMINISTRATIVE
PROCEDURE~~

~~A board shall also ensure that an administrative procedure is provided to clearly define the respective roles and responsibilities of a superintendent, central office staff, principals, teachers, district-level committee members, and campus-level committee members in the areas of planning, budgeting, curriculum, staffing patterns, staff development, and school organization. *Education Code 11.251(d)*~~

~~SELECTION OF
COMMITTEES~~

~~A board shall adopt a procedure, consistent with Education Code 21.407(a) [see DGA], for the professional staff in a district to nominate and elect the professional staff representatives who shall serve on the campus planning and decision-making committees. At least two-thirds of the elected professional staff representatives must be classroom teachers. The remaining staff representatives shall include both campus and district level professional staff members.~~

~~Board policy must provide procedures for:~~

- ~~1. The selection of parents to the campus-level committees.~~
- ~~2. The selection of community members and business representatives to serve on the committee in a manner that provides for appropriate representation of the community's diversity.~~

~~*Education Code 11.251(e)*~~

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

~~DEFINITIONS~~

~~For purposes of establishing the composition of committees:~~

- ~~1.6. A person who stands in parental relation to a student is considered a parent.~~
- ~~2.7. A parent who is an employee of a district is not considered a parent representative on the committee.~~
- ~~3.8. A parent is not considered a representative of community members on the committee.~~

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

~~*Education Code 11.251(c)*~~

PRINCIPAL
PERFORMANCE
INCENTIVES

A performance incentive awarded to a principal shall be distributed to the principal's school. The district/campus-level committee shall determine the manner in which the performance incentive shall be

distributed and used, in accordance with Education Code
39.094264(a). *Education Code 21.357(c)*

NOTE: SEE BE
FOR INFORMATION
ON THE
COMMITTEE'S ROLE
IN REQUESTING
WAIVERS. PUBLIC
MEETING

~~Each campus level committee shall hold at least one public meeting per year. The required meeting shall be held after receipt of the annual campus rating from the agency to discuss the performance of the campus and the campus performance objectives. District policy and campus procedures must be established to ensure that systematic communications measures are in place to periodically obtain broad based community, parent, and staff input, and to provide information to those persons regarding the recommendations of the campus level committees.~~
Education Code 11.253(g)

Note: The following is an index of periodic reports that are addressed in the legal reference material of the policy manual. The list is not all-inclusive. This list does not address responsive reports (those that are required in response to a specific incident), reports required under special circumstances, or reports required under administrative procedures of an agency.

**ELECTRONIC
SUBMISSION OF
REPORTS TO TEA**

REPORTS BY
DISTRICT

Notwithstanding any other law, a district shall submit only in electronic format all reports required to be submitted to TEA under the Education Code. *Education Code 7.060(c)*

A district shall publish and/or distribute the following reports:

1. A written report to each parent of student performance, under Education Code 39.303. [See AIB]
2. At the beginning of the school year, a report to each teacher of students who took a state assessment, indicating whether each student performed satisfactorily or, if the student did not perform satisfactorily, whether the student met the standard for annual improvement, under Education Code 39.304. [See AIB]
3. At the beginning of the school year, a report to each student who took a state assessment, indicating whether the student performed satisfactorily or, if the student did not perform satisfactorily, whether the student met the standard for annual improvement, under Education Code 39.304. [See AIB]
4. Annually, a board shall publish a report describing the educational performance of the district and of each campus in the district. [See AIB]
5. Annually, a district shall distribute information from a campus report card to the parent of each student at the campus, under Education Code 39.305. [See AIB]
6. Annually, at the last regular meeting of the board held during a calendar year, the president shall announce, and the minutes must reflect, the name of each board member who has completed the required training, who has exceeded the required hours of training, and who is deficient in the required training as of the date of the meeting. The president shall cause the minutes to reflect the information and shall make this information available to the local media. *Education Code 11.159; 19 TAC 61.1(j)* [See BBD]

7. An end-of year financial report, for distribution to the community under Education Code 11.1511(b)(11). [See BAA]
8. The annual financial management report, under Education Code 39.083. [See CFA]
9. Annually, a proposed budget shall be submitted to TEA on or before the date established in the *Financial Accountability System Resource Guide*, under Education Code 44.005. [See CE]
10. On or before the date set by the State Board of Education, a report of the revenues and expenditures for the preceding fiscal year shall be filed with TEA, under Education Code 44.007(c), (d). [See CFA]
11. Not later than the 150th day after the date the fiscal year ends, a board president shall submit the annual financial statement to a daily, weekly, or biweekly newspaper published within the boundaries of the district, under Local Government Code 140.006. [See CFA]
12. Not later than the 150th day after the end of the fiscal year for which an audit was made, a copy of the annual audit report shall be filed with TEA, under Education Code 44.008(d). [See CFC]
13. At least once every three years, a district shall conduct a safety and security audit of the district's facilities and report the results of the safety and security audit to the Texas School Safety Center, under Education Code 37.108. [See CK]
14. Not later than March 1 of each year, each district police department shall submit a report containing information about motor vehicle stops during the previous calendar year to the governing body of each county or municipality served by the department, under Code of Criminal Procedure 2.134. [See CKE]
- ~~15. Not later than April 25, a superintendent shall report a district's maximum attendance to the Commissioner, for textbook requisition purposes, under Education Code 31.103. [See GMD]~~
- ~~16.~~15. By September 1, districts involved in a school bus advertising program shall provide to the Texas Department of Public Safety written notification of the number of school buses operated by or for the district that display exterior advertising or another paid announcement, under 37 Administrative Code 14.65(a)(1), (b). [See CNB]

- ~~17.~~**16.** Annually, a district shall report to TEA the number of accidents in which its buses were involved in the past year, under Education Code 34.015(b). [See CNC]
- ~~18.~~**17.** By March 1 of each even-numbered year, a district that does not participate in the uniform group health insurance program (TRS ActiveCare) shall report its compliance with the comparability requirements to TRS, under Education Code 22.004(d). [See CRD]
- ~~19.~~**18.** At least every two years, before the beginning of the school year and in strict compliance with the time frames established by Railroad Commission rule, a district shall report to its natural gas supplier the results of a pressure test of natural gas piping systems in each district facility, under Utilities Code 121.504. [See CS]
- ~~20.~~**19.** Each month, a district that employs any retirees shall file a certified statement with TRS, under Government Code 824.6022. [See DC]
- ~~21.~~**20.** By April 1 of each year, a district shall transmit a report to TEA listing the instructional materials selected for use in the district, under 19 Administrative Code 66.104(g). [See EFAA]
- ~~22.~~**21.** Before November 1 of each year, a board shall report to TEA the number of limited English proficient (LEP) students on each campus, under Education Code 29.053(b). [See EHBE]
- ~~23.~~**22.** Annually, a district shall report to TEA the strategies implemented by the district to increase community awareness of prekindergarten programs offered by the district, under Education Code 29.1534. [See EHBG]
- ~~24.~~**23.** Annually, a district that operates a high school equivalency (GED) program shall submit a progress report to TEA, under 19 Administrative Code 89.1417(a). [See EHBL]
- ~~25.~~**24.** Annually, a district shall report to TEA the number of students who have ~~earned~~ **participated in a program to earn college credit in high school** and the ~~cumulative number of~~ **courses in which participating students have enrolled and college earned high school credit** ~~hours the students have earned~~, under Education Code 28.009. [See EHDD]
- ~~26.~~**25.** A superintendent shall report the results of reading instruments to the Commissioner and each student's raw score on the reading instrument to TEA, under Education Code 28.006(d). [See EKC]

- ~~27~~-26. A district shall use the student attendance accounting standards established by the Commissioner to make reports on student attendance and student participation in special programs, under 19 Administrative Code 129.1023. [See FEB]
- ~~28~~-27. A district shall compile the results of the annual physical fitness assessment of students and provide summary results to TEA, under Education Code 38.103. [See FFAA]
- ~~29~~-28. On or before June 30 of each year, a district shall submit to the Texas Department of State Health Services (TDSHS) a report on the vision and hearing screening status of students who were screened during the reporting year, under Health and Safety Code 36.006. [See FFAA]
- ~~30~~-29. Not later than June 30 of each reporting year, a district shall submit to TDSHS an annual report of spinal screening performed during the school year, under 25 Administrative Code 37.148(n). [See FFAA]
- ~~31~~-30. A district located in Regional Education Service Centers 1, 2, 3, 4, 10, 11, 13, 15, 18, 19, or 20 shall submit to the University of Texas—Pan American Border Health Office an annual report on its students' risk assessment status for Type 2 diabetes, under Health and Safety Code 95.004(e). [See FFAA]
- ~~32~~-31. Annually, a district shall submit a report of the immunization status of students to TDSHS, under Education Code 38.002(c). [See FFAB]
- ~~33~~-32. Annually, a district shall report to the Commissioner information regarding each placement in a disciplinary alternative education program (DAEP) and each expulsion, under Education Code 37.020. [See FO]
- ~~34~~-33. Not later than the 30th day after the contract is executed and again not later than the 30th day after the contract is terminated, a district shall report to the Office of Federal-State Relations any contract between the district and a federal-level government relations consultant, under Government Code 751.016. [See GR]

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SECTION C: BUSINESS AND SUPPORT SERVICES

CA	FISCAL MANAGEMENT GOALS AND OBJECTIVES
CAA	Financial Ethics
CB	STATE AND FEDERAL REVENUE SOURCES
CBA	State
CBB	Federal
CC	LOCAL REVENUE SOURCES
CCA	Bond Issues
CCB	Time Warrants
CCC	Certificates of Indebtedness
CCD	Recreational Facilities Bonds
CCE	Athletic Stadium Authority
CCF	Loans and Notes
CCG	Ad Valorem Taxes
CCH	Appraisal District
CD	OTHER REVENUES
CDA	Investments
CDB	Sale, Lease, or Exchange of School-Owned Property
CDBA	Revenue Bonds From Proceeds
CDC	Grants From Private Sources
CDD	Rentals and Service Charges
CDE	Shop Sales
CDF	Royalties
CDG	Gate Receipts, Concessions
CDH	Public Facilities Corporations
CE	ANNUAL OPERATING BUDGET
CEA	Financial Exigency
CF	ACCOUNTING
CFA	Financial Reports and Statements
CFB	Inventories
CFC	Audits
CFD	Activity Funds Management
CFE	Payroll Procedures
CFEA	Salary Deductions and Reductions
CFF	Checking Accounts
CFG	Cash in School Buildings
CG	BONDED EMPLOYEES AND OFFICERS

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SECTION C: BUSINESS AND SUPPORT SERVICES

CH	PURCHASING AND ACQUISITION
CHB	Petty Cash Account
CHD	Purchasing Procedures
CHE	Vendor Relations
CHF	Payment Procedures
CHG	Real Property and Improvements
CHH	Financing Personal Property Purchases
CI	SCHOOL PROPERTIES DISPOSAL
CJ	CONTRACTED SERVICES
CJA	Criminal History
CK	SAFETY PROGRAM/RISK MANAGEMENT
CKA	Inspections
CKB	Accident Prevention and Reports
CKC	Emergency Plans
CKD	Emergency Medical Equipment and Procedures
CKE	Security Personnel/Peace Officers
CL	BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT
CLA	Security
CLB	Maintenance
CLC	Traffic and Parking Controls
CLD	Records and Reports
CLE	Flag Displays
CM	EQUIPMENT AND SUPPLIES MANAGEMENT
CMA	Receiving and Warehousing
CMB	Authorized Uses of Equipment and Supplies
CMD	Instructional Materials Care and Accounting
CN	TRANSPORTATION MANAGEMENT
CNA	Student Transportation
CNB	District Vehicles
CNBA	Bus Maintenance
CNC	Transportation Safety
CO	FOOD SERVICES MANAGEMENT
COA	Food Purchasing
COB	Free and Reduced-Price Food Program
COC	Vending Machines

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SECTION C: BUSINESS AND SUPPORT SERVICES

CP	OFFICE MANAGEMENT
CPA	Office Communications
CPAA	Printing and Duplicating
CPAB	Mail and Delivery
CPAC	Telephone
CPC	Records Management
CQ	TECHNOLOGY RESOURCES
CQA	District, Campus, and Classroom Web Sites
CR	INSURANCE AND ANNUITIES MANAGEMENT
CRA	Property Insurance
CRB	Liability Insurance
CRD	Health and Life Insurance
CRE	Workers' Compensation
CRF	Unemployment Insurance
CRG	Deferred Compensation and Annuities
CS	FACILITY STANDARDS
CT	FACILITIES PLANNING
CV	FACILITIES CONSTRUCTION
CVA	Competitive Bidding
CVB	Competitive Sealed Proposals
CVC	Design-Build Contracts Construction Manager-Agent
CVD	Construction Manager-Agent
CVE	Construction Manager-At-Risk
CVE	Design-Build
CVF	Job Order Contracts
CW	NEW FACILITIES
CX	RENTING OR LEASING FACILITIES FROM OTHERS
CY	INTELLECTUAL PROPERTY

AVAILABLE SCHOOL
FUND

The available school fund is apportioned annually to Texas counties according to the scholastic population of each. *Education Code 43.001(b)*

FOUNDATION SCHOOL
PROGRAM

The provision of public education is a state responsibility that shall be substantially financed through state revenue sources. The public school finance system shall adhere to a standard of neutrality that provides for substantially equal access to similar revenue per student at similar tax effort. *Education Code 42.001*

The Foundation School Program consists of:

1. Two tiers that provide for sufficient financing for all school districts to **provide a basic program of education that is** rated acceptable or higher, and for substantially equal access to funds to provide an enriched program; and
2. A facilities component as provided by Education Code Chapter 46. [See CCA(LEGAL)]

Education Code 42.002(b)

FUNDING LEVELS

Not later than July 1 of each year, the Commissioner shall determine for each district whether the estimated amount of state and local funding per student in weighted average daily attendance to be provided to the district under the Foundation School Program for maintenance and operations for the following school year is less than the amount provided to the district for the 2010–11 school year. If the amount estimated to be provided is less, the Commissioner shall certify the percentage decrease in funding to be provided to the district.
Education Code 42.009(a)

LOCAL REVENUE SOURCES
BOND ISSUES

CCA
(LEGAL)

BONDS AND BOND
TAXES

A board may obtain funds to construct, acquire, or equip school buildings, to purchase necessary sites, to purchase new school buses, or to acquire or refinance property financed under a contract entered under the Public Property Finance Act by issuing bonds and assessing annual ad valorem taxes sufficient to pay the principal and interest on the bonds as or before they come due. *Education Code 45.001(a)*

All bonds shall be issued in accordance with the Public Security Procedures Act. *Gov't Code 1201*

INSTRUCTIONAL
FACILITY
ALLOTMENT

Except as provided by Education Code 46.005 and 46.006, a district that issues bonds to construct, acquire, renovate or improve an instructional facility is guaranteed certain state funding to pay principal and interest on eligible bonds under the Instructional Facilities Allotment program, Education Code Chapter 46, Subchapter A. *Education Code 46.003; 19 TAC 61.1032*

EXISTING DEBT
ALLOTMENT

Each district is guaranteed certain state funding to pay the principal and interest on eligible bonds under Education Code Chapter 46, Subchapter B. Bonds are eligible if a district made payments on the bonds during the final school year of the preceding state fiscal biennium or taxes levied to pay the principal and interest on the bonds were included in a district's audited debt service collections for that school year, and the district does not receive state assistance under the Instructional Facilities Allotment for payment of the principal and interest on the bonds. *Education Code 46.032, ~~46.033~~; 19 TAC 61.1035*

POLITICAL
ADVERTISING

No officer or employee of a district shall knowingly expend or authorize the expenditure of district funds for the purpose of political advertising. Funds may be expended, however, for advertising that describes the factual reasons for a measure and does not advocate the passage or defeat of such measure.

No officer or employee of a district shall spend or authorize the expenditure of district funds for a communication describing a measure if the communication contains information that:

1. The officer or employee knows is false; and
2. Is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure.

It is an affirmative defense that the officer or employee reasonably relied on a court order, or an interpretation in a written opinion issued by a court of record, the attorney general, or the Ethics Commission.

On written request of a district that has ordered an election on a measure, the Ethics Commission shall prepare an advance written advisory opinion as to whether a particular communication relating to a measure complies with the section.

Election Code 255.003 [See CPAB]

NEWSLETTERS

A newsletter of a public officer of the district is not political advertising if:

1. It includes no more than two pictures of a public officer per page and if the total amount of area covered by the pictures is no more than 20 percent of the page on which the pictures appear;
2. It includes no more than eight personally phrased references on a page that is 8 1/2" x 11" or larger, with a reasonable reduction in the number of such personally phrased references in pages smaller than 8 1/2" x 11"; and
3. When viewed as a whole and in the proper context:
 - a. Is informational rather than self promotional;
 - b. Does not advocate passage or defeat of a measure; and
 - c. Does not support or oppose a candidate for nomination or election to a public office or office of political party, a political party, or a public officer.

1 TAC 26.2

ELECTIONEERING

A board may not use state or local funds or other resources of a district to electioneer for or against any candidate, measure, or political party. *Education Code 11.169*

ELECTIONS

No bonds shall be issued or taxes levied unless approved by a majority of the qualified voters of a district who vote at an election held for such purpose. The election shall be called by board resolution, which shall set the date, polling places, and propositions to be voted on.

The election shall be held on a uniform election date.

Education Code 45.003(a); Election Code 41.001(a) [See BBB]

CALL FOR
ELECTION

~~A call~~ For an election to be held on the date of the general election for ~~an~~ state and county officers, the November uniform election date of even-numbered years, the election shall be ~~ma-~~ ~~de~~ called not later than the ~~62nd~~ 78th day before the election day.

EXCEPTION

	<p>For an election to be held on a uniform election date other than the date of the general election for state and county officers, the election shall be called not later than the 70th71st day before the election day.</p> <p><i>Election Code 3.003, .005, 41.002</i> [See BBB]</p>
NOTICE OF ELECTION	<p>Notice of each election shall be published not earlier than the 30th day or later than the tenth day before election day in a newspaper of general circulation in a district or a newspaper of general circulation in the territory if none is published in the district. The person responsible for giving the notice must retain a copy of the published notice that contains the name of the newspaper and the date of publication. <i>Election Code 4.003(a)(1), (c), 4.005</i></p> <p>A board shall also deliver notice of the election to the county clerk of each county in which the district is located not later than the 60th day before election day.</p> <p><i>Election Code 4.008</i> [See BBB]</p>
POSTING	<p>In addition, notice of the election, which must include the location of each polling place, must be posted not later than the 21st day before election day on the bulletin board used for posting notices of board meetings. The person posting the notice shall make a record at the time of posting stating the date and place of posting. The person shall sign the record and deliver it to the board after the last posting is made. <i>Election Code 4.003(a)(1), (b), (c), 4.004, 4.005</i></p>
PRECLEARANCE REQUIRED	<p>A bond election is subject to federal preclearance requirements to the extent that the school district makes changes in the practices or procedures to be followed. Any discretionary setting of the date for a bond election or scheduling of events leading up to or following a bond election is subject to the preclearance requirement. <i>28 CFR 51.17</i> [See BBB]</p>
NEW DEBT	<p>Before issuing bonds, a district must demonstrate to the attorney general that, with respect to the proposed issuance, the district has a projected ability to pay the principal of and interest on the proposed bonds and all previously issued bonds, other than bonds authorized to be issued at an election held on or before April 1, 1991, and issued before September 1, 1992, from a tax at a rate not to exceed \$0.50 per \$100 of valuation.</p>
CURRENT TAXABLE VALUE	<p>A district may demonstrate the ability to comply by using the most recent taxable value of property in the district, combined with state assistance to which the district is entitled under Chapter 42 or 46 that may be lawfully used for the payment of bonds.</p>

FUTURE TAXABLE
VALUE

A district may demonstrate the ability to comply by using a projected future taxable value of property in the district anticipated for the earlier of the tax year five years after the current tax year or the tax year in which the final payment is due for the bonds submitted to the attorney general, combined with state assistance to which the district is entitled under Chapter 42 or 46 that may be lawfully used for the payment of bonds.

A district must submit a certification of the projected taxable value prepared by a registered, certified professional appraiser who has demonstrated professional experience in projecting taxable values or who can obtain any necessary assistance from an experienced person.

The certification of a district's projected taxable value must be signed by the superintendent. The attorney general must base a determination of whether a district has complied on a taxable value that is equal to 90 percent of the value certified.

Education Code 45.0031

PROPOSITIONS

Each proposition submitted to authorize the issuance of bonds shall include the question of whether a board may levy ad valorem taxes either:

1. Sufficient, without limits as to rate or amount, to pay the principal of and interest on said bonds; or
2. Sufficient to pay the principal of and interest on said bonds, provided that the annual aggregate bond taxes in a district shall never exceed the rate stated in the proposition.

Education Code 45.003(b)

In addition to any other requirement imposed by law for a proposition, including a provision prescribing the proposition language, a proposition submitted to the voters for approval of the issuance of bonds shall specifically state:

1. **The total principal amount of the bonds to be authorized, if approved; and**
2. **A general description of the purposes for which the bonds are to be authorized, if approved.**

Election Code 52.072(e)

REFUNDING BONDS
AUTHORITY

A board is authorized to refund or refinance all or any part of any of its outstanding bonds and interest thereon, payable from ad valorem taxes, by issuing refunding bonds payable from ad valorem

taxes in accordance with legal requirements for the issuance.
Education Code 45.004; Gov't Code 1207

INSTRUCTIONAL
FACILITIES
REFUNDING BONDS

A district may use state funds received under Education Code Chapter 46 to pay principal of and interest on refunding bonds that:

1. Are issued to refund bonds eligible under Section 46.003;
2. Do not have a final maturity date later than the final maturity date of the bonds being refunded;
3. May not be called for redemption earlier than the earliest call date of all bonds being refunded;
4. Result in a present value savings as defined in Education Code 46.007.

Education Code 46.007

AUTHORIZED
UNISSUED BONDS

If a district has authorized school bonds for a specific purpose and that purpose has been accomplished by other means or has been abandoned and all or a portion of the authorized bonds remains unissued, a board may call an election [see BBB] to determine whether the authorized bonds may be issued or sold for a different purpose or purposes specified in the election order. If a majority of those voting at the election favor the sale of the unissued bonds, a board is authorized to issue the bonds and use the proceeds for the purpose or purposes stated in the election order. *Education Code 45.110*

GUARANTEED BONDS

A district may apply to the Commissioner of Education for approval to guarantee bonds issued in accordance with the provisions above or bonds issued under Government Code Chapter 1207, by the corpus and income of the permanent school fund. The application shall include:

1. The name of a district and the principal amount of the bonds to be issued;
2. The name and address of the financial institution designated by a district as its agent for payment of principal and interest for guaranteed bonds; and
3. The maturity schedule, estimated interest rate, and date of the bonds.

Education Code 45.051, ~~45.~~052, 45.054, ~~45.~~055

An application must be accompanied by a fee set by rule of the State Board in an amount designed to cover the costs of adminis-

tering the program to provide the guarantee of eligible bonds.
Education Code 45.055(c)

If approved, the guarantee of the bonds remains in effect until the date those bonds mature or are defeased in accordance with state law. *Education Code 45.052*

CREDIT
ENHANCEMENT
PROGRAM

If a district's application for guarantee of district bonds is rejected, the district may, **in accordance with Education Code Chapter 45, Subchapter C and 19 Administrative Code 61.1038**, apply for credit enhancement of bonds described by Education Code 45.054 by money appropriated for the Foundation School Program, other than money that is appropriated to school districts specifically:

1. As required under the Texas Constitution; or
2. For assistance in paying debt service.

The credit enhancement remains in effect until the date the bonds mature or are defeased in accordance with state law.

Education Code 45.252

ELIGIBILITY

To be eligible for approval by the Commissioner for credit enhancement:

1. Bonds must be issued in the manner provided by Education Code 45.054; ~~and~~
2. Payments of all of the principal of the bonds must be scheduled during the first six months of the state fiscal year;
3. **The district's lowest credit rating from any credit rating agency may not be the same as or higher than that of the School District Bond Enhancement Program;**
4. **The bonded debt for which the credit enhancement is sought must be structured so that no single annual debt service payment exceeds two times the quotient produced by dividing the total proposed annual debt service, as defined in 19 Administrative Code 61.1038(b)(10), for the term of the bonds by the number of years in the amortization schedule; and**
5. **The district must agree in its application that the total annual debt service on bonds approved for the credit enhancement will be paid on or before August 15 of each state fiscal year.**

Education Code 45.254; 19 TAC 61.1038(f)

APPLICATION ~~FOR~~
~~CREDIT~~
~~ENHANCEMENT~~

A district seeking credit enhancement of eligible bonds shall apply to the Commissioner using a form adopted by the Commissioner for the purpose. The application must:

1. Include the information required by Education Code 45.055(b); **and 19 Administrative Code 61.1038**; and
2. Be accompanied by a fee set by State Board rule in an amount designed to cover the costs of administering the program to provide the credit enhancement of eligible bonds.

The district may not submit an application for a guarantee or credit enhancement before the successful passage of an authorizing proposition.

If a district does not receive a credit enhancement or for any reason does not receive approval of the bonds from the attorney general within the specified time period, the district may reapply in a subsequent month.

Education Code 45.255; 19 TAC 61.1038(d), (e)(1), (8)

USE OF BOND
PROCEEDS FOR
UTILITIES

The proceeds of bonds issued by school districts for the construction and equipment of school buildings in a district and the purchase of the necessary sites for school buildings may be used, among other things, to pay the cost of acquiring, laying, and installing pipes or lines to connect with the water, sewer, or gas lines of a municipality or private utility company, whether or not the water, sewer, or gas lines adjoin the school, so that the school district may provide its public school buildings the water, sewer, or gas services. *Education Code 45.101*

MAINTENANCE TAX A board may levy, assess, and collect annual ad valorem taxes for the maintenance of a district's schools. *Education Code 45.002*

TAX RATE CAP If authorized by a majority of qualified voters of a district voting at an election held for that purpose, the district may impose a maintenance tax rate at a rate not to exceed the rate stated in the proposition. For any year, the maintenance tax rate per \$100 of taxable value adopted by a district may not exceed the rate equal to the sum of \$0.17 and the product of the state compression percentage, as determined under Education Code 42.2516, multiplied by \$1.50.

A rate that exceeds this maximum rate for the year in which the tax is to be imposed is void. A district with a tax rate that is void under this subsection may, subject to requirements imposed by other law, adopt a rate for that year that does not exceed the specified maximum rate for that year.

Notwithstanding any other law, a district that levied a maintenance tax for the 2005 tax year at a rate greater than \$1.50 per \$100 of taxable value in the district as permitted by special law may not levy a maintenance tax at a rate that exceeds the rate per \$100 of taxable value that is equal to the sum of \$0.17 and the product of the state compression percentage, as determined under Education Code 42.2516, multiplied by the rate of the maintenance tax levied by the district for the 2005 tax year.

Education Code 45.003(a), (d), (e), (f)

APPRAISAL ROLL By August- 1 or as soon thereafter as practicable, a district's tax assessor shall submit to the board the district's appraisal roll, showing the total appraised, assessed, and taxable values of all property and the total taxable value of new property.

Note: The Texas comptroller of public accounts annually publishes *Truth in Taxation: A Guide for Setting School District Tax Rates*. School districts should consult the *Truth in Taxation* guide, available in print form or through the comptroller's Web site, at <http://www.window.state.tx.us/taxinfo/proptax/tnt10.html>, for detailed guidance on setting local property tax rates.

By August- 1 or as soon thereafter as practicable, a district's tax collector shall certify to the board the estimates and amounts required by law.

Tax Code 26.04(b)

CERTIFIED
ESTIMATE

By April 30, the chief appraiser shall prepare and certify an estimate of the taxable value of school district property. *Tax Code 26.01(e)*

MEETING ON BUDGET
AND PROPOSED TAX
RATE

A board shall call a public meeting to discuss and adopt its budget and proposed tax rate. A board must provide notice of the budget and proposed tax rate meeting, as described below. The budget must be adopted before the adoption of the tax rate for the tax year in which the fiscal year covered by the budget begins. [See CE]

PUBLISHED NOTICE

A board president shall provide for publication of notice of the budget and proposed tax rate meeting in a daily, weekly, or biweekly newspaper published in a district. If no daily, weekly, or biweekly newspaper is published in a district, the president shall provide for publication of notice in at least one newspaper of general circulation in the county in which the district's central administrative office is located. The notice shall be published not earlier than the 30th day or later than the tenth day before the date of the hearing.

FORM OF NOTICE

The published notice of the public meeting to discuss and adopt the budget and the proposed tax rate must meet the size, format, and content requirements dictated by law.

The notice is not valid if it does not substantially conform to the language and format prescribed by the comptroller.

TAXPAYER
INJUNCTION

If a district has not complied with the published notice requirements in the FORM OF NOTICE described above, and the requirements for DISTRICTS WITH JULY 1 FISCAL YEAR below, if applicable, and the failure to comply was not in good faith, a person who owns taxable property in the district is entitled to an injunction restraining the collection of taxes by the district. An action to enjoin the collection of taxes must be filed before the date a district delivers substantially all of its tax bills.

DISTRICTS WITH
JULY 1 FISCAL YEAR

A district with a fiscal year beginning July- 1 may use the certified estimate of the taxable value of district property in preparing the published notice if the district does not receive the certified appraisal roll on or before June- 7. A district that uses a certified estimate may adopt a budget at the public meeting designated in the published notice prepared using the estimate, but the district may not adopt a tax rate before the district receives the certified appraisal roll for the district.

After receipt of the certified appraisal roll, a district must publish a revised notice and hold another public meeting before the district may adopt a tax rate that exceeds:

1. The rate proposed in the notice prepared using the estimate;
or

2. The district's rollback rate determined under Tax Code 26.08 using the certified appraisal roll.

**DECREASE IN DEBT
SERVICE RATE**

If the debt service rate calculated under Education Code 44.004(c)(5)(A)(ii)(b) decreases after the publication of the notice required by this section, the board president is not required to publish another notice or call another meeting to discuss and adopt the budget and the proposed lower tax rate.

Education Code 44.004

TAX RATE

Before the later of September- 30 or the 60th day after the date the certified appraisal roll is received, a board shall adopt a tax rate for the current tax year that reflects the two components, maintenance and operations expenditures and the debt service rate ~~published-~~ **calculated** under Education Code 44.004(c)(5)(A)(ii)(b), and shall notify the assessor of the tax rate adopted. The two components shall be approved separately. *Tax Code 26.05(a)*

A board may not impose property taxes in any year until it has adopted a tax rate for that year, and the annual tax rate must be set by ordinance, resolution, or order. The vote on the ordinance, resolution, or order setting the tax rate must be separate from the vote adopting the budget. The budget shall be adopted before the adoption of the tax rate. *Tax Code 26.05(b); Education Code 44.004(g)*

EXCEPTION

A district may adopt a budget after the district adopts a tax rate for the tax year in which the fiscal year covered by the budget begins if the district elects to adopt a tax rate before receiving the certified appraisal roll for the district. The board may adopt a tax rate for the current tax year before receipt of the certified appraisal roll if the chief appraiser of the appraisal district in which the district participates has, by April 30, certified to the assessor for the district an estimate of the taxable value of property in the school district as provided by Education Code 26.01(e). If a district adopts a tax rate before the adoption of the budget, the effective tax rate and the rollback tax rate of the district shall be calculated based on the certified estimate of taxable value. *Education Code 44.004(j); Tax Code 26.01(e), ~~26.05(g)~~*

EFFECTIVE TAX RATE

The vote on the ordinance setting a tax rate that exceeds the effective tax rate must be a record vote. A motion to adopt an ordinance setting a tax rate that exceeds the effective tax rate must be made in the following form: "I move that the property tax rate be increased by the adoption of a tax rate of (specify tax rate), which is effectively a (insert percentage by which the proposed tax rate exceeds the effective tax rate) percent increase in the tax rate."

MAINTENANCE AND
OPERATIONS TAX
RATE

If the ordinance sets a tax rate that, if applied to the total taxable value, will impose an amount of taxes to fund maintenance and operation expenditures of the taxing unit that exceeds the amount of taxes imposed for that purpose in the preceding year, a board must include in the ordinance in type larger than the type used in any other portion of the document the following statement: "THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE"; and if the tax rate exceeds the effective maintenance and operations rate, the following statement: "THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE EFFECTIVE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(Insert amount)."

INTERNET POSTING

A district shall also include on the home page of any Internet Web site operated by the district the following statement: "(Insert name of unit) ADOPTED A TAX RATE THAT WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE"; and if the tax rate exceeds the effective maintenance and operations rate, the following statement: "THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE EFFECTIVE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(Insert amount)."

Tax Code 26.05(b)

ELECTION TO RATIFY
SCHOOL TAXES

If a board adopts a tax rate that exceeds a district's rollback tax rate as defined in Tax Code 26.08, the registered voters of the district at an election held for that purpose must determine whether to approve the adopted tax rate. When increased expenditure of money is necessary due to a natural disaster and the governor has requested federal disaster assistance, an election is not required.

Tax Code 26.08(a)

A board shall order that the election be held in a district on a date not less than 30 or more than 90 days after the date on which it adopted the tax rate. The election need not be held on a uniform election date unless a uniform election date falls within the 30–90 day time period. *Tax Code 26.08(b)*

PROPOSITION

In addition to any other requirement imposed by law for a proposition, including a provision prescribing the proposition language, a proposition submitted to the voters for approval of the imposition or increase of a tax shall specifically state

	<p>the amount of or maximum tax rate of the tax or tax increase for which approval is sought. <i>Education Code 52.072(e)</i></p>
APPROVAL OF PROPOSITION	<p>If a majority of votes cast in a district favor the proposition, the tax rate for the current year is the rate that was adopted by the board. If the proposition is not approved, a board may not adopt a tax rate for the current year that exceeds a district's rollback tax rate. <i>Tax Code 26.08(c)-(d)</i></p>
CALL FOR ELECTION	<p>A call for an election shall be made not later than the 62nd day before election day.</p>
EXCEPTIONS	<p>For an election to be held on the date of the general election for state and county officers, the November uniform election date of even-numbered years, the election shall be called not later than the 70th78th day before the election day.</p> <p>For an election to be held on a uniform election date other than the date of the general election for state and county officers, the election shall be called not later than the 71st day before election day.</p> <p>An election under Tax Code 26.08 to ratify a tax rate adopted by a board under Tax Code 26.05(g) shall be ordered not later than the 30th day before election day.</p> <p><i>Election Code 3.003, .005, 41.002</i> [See BBB]</p>
NOTICE TO COUNTY CLERK	<p>A board shall deliver notice of the election to the county clerk of each county in which the district is located not later than the 60th day before election day.</p>
EXCEPTION	<p>If a board orders an election under Tax Code 26.08 to ratify a tax rate adopted by the board under Tax Code 26.05(g), the board shall deliver notice of the election to the county clerk of each county in which the school district is located not later than the 30th day before election day.</p> <p><i>Election Code 4.008</i></p>
PRECLEARANCE REQUIRED	<p>A rollback election is subject to federal preclearance requirements to the extent that the school district makes changes in the practices or procedures to be followed. Any discretionary setting of the date for a rollback election or scheduling of events leading up to or following a rollback election is subject to the preclearance requirement. 28- CFR 51.17 [See BBB]</p>
TAX INFORMATION TO COUNTY	<p>A district shall provide to the county assessor-collector for each county in which all or part of district territory is located the district's adopted tax rate, maintenance and operations rate, debt rate, effective tax rate, effective maintenance and</p>

operations rate, and rollback tax rate for posting on the county's Internet Web site. The district shall provide the information annually following the adoption of a tax rate by the District for the current tax year. *Tax Code 26.16(a)-(b)*

DISCOUNTS

A board may adopt one or both of the following discount options for early payment of district taxes. *Tax Code 31.05(a)*

OPTION 1

If a board adopts Option 1, the following apply regardless of the date on which a district mails its tax bills.

1. Three percent if the tax is paid in October or earlier.
2. Two percent if the tax is paid in November.
3. One percent if the tax is paid in December.

Tax Code 31.05(b)

This discount does not apply to taxes that are calculated too late for it to be available. *Tax Code 31.04(c)*

OPTION 2

If a board adopts Option 2, the following discounts apply only when a district mails its tax bills after September- 30:

1. Three percent if the tax is paid before or during the next full calendar month following the date on which the tax bills were mailed.
2. Two percent if the tax is paid during the second full calendar month following the date on which the tax bills were mailed.
3. One percent if the tax is paid during the third full calendar month following the date on which the tax bills were mailed.

Tax Code 31.05(c)

BOTH OPTIONS

If a board adopts both discount options, the discounts described at Option 1 apply unless a district mails its tax bills after September- 30, in which case only the discounts described at Option 2 apply.

Tax Code 31.05(a)

~~*Tax Code 31.05*~~

RESCISSION

The board may rescind a discount lawfully adopted by the board. The rescission of a discount takes effect in the tax year following the year in which the discount is rescinded. *Tax Code 31.05(d)*

SPLIT PAYMENT

A board may provide for split payment of taxes. If a person pays one-half of the taxes before December- 1, he or she may pay the remaining one-half of the taxes without penalty or interest at any time before July- 1 of the following year. This payment option does

not apply to taxes that are calculated too late for it to be available.
Tax- Code 31.03, ~~31.04(c)~~

IN CERTAIN
COUNTIES

The board of a district located in a county having a population of ~~250~~ **not less than 285,000** ~~and not~~ more **than 300,000** that borders a county having a population of 3.3 million or more and the Gulf of Mexico that has its taxes collected by another taxing unit that has adopted the split-payment option may provide that the split-payment option does not apply to the taxing unit's taxes collected by the other taxing unit. *Tax Code 31.03(d)*

DISASTER AREA

Owners of certain property in a disaster area are permitted to pay taxes in installment payments. This option applies to:

1. Real property that:
 - a. Is the residence homestead of the owner or consists of property that is used for residential purposes and that has fewer than five living units, or is owned or leased by a business entity that had not more than the amount calculated as provided by Tax Code 31.032(h) in gross receipts in the entity's most recent federal tax year or state franchise tax annual period, according to the applicable federal income tax return or state franchise tax report of the entity; and
 - b. Is located in a disaster area and has been damaged as a direct result of the disaster;
2. Tangible personal property that is owned or leased by a business entity described above at number 1(a); and
3. Taxes that are imposed on the property by a taxing unit before the first anniversary of the disaster.

If the owner of such property pays at least one-fourth of the taxes imposed on the property before the delinquency date, accompanied by notice that the person will pay the remaining taxes in installments, the owner may make the remainder of the payments in three equal installments. Such installment payments shall not incur penalty or interest if paid by the applicable dates provided for in ~~the~~ Tax Code **31.032**.

Tax Code 31.032(a)-(b)

PERFORMING
SERVICES IN LIEU OF
PAYING TAXES

A board may permit certain individuals or business entities to provide certain services to a district in lieu of paying the district property taxes. While performing services for a district, the individual is not an employee of the district and is not entitled to any benefit,

LOCAL REVENUE SOURCES
AD VALOREM TAXES

CCG
(LEGAL)

including workers' compensation coverage, that the district provides to its employees.

PERSONS 65 AND
OVER

Subject to the requirements contained in Tax Code 31.035, a board by order or resolution may permit an individual who is at least 65 years of age to perform services for the taxing unit in lieu of paying taxes imposed by a district on property owned by the individual and occupied as the individual's residence homestead.

Tax Code 31.035

TEACHING
SERVICES BY
INDIVIDUAL

Subject to the requirements contained in Tax Code 31.036, a board by resolution may permit qualified individuals, who are not employed by a district, to perform teaching services for the district at a junior high school or high school of the district in lieu of paying taxes imposed by the district on property owned and occupied by the individual as a residence homestead. *Tax Code 31.036*

TEACHING
SERVICES BY
EMPLOYEE OF
BUSINESS ENTITY

Subject to the requirements contained in Tax Code 31.037, a board by resolution may authorize a corporation or other business entity to permit a qualified individual employed by the business entity to perform teaching services in a high school or a junior high school for a district in lieu of paying taxes imposed by the district on property owned by the business entity. *Tax Code 31.037*

INSTALLMENT
PAYMENTS
CERTAIN
HOMESTEADS

An individual who is disabled or at least 65 and qualifies for a homestead exemption may pay taxes on the residence homestead property in installments. To do so, the individual must pay at least one-fourth of the taxes due before the delinquency date. This payment must be accompanied by notice that the individual will pay the remaining taxes in installments. The person may pay the remaining taxes without penalty or interest. The first installment must be paid before April- 1, the second before June- 1, and the third before August- 1. *Tax Code 31.031*

PARTIAL PAYMENTS

The tax collector may decide to accept partial payments of district property taxes. Acceptance of a partial payment does not affect the delinquency date, but penalties and interest are incurred only by the portion of tax that remains unpaid on the date the tax becomes delinquent. The discounts described above do not apply to any portion of a partial payment of district taxes. *Tax Code 31.07(c)*

DELINQUENCY DATE

Taxes are delinquent if not paid before February- 1 of the year following the year in which imposed, except as provided below:

1. A district has provided for split payments. *Tax Code 31.03*
2. A district's tax bills are mailed after January- 10. *Tax Code 31.04(a)*

3. A district's tax bills are mailed after September- 30 and the board has adopted discounts provided by Tax Code 31.05(c).
Tax Code 31.04(d)

Tax Code 31.02

DELINQUENT TAX
COLLECTION

A board may contract with any competent attorney to represent the district to enforce the collection of delinquent taxes. The attorney's compensation is set in the contract, but the total amount of compensation provided may not exceed 20 percent of the amount of delinquent tax, penalty, and interest collected. *Tax Code 6.30(c)*

ADDITIONAL
PENALTIES

If a district or the tax collector for the district has contracted with a private attorney for the collection of delinquent taxes, the board may impose, by official action, an additional penalty on taxes that become delinquent on or after February- 1 but not later than May- 1 and remain delinquent on July- 1 of the year in which they become delinquent. This penalty may not exceed the amount of compensation specified in the contract with the attorney to be paid in connection with the collection of the delinquent taxes and shall be secured by a tax lien. A district's tax collector shall deliver notice to the property owner of the delinquency and the penalty 30 to 60 days before July- 1. *Tax Code 33.07*

If a district or the tax collector for the district has imposed the penalty described above and has contracted with a private attorney for collection of delinquent taxes, the board may impose, by official action, an additional penalty on all taxes that become delinquent on or after June- 1 under Tax Code 26.15(e), 31.03, 31.031, 31.032, ~~or 31.04~~, **or 42.42**. This penalty may not exceed the amount of compensation specified in the contract with the attorney to be paid in connection with the collection of the delinquent taxes and shall be secured by a tax lien. A district's tax collector shall send notice of the delinquency and the penalty to the property owner. The penalty is incurred on the first day of the first month that begins at least 21 days after the date the notice is sent. *Tax Code 33.08*

HOMESTEAD
EXEMPTIONS

An adult is entitled to exemption from taxation of \$15,000 of the appraised value of his residence homestead except that \$10,000 of the exemption does not apply to an entity operating under former Education Code Chapters 17, 18, 25, 26, 27, or 28, as those chapters existed on May- 1, 1995. An adult who is disabled or 65 or older is entitled to an additional \$10,000 exemption of the appraised value of his or her residence homestead. *Tax- Code- 11.13(b), (c)*

APPLICATION FOR
EXEMPTION

To receive the residence homestead exemptions, the person claiming the exemption must apply for the exemption. *Tax Code 11.43*

LOCAL REVENUE SOURCES
AD VALOREM TAXES

CCG
(LEGAL)

PERSONS 65 AND OVER OR DISABLED PERSONS	A district shall not increase the total annual amount of ad valorem tax it imposes on the residence homestead of an individual 65 years of age or older, or on the residence homestead of an individual who is disabled as defined by Section 11.13 of the Tax Code, above the amount of the tax it imposed in the first tax year in which the individual qualified that residence homestead for an applicable exemption. <i>Tax Code 11.26(a)</i>
OTHER LIMITATIONS	<p>Notwithstanding the other provisions of this section, if in the 2007 tax year an individual qualifies for a limitation on tax increases provided by this section on the individual's residence homestead and the first tax year the individual or the individual's spouse qualified for an exemption under Tax Code 11.13(c) for the same homestead was the 2006 tax year, the amount of the limitation provided by this section on the homestead in the 2007 tax year is equal to the amount computed as provided by Tax Code 11.26(a-1). <i>Tax Code 11.26(a-1)</i></p> <p>Notwithstanding the other provisions of this section, if in the 2007 tax year an individual qualifies for a limitation on tax increases provided by this section on the individual's residence homestead and the first tax year the individual or the individual's spouse qualified for an exemption under Tax Code 11.13(c) for the same homestead was a tax year before the 2006 tax year, the amount of the limitation provided by this section on the homestead in the 2007 tax year is equal to the amount computed as provided by Tax Code 11.26(a-2). <i>Tax Code 11.26(a-2)</i></p> <p>Except as provided at IMPROVEMENTS, below, a limitation on tax increases provided by this section on a residence homestead computed under Tax Code 11.26(a-1) or (a-2) continues to apply to the homestead in subsequent tax years until the limitation expires. <i>Tax Code 11.26(a-3)</i></p>
IMPROVEMENTS	A district may increase the taxes if improvements are made to the property, but that tax amount is then frozen. <i>Tax Code 11.26(b)</i>
PORTABILITY OF LIMITATION	If an individual who receives the 65-and-over limitation on tax increases subsequently qualifies for a different resident homestead, a district may impose taxes on the subsequently acquired homestead only in accordance with Tax Code 11.26. <i>Tax Code 11.26(g); f-(h)</i>
HOMESTEADS RENDERED UNINHABITABLE OR UNUSABLE	If a qualified residential structure for which the owner receives a homestead exemption under Tax Code 11.13 is rendered uninhabitable or unusable by a casualty or by wind or water damage, the owner may continue to receive the exemption for the structure and the land and improvements used in the residential occupancy of the structure while the owner constructs a replacement qualified

	<p>residential structure on the land in accordance with Tax Code 11.135 and 11.26(n)–(o) and 34 Administrative Code 9.416. <i>Tax Code 11.135, 11.26(n)–(o); 34 TAC 9.416</i></p>
DISABLED VETERANS	<p>A disabled veteran who receives from the U.S. Department of Veterans Affairs or its successor 100 percent disability compensation due to a service-connected disability and a rating of 100 percent disabled or of individual unemployability is entitled to an exemption from taxation of the total appraised value of the veteran’s residence homestead. <i>Tax Code 11.131</i></p>
ADDITIONAL EXEMPTIONS	<p>A board may grant additional tax exemptions for homesteads, historic sites, certain tax-exempt corporations, and charitable organizations, as provided by law. <i>Tax Code 11.13, 11.184, 11.24; Tex. Const. Art. VIII, Sec. 1-b</i></p>
NOTICE OF OPTIONAL EXEMPTION	<p>If a district adopts, amends, or repeals an exemption that the district by law has the option to adopt or not, the district shall notify the appraisal office of its action and of the terms of the exemption within 30 days after the date of its action. <i>Tax Code 6.08</i></p>
NATURAL DISASTER	<p>If a district is located partly or entirely inside an area declared by the governor to be a natural disaster area, the board may authorize the reappraisal of all property damaged in the disaster at its market value immediately after the disaster. <i>Tax Code 23.02(a)</i></p>
REINVESTMENT ZONES / TAX INCREMENT FINANCING	<p>When a portion of the real property taxable by a district is proposed for inclusion in a municipal or county reinvestment zone, the board shall be notified of a description of the proposed boundaries of the zone, the tentative plans for the development or redevelopment of the zone, and an estimate of the general impact of the proposed zone on property values and tax revenues. A district may request additional information from the governing body of the municipality or county proposing to designate a reinvestment zone, and board members may attend the formal presentation required of the governing body of the municipality or county. Within 15 days of receipt of the notice, a board shall designate a representative to meet with the governing body of the municipality or county proposing to designate a reinvestment zone to discuss the project plan and the reinvestment zone financing plan and shall notify the municipality or county governing body of its designation. <i>Tax Code 311.003(e), (f), (g)</i></p> <p>The governing body of a municipality or county may designate a geographic area as a reinvestment zone to promote development or redevelopment of the area if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably fore-</p>

BOARD OF DIRECTORS	<p>seeable future, in accordance with the Tax Increment Financing Act, Tax Code Chapter 311. Tax Code 311.003(a)</p> <p>A board may appoint one member of the reinvestment zone's board of directors if the district has approved the payment of all or part of the tax increment produced by the district into the tax increment fund for the zone or may waive that right. <i>Tax Code 311.009(a)</i></p> <p>In certain reinvestment zones, a board may be entitled to appoint more than one member of the reinvestment zone's board of directors. <i>Tax Code 311.0091(a), (f)-(b)</i></p> <p>When the reinvestment zone has been designated upon petition of property owners under Tax Code 311.005(a)(4), a board may appoint a member or members, as appropriate, of the reinvestment zone's board of directors only if it has approved the payment of all or part of the tax increment produced by a district into the tax increment fund for the zone. <i>Tax Code 311.009(b), 311.0091(c)</i></p>
COLLECTION AND DEPOSIT OF TAX INCREMENTS	<p>A district shall provide for the collection of its taxes in the zone as for any other property tax and shall pay into the zone's tax increment fund the amount specified by law. Notwithstanding any termination of the reinvestment zone and unless otherwise specified by an agreement between the district and the municipality or county that created the zone, this payment shall be made no later than 90 days after the later of the delinquency date for district property taxes, except that a or the date the municipality or county that created the zone submits to the district an invoice specifying the tax increment produced by the district and the amount the district is required to pay into the tax increment fund for the zone. A district is not required to pay the portion attributable to delinquent taxes until those taxes are collected. A district shall not be required to pay a tax increment into the zone's tax increment fund beyond three years from the date the zone was created, except as provided by law. <i>Tax Code 311.013</i></p> <p>A district is not required to pay into the tax increment fund any of its tax increment produced from a reinvestment zone created upon petition of property owners under Tax Code 311.005(a) unless it enters into an agreement to do so with the governing body of the municipality or county that created designated the zone. <i>Tax Code 311.013(f)</i></p> <p>A district is not required to pay into the tax increment fund any of its tax increment produced from property located in an area added to a reinvestment zone under Tax Code 311.007 unless the board enters into an agreement to do so with the governing body of the municipality or county that created the zone. <i>Tax Code 311.013(k)</i></p>

A district that participates in a zone is not required to increase the percentage or amount of the tax increment to be contributed by the district because of an amendment to the project plan or reinvestment zone financing plan for the zone unless the board by official action approves the amendment. Tax Code 311.011(g)

A district whose taxable value is reduced under Government Code 403.302(d)(4) shall pay into the tax increment fund, in addition to the amount otherwise required to be paid, the amount by which the amount of taxes the district would have been required to pay into the fund in the current year if the district levied taxes at the rate the district levied in 2005 exceeds the amount the district is otherwise required to pay into the fund in the year of the reduction. **This additional amount may not exceed the amount the district receives in state aid for the current tax year under Education Code 42.2514. The district shall pay the additional amount after the district receives the state aid to which the district is entitled for the current tax year under Education Code 42.2514.** Tax Code 311.013(n)

Notwithstanding the designation of a later termination date under Tax Code 311.017(a), a district that taxes real property located in the reinvestment zone is not required to pay any of its tax increment into the tax increment fund for the zone after the termination date designated in the ordinance or order creating the zone unless the board enters into an agreement to do so with the governing body of the municipality or county that created the zone. Tax Code 311.017(a-1)

If the governing body of the municipality or county that designated a reinvestment zone extends the term of all or a portion of the zone, a district is not required to participate in the zone or portion of the zone for the extended term unless the district enters into a written agreement to do so. Tax Code 311.007(c)

GOODS-IN-TRANSIT

A person is entitled to an exemption from taxation of the appraised value of that portion of the person's property that consists of goods-in-transit.

A~~In accordance with Tax Code 11.253,~~ a board may provide for the taxation of goods-in-transit exempt as set out above and not exempt under other law. The official action to tax the goods-in-transit must be taken before January 1 of the first tax year in which the governing body proposes to tax goods-in-transit. Before acting to tax the exempt property, a board must conduct a public hearing as required by ~~Section 1-n(d), Article VIII,~~ Texas Constitution: **Article VIII, Section 1-n(d)**. The goods-in-transit remain subject to taxation by a district until the board rescinds or repeals its previous

action to tax goods-in-transit, or otherwise determines that the exemption prescribed above will apply to that district.

Notwithstanding official action that was taken before October 1, 2011, to tax goods-in-transit, a district may not tax such goods-in-transit in a tax year that begins on or after January 1, 2012, unless the board takes official action on or after October 1, 2011, to provide for the taxation of the goods-in-transit.

EXCEPTION

If the board, before October 1, 2011, took action to provide for the taxation of goods-in-transit and pledged the taxes imposed on the goods-in-transit for the payment of a debt of the district, the district tax officials may continue to impose the taxes against the goods-in-transit until the debt is discharged, if cessation of the imposition would impair the obligation of the contract by which the debt was created.

Tax Code 11.253(b), (j)–(j-2)

REINVESTMENT
ZONES
TAX ABATEMENT

On or after September 1, 2001, a school district may not enter into a tax abatement agreement under Tax Code Chapter 312. *Tax Code 312.002(f)*

DISTRICT
DESIGNATED

Notwithstanding any other provision of Tax Code Chapter 312 to the contrary, the board, in the manner required for official action and for purposes of Tax Code Chapter 313, Subchapter B or C [see TEXAS ECONOMIC DEVELOPMENT ACT, below], may designate an area entirely within the territory of the district as a reinvestment zone if the board finds that, as a result of the designation and the granting of a limitation on appraised value, for property located in the reinvestment zone, the designation is reasonably likely to:

1. Contribute to the expansion of primary employment in the reinvestment zone; or
2. Attract major investment in the reinvestment zone that would:
 - a. Be a benefit to property in the reinvestment zone and to the school district; and
 - b. Contribute to the economic development of the region of this state in which the school district is located.

The board may seek the recommendation of the commissioners court of each county and the governing body of each municipality that has territory in the district before designating an area as a reinvestment zone.

Tax Code 312.0025

TEXAS ECONOMIC
DEVELOPMENT ACT

In order to attract large-scale capital investments, create new jobs, strengthen the economy, and expand the property tax base, districts may offer certain ad valorem tax benefits and financial benefits in accordance with the Texas Economic Development Act. *Tax Code 313*

Districts should strictly interpret the criteria and selection guidelines and approve only those applications for an ad valorem tax benefit or financial benefit that:

1. Enhance the local community;
2. Improve the local public education system;
3. Create high-paying jobs; and
4. Advance the economic development goals of Texas as identified by the Texas Strategic Economic Development Planning Commission.

Tax Code 313.004(3)

Note: For complete information regarding the Texas Economic Development Act, refer to Tax Code Chapter 313- and **34 Administrative Code Chapter 9, Subchapter F.**

All investments made by a district shall comply with the Public Funds Investment Act (Texas Government Code Chapter 2256, Subchapter A) and all federal, state, and local statutes, rules or regulations. *Gov't Code 2256.026*

WRITTEN POLICIES

Investments shall be made in accordance with written policies approved by the board. The investment policies must primarily emphasize safety of principal and liquidity and must address investment diversification, yield, and maturity and the quality and capability of investment management. The policies must include:

1. A list of the types of authorized investments in which a district's funds may be invested;
2. The maximum allowable stated maturity of any individual investment owned by the district;
3. For pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date of the portfolio;
4. Methods to monitor the market price of investments acquired with public funds; ~~and~~
5. A requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis; ~~and~~
6. **Procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the provisions of Government Code 2256.021 [see LOSS OF REQUIRED RATING, below].**

Gov't Code 2256.005(b)

ANNUAL REVIEW

The board shall review its investment policy and investment strategies not less than annually. The board shall adopt a written instrument stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies. *Gov't Code 2256.005(e)*

ANNUAL AUDIT

A district shall perform a compliance audit of management controls on investments and adherence to the district's established investment policies. The compliance audit shall be performed in conjunction with the annual financial audit. *Gov't Code 2256.005(m)*

INVESTMENT
STRATEGIES

As part of the investment policy, a board shall adopt a separate written investment strategy for each of the funds or group of funds under the board's control. Each investment strategy must describe

the investment objectives for the particular fund under the following priorities in order of importance:

1. Understanding of the suitability of the investment to the financial requirements of the district;
2. Preservation and safety of principal;
3. Liquidity;
4. Marketability of the investment if the investment needs to be liquidated before maturity;
5. Diversification of the investment portfolio; and
6. Yield.

Gov't Code 2256.005(d)

INVESTMENT
OFFICER

A district shall designate one or more officers or employees as investment officer(s) to be responsible for the investment of its funds. If the board has contracted with another investing entity to invest its funds, the investment officer of the other investing entity is considered to be the investment officer of the contracting board's district. In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances that a prudent person would exercise in the management of the person's own affairs, but the board retains the ultimate responsibility as fiduciaries of the assets of the district. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the district. Authority granted to a person to invest the district's funds is effective until rescinded by the district or until termination of the person's employment by a district, or for an investment management firm, until the expiration of the contract with the district. *Gov't Code 2256.005(f)*

A district or investment officer may use the district's employees or the services of a contractor of the district to aid the investment officer in the execution of the officer's duties under Government Code, Chapter 2256. *Gov't Code 2256.003(c)*

INVESTMENT
TRAINING
INITIAL

Within 12 months after taking office or assuming duties, the treasurer or chief financial officer and the investment officer of a district shall attend at least one training session from an independent source approved either by the board or by a designated investment committee advising the investment officer. This initial training must contain at least ten hours of instruction relating to their respective responsibilities under the Public Funds Investment Act. *Gov't Code 2256.008(a)*

~~WITHIN A TWO-
YEAR PERIOD~~

ONGOING

The treasurer or chief financial officer and the investment officer must also attend an investment training session not less than once in a two-year period **that begins on the first day of the district's fiscal year and consists of the two consecutive fiscal years after that date**, and receive not less than ten hours of instruction relating to investment responsibilities under the Public Funds Investment Act from an independent source approved by the board or a designated investment committee advising the investment officer. If a district has contracted with another investing entity to invest the district's funds, this training requirement may be satisfied by having a board officer attend four hours of appropriate instruction in a two-year period **that begins on the first day of the district's fiscal year and consists of the two consecutive fiscal years after that date.** *Gov't Code 2256.008(a)-(b)*

Investment training shall include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with the Government Code, Chapter 2256. *Gov't Code 2256.008(c)*

STANDARD OF
CARE

Investments shall be made with judgment and care, under prevailing circumstances that a person of prudence, discretion, and intelligence would exercise in the management of his or her own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived. Investments shall be governed by the following objectives in order of priority:

1. Preservation and safety of principal;
2. Liquidity; and
3. Yield.

In determining whether an investment officer has exercised prudence with respect to an investment decision, the following shall be taken into consideration:

1. The investment of all funds, rather than the prudence of a single investment, over which the officer had responsibility.
2. Whether the investment decision was consistent with a board's written investment policy.

Gov't Code 2256.006

PERSONAL
INTEREST

A district investment officer who has a personal business relationship with a business organization offering to engage in an investment transaction with the district shall file a statement disclosing that personal business interest. An investment officer who is re-

lated within the second degree by affinity or consanguinity, as determined by Government Code Chapter 573, to an individual seeking to sell an investment to the investment officer's district shall file a statement disclosing that relationship. A required statement must be filed with the board and with the Texas Ethics Commission. For purposes of this policy, an investment officer has a personal business relationship with a business organization if:

1. The investment officer owns ten percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;
2. Funds received by the investment officer from the business organization exceed ten percent of the investment officer's gross income for the previous year; or
3. The investment officer has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the investment officer.

Gov't Code 2256.005(i)

QUARTERLY
REPORTS

Not less than quarterly, an investment officer shall prepare and submit to a board a written report of investment transactions for all funds covered by the Public Funds Investment Act. This report shall be presented to a board and a superintendent not less than quarterly, within a reasonable time after the end of the period. The report must:

1. Contain a detailed description of the investment position of a district on the date of the report;
2. Be prepared jointly and signed by all district investment officers.
3. Contain a summary statement for each pooled fund group (i.e., each internally created fund in which one or more accounts are combined for investing purposes). ~~The report must be prepared in compliance with generally accepted accounting principles and must state~~ **that states the:**
 - a. Beginning market value for the reporting period;
 - ~~b. Additions and changes to the market value during the period;~~
 - ~~e.b.~~ Ending market value for the period; and
 - ~~d.c.~~ Fully accrued interest for the reporting period.

4. State the book value and market value of each separately invested asset at the ~~beginning and~~ end of the reporting period by the type of asset and fund type invested.
5. State the maturity date of each separately invested asset that has a maturity date.
6. State the account or fund or pooled group fund in a district for which each individual investment was acquired.
7. State the compliance of the investment portfolio of a district as it relates to the district's investment strategy expressed in the district's investment policy and relevant provisions of Government Code, Chapter 2256.

If a district invests in other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, the reports shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the board by that auditor.

Gov't Code 2256.023

SELECTION OF
BROKER

A board or a designated investment committee, shall, at least annually, review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with a district.

Gov't Code 2256.025

AUTHORIZED
INVESTMENTS

A board may purchase, sell, and invest its funds and funds under its control in investments described below, in compliance with its adopted investment policies and according to the standard of care set out in this policy. Investments may be made directly by a board or by a nonprofit corporation acting on behalf of the board or an investment pool acting on behalf of two or more local governments, state agencies, or a combination of the two. *Gov't Code 2256.003(a)*

In the exercise of these powers, a board may contract with an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or with the State Securities Board to provide for the investment and management of its public funds or other funds under its control. A contract made for such purpose may not be for a term longer than two years. A renewal or extension of the contract must be made by a board by order, ordinance, or resolution. *Gov't Code 2256.003(b)*

The following investments are authorized::

1. Obligations, including letters of credit, of the United States or its agencies and instrumentalities; direct obligations of the state of Texas or its agencies and instrumentalities; collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States; other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the state of Texas, the United States, or their respective agencies and instrumentalities, **including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or by the explicit full faith and credit of the United States**; obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent; and bonds issued, assumed, or guaranteed by the state of Israel. *Gov't Code 2256.009(a)*

The following investments are not authorized:

- a. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal.
- b. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest.
- c. Collateralized mortgage obligations that have a stated final maturity date of greater than ten years.
- d. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

Gov't Code 2256.009(b)

2. Certificates of deposit or share certificates issued by a depository institution that has its main office or a branch office in Texas that is guaranteed or insured by the FDIC or its successor or the National Credit Union Share Insurance Fund or its successor and is secured by obligations described in item 1 above, including mortgage-backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates (but excluding those mortgage-backed securities described in Section 2256.009[b]) or secured in any other manner and

amount provided by law for the deposits of the investing entity. *Gov't Code 2256.010(a)*

In addition to the authority to invest funds in certificates of deposit under the previous section, an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under Government Code 2256.010:

- a. The funds are invested by the district through a **broker that has its main office or a branch office in this state and is selected from a list adopted by the district as required by Government Code 2256.025, or a** depository institution that has its main office or a branch office in this state and that is selected by the district;
- b. The **broker or** depository institution selected by the district arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the district;
- c. The full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States; **and**
- d. The **district appoints the** depository institution selected by the district ~~acts~~, **an entity described by Government Code 2257.041(d), or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3)** as custodian for the district with respect to the certificates of deposit issued for the account of the district entity; ~~and~~.

~~e. At the same time that the funds are deposited and the certificates of deposit are issued for the account of the district, the depository institution selected by the district receives an amount of deposits from customers of other federally insured depository institutions, wherever located, that is equal to or greater than the amount of the funds invested by the district through the depository institution.~~

Gov't Code 2256.010(b)

The investment policies may provide that bids for certificates of deposit be solicited orally, in writing, electronically, or in any combination of those methods. *Gov't Code 2256.005(c)*

3. Fully collateralized repurchase agreements that have a defined termination date~~;~~; are secured by **a combination of cash and** obligations of the United States or its agencies and instrumentalities~~;~~~~are~~; **require the securities being purchased by the district or cash held by the district to be** pledged to ~~a~~**the** district, held in the district's name, and deposited with the district or a third party selected and approved by the ~~board~~**district**, and **are** placed through a primary government securities dealer, as defined by the Federal Reserve or a financial institution doing business in Texas. The term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered. Money received by a district under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement. *Gov't Code 2256.011*
4. A securities lending program if:
 - a. The value of securities loaned is not less than 100 percent collateralized, including accrued income, and the loan allows for termination at any time;
 - b. The loan is secured by:
 - (1) Pledged securities described by Government Code 2256.009;
 - (2) Pledged irrevocable letters of credit issued by a bank that is organized and existing under the laws of the United States or any other state and continuously rated by at least one nationally recognized investment rating firm at not less than A or its equivalent; or
 - (3) Cash invested in accordance with Government Code 2256.009, 2256.013, 2256.014, or 2256.016;
 - c. The terms of the loan require that the securities being held as collateral be pledged to the investing entity, held in the investing entity's name, and deposited at the time the investment is made with the entity or with a third party selected by or approved by the investing entity; and
 - d. The loan is placed through a primary government securities dealer or a financial institution doing business in this state.

An agreement to lend securities under a securities lending program must have a term of one year or less.

Gov't Code 2256.0115

5. Banker's acceptance, with a stated maturity of 270 days or fewer from the date of issuance that will be liquidated in full at maturity, which is eligible for collateral for borrowing from a Federal Reserve Bank, and is accepted by a bank meeting the requirements of Government Code 2256.012(4). *Gov't Code 2256.012*
6. Commercial paper that has a stated maturity of 270 days or fewer from the date of issuance and is rated not less than A-1 or P-1 or an equivalent rating by at least two nationally recognized credit rating agencies or by one nationally recognized credit rating agency provided the commercial paper is fully secured by an irrevocable letter of credit issued by a bank organized and existing under United States law or the law of any state. *Gov't Code 2256.013*
7. No-load money market mutual funds that:
 - a. Are registered with and regulated by the Securities and Exchange Commission;
 - b. Provide a prospectus and other information required by the Securities and Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.);
 - c. Have a dollar-weighted average stated maturity of 90 days or fewer; and
 - d. Include in their investment objectives the maintenance of a stable net asset value of \$1 for each share.

However, investments in no-load money market mutual funds shall be limited to the percentages authorized by Government Code 2256.014(c).

8. No-load mutual funds that:
 - a. Are registered with the Securities and Exchange Commission;
 - b. Have an average weighted maturity of less than two years;
 - c. Are invested exclusively in obligations approved by Government Code Chapter 2256, Subchapter A, regard-

ing authorized investments (Public Funds Investment Act);

- d. Are continuously rated by at least one nationally recognized investment rating firm of not less than AAA or its equivalent; and
- e. Conform to the requirements in Government Code ~~Section~~ 2256.016(b) and (c) relating to the eligibility of investment pools to receive and invest funds of investing entities.

Investments in no-load mutual funds shall be limited to the percentages authorized by Government Code 2256.014(c). In addition, a district may not invest any portion of bond proceeds, reserves, and funds held for debt service, in no-load mutual funds described in this item.

Gov't Code 2256.014

- 9. A guaranteed investment contract, as an investment vehicle for bond proceeds, if the guaranteed investment contract:
 - a. Has a defined termination date.
 - b. Is secured by obligations described by Government Code ~~Section~~ 2256.009(a)(1), excluding those obligations described by Section 2256.009(b), in an amount at least equal to the amount of bond proceeds invested under the contract.
 - c. Is pledged to a district and deposited with the district or with a third party selected and approved by the district.

Bond proceeds, other than bond proceeds representing reserves and funds maintained for debt service purposes, may not be invested in a guaranteed investment contract with a term longer than five years from the date of issuance of the bonds.

To be eligible as an authorized investment:

- a. A board must specifically authorize guaranteed investment contracts as eligible investments in the order, ordinance, or resolution authorizing the issuance of bonds.
- b. A district must receive bids from at least three separate providers with no material financial interest in the bonds from which proceeds were received.

- c. A district must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received.
- d. The price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested.
- e. The provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

Gov't Code 2256.015

- 10. A public funds investment pool meeting the requirements of Government Code 2256.016 and 2256.019, if a board authorizes the investment in the particular pool by resolution. *Gov't Code 2256.016, ~~2256.019~~*

- 11. **“Corporate bond” means a senior secured debt obligation issued by a domestic business entity and rated not lower than “AA-” or the equivalent by a nationally recognized investment rating firm. The term does not include a debt obligation that on conversion would result in the holder becoming a stockholder or shareholder in the entity, or any affiliate or subsidiary of the entity, that issued the debt obligation; or is an unsecured debt obligation.** *Gov't Code 2256.0204(a)*

A district that qualifies as an issuer as defined by Government Code 1371.001 [see CCF] may purchase, sell, and invest its funds and funds under its control in corporate bonds that, at the time of purchase, are rated by a nationally recognized investment rating firm “AA” or the equivalent and have a stated final maturity that is not later than the third anniversary of the date the corporate bonds were purchased. *Gov't Code 2256.0204(b)–(c)*

The district is not authorized to:

- a. **Invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds, reserves, and other funds held for the payment of debt service, in corporate bonds; or**
- b. **Invest more than 25 percent of the funds invested in corporate bonds in any one domestic business entity, including subsidiaries and affiliates of the entity.**

Gov't Code 2256.0204(d)

The district may purchase, sell, and invest its funds and funds under its control in corporate bonds if the board:

- a. Amends its investment policy to authorize corporate bonds as an eligible investment;
- b. Adopts procedures to provide for monitoring rating changes in corporate bonds acquired with public funds, and liquidating the investment in corporate bonds; and
- c. Identifies the funds eligible to be invested in corporate bonds.

Gov't Code 2256.0204(e)

The district investment officer, acting on behalf of the district, shall sell corporate bonds in which the district has invested its funds not later than the seventh day after the date a nationally recognized investment rating firm:

- a. Issues a release that places the corporate bonds or the domestic business entity that issued the corporate bonds on negative credit watch or the equivalent, if the corporate bonds are rated "AA" or the equivalent at the time the release is issued; or
- b. Changes the rating on the corporate bonds to a rating lower than "AA" or the equivalent.

Gov't Code 2256.0204(f)

Corporate bonds are not an eligible investment for a public funds investment pool. *Gov't Code 2256.0204(g)*

CHANGE IN LAW

A district is not required to liquidate investments that were authorized investments at the time of purchase. *Gov't Code 2256.017*

LOSS OF
REQUIRED RATING

An investment that requires a minimum rating does not qualify as an authorized investment during the period the investment does not have the minimum rating. A district shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating. *Gov't Code 2256.021*

SELLERS OF
INVESTMENTS

A written copy of the investment policy shall be presented to any person offering to engage in an investment transaction with a district or to an investment management firm under contract with a district to invest or manage the district's investment portfolio. For purposes of this section, a business organization includes investment pools and an investment management firm under contract

OTHER REVENUES
INVESTMENTS

CDA
(LEGAL)

with a district to invest or manage the district's investment portfolio. The qualified representative of the business organization offering to engage in an investment transaction with a district shall execute a written instrument in a form acceptable to the district and the business organization substantially to the effect that the business organization has:

1. Received and thoroughly reviewed the district investment policy; and
2. Acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the district and the organization that are not authorized by the district's policy, except to the extent that this authorization is dependent on an analysis of the makeup of the district's entire portfolio or requires an interpretation of subjective investment standards.

The investment officer may not acquire or otherwise obtain any authorized investment described in a district's investment policy from a person who has not delivered to the district the instrument described above.

Gov't Code 2256.005(k)-(l)

DONATIONS

A gift, devise, or bequest made to provide college scholarships for district graduates may be invested by a board as provided in Property Code 117.004, unless otherwise specifically provided by the terms of the gift, devise, or bequest. *Education Code 45.107*

Investments donated to a district for a particular purpose or under terms of use specified by the donor are not subject to the requirements of Government Code Chapter 2256, Subchapter A. *Gov't Code 2256.004(b)*

ELECTRONIC FUNDS
TRANSFER

A district may use electronic means to transfer or invest all funds collected or controlled by the district. *Gov't Code 2256.051*

SALE OR EXCHANGE
OF REAL PROPERTY

A board may authorize the sale of any property, other than minerals, held in trust for free school purposes, by means of a board resolution. ~~A~~**The** board president shall execute a deed to the purchaser ~~which shall recite~~**reciting** the board resolution authorizing the sale. A district may employ, retain, contract with, or compensate a licensed real estate broker or salesperson for assistance in the acquisition or sale of real property. *Education Code 11.154*

PUBLICATION OF
NOTICE AND
BIDDING
REQUIREMENTS

~~Any~~**Except for the types of land and interests described below, before land owned by a district may be sold or exchanged for other land, notice to the general public of the offer of the land for sale or exchange of land by a district, except as permitted by Local Government Code 272.001(b), (g), or (j), shall be in accordance with the following legal requirements:**

~~1. A board shall publish~~**must be published** in a newspaper of general circulation in **either** the county ~~wherein which~~ the land is located or ~~in an adjoining county~~, if there is no such newspaper, ~~a notice to the general public that the land is to be offered for sale or exchange, its in an adjoining county. The notice must include a~~ description, **of the land, including** its location, and the procedure ~~underby~~ which sealed bids to purchase the land or offers to ~~trade for~~**exchange** the land may be submitted.

~~2. Notice shall~~ **The notice must** be ~~so given~~**published** on ~~at least~~ two separate ~~occasions~~**dates** and ~~no~~**the** sale or exchange ~~shall~~**may not** be made until after the 14th day after the ~~last notice is published.~~

date of the second publication. *Local Gov't Code 272.001(a)*

~~EXCEPTIONS TO
NOTICE AND
BIDDING
REQUIREMENTS~~
GENERALLY

The notice and bidding requirements set out above do not apply to the types of land and real property interests described below and owned by a district. The land and those interests described below may not be conveyed, sold, or exchanged for less than the fair market value of the land or interest unless the conveyance, sale, or exchange is with one or more abutting property owners who own the property outright. The fair market value is determined by an appraisal obtained by the district that owns the land or interest. The appraisal price is conclusive of the fair market value of the land or interest. This applies to:

1. Narrow strips of land, or land that because of its shape, lack of access to public roads, or small area cannot be used independently under its current zoning or under applicable subdivision or other development control ordinances;
2. Streets or alleys, owned outright or used by easement;

3. Land or a real property interest originally acquired for streets, rights-of-way, or easements that the political subdivision chooses to exchange for other land to be used for streets, rights-of-way, easements, or other public purposes, including transactions partly for cash;
4. Land that a district wants to have developed by contract with an independent foundation;
5. A real property interest conveyed to a governmental entity that has the power of eminent domain; or
6. The land or interests described by items 1 and 2 above may be sold to:
 - a. Abutting property owners in the same subdivision if the land has been subdivided; or
 - b. Abutting property owners in proportion to their abutting ownership, and the division between owners must be made in an equitable manner.

This section does not require the board to accept any bid or offer or to complete a sale or exchange.

Local Gov't Code 272.001(b)–(d)

EXCEPTION:
HIGHER
EDUCATION
~~INSTITUTION~~
INSTITUTIONS

A district may donate, exchange, convey, sell, or lease land, **improvements**, or ~~any other~~ interest in real property to an institution of higher education for less than its fair market value and without complying with the notice and bidding requirements ~~of Local Government Code 272.001(a)~~ in order to promote a public purpose related to higher education. A district shall determine the terms and conditions of the transaction so as to effectuate and maintain the public purpose. *Local Gov't Code 272.001(j)*

**OTHER
POLITICAL
SUBDIVISIONS**

A district may donate or sell for less than fair market value and without complying with the notice and bidding requirements a designated parcel of land or an interest in real property to another political subdivision if:

1. **The land or interest will be used by the political subdivision to which it is donated or sold in carrying out a purpose that benefits the public interest of the donating or selling district;**
2. **The donation or sale of the land or interest is made under terms that effect and maintain the public purpose for which the donation or sale is made; and**

- 3. The title and right to possession of the land or interest revert to the donating or selling district if the acquiring political subdivision ceases to use the land or interest in carrying out the public purpose.**

Local Gov't Code 272.001(I)

SALE OF
INSTRUCTIONAL
FACILITY FINANCED
WITH STATE
ALLOTMENT

If an instructional facility financed by bonds paid with state and local funds under Chapter 46 of the Education Code is sold before the bonds are fully paid, a district shall send to the comptroller a percentage of the district's net proceeds as required by statute. *Education Code 46.011* [See also CCA]

LEASE OF PROPERTY
TO A GOVERNMENTAL
ENTITY

To promote a public purpose of the district, a district may:

1. Lease property owned by the district to another political subdivision or an agency of the state or federal government; or
2. Make an agreement to provide office space in property owned by the district to the other political subdivision or agency.

A district:

1. Shall determine the terms of the lease or agreement so as to promote and maintain the public purpose;
2. May provide for the lease of the property or provision of the office space at less than fair market value; and
3. Is not required to comply with any competitive purchasing procedure or any notice and publication requirement imposed by this chapter or other law.

Local Gov't Code 272.005

SALE OR LEASE OF
MINERALS

Sale or lease of minerals in land belonging to a district shall be authorized by a resolution adopted by a majority of the board. *Education Code 11.153; Natural Resources Code 71.005*

PUBLICATION OF
NOTICE — MINERAL
LEASES

A board must give notice of its intention to lease the land. The notice must be published once a week for three consecutive weeks in a newspaper published in the county and with general circulation in the county, and shall:

1. Describe the land to be leased; and
2. Designate the time and place at which the board will receive and consider bids for the lease.

Natural Resources Code 71.005

When the sale or lease of minerals has been authorized by a board, the board president may execute a lease or may sell or ex-

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SALE, LEASE, OR EXCHANGE OF SCHOOL-OWNED PROPERTY

CDB
(LEGAL)

change the minerals in accordance with the terms authorized by the board. The mineral lease or deed shall recite the approval of the board. *Education Code 11.153*

SALE, LEASE, OR
CONVEYANCE OF ANY
INTEREST IN REAL
PROPERTY

A district subject to Civil Order 5281 shall notify the Commissioner whenever it intends to sell, lease, or otherwise convey any interest in real property. A district shall include in the instrument of conveyance the required restrictive covenants prohibiting racial discrimination. *United States v. Texas, 601 F.3d 354 (5th Cir. 2010); United States v. Texas, 321 F. Supp. 1043 (E.D. Tex. 1970), modified and supplemented, 330 F. Supp. 235 (E.D. Tex. 1971), aff'd in part, modified in part and remanded, 447 F.2d 441 (5th Cir. 1971) (Civil Order 5281)*

DONATION OF
FORMER SCHOOL
CAMPUS

A board may, by resolution, authorize the donation of real property and improvements formerly used as a school campus to a municipality, county, state agency, or nonprofit organization if:

1. Before adopting the resolution, the board holds a public hearing concerning the donation and, in addition to any other notice required, gives notice of the hearing by publishing the subject matter, location, date, and time of the hearing in a newspaper having general circulation in the territory of a district;
2. The board determines that:
 - a. The improvements have historical significance;
 - b. The transfer will further the preservation of the improvements; and
 - c. At the time of the transfer, the district does not need the real property or improvements for educational purposes; and
3. The entity to whom the transfer is made has shown, to the satisfaction of the board, that the entity intends to continue to use the real property and improvements for public purposes.

A board president shall execute a deed transferring ownership of the real property and improvements to the municipality, county, state agency, or nonprofit organization. The deed must:

1. Recite the resolution of a board authorizing the donation; and
2. Provide that ownership of the real property and improvements revert to a district if the municipality, county, state agency, or nonprofit organization:

OTHER REVENUES
SALE, LEASE, OR EXCHANGE OF SCHOOL-OWNED PROPERTY

CDB
(LEGAL)

- a. Discontinues use of the real property and improvements for public purposes; or
- b. Executes a document that purports to convey the property.

Education Code 11.1541(a), ~~(j)~~–(b)

Note: Regarding disposal of school buses, see CNB. Regarding disposal of school-owned personal property, see CI. **Regarding geospatial data products, see CQA.**

AUTHORIZED
EXPENDITURES

A district shall not lend its credit or gratuitously grant public money or things of value in aid of any individual, association, or corporation. *Tex. Const. Art. III, Sec. 52; Brazoria County v. Perry, 537 S.W.2d 89 (Tex. Civ. App.—Houston [1st Dist.] 1976, no writ)*

A district shall not grant any extra compensation, fee, or allowance to a public officer, agent, servant, or contractor after service has been rendered or a contract entered into and performed in whole or in part. Nor shall a district pay or authorize the payment of any claim against the district under any agreement or contract made without authority of law. *Tex. Const. Art. III, Sec. 53; Harlingen Indep. Sch. Dist. v. C.H. Page and Bro., 48 S.W.2d 983 (Comm. App. 1932)*

The state and county available funds disbursed to a district shall be used exclusively for salaries of professional certified staff and for interest on money borrowed on short time to pay such salaries, when salaries become due before school funds for the current year become available. Loans for paying professional certified staff salaries may not be paid out of funds other than those for the current year. *Education Code 45.105(b)*

Local funds from district taxes, tuition fees, other local sources, and state funds not designated for a specific purpose may be used for salaries of any personnel and for purchasing appliances and supplies; for the payment of insurance premiums; for buying school sites; for buying, building, repairing, and renting school buildings, including acquisition of school buildings and sites by leasing through annual payments with an ultimate option to purchase [see CHG]; and for other purposes necessary in the conduct of the public schools to be determined by a board. *Education Code 45.105(c)*

No public funds of a district may be spent in any manner other than as provided for in the budget adopted by the board. *Education Code 44.006(a)*

USE OF DISTRICT
RESOURCES

**IMPROVEMENTS TO
REAL PROPERTY**

Except as provided **below or** by Education Code 45.109(a-1) ~~an-~~
~~nor~~ (a-2) [see CX], a board shall not enter into an agreement authorizing the use of school district employees, property, or resources for the provision of materials or labor for the design, construction, or renovation of improvements to real property not owned or leased by the district. ~~Education Code 11.168~~

This section does not prohibit the board from entering into an agreement for the design, construction, or renovation of improvements to real property not owned or leased by the district if the improvements benefit real property owned or leased by the district. Benefits to real property owned or leased by

the district include the design, construction, or renovation of highways, roads, streets, sidewalks, crosswalks, utilities, and drainage improvements that serve or benefit the real property owned or leased by the district.

Education Code 11.168

HOTELS

The board may not impose taxes, issue bonds, use or authorize the use of district employees, use or authorize the use of district property, money, or other resources, or acquire property for the design, construction, renovation, or operation of a hotel. The board may not enter into a lease, contract, or other agreement that obligates the board to engage in an activity prohibited by this section or obligates the use of district employees or resources in a manner prohibited by this section.

“Hotel” means a building in which members of the public obtain sleeping accommodations for consideration. The term includes a motel.

Education Code 11.178

ELECTIONEERING

A board may not use state or local funds or other resources of the district to electioneer for or against any candidate, measure, or political party. *Education Code 11.169*

COMMITMENT OF CURRENT REVENUE

A contract for the acquisition, including lease, of real or personal property is a commitment of a district’s current revenue only, provided the contract contains either or both of the following provisions:

1. Retains to a board the continuing right to terminate the contract at the expiration of each budget period during the term of the contract.
2. Is conditioned on a best efforts attempt by the board to obtain and appropriate funds for payment of the contract.

Local Gov’t Code 271.903

FISCAL YEAR

A board may determine if a district’s fiscal year begins on July 1 or September 1 of each year. *Education Code 44.0011*

BUDGET PREPARATION

A superintendent shall prepare, or cause to be prepared, a proposed budget covering all estimated revenue and proposed expenditures of a district for the following fiscal year. *Education Code 44.002*

DEADLINES

The proposed budget shall be prepared on or before a date set by the State Board of Education, currently August 20 (June 19 if a dis-

trict uses a July 1 fiscal year start date). *Education Code 44.002(a); 19 TAC 109.1(a), ~~109.41~~*

The adopted budget must be filed with the Texas Education Agency on or before the date established in the *Financial Accountability System Resource Guide. Education Code 44.005; 19 TAC 109.1(a)*

PUBLIC MEETING ON
BUDGET AND
PROPOSED TAX RATE

After the proposed budget has been prepared, a board president shall call a board meeting for the purpose of adopting a budget for the succeeding fiscal year. Any taxpayer of a district may be present and participate in the meeting. *Education Code 44.004(a), (f)* [See CCG for provisions governing tax rate adoption]

The meeting must comply with the notice requirements of the Open Meetings Act. *Gov't Code 551.041, ~~551.043~~*

PUBLISHED NOTICE

A board president shall also provide for publication of notice of the budget and proposed tax rate meeting in a daily, weekly, or biweekly newspaper published in a district. If no daily, weekly, or biweekly newspaper is published in a district, the president shall provide for publication of notice in at least one newspaper of general circulation in the county in which the district's central administrative office is located. The notice shall be published not earlier than the 30th day or later than the tenth day before the date of the hearing.

FORM OF NOTICE

The published notice of the public meeting to discuss and adopt the budget and the proposed tax rate must meet the size, format, and content requirements dictated by law.

The notice is not valid if it does not substantially conform to the language and format prescribed by the comptroller.

TAXPAYER
INJUNCTION

If a district has not complied with the published notice requirements in the FORM OF NOTICE described above, and the requirements for DISTRICTS WITH JULY 1 FISCAL YEAR below, if applicable, and the failure to comply was not in good faith, a person who owns taxable property in the district is entitled to an injunction restraining the collection of taxes by the district. An action to enjoin the collection of taxes must be filed before the date a district delivers substantially all of its tax bills.

Education Code 44.004(b)–(e)

PUBLICATION OF
PROPOSED
BUDGET
SUMMARY

Concurrently with the publication of notice of the budget under Education Code 44.004, a district shall post a summary of the proposed budget on the school district's Internet Web site or, if the district has no Internet Web site, in the district's central administrative office.

The budget summary must include a comparison to the previous year's actual spending and information relating to per student and aggregate spending on:

1. Instruction;
2. Instructional support;
3. Central administration;
4. District operations;
5. Debt service; and
6. Any other category designated by the Commissioner.

Education Code 44.0041

DECREASE IN DEBT SERVICE RATE

If the debt service rate calculated under Education Code 44.004(c)(5)(A)(ii)(b) decreases after the publication of the notice required by this section, the board president is not required to publish another notice or call another meeting to discuss and adopt the budget and the proposed lower tax rate. *Education Code 44.004(g-1)*

BUDGET ADOPTION

A board shall adopt a budget to cover all expenditures for the succeeding fiscal year at the meeting called for that purpose and before the adoption of the tax rate for the tax year in which the fiscal year covered by the budget begins. *Education Code 44.004(f)-(g)*

CERTIFIED ESTIMATE

By April 30, the chief appraiser shall prepare and certify an estimate of the taxable value of school district property. *Tax Code 26.01(e)*

DISTRICTS WITH JULY 1 FISCAL YEAR

A district with a fiscal year beginning July 1 may use the certified estimate of the taxable value of district property in preparing the published notice if the district does not receive the certified appraisal roll on or before June 7. A district that uses a certified estimate may adopt a budget at the public meeting designated in the published notice prepared using the estimate, but a district may not adopt a tax rate before the district receives the certified appraisal roll for the district. *Education Code 44.004(h)-(i)*

BUDGET ADOPTION AFTER TAX RATE ADOPTION

Notwithstanding Education Code 44.004(g), (h), and (i), above, a district may adopt a budget after the district adopts a tax rate for the tax year in which the fiscal year covered by the budget begins if the district elects to adopt a tax rate before receiving the certified appraisal roll for the district as provided by Tax Code 26.05(g). Following adoption of the tax rate [see CCG], the district must publish notice and hold a public meeting before the district may adopt a budget. The comptroller shall prescribe the language and format to

be used in the notice. The district may use the certified estimate of taxable value in preparing the notice. *Education Code 44.004(j)*

PUBLICATION OF
ADOPTED BUDGET

On final approval of the budget by the board, a district shall post on the district's Internet Web site a copy of the budget adopted by the board. The district's Web site must prominently display the electronic link to the adopted budget.

A district shall maintain the adopted budget on the district's Web site until the third anniversary of the date the budget was adopted.

Education Code 39.084

AMENDMENT OF
APPROVED BUDGET

A board shall have the authority to amend the approved budget or to adopt a supplementary emergency budget to cover necessary unforeseen expenses.

Copies of any amendment or supplementary budget must be prepared and filed in accordance with State Board rules.

Education Code 44.006

FAILURE TO COMPLY
WITH BUDGET
REQUIREMENTS

A board member who votes to approve any expenditure of school funds in excess of the item or items appropriated in the adopted budget or a supplementary or amended budget commits a misdemeanor offense. *Education Code 44.052(c)*

CERTAIN DONATIONS

A district may donate funds or other property or service to the adjutant general's department or to the Texas National Guard. *Gov't Code 431.035(b), 431.045(b)*

FINANCIAL EXIGENCY

A board may adopt a resolution declaring a financial exigency for the district. The declaration expires at the end of the fiscal year during which the declaration is made unless the board adopts a resolution before the end of the fiscal year declaring continuation of the financial exigency for the following fiscal year. A board is not limited in the number of times the board may adopt a resolution declaring continuation of the financial exigency.

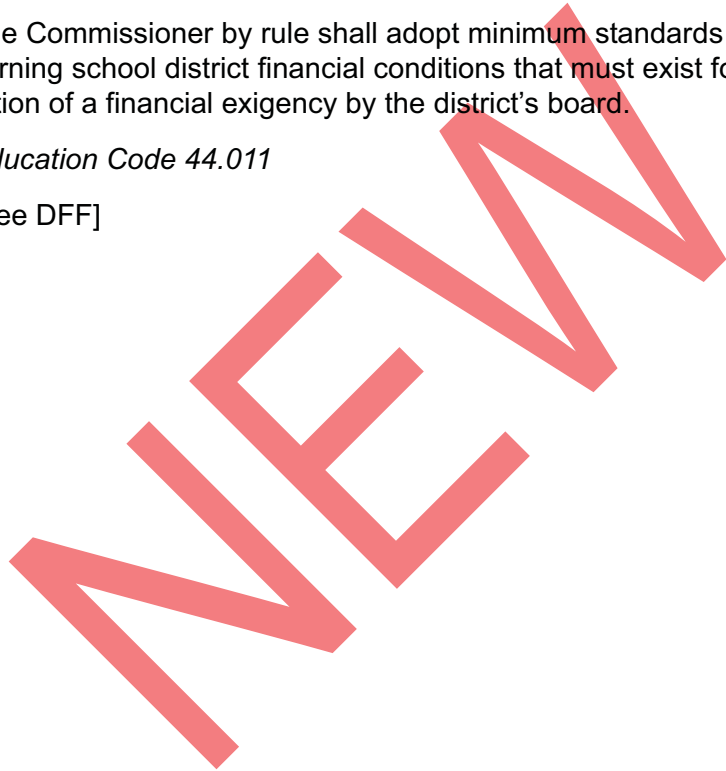
A board may terminate a financial exigency declaration at any time if the board considers it appropriate.

Each time the board adopts a resolution under this section, the board must notify the Commissioner.

The Commissioner by rule shall adopt minimum standards concerning school district financial conditions that must exist for declaration of a financial exigency by the district's board.

Education Code 44.011

[See DFF]



BOARD AUTHORITY	A board may adopt rules and procedures for the acquisition of goods and services. <i>Education Code 44.031(d)</i>
DELEGATION OF AUTHORITY	<p>A board may delegate its authority regarding an action authorized or required to be taken by a district by Education Code Chapter 44, Subchapter B, to a designated person, representative, or committee.</p> <p>A board may not delegate the authority to act regarding an action authorized or required to be taken by the board by Education Code Chapter 44, Subchapter B.</p>
DISASTER EXCEPTION	<p>Notwithstanding any other provision of the Education Code, in the event of a catastrophe, emergency, or natural disaster affecting a district, the board may delegate to the superintendent or designated person the authority to contract for the replacement or repair of school equipment under Education Code Chapter 44, Subchapter B if emergency replacement or repair is necessary for the health and safety of district students and staff.</p> <p><i>Education Code 44.0312</i></p>
INJUNCTION	<p>A court may enjoin performance of a contract made in violation of Education Code Chapter 44, Subchapter B. A county attorney, district attorney, criminal district attorney, citizen of the county in which a district is located, or any interested party may bring an action for an injunction. A party who prevails in an action brought under this subsection is entitled to reasonable attorney's fees as approved by the court. <i>Education Code 44.032(f)</i></p>
PURCHASES VALUED AT OR ABOVE \$50,000	<p>All district contracts for the purchase of goods and services, except contracts for the purchase of produce or vehicle fuel, valued at \$50,000 or more in the aggregate for each 12-month period, shall be made by the method that provides the best value for a district:</p> <ol style="list-style-type: none"> 1. Competitive bidding for services other than construction services. 2. Competitive sealed proposals for services other than construction services. 3. A request for proposals for services other than construction services. 4. An interlocal contract. 5. The reverse auction procedure as defined by Government Code 2155.062(d). 6. The formation of a political subdivision corporation under Local Government Code 304.001.

Education Code 44.031(a)

Note: Regarding construction of school facilities, see CV generally; CVA for competitive bidding; CVB for competitive sealed proposals; CVC ~~for design/build contracts;~~ and CVD, ~~CVE~~ for contracts using a construction manager; **CVE for design/build contracts**; and CVF for job order contracts for minor repairs/alterations.

FACTORS

In awarding a contract, a district shall consider:

1. Purchase price.
2. The reputation of the vendor and of the vendor's goods and services.
3. The quality of the vendor's goods or services.
4. The extent to which the goods or services meet the district's needs.
5. The vendor's past relationship with the district.
6. The impact on the ability of the district to comply with laws relating to historically underutilized businesses.
7. The total long-term cost to the district to acquire the goods or services.
- 8. For a contract that is not for goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor or the vendor's ultimate parent company or majority owner has its principal place of business in this state or employs at least 500 persons in this state.**
- ~~8.9.~~ Any other relevant factor specifically listed in the request for bids or proposals.

Education Code 44.031(b)

In awarding a contract by competitive sealed bid under Education Code 44.031, a district that has its central administrative office located in a municipality with a population of less than 250,000 may consider a bidder's principal place of business in the manner provided by Local Government Code 271.9051. This section does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 153.

Education Code 44.031(b-1)

The factors listed above are the only criteria that may be considered by a district in its decision to award a contract. *R.G.V. Vend-ing v. Weslaco Indep. Sch. Dist.*, 995 S.W.2d 897 (Tex. App.—Corpus Christi 1999, no pet.).

OUT-OF-STATE
BIDDERS

A board shall not award a contract for services or for purchase of supplies, materials, or equipment to a bidder whose principal place of business is not in this state, unless the non-resident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located. Gov't Code 2252.001–.002

This requirement shall not apply to a contract involving federal funds. A district shall rely on information published by the comptroller in evaluating the bids of a nonresident bidder. Gov't Code 2252.003–.004

CONTRACT WITH
PERSON INDEBTED
TO DISTRICT

A board may, by resolution, establish regulations permitting a school district to refuse to enter into a contract or other transaction with a person indebted to the school district. A district may refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the district.

The term "person" includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that seeks to enter into a contract or other transaction with a district requiring board approval.

Education Code 44.044

NOTICE
PUBLICATION

Notice of when and where bids or proposals or the responses to a request for qualifications will be received and opened shall be published in the county where a district's central administrative office is located, once a week for at least two weeks prior to the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is no newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which a district's central administrative office is located. In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately. *Education Code 44.031(g)*

ELECTRONIC BIDS OR
PROPOSALS

A district may receive bids or proposals through electronic transmission if the board adopts rules to ensure the identification, secu-

ity, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

An electronic bid or proposal is not required to be sealed. A provision of Education Code Chapter 44 that applies to a sealed bid or proposal applies to a bid or proposal received through electronic transmission in accordance with the rules adopted by the board.

Education Code 44.0313

PROFESSIONAL
SERVICES

The purchasing requirements of Education Code 44.031 do not apply to a contract for professional services rendered, including the services of an architect, attorney, **certified public accountant, engineer**, or fiscal agent.

A district may contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Government Code 2254.003, in lieu of the methods provided by Education Code 44.031.

Education Code 44.031(f)

Competitive bids shall not be solicited for professional services of any licensed or registered certified public accountant, architect, landscape architect, land surveyor, physician, optometrist, professional engineer, state-certified or state-licensed real estate appraiser, or registered nurse. Contracts for these professional services shall be made on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price. *Gov't Code 2254.002, ~~2254.003(a)~~*

An interlocal contract between a district and a purchasing cooperative may not be used to purchase engineering or architectural services. *Gov't Code 791.011(h)*

[See also CV]

EMERGENCY DAMAGE
OR DESTRUCTION

If school equipment, a school facility, or a part of a school facility or personal property is destroyed or severely damaged or, as a result of an unforeseen catastrophe or emergency, undergoes major operational or structural failure, and a board determines that the delay posed by the methods provided for in Education Code 44.031 would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment, school facility, or the part of the school facility may be made by methods other than those required by Education Code 44.031. *Education Code 44.031(h)*

COMPUTERS

A district may acquire computers and computer-related equipment, including computer software, through the Department of Information Resources (DIR) under contracts with the DIR in accordance with Government Code Chapter 2054 or 2157. *Education Code 44.031(i)*

AUTOMATED
INFORMATION
SYSTEM

A district may purchase an automated information system using the purchasing method described by Government Code 2157.068 for commodity items or a purchasing method designated by the comptroller to obtain the best value for the state, including a request for offers method. A district that purchases an item using a method listed above satisfies any state law requiring the district to seek competitive bids for the purchase of the item. *Gov't Code 2157.006; 34 TAC 20.391*

AUTOMATED
EXTERNAL
DEFIBRILLATORS

A school that purchases or leases an automated external defibrillator, as defined by Health and Safety Code 779.001, shall ensure that the defibrillator meets standards established by the federal Food and Drug Administration. *Education Code 44.047*

SOLE SOURCE

Compliance with Education Code 44.031 is not required for purchases that are available from only one source, including:

1. An item for which competition is precluded because of a patent, copyright, secret process, or monopoly.
2. A film, manuscript, or book.
3. A utility service, including electricity, gas, or water.
4. A captive replacement part or component for equipment.

The sole source exception shall not apply to mainframe data processing equipment and peripheral attachments with a single-item purchase price in excess of \$15,000.

Education Code 44.031(j), (l)-(k)

~~IMPERMISSIBLE
PRACTICES~~

~~A trustee, employee, or agent shall not, with criminal negligence, make or authorize separate, sequential, or component purchases to avoid the purchasing requirements set out in Education Code 44.031. An officer or employee shall not knowingly violate Education Code 44.031 in any other manner.~~

~~“Component purchases” means purchases of the component parts of an item that in normal purchasing practices would be made in one purchase. “Separate purchases” means purchases, made separately, of items that in normal purchasing practices would be made in one purchase. “Sequential purchases” means purchases, over a period, of items that in normal purchasing practices would be made in one purchase.~~

~~Violation of this provision is a Class B misdemeanor and an offense involving moral turpitude, conviction of which shall result in removal from office or dismissal from employment. A trustee who is convicted of a violation of this provision is considered to have committed official misconduct and for four years after the date of final conviction, the removed person is ineligible to be appointed or elected to public office in Texas, is ineligible to be employed by or act as an agent for the state or a political subdivision, and is ineligible to receive any compensation through a contract with the state or a political subdivision. [See BBC]~~

~~Education Code 44.032~~

INSURANCE

A contract for the purchase of insurance is a contract for the purchase of personal property and shall be made in accordance with Education Code 44.031. *Education Code 44.031; Atty. Gen. Op. DM-347 (1995)*

MULTIYEAR
CONTRACTS

A district may execute an insurance contract for a period longer than 12 months, if the contract contains either or both of the provisions described at COMMITMENT OF CURRENT REVENUE, below. If a district executes a multiyear insurance contract, it need not advertise for insurance vendors until the 12-month period during which the district will be executing a new insurance contract. *Atty. Gen. Op. DM-418 (1996)*

COMPETITIVE
BIDDING

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

A district shall award a competitively bid contract at the bid amount to the bidder offering the best value for the district. In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria. The selection criteria may include the factors listed in Education Code 44.031(b) [see FACTORS, above].

Except as provided below, Local Government Code Chapter 271, Subchapter B does not apply to a competitive bidding process under this policy.

Education Code 44.0351

OPENING BIDS

Bids may be opened only by a board at a public meeting or by an officer or employee of a district at or in an office of the district. A bid that has been opened may not be changed for the

purpose of correcting an error in the bid price. *Local Gov't Code 271.026*

A board shall have the right to reject any and all bids. *Local Gov't Code 271.027(a)*

SAFETY RECORD

In determining who is a responsible bidder, a board may take into account the safety record of the bidder; of the firm, corporation, partnership, or institution represented by the bidder; or of anyone acting for such firm, corporation, partnership, or institution, provided that:

1. The board has adopted a written definition and criteria for accurately determining the safety record of the bidder.
2. The board has given notice in the bid specifications that the safety record of a bidder may be considered in determining the bidder's responsibility.
3. The determinations are not arbitrary and capricious.

Local Gov't Code 271.0275

IDENTICAL BIDS

If a district receives two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, it shall select only one bidder from the identical bids.

If only one of the bidders submitting identical bids is a resident of a district, that bidder shall be selected. If two or more such bidders are residents of a district, one shall be selected by the casting of lots. In all other cases, one of the identical bids shall be selected by the casting of lots.

A board shall prescribe the manner of casting lots and shall be present when the lots are cast. All qualified bidders or their representatives may be present at the casting of lots.

Local Gov't Code 271.901

COMPETITIVE SEALED PROPOSALS

In selecting a vendor through competitive sealed proposals as authorized by Education Code 44.031(a)(2), a school district shall follow the procedures prescribed below.

REQUEST FOR PROPOSALS

The district shall prepare a request for competitive sealed proposals that includes information that vendors may require to respond to the request. The district shall state in the request for proposals the selection criteria that will be used in selecting the successful offeror.

OPENING PROPOSALS

The district shall receive, publicly open, and read aloud the names of the offerors and, if any are required to be stated, all prices stated in each proposal. Not later than the 45th day af-

ter the date on which the proposals are opened, the district shall evaluate and rank each proposal submitted in relation to the published selection criteria.

SELECTION

The district shall select the offeror that offers the best value for the district based on the published selection criteria and on its ranking evaluation. The district shall first attempt to negotiate a contract with the selected offeror. The district may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If the district is unable to negotiate a satisfactory contract with the selected offeror, the district shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.

**BEST VALUE
DETERMINATION**

In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria.

Education Code 44.0352~~REVERSE AUCTION~~

~~A district that uses the reverse auction procedure must include in the procedure a notice provision and other provisions necessary to produce a method of purchasing that is advantageous to the district and fair to vendors. Local Gov't Code 271.906(b)~~

~~Reverse auction procedure means:~~

- ~~1. A real-time bidding process usually lasting less than one hour and taking place at a previously scheduled time and Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services; or~~
- ~~2. A bidding process usually lasting less than two weeks and taking place during a previously scheduled period and at a previously scheduled Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services.~~

~~Gov't Code 2155.062(d)~~~~OUT-OF-STATE
BIDDERS~~

~~A board shall not award a contract for general construction, improvements, services, or public works projects or for purchase of supplies, materials, or equipment to a bidder whose principal place of business is not in this state, unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid a nonresident bidder to obtain a~~

~~comparable contract in the state in which the nonresident's principal place of business is located. Gov't Code 2252.001, 2252.002~~

~~This requirement shall not apply to a contract involving federal funds. A district shall rely on information published by the comptroller in evaluating the bids of a nonresident bidder. Gov't Code 2252.003, 2252.004~~

INTERLOCAL
AGREEMENTS

To increase efficiency and effectiveness, a district may contract or agree with other local governments and with state agencies, including the comptroller, to perform some of its purchasing functions.
Gov't Code 791.001, ~~791.011~~, ~~791.025~~

An interlocal contract must be authorized by a board and the governing body of each contracting party; must state the purpose, terms, rights, and duties of the contracting parties; and must specify that each party paying for the performance of governmental functions or services shall make those payments from current revenues available to the paying party.

An interlocal contractual payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract. The contract may be renewed annually.

Gov't Code 791.011(d)-(f)

A district may agree with another local government, including a nonprofit corporation that is created and operated to provide one or more governmental functions and services, or with the state or a state agency, including the comptroller, to purchase goods and services reasonably required for the installation, operation, or maintenance of the goods. Such an agreement may not, however, apply to services provided by firefighters, police officers, or emergency medical personnel.

A district that purchases goods and services by agreement with another local government or with the state or state agency satisfies the requirement to seek competitive bids for the purchase of goods and services.

Gov't Code 791.025(b), ~~(f)~~-(c); Atty. Gen. Op. JC-37 (1999)

STATE PURCHASING
PROGRAM

Purchasing services performed for a district by the comptroller shall include:

1. The extension of state contract prices to a district when the comptroller considers it feasible.
2. Solicitation of bids on items desired by a district if the solicitation is considered feasible by the comptroller and is desired by the district.

- 3. Provision of information and technical assistance to a district about the purchasing program.

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

Local Gov't Code 271.082

DISTRICT
REQUIREMENTS

A district may participate in the purchasing program, including participation in purchases that use the reverse auction procedure, by filing with the comptroller a resolution adopted by the board requesting that the district be allowed to participate on a voluntary basis, to the extent the comptroller deems feasible, and stating that the board shall:

- 1. Designate an official to act for the district in all matters relating to the program, including the purchase of items from the vendor under any contract.
- 2. Direct the decisions of its representative.
- 3. Be responsible for:
 - a. Submitting requisitions to the commission under contract(s) and for payment directly to the vendor; and
 - b. Electronically sending purchase orders directly to vendors, or complying with procedures governing a reverse auction purchase, and electronically sending the comptroller reports on actual purchases.
- 4. Be responsible for the vendor's compliance with all conditions of delivery and quality of the purchased item.

A purchase made through participation in this program meets any state requirement to seek competitive bids for the purchase of the item.

Local Gov't Code 271.083

MULTIPLE AWARD
CONTRACT
SCHEDULE

The comptroller shall develop a schedule of multiple award contracts that have been previously awarded using a competitive process by the federal government or any other governmental entity in any state.

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

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

Gov't Code 2155, Subch. 1

COOPERATIVE
PURCHASING
PROGRAM

A district may participate in a cooperative purchasing program with another local government or a local cooperative organization. If a district does so, it may sign an agreement with another participating local government or a local cooperative stating that the district will:

1. Designate a person to act on behalf of the district in all matters relating to the program.
2. Make payments to another participating local government or local cooperative organization or directly under a contract, as provided in the agreement.
3. Be responsible for the vendor's compliance.

If a district participates in a cooperative purchasing program, it satisfies any law requiring it to seek competitive bids.

Local Gov't Code 271.102; Atty. Gen. Op. JC-37 (1999)

CONTRACT-RELATED
FEE

A school district that enters into a purchasing contract valued at \$25,000 or more under Education Code 44.031(a)(5) (interlocal contract), under ~~Subchapter F, Chapter 271,~~ Local Government Code **Chapter 271, Subchapter F** (cooperative purchasing program), or under any other cooperative purchasing program authorized for school districts by law shall document any contract-related fee, including any management fee, and the purpose of each fee under the contract.

The amount, purpose, and disposition of any fee described above must be presented in a written report and submitted annually in an open meeting of the board. The written report must appear as an agenda item. The Commissioner ~~of Education~~ may audit the written report.

Education Code 44.0331

STATE COUNCIL ON
COMPETITIVE
GOVERNMENT

As approved by the State Council on Competitive Government, a district may voluntarily participate in a contract awarded by the council or a state agency under Government Code 2162. A district that purchases goods or services under this type of contract is considered to have satisfied any state law requiring competitive purchasing. *Gov't Code 2162.102(d)*

REVERSE AUCTION

A district that uses the reverse auction procedure must include in the procedure a notice provision and other provisions necessary to produce a method of purchasing that is advantageous to the district and fair to vendors. Local Gov't Code 271.906(b)

Reverse auction procedure means:

1. A real-time bidding process usually lasting less than one hour and taking place at a previously scheduled time and Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services; or
2. A bidding process usually lasting less than two weeks and taking place during a previously scheduled period and at a previously scheduled Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services.

Gov't Code 2155.062(d)

COMMITMENT OF
CURRENT REVENUE

A contract for the acquisition, including lease, of real or personal property is a commitment of a district's current revenue only, provided the contract contains either or both of the following provisions:

1. Retains to the board the continuing right to terminate the contract at the expiration of each budget period during the term of the contract.
2. Is conditioned on a best efforts attempt by the board to obtain and appropriate funds for payment of the contract.

Local Gov't Code 271.903

CHANGE ORDERS

If a change in plans or specifications is necessary after the performance of a contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the district may approve change orders making the changes. The district may grant general authority to an administrative official to approve the change orders.

The total contract price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants.

A contract with an original contract price of \$1 million or more may not be increased by more than 25 percent. If a change order for a contract with an original contract price of less than

\$1 million increases the contract amount to \$1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.

Education Code 44.0411

ENERGY OR WATER
CONSERVATION
MEASURES

A district may contract for energy or water conservation measures. Such a contract shall be let according to the procedures established for professional services by Government Code 2254.004.

A board shall establish a long-range energy plan to reduce a district's annual electric consumption by five percent beginning with the 2008 state fiscal year and consume electricity in subsequent fiscal years in accordance with the district's energy plan.

Education Code 44.901–.902 [See policy CL for legal requirements pertaining to such contracts and plans]

RECYCLED
PRODUCTS

A district shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. A district shall regularly review and revise its purchasing procedures and specifications for purchase of goods, supplies, equipment, and materials in order to:

1. Eliminate procedures and specifications that explicitly discriminate against products made of recycled materials.
2. Encourage the use of products made of recycled materials.
3. Ensure to the maximum extent economically feasible that the district purchase products that may be recycled when they have served their intended use.

A district may seek an exemption from compliance if it has a population of less than 5,000 within its geographic boundaries and demonstrates to the Water Commission that compliance would work a hardship on the district.

Health and Safety Code 361.426

AGRICULTURAL
PRODUCTS

If the cost and quality are equal, a district shall give preference in purchasing to agricultural products, including textiles and other similar products, that are produced, processed, or grown in Texas. "Processed" means canning, freezing, drying, juicing, preserving, or any other act that changes the form of a good from its natural state to another form. If Texas agricultural products are not equal in cost and quality to other agricultural products, a district shall give preference in purchasing to agricultural products produced, processed, or grown in the United States, if the cost and quality of the U.S. and foreign products are equal.

A district may not adopt product purchasing specifications that unnecessarily exclude agricultural products produced, processed, or grown in Texas.

VEGETATION FOR LANDSCAPING	<p>If cost is equal and the quality is not inferior, a district shall give preference to Texas vegetation when it purchases vegetation for landscaping purposes.</p> <p><i>Education Code 44.042</i></p>
BUS PURCHASE OR LEASE	<p>Each contract proposed for the purchase or lease of one or more school buses, including a lease with an option to purchase, shall be submitted to competitive bidding when the contract is valued at \$20,000 or more. <i>Education Code 44.031(l)</i> [See CNB]</p>
RIGHT TO WORK	<p>While engaged in procuring goods and services or awarding a contract, a district:</p> <ol style="list-style-type: none"> 1. May not consider whether a vendor is a member of or has another relationship with any organization; and 2. Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization. <p><i>Education Code 44.043</i></p>
LOBBYING RESTRICTION: TOBACCO EDUCATION GRANT FUNDS	<p>A district may not spend grant funds it receives from the Permanent Fund for Tobacco Education and Enforcement to pay:</p> <ol style="list-style-type: none"> 1. Lobbying expenses incurred by the district; 2. A person or entity that is required under Government Code Chapter 305 to register as a lobbyist with the Texas Ethics Commission; 3. Any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity of a registered lobbyist (as described in item 2); or 4. A person or entity who has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies. <p><i>Gov't Code 403.1067</i></p>
CRIMINAL HISTORY	<p>For provisions pertaining to criminal history record information on contractors, see CJA(LEGAL).</p>

IMPERMISSIBLE
PRACTICES

A board member, employee, or agent shall not, with criminal negligence, make or authorize separate, sequential, or component purchases to avoid the purchasing requirements set out in Education Code 44.031. An officer or employee shall not knowingly violate Education Code 44.031 in any other manner.

“Component purchases” means purchases of the component parts of an item that in normal purchasing practices would be made in one purchase. “Separate purchases” means purchases, made separately, of items that in normal purchasing practices would be made in one purchase. “Sequential purchases” means purchases, over a period, of items that in normal purchasing practices would be made in one purchase.

Violation of this provision is a Class B misdemeanor and an offense involving moral turpitude, conviction of which shall result in removal from office or dismissal from employment. A board member who is convicted of a violation of this provision is considered to have committed official misconduct and for four years after the date of final conviction, the removed person is ineligible to be appointed or elected to public office in Texas, is ineligible to be employed by or act as an agent for the state or a political subdivision, and is ineligible to receive any compensation through a contract with the state or a political subdivision. [See BBC]

Education Code 44.032INJUNCTION

A court may enjoin performance of a contract made in violation of Education Code Chapter 44, Subchapter B. A county attorney, district attorney, criminal district attorney, citizen of the county in which a district is located, or any interested party may bring an action for an injunction. A party who prevails in an action brought under this subsection is entitled to reasonable attorney’s fees as approved by the court. Education Code 44.032(f)

PURCHASING AND ACQUISITION
REAL PROPERTY AND IMPROVEMENTS

CHG
(LEGAL)

CASH PURCHASES
WITH AVAILABLE
FUNDS

The requirements of the Public Property Finance Act (Local Government Code 271.001 and following) do not apply to cash purchases of real property made with moneys from available funds. *Bandera v. Hamilton*, 2 S.W.3d 367 (Tex. App.—San Antonio 1999, *pet. denied*)

DEFINITIONS

For purposes of this policy, “contract” means an agreement entered under the authority of the Public Property Finance Act, but does not mean a contract solely for the construction of improvements to real property. “Improvements” means a permanent building, structure, fixture, or fence that is erected on or affixed to land, but does not include a transportable building or structure whether or not it is affixed to land. “Real property” means land, improvement, or an estate or interest in real property, other than a mortgage or deed of trust creating a lien on property or an interest securing payment or performance of an obligation in real property. *Local Gov’t Code 271.003(2), (10), (11)*

PROPOSED
CONTRACT

A board may execute, perform, and make payments under a contract for the use or purchase or other acquisition of real property or an improvement to real property. If a board proposes to enter into such a contract, it shall publish notice of that intent not less than 60 days before the date set to approve execution of the contract. Publication shall be in a newspaper of general circulation in a district. The notice must summarize the major provisions of the proposed contract. The notice shall estimate the construction and other costs, but a board shall not publish the first advertisement for bids for construction of improvements until 60 days after publication of the notice of intent. *Local Gov’t Code 271.004(a)*

PETITION AND
REFERENDUM

Within 60 days of the date of publication of notice of intent, a written petition signed by a least five percent of the registered voters of a district may be filed with the board, requesting the board to order a referendum on the question of whether the contract should be approved. If a petition is filed, a board may not approve the contract or publish the first advertisement for bids for construction of improvements unless the question is approved by a majority of the votes received in a referendum ordered and held on the question. The referendum shall be held in accordance with the applicable provisions of the Election Code, except that it is not required to be held on a uniform election date. *Local Gov’t Code 271.004(b), (c)*

SUBMISSION TO
ATTORNEY GENERAL

A lease-purchase contract entered into for the use, purchase, or other acquisition of real property or an improvement to real property and the records relating to its execution shall be submitted to the attorney general for examination as to their validity. If the attorney general finds that the contract has been authorized in accordance

with the law, the attorney general shall approve them, and the comptroller of public accounts shall register them. Following approval and registration, the contract is incontestable and is a binding obligation according to its terms. *Local Gov't Code 271.004(g)–(i)*

DISTRICT OBLIGATION A contract under this provision is a special obligation of a district if ad valorem taxes are not pledged to the payment of the contract. If the contract provides that payments by a district are to be made from maintenance taxes previously approved by voters of a district and are subject to annual appropriation or are paid from a source other than ad valorem taxes, the payments under the contract shall not be considered indebtedness under Tax Code 26.04(c). All or part of a district's obligation may be evidenced by one or more promissory notes. *Local Gov't Code 271.004 (d)–(f)*

**STATE ASSISTANCE—
INSTRUCTIONAL
FACILITIES** A district may receive financial assistance from the state when the district lease-purchases an instructional facility under the terms set out in Chapter 46, Education Code, and Commissioner's rules implementing that chapter. *Education Code 46.004; 19 TAC 61.1032(i)*

EMINENT DOMAIN A district may, by the exercise of the right of eminent domain, acquire title to real property ~~for the purpose of securing sites~~ on which to construct school buildings or for any other ~~purpose~~**public use** necessary for the district. *Education Code 11.155(a)*

A district may not take private property through the use of eminent domain if the taking confers a private benefit on a particular private party through the use of the property, is for a public use that is merely a pretext to confer a private benefit on a particular private party, or is not for a public use. Gov't Code 2206.001(b)

PROCEDURES **When exercising the right of eminent domain, a district must follow the procedures found at Government Code Chapter 2206, Subchapter B and Property Code Chapter 21, Subchapter B.**

**REPURCHASE OF
REAL PROPERTY** **If the public use for which real property was acquired by eminent domain is cancelled before the property is used for the public use, no actual progress is made toward the public use, or the property becomes unnecessary for the public use, or a substantially similar public use, before the tenth anniversary of the date of acquisition, the district must provide notice to the previous property owner and offer to sell the property to that person in accordance with Property Code Chapter 21, Subchapter E.**

Property Code 21.101–.103

NOTICE OF RIGHT

Not later than December 31, 2012, a district shall submit to the comptroller a letter stating that the district is authorized by the state to exercise the power of eminent domain and identifying each provision of law that grants the district that authority. The district must send the letter by certified mail, return receipt requested. If the district does not submit the letter, the authority of the district to exercise the power of eminent domain expires on September 1, 2013. *Gov't Code 2206.101(b)–(c)*

DEFINITIONS

For purposes of this policy, “contract” means an agreement entered under the authority of Local Government Code 271.001 and following (Public Property Finance Act), but does not mean a contract solely for the construction of improvements to real property.

For purposes of this policy, “personal property” includes appliances, equipment, facilities, and furnishings, or an interest in personal property, whether movable or fixed, considered by ~~the Board~~ **a board** to be necessary, useful, or appropriate to one or more purposes of the school district. The term includes all materials and labor incident to the installation of that personal property. The term **includes electricity**. **The term** does not include real property.

Local Gov’t Code 271.003(2), (8)

AUTHORITY

~~The Board~~ **A board** may execute, perform, and make payments under a contract with any person for the use or the purchase or other acquisition of any personal property, or the financing thereof, in accordance with the requirements prescribed by law.

~~The Board~~ **A board** may contract under authority of Local Government Code Section 271.005 for materials and labor incident to the installation of personal property.

Local Gov’t Code 271.005

All rights and title to ~~District~~**district** property, whether real or personal, shall be vested in the ~~Board~~**board** and its successors in office.

~~The Board~~**A board** may dispose of property that is no longer necessary for ~~District~~**district** operations in an appropriate manner.

Education Code 11.151(c) [See also CDB-(LEGAL)]

**INSTRUCTIONAL
MATERIAL AND
TECHNOLOGICAL
EQUIPMENT**

**The board must dispose of instructional material and technological equipment in accordance with Education Code 31.105.
Education Code 31.105 [See CMD]**

CRIMINAL HISTORY —
IN GENERAL

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

DEFINITIONS

'CONTINUING
DUTIES RELATED
TO CONTRACTED
SERVICES'

"Continuing duties related to contracted services" are work duties that are performed pursuant to a contract to provide services to a school district on a regular, repeated basis rather than infrequently or one-time only.

'COVERED
CONTRACT
EMPLOYEE'

A "covered contract employee" is an individual who:

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

'DIRECT CONTACT
WITH STUDENTS'

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

'CONTRACTING
ENTITY'

A "contracting entity" is an entity that contracts directly with a district to provide services to the district. However, when conducting an investigation or intervention regarding an alleged crime or act of child abuse on a school campus, a law enforcement agency or the Department of Family and Protective Services is not a contracting entity, and the investigator or intervener is not a covered contract employee.

CONTRACTED SERVICES
CRIMINAL HISTORY

CJA
(LEGAL)

'SUBCONTRACTING ENTITY'	A "subcontracting entity" is an entity that contracts with another entity that is not a district to provide services to a school district, open-enrollment charter school, or shared services arrangement. <i>Education Code 22.0834(p); 19 TAC 153.1101(2), (3), (7), (10)</i>
CONTRACTOR RESPONSIBILITIES EMPLOYED BEFORE JANUARY- 1, 2008	An entity that contracts with a school district to provide services and any subcontractor of the entity shall obtain from any law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), all criminal history record information that relates to an employee of the entity who is employed before January 1, 2008, and who is not subject to a national criminal history record information review under Education Code 22.0834(b) if: <ol style="list-style-type: none">1. The employee has continuing duties related to the contracted services; and2. The employee has direct contact with students.
EMPLOYMENT OFFERED ON OR AFTER JANUARY- 1, 2008	A person who, on or after January- 1, 2008, is offered employment by an entity that contracts with a school district or any subcontractor of the entity must submit to a national criminal history record information review if: <ol style="list-style-type: none">1. The employee or applicant has or will have continuing duties related to the contracted services; and2. The employee or applicant has or will have direct contact with students. The person must submit to the review before being employed or serving in a capacity described above. An entity contracting with a school district and any subcontractor of the entity shall obtain all criminal history record information that relates to a person described above through the criminal history clearinghouse as provided by Government Code 411.0845. A contracting entity shall require that a subcontracting entity obtain all criminal history record information that relates to a person described above.
CERTIFICATION TO DISTRICT	The entity and any subcontractor of the entity shall certify to the school district that it received all of the criminal history record information required above. The entity and any subcontractor of the entity shall also certify that it will take reasonable steps to ensure that the conditions or precautions that have resulted in a determination that any person is not a covered contract employee continue

to exist throughout the time that the contracted services are provided.

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

A contracting entity and any subcontractor of the entity shall provide a school district, at its request, the information necessary for the school district to obtain criminal history record information for all covered contract employees.

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

DISQUALIFYING
CONVICTION

A contracting or subcontracting entity may not permit a person described above at CONTRACTOR RESPONSIBILITIES—EMPLOYED BEFORE JANUARY- 1, 2008, to provide services at a school if the employee has been convicted of a felony or misdemeanor offense that would prevent a person from ~~obtaining certification as an educator~~ **being employed** under Education Code ~~21.060.22.085(a)~~.

A contracting entity shall not permit a covered contract employee to provide services at a school district if the employee has a disqualifying conviction under Education Code 22.085.

DISTRICT
RESPONSIBILITIES
EMPLOYED
BEFORE JANUARY-
1, 2008
EMPLOYMENT
OFFERED ON OR
AFTER JANUARY- 1,
2008

A school district may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person described above at CONTRACTOR RESPONSIBILITIES—EMPLOYED BEFORE JANUARY- 1, 2008.

A school district may obtain the criminal history record information of a person described above at CONTRACTOR RESPONSIBILITIES—EMPLOYMENT OFFERED ON OR AFTER JANUARY- 1, 2008, through the criminal history clearinghouse as provided by Government Code 411.0845.

CONTRACTED SERVICES
CRIMINAL HISTORY

CJA
(LEGAL)

CERTIFICATION FROM CONTRACTOR	A district shall ensure that each of its service contractors certify that the service contractor has obtained all required criminal history record information for covered contract employees.
DISQUALIFYING CONVICTION	A district may not allow a covered contract employee to serve at the district if the district obtains information through a criminal history record information review that the covered contract employee has a disqualifying conviction under Education Code 22.085. The district may adopt a stricter standard.
SBEC NOTIFICATION	Pursuant to 19 TAC 249.14(d)(1), if a district obtains information that a covered contract employee who holds a certificate issued by the State Board for Educator Certification (SBEC) has a reported criminal history, the superintendent or the superintendent's designee shall notify SBEC of that criminal history within seven calendar days of the date that information is obtained. <i>Education Code 22.0834; 19 TAC 153.1117(b), (c)</i>
EMERGENCY EXCEPTION TO CRIMINAL HISTORY CHECK	In the event of an emergency, a school district may allow a covered contract employee to enter school district property without the required criminal history record information review if the person is accompanied by a district employee. A school district may adopt rules regarding an emergency situation. <i>Education Code 22.0834(f); 19 TAC 153.1117(b)(2)</i>
<hr/> Note: See DBAA for definitions and provisions regarding confidentiality, consumer credit reports, records retention, and criminal history record checks of employees. <hr/>	
CONTRACTORS PROVIDING TRANSPORTATION SERVICES	In addition to the requirements described above at CRIMINAL HISTORY—IN GENERAL, if a district contracts with a person for transportation services, the district shall obtain criminal history record information from any law enforcement or criminal justice agency relating to a person employed by the person as a bus driver or a person the person intends to employ as a bus driver. A person who contracts with a district to provide transportation services shall submit to the district the name and other identification data required to obtain the criminal history record information of such persons. If a district obtains information that such a person has been convicted of a felony or a misdemeanor involving moral turpitude, the district shall inform the chief personnel officer of the person with whom the district has contracted, and the person may not employ that person to drive a bus on which students are transported without the permission of the board. <i>Education Code 22.084(a), (b)</i>

COMMERCIAL
TRANSPORTATION
COMPANY

In addition to the requirements described above at CRIMINAL HISTORY ~~—~~ IN GENERAL, if a district contracts with a commercial transportation company for transportation services, the company may obtain all criminal history record information that relates to a person employed by the company as a bus driver, bus monitor, or bus aide, or a person the company intends to employ in one of these positions. If the company obtains criminal history record information indicating that a person it employs or intends to employ has been convicted of a felony or a misdemeanor involving moral turpitude, the company may not, without the permission of the board, employ that person to drive or to serve as a bus monitor or bus aide on a bus on which students are transported. If the commercial transportation company obtains the criminal history record information, a district is not required to do the same. *Education Code 22.084(c), ~~(f)~~-(d)*

REDUCTION OF
ENERGY
CONSUMPTION

A board shall establish a long-range energy plan to reduce a district's annual electric consumption by five percent beginning with the 2008 state fiscal year and consume electricity in subsequent fiscal years in accordance with the district's energy plan. The plan must include:

1. Strategies for achieving energy efficiency, **including facility design and construction**, that:
 - a. Result in net savings for the district; or
 - b. Can be achieved without financial cost to the district; and
2. For each strategy identified above, the initial, short-term capital costs and lifetime costs and savings that may result from implementation of the strategy.

In determining whether a strategy may result in financial cost to the district, the board shall consider the total net costs and savings that may occur over the seven-year period following implementation of the strategy.

The board may submit the plan ~~required~~ to the State Energy Conservation Office for the purposes of determining whether funds available through loan programs administered by the office **or tax incentives administered by the state or federal government** are available to the district. **The board may not disallow any proper allocation of incentives.**

Education Code 44.902

ENERGY OR WATER
CONSERVATION
MEASURES

A board may enter into an energy savings performance contract for energy or water conservation measures to reduce energy or water consumption or operating costs of ~~school facilities~~ **new or existing school facilities in which the estimated savings in utility costs resulting from the measures is guaranteed to offset the cost of the measures over a specified period.**

An energy savings performance contract includes a contract for the installation or implementation of:

1. Insulation of a building structure and systems within the building;
2. Storm windows or doors, caulking or weatherstripping, multi-glazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, or other window or door system modifications that reduce energy consumption;

3. Automatic energy control systems, including computer software and technical data licenses;
4. Heating, ventilating, or air-conditioning system modifications or replacements that reduce energy or water consumption;
5. Lighting fixtures that increase energy efficiency;
6. Energy recovery systems;
7. Electric systems improvements;
8. Water-conserving fixtures, appliances, and equipment or the substitution of nonwater-using fixtures, appliances, and equipment;
9. Water-conserving landscape irrigation equipment;
10. Landscaping measures that reduce watering demands and capture and hold applied water and rainfall, including:
 - a. Landscape contouring, including the use of berms, swales, and terraces; and
 - b. The use of soil amendments that increase the water-holding capacity of the soil, including compost;
11. Rainwater harvesting equipment and equipment to make use of water collected as part of a storm-water system installed for water quality control;
12. Equipment for recycling or reuse of water originating on the premises or from other sources, including treated municipal effluent;
13. Equipment needed to capture water from nonconventional, alternate sources, including air conditioning condensate or graywater, for nonpotable uses;
14. Metering equipment needed to segregate water use in order to identify water conservation opportunities or verify water savings; or
15. Other energy or water conservation-related improvements or equipment, including improvements or equipment relating to renewable energy or nonconventional water sources or water reuse.

Each energy or water conservation measure shall comply with current local, state, and federal construction, plumbing, and environmental codes and regulations. Notwithstanding the list above, an energy savings performance contract may not include improve-

ments or equipment that allow or cause water from any condensing, cooling, or industrial process or any system of nonpotable usage over which the public water supply system officials do not have sanitary control, to be returned to the potable water supply.

A board may enter into energy savings performance contracts only with persons who are experienced in the design, implementation, and installation of the energy or water conservation measures addressed by the contract.

The contracting and delivery procedures for construction projects described at Government Code Chapter 2267 do not apply to energy savings performance contracts.

PERFORMANCE
BOND

Before entering an energy savings performance contract, a board shall require the provider of the energy or water conservation measures to file a payment and performance bond relating to the installation of the measures in accordance with Government Code Chapter 2253. A board may also require a separate bond to cover the value of the guaranteed savings on the contract.

FINANCING

An energy savings performance contract may be financed:

1. Under a lease/purchase contract that has a term not to exceed 20 years from the final date of installation and that meets federal tax requirements for tax-free municipal leasing or long-term financing.
2. With the proceeds of bonds.
3. Under a contract with the provider of the energy or water conservation measures that has a term not to exceed the lesser of 20 years from the final date of installation or the average useful life of the energy or water conservation or usage measures.

Notwithstanding other law, the board may use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures, and the board is not required to pay for such costs solely out of the savings realized by the school district under an energy savings performance contract.

An energy savings performance contract for energy or water conservation measures shall contain provisions requiring the provider of the energy or water conservation measures to guarantee the amount of the savings to be realized by a district under the contract. If the term of an energy savings performance contract exceeds one year, a district's contractual obligations in any one year during the term of the contract beginning after the final date of in-

stallation may not exceed the total energy, water, wastewater, and operating cost savings, including electrical, gas, water, wastewater, or other utility cost savings and operating cost savings resulting from the measures as determined by the district, divided by the number of years in the contract term.

CONTRACT
PROCUREMENT

An energy savings performance contract for energy or water conservation measures shall be let according to the procedures established for professional services by Government Code 2254.004. Notice of the request for qualifications shall be published in the manner provided for competitive bidding.

The board may contract with the provider of the energy or water conservation measures to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

COST SAVINGS
REVIEW

Before entering an energy savings performance contract, a board must require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who has a minimum of three years of experience in energy calculation and review, is not an officer or employee of an offeror for the contract under review, and is not otherwise associated with the contract. In conducting the review, the engineer shall focus primarily on the proposed improvements from an engineering perspective, the methodology and calculations related to cost savings, increases in revenue, and, if applicable, efficiency or accuracy of metering equipment. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract.

Education Code 44.901

ENERGY USAGE
REPORT

A district shall record in an electronic repository the district's metered amount of electricity, water, or natural gas consumed for which it is responsible to pay and the aggregate costs for those utility services. A district shall report the recorded information on a publicly accessible Internet Web site with an interface designed for ease of navigation if available, or at another publicly accessible location. *Gov't Code 2265.001*

LIGHT BULBS

A district shall purchase for use in each type of light fixture in an instructional facility the commercially available model of light bulb that:

1. Uses the fewest watts for the necessary luminous flux or light output;
2. Is compatible with the light fixture; and

3. Is the most cost-effective, considering the factors described above.

Education Code 44.903

[See CS for energy conservation measures related to outdoor lighting fixtures]

RECYCLING
PROGRAM

In cooperation with the comptroller or the Texas Commission on Environmental Quality (TCEQ), a district shall establish a program for the separation and collection of all recyclable materials generated by the district's operations, including at a minimum, aluminum, steel containers, aseptic packaging, polycoated paperboard cartons, high-grade office paper, and corrugated cardboard. "Recyclable materials" includes materials in a district's possession that have been abandoned or disposed of by the district's officers or employees or by any other person.

A district shall also:

1. Provide procedures for collecting and storing recyclable materials, provide containers for recyclable materials, and provide procedures for making contractual or other arrangements with buyers of recyclable materials.
2. Evaluate the amount of recyclable material recycled and modify the recycling program as necessary to ensure that all recyclable materials are effectively and practicably recycled.
3. Establish educational and incentive programs to encourage maximum employee participation.

A district may seek an exemption from compliance if it has a population of less than 5,000 within its geographic boundaries and demonstrates to the TCEQ that compliance would work a hardship on the district.

Health and Safety Code 361.425

CERTIFICATE OF
MOLD REMEDIATION

When a district sells property, the district shall provide to the buyer a copy of any certificate of mold remediation that has been issued for the property during the five years preceding the date the district sells the property. *Occupations Code 1958.154(b); 25 TAC 295.327(d)*

POOLS
GENERALLY

An owner, manager, operator, or other attendant in charge of a public swimming pool, wading pool, baby pool, hot tub, in-ground spa, spray fountain, or other artificial body of water typically used for recreational swimming, bathing, or play shall comply with pool safety standards necessary to prevent drowning adopted by the

executive commissioner of the Health and Human Services Commission. *Health and Safety Code 341.0645; 25 TAC 265.181–.208*

DRAINS

Each public pool and spa shall comply with the drain cover standards found at 15 U.S.C. Section 8003. “Public pool and spa” means a swimming pool or spa that is open to the public generally, whether for a fee or free of charge. *15 U.S.C. 8003*

Note: For provisions regarding selection and adoption of ~~textbooks~~ **instructional materials**, see EFAA.

~~TEXTBOOKS~~

~~TEXTBOOKS~~ **INSTRUC
TIONAL MATERIALS**

Instructional materials selected for use in the public schools shall be furnished without cost to the students attending those schools. **Except as provided by Education Code 31.104(d), a district may not charge a student for instructional material or technological equipment purchased by the district with the district's instructional materials allotment. All ~~textbooks~~ instructional materials, including electronic instructional material to the extent of any applicable licensing agreement, purchased in accordance with Education Code Chapter 31 for a district are the property of the ~~state of Texas~~ district. Education Code 31.001, 31.102(a)–(b)**

DELEGATION OF
POWER

A board may delegate **to an employee** the power to requisition, distribute, and manage the inventory of ~~books~~ **instructional materials**, consistent with Education Code Chapter 31. *Education Code 31.104(a)*

~~TEXTBOOK FUNDING~~

~~Annually, the State Board of Education (SBOE) shall set aside out of the available~~ **A school fund an amount sufficient for districts to purchase and distribute the necessary textbooks for the use of the students of this state for the following school year. Education Code 31.021(b)**

~~MAXIMUM COST~~

~~The SBOE shall set a limit on the cost that may be paid~~ **district is entitled to an annual allotment** from the state ~~textbook fund for a textbook on the conforming or nonconforming list. Education Code 31.025~~

~~If a district selects instructional materials priced above the limit set by SBOE, the district is responsible for paying the publisher the portion of the cost above the state maximum. 19 TAC 66.104(b)~~

~~The SBOE shall reduce the approved maximum cost for each nonconforming instructional material according to 19 Administrative Code 66.51(a)(11). For nonconforming instructional materials, the state shall be responsible for payment to the publisher~~ **fund for each student enrolled in an amount only equal to the reduced maximum cost. A district ordering nonconforming the district on a date during the preceding school year specified by the Commissioner. The Commissioner shall determine the amount of the allotment per student each year on the basis of the amount of money available in the state instructional materials fund to fund the allotment. The allotment shall be transferred from the state instructional materials** ~~is responsible for the portion~~

<p>NONADOPTED MATERIALS</p>	<p>of the cost that exceeds the reduced state maximum cost. 19 TAC 66.104(q)</p> <p>If a district selects a book for a course in the enrichment curriculum and grade level that is not on either the conforming or nonconforming lists, the state shall pay the district the lesser of:</p> <ol style="list-style-type: none">1. Seventy percent of the total actual cost to the district of the books; or2. Seventy percent of the limit set by SBOE for that book. <p>Education Code 31.101(b)</p> <p>Funds received from the state under this provision may be used only to purchase the nonadopted fund to the credit of the district's instructional materials selected and ratified by a board. The minutes of the board meeting at which such a selection is ratified shall reflect a district's agreement to bear responsibility for the portion of the costs not eligible for payment by the state. 19 TAC 66.104(c) (e)</p>
<p>ELECTRONIC TEXTBOOK AND INSTRUCTIONAL MATERIALS LIST</p>	<p>If a district selects for a particular subject or grade level an electronic textbook or instructional material on the electronic textbook and instructional materials list, the state shall pay the district an amount equal to the cost of the electronic textbook or instructional material plus textbook credits [see TEXTBOOK CREDIT, below] under Education Code 31.1011 equal to 50 percent of the difference between that cost and the limitation established under Education Code 31.025 for a textbook for that subject and grade level, multiplied by the number of electronic textbooks or instructional materials the district or school needs for that subject and grade level. Education Code 31.101(b-1); 19 TAC 66.1041(a)</p>
<p>OPEN-SOURCE TEXTBOOK</p>	<p>If a district selects a state-developed open-source textbook instead of another textbook adopted under Education Code Chapter 31, Subchapter B, the difference between the cost determined by the Commissioner and the maximum price for a textbook in the same subject area, as determined by the SBOE, shall be allocated as follows:</p> <ol style="list-style-type: none">1. Fifty percent of the amount shall be credited to the state textbook fund; and <p>Fifty percent of the amount shall be credited to the school district for use account as provided by Education Code 31.1011(c). [See TEXTBOOK CREDIT, below] 0212. Education Code 31.0211(a)</p> <p>Education Code 31.073(b); 19 TAC 66.102(c), .1115(c)</p>

**ALLOTMENT
ADJUSTMENT
CHANGE IN
ENROLLMENT**

Not later than May 31 of each school year, a district may request that the Commissioner adjust the number of students for which the district is entitled to receive an allotment on the grounds that the number of students attending school in the district will increase or decrease during the school year for which the allotment is provided. The Commissioner may also adjust the number of students for which a district is entitled to receive an allotment, without a request by the district, if the Commissioner determines a different number of students is a more accurate reflection of students who will be attending school in the district. The Commissioner's determination is final. *Education Code 31.0211(e)*

**HIGH
ENROLLMENT
GROWTH**

Each year the Commissioner shall adjust the instructional materials allotment of districts experiencing high enrollment growth. *Education Code 31.0214*

**PERMITTED
EXPENDITURES**

Funds allotted under this section may be used to purchase:

1. Materials on the list adopted by the Commissioner;
2. Instructional materials, regardless of whether the instructional materials are on the list adopted by the State Board of Education (SBOE) under Education Code 31.024;
3. Consumable instructional materials, including workbooks;
4. Instructional materials for use in bilingual education classes, as provided by Education Code 31.029;
5. Supplemental instructional materials, as provided by Education Code 31.035;
6. State-developed open-source instructional materials, as provided by Education Code Chapter 31, Subchapter B-1;
7. Instructional materials and technological equipment under any continuing contracts of the district in effect on September 1, 2011; and
8. Technological equipment necessary to support the use of materials included on the list adopted by the Commissioner or any instructional materials purchased with an allotment.

The funds can also be used to pay for training educational personnel directly involved in student learning in the appropriate use of instructional materials and for providing for access to technological equipment for instructional use, and the salary and other expenses of an employee who provides

technical support for the use of technological equipment directly involved in student learning.

Education Code 31.0211(c)

ORDER OF
PURCHASE

Each year a district shall use the district's allotment to purchase, in the following order:

1. Instructional materials necessary to permit the district to certify that the district has instructional materials that cover all elements of the essential knowledge and skills of the required curriculum, other than physical education, for each grade level.
2. Any other instructional materials or technological equipment as determined by the district.

Notwithstanding the order of purchase requirement, for the state fiscal biennium beginning September 1, 2011, a district shall use an instructional materials allotment to purchase instructional materials that will assist the district in satisfying performance standards under Education Code 39.0241, as added by Chapter 895 (House Bill 3), Acts of the 81st Legislature, Regular Session, 2009, on assessment instruments adopted under Education Code 39.023(a) and (c) [grade advancement testing and end-of-course exams, see EKB]. This exception to the order of purchase requirement expires August 31, 2013.

Education Code 31.0211(d)-(d-2)

CERTIFICATION OF
ALLOTMENT USE

Each district shall annually certify to the Commissioner that the district's instructional materials allotment has been used only for permitted expenses. *Education Code 31.0213*

INSTRUCTIONAL
MATERIALS ACCOUNT

The Commissioner shall maintain an instructional materials account for each district, in which the Commissioner shall annually deposit the district's instructional materials allotment. The Commissioner shall pay the cost of instructional materials requisitioned by a school district under Education Code 31.103 using funds from the district's instructional materials account.

A district may also use funds in the district's account to purchase electronic instructional materials or technological equipment. The district shall submit to the Commissioner a request for funds for this purpose from the district's account in accordance with the Commissioner's rules.

Money deposited in a district's instructional materials account during each state fiscal biennium remains in the account and available for use by the district for the entire biennium. At the end of each biennium, a district with unused money in the district's account may carry forward any remaining balance to the next biennium.

Education Code 31.0212

ONLINE REQUISITION
SYSTEM

The Commissioner shall maintain an online requisition system for districts to requisition instructional materials to be purchased with the district's instructional materials allotment.
Education Code 31.101(f)

LOCAL FUNDS

A district may use local funds to purchase any ~~textbooks~~ instructional materials in addition to those selected under Education Code Chapter 31. *Education Code 31.106*

REQUISITIONS, USE,
AND DISTRIBUTION

~~Not later than the seventh day after the first school day in April, each principal~~ A district shall report the maximum attendance ~~make a requisition for a school to the superintendent. Not later than April 25, a superintendent shall report a district's maximum attendance to~~ instructional material using the online requisition program maintained by the Commissioner of Education. Requisitions for textbooks for the following school year shall be based on the maximum attendance reports, plus an additional ten percent, except as otherwise provided, and shall be made ~~no~~ not later than June 1 of each year. A district may requisition ~~textbooks~~ instructional materials on the SBOE instructional materials list for grades above the grade level in which a student is enrolled, ~~except that the total quantity requisitioned may not exceed the above limit.~~ *Education Code 31.103; 19 TAC 66.104(f) [See BJA] (b)-(c)*

DURATION OF
SELECTION

Once instructional materials have been ~~requisitioned and delivered, including nonadopted materials,~~ a selected, the district shall continue to ~~must~~ use those instructional materials during the contract period or periods of the materials. A district may not return copies of one title to secure copies of another title in the same subject. ~~19 TAC 66.104(f), (j)~~

EXCEPTION

A district that selects a subscription-based electronic textbook or instructional material on the conforming list or the electronic textbook and instructional materials list may cancel the subscription and subscribe to a new electronic textbook or instructional material on either list before the end of the state contract period if:

1. The district has used the electronic textbook or instructional material for at least one school year; and

	<p>2. TEA approves the change based on a written request to TEA the length of time described by the district that specifies the reasons for changing the electronic textbook or instructional material used by the district.</p> <p>Education Code 31.101(e); 19 TAC 66.1041(b). Education Code 31.101 [See EFAA]</p>
DISTRIBUTION	<p>AThe board, as legal custodian of the textbooks used in a district, shall distribute booksprinted instructional materials to students as it may deem most effective and economical. <i>Education Code 31.102(c)</i></p>
ORDER QUANTITIES	<p>When placing orders for instructional materials, a district shall report enrollments as follows:</p> <ol style="list-style-type: none">1. Annual orders for instructional materials: enrollments shall be reported based on the maximum number of students enrolled in a district during the previous school year and/or registered to attend the district during the next school year; and2. Supplemental orders for instructional materials: enrollments shall be reported based on the actual number of students enrolled in a district when the order is submitted, adjusted for students reported as working above or below grade level. <p>19 TAC 66.107(d)</p>
SHORTAGE	<p>If a district does not have a sufficient number of copies of a textbook for use during the following school year, and a sufficient number of additional copies will not be available from the depository or the publisher within the time specified at TIME FOR DELIVERY, the district is entitled to:</p> <ol style="list-style-type: none">1. Be reimbursed from the state textbook fund, at a rate and in the manner provided by State Board rule, for the purchase of a sufficient number of used adopted textbooks; or2. Return currently used textbooks to the Commissioner in exchange for sufficient copies, if available, of other textbooks to be used during the following school year. <p>Education Code 31.1031</p>
TIME FOR DELIVERY	<p>At the time an order for textbooksinstructional materials is acknowledged, a publisher or manufacturer shall provide to a district an accurate shipping date for textbooksinstructional materials that are back-ordered, and shall guarantee delivery of textbooksinstructional materials at least ten business days before the opening day of the school year for which the textbooksinstructional</p>

materials are ordered if they are ordered by a date specified in the sales contract. *Education Code 31.151(a)(7)–(8)*

SURPLUS

~~After the beginning of every school year, each school district shall determine if it has surplus instructional materials for any subject area/grade level, based on its current enrollment for the subject area/grade level. In accordance with the Educational Materials and Textbooks (EMAT) online ordering system, surplus is defined as follows:~~

~~For courses that use textbooks that are in the first year of adoption, any textbook in excess of 110 percent of enrollment shall be considered surplus. For courses that use textbooks that are in the second or later years of adoption, any textbook in excess of 120 percent of enrollment shall be considered surplus. Overages that exceed these definitions should be entered into the EMAT Online Adjust Surplus Screen, except that instructional materials that are needed for the following school year are not considered surplus and should not be entered into the Adjust Surplus Screen. Instructional materials determined by the school district to be surplus to quota shall be reported to TEA by October 1 of each year in accordance with instructions provided by TEA. A school district is entitled to retain surplus to quota instructional materials only when data approved by TEA indicate that students will be enrolled in the subject and a need for the surplus to quota instructional materials exists. 19 TAC 66.107(c)~~

**CHARGES FOR
FAILURE TO
RETURN SURPLUS**

~~If a district orders instructional material in excess of its eligibility by reporting enrollments exceeding those described above, the district enters into a contract with the state to purchase the instructional materials supplied that exceed the district's eligibility for the subject area/grade level. A district may cancel the contract to purchase the excess instructional materials by immediately notifying TEA of the surplus and posting the surplus in accordance with instructions provided by TEA. If prior approval is received, surplus instructional materials may be returned to the publisher's approved depository or placed into statewide surplus inventory in accordance with instructions from TEA. A school district that fails to notify TEA of surplus instructional materials for more than six months after the beginning of the school year shall reimburse the state at the full price for the surplus instructional materials. 19 TAC 66.107(g)~~

**SUPPLEMENTAL
TEXTBOOKS**

A school district may requisition **a supplemental textbook instructional material** only if the district:

**SUPPLEMENTAL
INSTRUCTIONAL
MATERIALS**

- ~~1. Uses textbook credits received under Education Code 31.1011 to purchase the supplemental textbook; or~~

~~Instead of requisitioning a textbook on the conforming list under Education Code 31.023 for a course in the foundation curriculum under Education Code 28.002,~~ requisitions the supplemental ~~textbook~~**instructional material** along with other supplemental ~~textbooks~~**instructional materials** or ~~textbooks~~**instructional materials** on the ~~nonconforming~~**SBOE instructional materials** list ~~under Education Code 31.023~~ that in combination cover each element of the essential knowledge and skills for the course for which the district ~~or school~~ is requisitioning the supplemental ~~textbooks~~**instructional materials**. **Education Code 31.035(d)**

~~Education Code 31.035(d)~~

~~If the total cost for the supplemental textbooks requisitioned by a district under Education Code 31.035(d)(2) for a course is greater than the limit on the cost under Education Code 31.025(a) for a single textbook on the conforming list for the course, the district or school may apply credits received under Education Code 31.1011 toward the difference for the supplemental textbooks.~~ **Education Code 31.035(e), (f)**

AVAILABILITY OF
OPEN-SOURCE
~~TEXTBOOKS~~**INSTRUC**
TIONAL
MATERIALS

A district that selects ~~an~~ open-source ~~textbook~~**instructional material** shall requisition a sufficient number of printed copies for use by students unable to access the ~~textbook~~**instructional material** electronically unless the district or school provides to each student:

1. Electronic access to the ~~textbook~~**instructional material** at no cost to the student; or
2. Printed copies of the portion of the ~~textbook~~**instructional material** that will be used in the course.

Education Code 31.103(d)

**BILINGUAL
INSTRUCTIONAL
MATERIALS**

A district shall purchase with the district's instructional materials allotment or otherwise acquire instructional materials for use in bilingual education classes, in accordance with the Commissioner's rules. Education Code 31.029

CERTIFICATION

~~Prior to the beginning of each school year, the~~**Each** district shall **annually** certify to the SBOE and the Commissioner that, for each subject in the foundation and enrichment curriculum **other than physical education**, and each grade level, the district provides each student ~~with textbooks, electronic textbooks, or~~**instructional materials that cover all elements of the essential knowledge and skills adopted by the SBOE for that subject and grade level. To determine whether each student has** instructional materials that cover all elements of the essential knowledge and skills ~~adopted by the SBOE for that subject and grade level. The certifi-~~

	<p>ation shall be submitted in, a format approved by the Commissioner. Education Code 31.004; 19 TAC 66.105</p>
TEXTBOOK CREDIT	<p>A district is entitled to receive credit for textbooks purchased at a cost below the cost limit established under Education Code 31.025(a). Education Code 31.1011(a); 19 TAC 66.102(a)</p> <p>A district is entitled to receive credit for textbooks purchased at a cost below the cost limit established under Education Code 31.025(a), only in the first year of implementation. 19 TAC 66.102(e)</p>
CALCULATION	<p>The credit is an amount equal to the difference between the price paid for a textbook and the cost limit for that textbook multiplied by the number of copies of that textbook the district purchases. Education Code 31.1011(b); 19 TAC 66.102(b)</p> <p>If the total cost for the supplemental textbooks requisitioned by a district under Education Code 31.035(d)(2) for a course is less than the cost limit for a single textbook on the conforming list for the course, the district is entitled to receive credit under Section 31.1011 in the same manner as if the single textbook were selected. Education Code 31.035(e)</p>
DISTRIBUTION	<p>Fifty percent of the total textbook credit of a district shall be credited to the state textbook fund, and 50 percent of the credit shall be credited to the district to apply toward the requisition ofmay consider:</p> <ol style="list-style-type: none">1. Additional textbooks or electronic textbooks that are on the conforming or nonconforming list under Education Code 31.023 or the components of such textbooks, including any electronic components;2. Supplemental textbooks as provided by Education Code 31.035;1. Electronic textbooks or instructional materials on the list adopted by the SBOE;2. Materials adopted or purchased by the Commissioner under Education Code 31.0231; or Education Code Chapter 31, Subchapter B-1;3. Technological equipment underOpen-source instructional materials submitted by eligible institutions and adopted by the SBOE;4. Open-source instructional materials made available by other public schools; and

5. Instructional materials developed or purchased by the district.

Education Code 31.021(f).004

~~*Education Code 31.1011(c); 19 TAC 66.102(d)*~~

**NOTIFICATION
TO TEA**

~~A district must notify TEA for the use of funds generated by textbook credits. The district must submit an itemized expenditure report to TEA. 19 TAC 66.102(f)–(g)~~

**BOOK OWNERSHIP
AND COVERS**

~~All textbooks shall state that the book is the property of or is licensed to the state. Books, other than electronic textbooks or a printed copy of an open source textbook, must be covered by the student under the direction of the teacher. Books must be returned.~~
A student must return all instructional materials to the teacher at the end of the school year or when the student withdraws from school, unless the **textbook instructional material** is an open source **textbook instructional material** that a district does not intend to use for another student. The printed copy of the open source **textbook instructional material** becomes the property of the student to whom it is distributed.

This section does not apply to an electronic copy of an open source **textbook instructional material**.

Education Code 31.104(c), (g)–(h)

**RESPONSIBILITY FOR
BOOKS INSTRUCTIONAL
MATERIALS AND
EQUIPMENT**

Each student or his or her parent or guardian shall be responsible for all ~~books, including an electronic textbook, and all~~ **instructional material and** technological equipment not returned in an acceptable condition by the student, ~~and any.~~ **A student failing who fails** to return in an acceptable condition all ~~books, including electronic textbooks, instructional materials~~ **instructional materials** and technological equipment shall forfeit the right to free ~~textbooks, including electronic textbooks, instructional materials~~ **instructional materials** and technological equipment until the ~~books, including electronic textbooks, instructional materials~~ **instructional materials** and technological equipment previously issued but not returned in an acceptable condition are paid for by the student, parent, or guardian.

Under circumstances determined by the board, a district may waive or reduce the payment required if the student is from a low-income family. A district shall allow students to use ~~textbooks, including electronic textbooks, instructional materials~~ **instructional materials** and technological equipment at school during each school day.

~~If a book, including electronic textbooks,~~ **if instructional materials** or technological equipment is not returned in an acceptable condition and payment is not made, a district may withhold the student's

records, but shall not prevent the student from graduating, participating in a graduation ceremony, or receiving a diploma. However, in accordance with policies FL and GBA, students have a right to copies of any and all district records that pertain to them.

This section does not apply to an electronic copy of open-source instructional material. *Education Code 31.104(d), (h); 20-U.S.C. 1232g; Gov't Code 552.114(b)(2)* [See also EF]

ACCEPTABLE
CONDITION

A printed textbook is considered to be in acceptable condition if:

1. The cover, binding, pages, spine, and all integral components of the textbook are wholly intact and the textbook is fully usable by other students; and
2. All components of the textbook are not soiled, torn, or damaged—whether intentionally or by lack of appropriate care—such that any portion of the content is too disfigured or obscured to be fully accessible to other students.

19 TAC 66.1201

An electronic textbook is considered to be in acceptable condition if:

1. All components or applications that are a part of the electronic textbook are returned;
2. The electronic textbook does not contain computer code (bug, virus, worm, or similar malicious software) that has been designed to self-replicate, damage, change, or otherwise hinder the performance of any computer's memory, file system, or software; and
3. The electronic textbook has not been installed with plug-ins, snap-ins, or add-ins without the prior approval of the school district.

19 TAC 66.1203

Technological equipment is considered to be in acceptable condition if:

1. The equipment is returned with the software and hardware in their original condition unless the district authorized changes; and
2. The physical condition of the equipment has been cared for appropriately such that the equipment is not broken or damaged beyond cost-effective replacement or repair.

19 TAC 66.1205

~~SALE OF BOOKS~~
DISPOSAL

~~A board may sell books, other than electronic textbooks, to students or other schools at the state contract price. All money accruing from sales of textbooks shall be forwarded to the Commissioner of Education as directed, and deposited in the state textbook fund. Education Code 31.105~~

A board may sell printed instructional materials on the date the instructional material is discontinued for use in the public schools by the SBOE or the Commissioner. The board may also sell electronic instructional materials and technological equipment owned by the district. Any funds received by a district from the authorized sale must be used to purchase instructional materials and technological equipment allowed under Education Code 31.0211.

The board shall determine how the district will dispose of discontinued printed instructional materials, electronic instructional materials, and technological equipment. The board may dispose of printed instructional material before the date the instructional material is discontinued for use in the public schools by the SBOE if the board determines that the instructional material is not needed by the district and the board does not reasonably expect that the instructional material will be needed. A district must notify the Commissioner if the district disposes of any instructional material.

Education Code 31.105

ANNUAL INVENTORY

A district shall conduct an annual physical inventory of all currently adopted instructional materials that have been requisitioned by and delivered to the district. The results of the inventory shall be recorded in a district's files. Reimbursement and/or replacement shall be made for all instructional materials determined to be lost. ~~19-TAC 66.107(a)~~

LOCAL HANDLING
EXPENSES

School districts shall not be reimbursed from state funds for expenses incurred in local handling of textbooks. ~~19-TAC 66.104(o)~~

OUT-OF-ADOPTION
~~TEXTBOOKS~~ INSTRUCTIONAL MATERIALS

A district may retain out-of-adoption instructional materials.

A district shall make out-of-adoption instructional materials (other than electronic instructional materials) available to libraries maintained by city and county jails, institutions within the Department of Corrections, and other state agency institutions. District officials may donate out-of-adoption instructional materials (other than electronic instructional materials) to students, adult education programs, and nonprofit organizations. Individuals and organizations making such requests shall be responsible for transporting the materials.

After all efforts to donate out-of-adoption instructional materials (other than electronic instructional materials) to organizations listed above have been exhausted, a district may donate those materials for recycling locally. Recycling means removing the bindings and shredding the textbooks for the purpose of producing new products from the processed materials.

Under no circumstances shall a district sell out-of-adoption instructional materials.

19- TAC 66.131

DEFINITIONS

For purposes of this policy:

1. ~~1.~~ “Bus” means a motor vehicle used to transport persons and designed to accommodate more than ten persons, including the driver.
2. ~~2.~~ “Passenger car” refers to a motor vehicle, other than a motorcycle, used to transport persons and designed to accommodate ten or fewer passengers.
3. ~~3.~~ “Passenger van” means a motor vehicle, other than a motorcycle or passenger car, used to transport persons and designed to transport 15 or fewer passengers, including the driver.
4. ~~4.~~ “School activity bus” means a bus designed to accommodate more than 15 passengers, including the operator, that is owned, operated, rented, or leased by a district and is used to transport public school students on a school-related activity trip, other than on routes to and from school. The term does not include a chartered bus, a bus operated by a mass transit authority, or a school bus.
5. ~~5.~~ “School bus” means a motor vehicle that was manufactured in compliance with the federal motor vehicle safety standards for school buses in effect on the date of manufacture and that is used to transport preprimary, primary, or secondary students to and from school or on a school-related activity trip other than on routes to and from school. The term does not include a school-chartered bus or a bus operated by a mass transit authority.
6. ~~6.~~ “Motor bus” means a vehicle designed to transport more than 15 passengers, including the driver.

Education Code 34.003; Trans. Code 541.201

AUTHORITY

A district may establish and operate an economical public school transportation system in the district or outside the district, if the district enters into an interlocal contract as provided by Government Code Chapter 791. For that part of the system that the district operates directly, it shall employ bus drivers certified by the Department of Public Safety. *Education Code 34.007*

TRANSPORTATION
FUNDING FOR
ELIGIBLE STUDENTS

If a district operates a transportation system, the district is entitled to a state transportation allotment. The allotted funds are based on the cost of providing transportation services to students who live two or more miles from the school they attend. The Commissioner of Education cannot reduce the allotment because a district provides transportation for an eligible student to and from a child-care

facility instead of the student's residence, if the transportation is provided within the approved routes of the district for the school the student attends. *Education Code 42.155*

A board may require payment of a reasonable fee for transportation to and from school of a student who lives within two miles of the school the student attends. However, a board may not charge a fee for transportation for which a district receives a transportation allotment under Education Code 42.155(d). *Education Code 11.158(a)(14)*

If the district does not receive any funds under Education Code 42.155 and does not participate in a county transportation system for which an allotment is provided under Education Code 42.155(i), the board may require payment of a reasonable fee for the transportation of a student to and from the school the student attends. *Education Code 11.158(a)(16)*

HAZARDOUS
CONDITIONS

A district may apply to the Commissioner of Education for an additional amount of up to ten percent of its regular transportation allotment to be used for the transportation of students living within two miles of the school they attend who would be subject to hazardous traffic conditions if they walked to school. A board shall provide to the Commissioner the definition of hazardous conditions applicable to the district and shall identify the specific hazardous areas for which the allocation is requested. A hazardous condition exists where no walkway is provided and students must walk along or cross a freeway or expressway, an underpass, an overpass or a bridge, an uncontrolled major traffic artery, an industrial or commercial area, or another comparable condition. *Education Code 42.155(d)*

BUS OPERATION

A person may not operate a school bus if:

1. The door of the school bus is open; or
2. The number of passengers on the bus is greater than the manufacturer's design capacity for the bus.

Trans. Code 545.426(a)

TRANSPORTING
STUDENTS TO
SCHOOL

School buses or mass transit authority buses shall be used for the transportation of students to and from schools on routes having ten or more students. Passenger cars may be used on routes having fewer than ten students. *Education Code 34.003(a)*

**BUS PASSES OR
CARDS**

A school district may use the state transportation allotment to provide a bus pass or card for another transportation system to each student who is eligible to use the regular transportation system of the district but for whom the regular transporta-

tion system of the district is not a feasible method of providing transportation. *Education Code 42.155(l)*

DESIGNATION OF
CHILD-CARE
FACILITY OR
GRANDPARENT'S
RESIDENCE

A board, after determining eligibility for transportation services, shall allow a parent to designate a child-care facility or the residence of a grandparent of the child instead of the child's residence as the regular location for purposes of obtaining transportation under the system to and from the child's school. Either designated location must be an approved stop on an approved route. *Education Code 34.007(b)(2)*

"Child-care facility" means a facility licensed, certified, or registered by the Department of Family and Protective Services to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers. *Human Resources Code 42.002(3)*

TRANSPORTATION
TO A HIGHER
PERFORMING
SCHOOL

A district shall provide or pay for the transportation of a student to a higher-performing public school operated by another district, if the district is identified for corrective action, or to another public school within the district if the student's school:

1. Has been identified for school improvement;
2. Has failed to make adequate yearly progress by the end of the first full school year after identification for school improvement;
3. Has had corrective action implemented by the district for failure to make adequate yearly progress by the end of the second full school year after identification for school improvement; or
4. Has failed to make adequate yearly progress after one full school year of corrective action.

No Child Left Behind Act of 2001, 20 U.S.C. 6316(b)(9)

TRANSPORTATION
OF HOMELESS
STUDENTS

As a condition of receiving funds under the McKinney-Vento Homeless Education Assistance Improvements Act, a district shall adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, at the request of the homeless liaison) to and from the school of origin, as follows:

1. If the homeless child lives in the district in which the school of origin is located, the district of origin will provide the child's transportation to and from the school of origin.

2. If the homeless child lives in a district other than that in which the school of origin is located, the district of origin and the district where the homeless child is living shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the districts are unable to agree, the responsibility and costs shall be shared equally.

McKinney-Vento Homeless Education Assistance Improvements Act of 2001, Secs. 722, 725; 42- U.S.C. 11432(g)(1)(J)(iii)(I), (II)
[See FDC]

SCHOOL ACTIVITIES

When transporting students in connection with school activities other than on routes to and from school:

1. Only school buses or motor buses may be used to transport 15 or more students; and
2. Passenger cars or passenger vans may be used to transport fewer than 15 students.

Education Code 34.003(b)(1), (2)

The operator of a passenger car or passenger van used to transport students to school or to a school activity shall ensure that the number of passengers does not exceed the designed capacity of the vehicle and that each passenger is secured by a safety belt.

Education Code 34.003(c)

ACCELERATED
INSTRUCTION
PROGRAMS

A district shall provide students required to attend the accelerated programs described in policy code EIE with transportation to those programs if the programs occur outside of regular school hours.

Education Code 28.0211(j)

TRANSPORTATION
COMPANY OR SYSTEM

A board may contract for all or any part of its public school transportation with a mass transit authority or commercial transportation company, provided that the authority or commercial transportation company:

1. Requires its school bus drivers to have the qualifications required by and be certified in accordance with standards established by the Department of Public Safety;
2. Transports 15 or more students only in school buses or mass transit authority buses that meet or exceed safety standards for school buses established under Education Code 34.002;
3. Conducts all the following education programs with board approval:

TRANSPORTATION MANAGEMENT
STUDENT TRANSPORTATION

CNA
(LEGAL)

- a. A program to inform the public that public school students will be riding on the authority's or company's buses;
- b. A program to educate drivers of the buses to be used under the contract of the special needs and problems of public school students riding on the buses; and
- c. A program to educate public school students on bus riding safety and any special considerations arising from the use of the authority's or company's buses.

A board may supplement the state transportation cost allotment with local funds necessary to provide complete transportation services.

Education Code 34.008

CAREER AND
TECHNOLOGY
PROGRAM

A district shall be reimbursed the cost of transporting career and technology program students to another campus within the district, to another secondary public school or an area career and technology school, or to an approved postsecondary institution under a contract for instruction approved by TEA. *Education Code 42.155(f)*

CRIMINAL HISTORY

For provisions pertaining to criminal history record information on contractors providing transportation services, see CJA(LEGAL).

SAFETY STANDARDS A district shall meet or exceed the safety standards for school buses established by the Department of Public Safety (DPS), with the advice of TEA. If a district fails or refuses to meet these standards, it shall be ineligible to receive its transportation allotment until the first anniversary of the date the district begins compliance. *Education Code 34.002; Trans. Code 547.102; 37 TAC 14.51, ~~14.52~~*

STUDENT SAFETY PROHIBITIONS A district may not require or allow a child to stand on a moving bus or passenger van. *Education Code 34.004*

An operator of a school bus, while operating the bus, shall prohibit a passenger from:

1. Standing in the bus; or
2. Sitting:
 - a. On the floor of the bus, or
 - b. In any location on the bus that is not designed as a seat.

Trans. Code 545.426

SEAT BELTS REQUIRED ON BUSES A bus, including a school bus and a school activity bus, operated by or contracted for use by a district for the transportation of schoolchildren shall be equipped with a three-point seat belt for each passenger, including the operator. This requirement applies to:

1. Each bus purchased by a school district on or after September 1, 2010, for the transportation of schoolchildren; and
2. Each school-chartered bus contracted for use by a district on or after September 1, 2011, for the transportation of schoolchildren.

A school district is required to comply with this requirement only to the extent ~~TEA pays or commits to pay the district~~ **that the legislature has appropriated money for the purpose of reimbursing school districts** for expenses incurred in complying with the requirement.

Trans. Code 547.701(e)-(f)

STUDENT REQUIREMENT A district shall require a student riding a bus operated by or contracted for operation by the district to wear a seat belt if the bus is equipped with seat belts for all passengers on the bus. A school district may implement a disciplinary policy to enforce the use of seat belts by students. *Education Code 34.013*

DONATIONS A board shall consider any offer made by a person to donate three-point seat belts or money for the purchase of three-point seat belts

for a district's school buses. A board may accept or decline the offer after adequate consideration.

A board may acknowledge a person who donates three-point seat belts or money for the purchase of three-point seat belts for a school bus by displaying a small, discreet sign on the side or back of the bus recognizing the person who made the donation. The sign may not serve as an advertisement for the person who made the donation.

Education Code 34.014

SCHOOL BUS
EMERGENCY
EVACUATION
TRAINING

Pursuant to the safety standards established by DPS under Education Code 34.002, each school district may conduct a training session for students and teachers concerning procedures for evacuating a school bus during an emergency. A district that chooses to conduct a training session is encouraged to conduct the school bus emergency evacuation training session in the fall of the school year. "Fall" is defined as July 1 to December 31. The district is also encouraged to structure the training session so that the session applies to school bus passengers, a portion of the session occurs on a school bus, and the session lasts for at least one hour.

The training must be based on the recommendations of the most recent edition of the National School Transportation Specifications and Procedures, as adopted by the National Congress on School Transportation, or a similar school transportation safety manual.

Immediately before each field trip involving transportation by school bus, a district is encouraged to review school bus emergency evacuation procedures with the school bus passengers, including a demonstration of the school bus emergency exits and the safe manner to exit.

Not later than the 30th day after the date that a school district completes a training session, the district shall provide DPS with a record certifying the district's completion of the training.

Note: The Reporting of School Bus Evacuation Training form is available at <http://www.txdps.state.tx.us/internetforms/FormDetail.aspx?Id=821&FormNumber=SBT-7.doc>.

Education Code 34.0021; 37 TAC 14.54

WIRELESS
COMMUNICATION
DEVICES

An operator may not use a wireless communication device while operating a motor vehicle within a school crossing zone, unless:

1. The vehicle is stopped; or

2. The wireless communication device is used with a hands-free device.

An operator may not use a wireless communication device while operating a passenger bus with a minor passenger on the bus unless the passenger bus is stopped.

Trans. Code 545.425

DISRUPTION OF
TRANSPORTATION

Any person, **with the exception of a student who was in sixth grade or below at the time the student engaged in the conduct**, who intentionally disrupts, prevents, or interferes with the lawful transportation of students to and from school ~~or on a vehicle owned or operated by a district or to or from~~ activities sponsored by a school on a vehicle owned and/or operated by a district shall be guilty of a misdemeanor. *Education Code 37.126*

If the illegal act is conducted through use or exhibition of a firearm, the person shall be guilty of a felony. *Education Code 37.125*

ACCIDENT REPORTS
NOTICE TO DPS

A district shall provide DPS written notification of any accident directly or indirectly involving a school bus operated by or for the district that bears advertising or another paid announcement. ~~37-~~ *TAC 14.65(a)(2)*

Notice must be received not more than five days from the date of the accident and shall include the following:

1. The name and address of the owner of the school bus;
2. The name and driver's license number of the school bus operator;
3. The date of the accident;
4. The city or county where the accident occurred; and
5. The investigating police agency.

~~37-~~ *TAC 14.65(c)*

Notices to DPS may be delivered by facsimile, electronic mail, or mailed to School Bus Transportation, Texas Department of Public Safety, P.O. Box 4087, Austin, TX 78773-0525. ~~37-~~ *TAC 14.65(d)*

NOTICE TO TEA

School districts shall report annually to TEA the number of accidents in which their buses were involved in the past year in a manner prescribed by the Commissioner. School districts shall file annual reports to TEA only in the period beginning July 1 and ending July 31 and shall include the following information in the report:

1. The total number of bus accidents;

2. The date each accident occurred;
3. The type of bus, as specified in 19 Administrative Code 61.1028(a), involved in each accident;
4. Whether the bus involved in each accident was equipped with seat belts and, if so, the type of seat belts;
5. The number of students and adults involved in each accident;
6. The number and types of injuries that were sustained by the bus passengers in each accident; and
7. Whether the injured passengers in each accident were wearing seat belts at the time of the accident and, if so, the type of seat belts.

A school district shall report a bus accident involving a school bus, a multifunction school activity bus, a school activity bus, or a motor bus if:

1. The bus is owned, leased, contracted, or chartered by a school district and was transporting school district personnel, students, or a combination of personnel and students; or
2. The bus was driven by a school district employee or by an employee of the school district's bus contractor with no passengers on board and the accident involved a collision with a pedestrian.

EXCEPTIONS

A school district shall not report a bus accident involving a school bus, a multifunction school activity bus, a school activity bus, or a motor bus if:

1. The bus was driven by a school district employee or by an employee of the school district's bus contractor, the accident occurred when no passenger other than the school district's driver or bus contractor's driver was on board the bus, and the accident did not involve a collision with a pedestrian; or
2. The accident involved a bus chartered by a school district for a school activity trip and no school district personnel or students were on board the bus at the time of the accident.

A school district shall not report an accident that occurred in a vehicle that is owned, contracted, or chartered by a school district and is not a school bus, a multifunction school activity bus, a school activity bus, or a motor bus.

Education Code 34.015(b); 19 TAC 61.1028(b)

BREAKFAST
PROGRAM

If at least ten percent of the students enrolled in one or more schools in a district are eligible for free or reduced-price breakfasts under the national school breakfast program provided for by the Child Nutrition Act of 1966 (42 U.S.C. ~~A.~~ 1773), the district shall participate in the program and extend its benefits to all eligible students in said school or schools. *Education Code 33.901*

SUMMER LUNCH
PROGRAM

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

“Summer nutrition program” means the Summer Food Service Program ~~(SFSP) is to provide food service to children from needy areas during periods when area schools are closed for vacation. 7 CFR 225.1 et seq.~~ **under 42 U.S.C. 1761. The term includes the seamless summer option under 42 U.S.C. 1761(a)(8). *Agriculture Code 12.0029(a)(2)***

~~Public school districts in which 60 percent or more of the enrolled children are eligible to receive free meal benefits in the National School Lunch Program must operate directly or arrange for the operation of the SFSP in their districts according to the Human Resources Code 33.024. *Human Resources Code 33.024; 4 TAG 25.612*~~

~~WAIVERS~~

~~A district may obtain a waiver from the requirement to provide a summer lunch program if the district works with field offices to identify other persons and agencies in the district who were contacted as potential providers or sites for the summer program and the district demonstrates to the Texas Department of Agriculture (TDA) and TEA one of the following:~~

NOTICE FROM TDA

Not later than October 31 of each year, TDA shall notify each qualifying district of the district’s responsibility concerning provision of a summer nutrition program during the next period in which school is recessed for the summer. *Agriculture Code 12.0029(c)*

NOTICE OF
PROVISION OF
PROGRAM

Unless the district decides to pursue a waiver, each district that receives a notice from TDA shall, not later than January 31 of the year following the year in which the notice was received, inform TDA in writing that the district intends to provide or arrange for the provision of a summer nutrition pro-

WAIVER

gram during the next period in which district schools are recessed for the summer. *Agriculture Code 12.0029(e)*

If the district intends to request a waiver, the board must, not later than November 30 of each year, send written notice of the district's intention to the district's local school health advisory council. The notice must include an explanation of the district's reason for requesting a waiver of the requirement. *Agriculture Code 12.0029(d)*

The district shall, not later than January 31 of the year following the year in which the notice was received, request in writing that TDA grant the district a one-year waiver of the requirement to provide or arrange for the provision of a summer nutrition program. *Agriculture Code 12.0029(e)*

TDA may grant a school district a waiver of the requirement to provide or arrange for the provision of a summer nutrition program only if:

1. The district has worked with the TDA field offices to identify another possible provider for the program in the district and the district provides documentation, verified by TDA, showing that:
 - a. There are fewer than 100 children in the district currently eligible for **the national free or reduced-price meals.lunch program**;
 - b. Transportation ~~remains an~~ **to enable district students to participate in the program is an** insurmountable obstacle **to the district's ability to provide or arrange for the provision of the program** despite consultation by the district with public transit providers;
 - c. The district is unable to ~~operate a summer~~ **provide or arrange for the provision of a** program due to renovation or construction ~~within the of~~ district **facilities** and **the unavailability of** an appropriate ~~alternative~~ **alternate** provider or site ~~is not available~~; **or**
 - d. The district is unable to ~~operate a summer~~ **provide or arrange for the provision of a** program due to ~~other~~ **another specified** extenuating ~~circumstances~~ **circumstance** and **the unavailability of** an appropriate ~~alternative~~ **alternate** provider or site ~~is not available~~; **or**
2. ~~Human Resources~~ **The cost to the district to provide or arrange for provision of a program would be cost-**

prohibitive, as determined by the department using the criteria and methodology established by TDA.

Agriculture Code ~~33.024~~12.0029(f)

**ALTERNATE
PROVIDER**

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

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

REQUIRED INTERNET
POSTINGS

A district that maintains an Internet Web site shall post the following:

1. Not later than the tenth day after the first day of instruction of each school year, a district shall make available each campus report card, the district's performance report, the district's accreditation status and performance rating, and a definition and explanation of each accreditation status, under Education Code 39.362. [See AIB]
2. A district shall provide access to the conflicts disclosure statements and questionnaires, under Local Government Code 176.009. [See BBFA, CHE]
3. A district shall post the statements regarding activities to support student health, under Education Code 28.004. [See BDF]
4. A board must post notice of a board meeting and, if the district contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more, the board must also post the agenda for a board meeting, under ~~Education~~ **Government** Code 551.056. [See BE]
5. A district shall include on the home page of its Web site the prescribed statement if the district proposes to increase the amount of taxes to fund maintenance and operation expenditures, under Tax Code 26.05(b). [See CCG]
6. A district shall post a summary of its proposed budget concurrently with publication of the proposed budget, under Education Code 44.0041. [See CE]
7. A district shall maintain its adopted budget on the district's Web site until the third anniversary of the date the budget was adopted, under Education Code 39.084. [See CE]
8. A district shall report its energy usage information on a publicly accessible Internet Web site with an interface designed for ease of navigation, if available, under Government Code 2265.001. [See CL]

9. A district that does not participate in the uniform group health insurance program (TRS ActiveCare) shall post its comparability report, together with the policy or contract for the group health coverage plan, under Education Code 22.004(d). [See CRD]
10. A district shall post the board's employment policies, under Education Code 21.204(d). [See DCB]
11. A district shall post the date the PSAT/NMSQT will be administered and the date any college advanced placement tests will be administered, under Education Code 29.916. [See EK]
12. A district shall prominently post information about required and recommended immunizations and procedures for claiming an exemption from immunization requirements, under Education Code 38.018+019. [See FFAB]

OPTIONAL INTERNET
POSTINGS

A district that maintains an Internet Web site may post the following:

1. A board may broadcast an open meeting over the Internet, under Government Code 551.128. [See BE]
2. Notice of a vacant position for which a certificate or license is required may be provided by posting the position on the district's Internet Web site, rather than on a bulletin board, under Education Code 11.1513. [See DC]
3. A district may place on its Internet Web site a current copy of the procedural safeguards notice regarding special education and related services, under 34 CFR 300.504(b). [See EHBAE]
4. A district may provide the annual notice to the parent of each student enrolled in grade 9 or above of the availability of programs under which a student may earn college credit, under Education Code 28.010. [See EHDD]

**GEOSPATIAL DATA
PRODUCTS**

“Geospatial data product” means a document, computer file, or Internet Web site that contains geospatial data; a map; or information about a service involving geospatial data or a map. Gov’t Code 2051.101(1)

NOTICE

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

- 1. Is created or hosted by the district;**
- 2. Appears to represent property boundaries; and**

3. Was not produced using information from an on-the-ground survey conducted by or under the supervision of a registered professional land surveyor or land surveyor authorized to perform surveys under laws in effect when the survey was conducted.

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

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

Gov’t Code 2051.102

EXEMPTION

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

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

Gov’t Code 2051.103

Note: For information on procuring goods and services under Education Code Chapter 44, see CH(LEGAL).

BOARD AUTHORITY

A ~~board~~ **district** may adopt rules ~~and procedures for the acquisition as necessary to implement Government Code Chapter 2267.~~ **Gov't Code 2267.051**

DELEGATION OF AUTHORITY

The board may delegate its authority **under Government Code Chapter 2267** regarding an action authorized or required ~~to be taken by a district by Education Code Chapter 44, Subchapter B 2267~~ to a designated ~~person, representative, or committee, or other person.~~

~~A board may not delegate the authority to act regarding an action authorized or required to be taken by the board by Education Code Chapter 44, Subchapter B.~~

~~In procuring construction services, a district~~ **The board** shall provide notice of the delegation ~~and~~, the limits of the delegation, **and the name or title of each designated person by rule or** in the request for bids, proposals, or qualifications or in an addendum to the request. ~~If a district fails to provide that notice, a ranking, selection, or evaluation of bids, proposals, or qualifications for construction services other than by the board in an open public meeting is advisory only.~~

DISASTER EXCEPTION

~~Notwithstanding any other provision of the Education Code, in the event of a catastrophe, emergency, or natural disaster affecting a district, the board may delegate to the superintendent or designated person the authority to contract for the replacement, construction, or repair of school equipment or facilities under Education Code Chapter 44, Subchapter B if emergency replacement, construction, or repair is necessary for the health and safety of district students and staff.~~

~~Education Code 44.0312~~

INJUNCTION

~~A court may enjoin performance of a contract made in violation of Education Code Chapter 44, Subchapter B. A county attorney, district attorney, criminal district attorney, citizen of the county in which a district is located, or any interested party may bring an action for an injunction. A party who prevails in an action brought under this subsection is entitled to reasonable attorney's fees as approved by the court. Education Code 44.032(f)~~

IMPERMISSIBLE PRACTICES

~~A trustee, employee, or agent of a district who knowingly or with criminal negligence violates the purchasing laws is subject to criminal penalties. Education Code 44.032 [See CH]~~

Gov't Code 2267.053

CONTRACTS VALUED
AT OR ABOVE \$50,000

All district contracts valued at \$50,000 or more in the aggregate for each 12-month period shall be made by the method that provides the best value for a district [see also CH]:

1. **An interlocal contract. [See CH]**
- ~~1.2.~~ Competitive bidding. [See CVA]
- ~~2.3.~~ Competitive sealed proposals. [See CVB]
- ~~3.—An interlocal contract.~~
4. ~~A design/build contract~~**Construction manager-agent method.** [See CVC]
5. ~~A contract to construct, rehabilitate, alter, or repair facilities that involves using a construction~~**Construction manager-at-risk method.** [See CVD,]
- ~~5.6.~~ **Design-build method. [See CVE]**
- ~~6.7.~~ ~~A job~~**Job** order contract ~~for the minor construction, repair, rehabilitation, or alteration of a facility.~~ [See CVF]
- ~~7.8.~~ The reverse auction procedure as defined by Government Code 2155.062(d). [See CH]

Education Code 44.031(a); Gov't Code 2267

[For information on contract-related fees, see CH]

SELECTING A
CONTRACTING
METHOD

~~When a district is considering awarding~~**A board that considers** a construction contract using a method ~~specified~~**authorized** by ~~Edu-~~**education** ~~Government~~ Code 44.031(a), ~~the board shall~~**Chapter 2267 other than competitive bidding must**, before advertising, determine which ~~purchasing~~ method provides the best value for the district. ~~Education~~**Gov't Code 44.0352267.056(a)**

EXCEPTIONS

EMERGENCY
DAMAGE OR
DESTRUCTION

If school equipment, a school facility, or a part of a school facility or personal property is destroyed or severely damaged or, as a result of an unforeseen catastrophe or emergency, undergoes major operational or structural failure, and a board determines that the delay posed by the methods provided for in Education Code 44.031 would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment, school facility, or the part of the school facility may be made by methods other than those required by Education Code 44.031. Education Code 44.031(h)

CONTRACTS REQUIRING A BOND	A reverse auction procedure, whether the same or similar to that described by Government Code 2155.062, may not be used to obtain services related to a public work contract for which a bond is required under Government Code 2253.021 [see PAYMENT AND PERFORMANCE BONDS, below]. Gov't Code 2253.021(h)
PUBLIC NOTICE	Notice of the time by when and place where the bids or proposals, or the responses to a request for qualifications, will be received and opened shall be published in the county in which a district's central administrative office is located, once a week for at least two weeks before the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is not a newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which a district's central administrative office is located. In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately. <i>Education Code 44.031(g); Gov't Code 2267.052(a)–(b)</i>
CONTRACT SELECTION CRITERIA	<p>AIn determining the award of a contract, the district shall base its selection among offerors on consider and apply:</p> <ol style="list-style-type: none"> 1. Any existing laws, including any criteria authorized in Education, related to historically underutilized businesses; and 2. Any existing laws, rules, or applicable municipal charters, including laws applicable to local governments, related to the use of women, minority, small, or disadvantaged businesses. <p>In determining the award of a contract, the district may consider:</p> <ol style="list-style-type: none"> 1. Price. 2. The offeror's experience and reputation. 3. The quality of the offeror's goods or services. 4. The impact on the ability of the district to comply with rules relating to historically underutilized businesses. 5. The offeror's safety record. 6. The offeror's proposed personnel. 7. Whether the offeror's financial capability is appropriate to the size and scope of the project.

8. Any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

Gov't Code 2267.055

OUT-OF-STATE
BIDDERS

A board shall not award a contract for general construction, improvements, services, or public works projects or for purchase of supplies, materials, or equipment to a bidder whose principal place of business is not in this state, unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located. Gov't Code 2252.001-.002

This requirement shall not apply to a contract involving federal funds. A district shall rely on information published by the comptroller in evaluating the bids of a nonresident bidder. Gov't Code 2252.003~~44.031(b)~~. ~~[See CH]~~-.004

**PUBLISHING
CRITERIA**

A district shall publish in the request for ~~bids~~, proposals, or qualifications the criteria that will be used to evaluate the offerors and the ~~relative weights given to the criteria. Education Code 44.035~~ applicable weighted value for each criterion. **Gov't Code 2267.056(b)**

MAKING EVALUATIONS
PUBLIC

~~A district shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded. Education Code 44.035(e)~~

SUBMISSION

A person who submits a bid, proposal, or qualification to a governmental entity shall seal it before delivery. Gov't Code 2267.059

**ELECTRONIC BIDS
OR PROPOSALS**

A district may receive bids or proposals through electronic transmission if the board adopts rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time. **An electronic bid or proposal is not required to be sealed. Education Code 44.0313**

~~An electronic bid or proposal is not required to be sealed. A provision of Education Code Chapter 44 that applies to a sealed bid or proposal applies to a bid or proposal received through electronic transmission in accordance with the rules adopted by the board.~~

~~Education Code 44.0313~~

SELECTION

A district shall base its selection among offerors on applicable criteria listed for the particular method used. *Gov't Code 2267.056(b)*

MAKING EVALUATIONS PUBLIC

A district shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded. *Gov't Code 2267.056(c), .105*

CHANGE ORDERS

If a change in plans or specifications is necessary after the performance of a contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the district may approve change orders making the changes. The district may grant general authority to an administrative official to approve the change orders.

The total contract price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants.

A contract with an original contract price of \$1 million or more may not be increased by more than 25 percent. If a change order for a contract with an original contract price of less than \$1 million increases the contract amount to \$1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.

Education Code 44.0411

INSPECTION,
VERIFICATION AND
TESTING

Independently of the contractor, construction manager-at-risk, or design-build firm, a district shall provide or contract for the construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the district. The district shall select the services for which it contracts in accordance with Government Code 2254.004. *Gov't Code 2267.058*

~~ATTORNEY FEES~~

~~A governmental contract for general construction, an improvement, a service, or a public works project may not provide for the award of attorney's fees to a district in a dispute in which the district prevails unless the contract provides for the award of attorney's fees to each other party to the contract if that party prevails in the dispute. *Gov't Code 2252.904*~~

IMPACT FEES

A district is not required to pay impact fees imposed under Local Government Code Chapter 395 unless the board consents to the payment of the fees by entering a contract with the political subdivision that imposes the fees. The contract may contain terms the

board considers advisable to provide for the payment of the fees.
Local Gov't Code 395.022

**ENERGY SAVINGS
PERFORMANCE
CONTRACTS**

The contracting and delivery procedures for construction projects described at Government Code Chapter 2267 do not apply to energy savings performance contracts described at Education Code 44.901. *Education Code 44.901(j)* [See CL]

**PROFESSIONAL
SERVICES**

~~The purchasing requirements of Education Code 44.031 do not apply to a contract for professional services rendered, including the services of an architect, attorney, or fiscal agents. A district may contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Government Code 2254.003, in lieu of the methods provided by Education Code 44.031. *Education Code 44.031(f)*~~

**COMPETITIVE
BIDS ARCHITECTS
AND ENGINEERS**

An architect or engineer required to be selected or designated under Government Code Chapter 2267 has full responsibility for complying with Occupations Code Chapter 1051 or 1001, as applicable.

If the selected or designated architect or engineer is not a full-time employee of the district, the district shall ~~not be solicited for professional services of any licensed or registered certified public accountant, architect, landscape~~ select the architect, land surveyor, physician, optometrist, professional engineer, state certified or state licensed real estate appraiser, or registered nurse. ~~Contracts for these professional services shall be made~~ or engineer on the basis of demonstrated competence and qualifications ~~to perform the services and for a fair and reasonable price. Gov't Code 2254.002, 2254.003(a)~~ [See as provided by Government Code 2254.004 [see PROCURING ARCHITECTURAL, ENGINEERING, AND LAND SURVEYING PROFESSIONAL SERVICES, below]].

~~An interlocal contract between a district and a purchasing cooperative may not be used to purchase engineering or architectural services. *Gov't Code 791.011(h)*~~

**EMERGENCY
DAMAGE OR
DESTRUCTION**

~~If school equipment, a school facility, or a part of a school facility or personal property is destroyed or severely damaged or, as a result of an unforeseen catastrophe or emergency, undergoes major operational or structural failure, and a board determines that the delay posed by the methods provided for in Education Code 44.031 would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment, school facility, or the part of the school facility may be made by methods other than those required by Education Code 44.031. *Education Code 44.031(h)*~~

~~RIGHT TO WORK~~

~~While engaged in awarding a contract or overseeing procurement or construction for a public work or public improvement, a district:~~

- ~~1. May not consider whether a vendor is a member of or has another relationship with any organization; and~~
- ~~2. Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.~~

~~Education Gov't Code 44.0432267.057~~

REGISTERED ARCHITECT

An architectural plan or specification for any of the following may be prepared only by an architect registered in accordance with Occupations Code, Title 6, Chapter 1051:

1. A new building constructed and owned by a district that will be used for education, assembly, or office occupancy when the total projected construction costs at the commencement of construction exceed \$100,000.
2. Any alteration or addition to an existing building owned by a district that is, or will be, used for education, assembly, or office occupancy when the total projected construction costs of alteration or addition at the commencement of construction exceed \$50,000 and the alteration or addition requires the removal, relocation, or addition of any walls or partitions or the alteration or addition of an exit.

This section does not prohibit a district from choosing a registered architect or a registered professional engineer as the prime design professional for a building construction, alteration, or addition project. Designation as the prime design professional does not expand, limit, or otherwise alter the scope of a design professional's practice nor does it allow a design professional to prepare an architectural plan or specification described above.

Occupations Code 1051.703; 22- TAC 1.212

REGISTERED ENGINEER

Electrical or mechanical engineering plans, specifications, and estimates for a district construction project whose contemplated cost at completion is more than \$8,000 and that involves public health, welfare, or safety must be prepared by a registered professional engineer, and the engineering construction executed under the supervision of such an engineer. *Occupations Code 1001.053; Atty. Gen. Op. C-791 (1966)*

A district is not required to secure the services of a registered professional engineer to prepare plans for or supervise a construction

project that does not involve electrical or mechanical engineering and for which the contemplated cost does not exceed \$20,000.
Occupations Code 1001.053

PROCURING
~~ARCHITECTURAL,
ENGINEERING, AND
LAND-
SURVEYING~~PROFE
SSIONAL SERVICES

The purchasing requirements of Education Code 44.031 do not apply to a contract for professional services rendered, including the services of an architect. A district may contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Government Code 2254.003, in lieu of the methods provided by Education Code 44.031. Education Code 44.031(f)

Competitive bids shall not be solicited for professional services of any architect, landscape architect, land surveyor, professional engineer, or state-certified or state-licensed real estate appraiser. Contracts for these professional services shall be made on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price. Gov't Code 2254.002, .003(a)

In procuring architectural, engineering, or land-surveying services, a district shall ~~[see PROFESSIONAL SERVICES above]:~~

1. First select the most highly qualified provider on the basis of demonstrated competence and qualifications; and
2. Then attempt to negotiate a contract with that provider at a fair and reasonable price.

If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land-surveying services, a district shall formally end negotiations with that provider, select the next most highly qualified provider, and attempt to negotiate a contract with that provider at a fair and reasonable price. A district shall continue this process until **the parties enter into** a contract ~~is entered into~~.

Gov't Code 2254.004

An interlocal contract between a district and a purchasing cooperative may not be used to purchase engineering or architectural services. Gov't Code 791.011(h)

RIGHT TO WORK

While engaged in procuring goods or services, awarding a contract, or overseeing procurement or construction for a public work or public improvement under Government Code Chapter 2267, a district:

1. **May not consider whether a person is a member of or has another relationship with any organization; and**

2. **Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person’s membership or other relationship status with respect to an organization.**

Gov’t Code 2267.054

ACCESSIBILITY

Each facility or part of a facility constructed by, on behalf of, or for the use of a district shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities. Alterations of facilities that affect or could affect their usability shall, to the maximum extent feasible, be altered in such manner that the altered portion is readily accessible to and usable by individuals with disabilities. ~~28- CFR- 35.151, 34- CFR- 104.23~~

PAYMENT AND
PERFORMANCE
BONDS

When a board makes a public work contract for constructing, altering, or repairing a public building or carrying out or completing any public work, it shall require the contractor, before beginning the work, to execute payment and/or performance bonds as specified below. The bonds shall be executed by a corporate surety in accordance with Insurance Code 7.19-1. The bond shall be payable to the board and in a form approved by the board. *Gov’t Code 2253.021(a), (d), (e)*

For a contract in excess of \$100,000, a performance bond shall be executed in the amount of the contract conditioned on the faithful performance of the work according to the plans, specifications, and contract documents. The bond is solely for the protection of a district. *Gov’t Code 2253.021(b)*

For a contract in excess of \$25,000, a payment bond shall be executed in the amount of the contract solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the prime contractor or a subcontractor to supply public work labor or material. *Gov’t Code 2253.021(c)*

FAILURE TO OBTAIN
PAYMENT BOND

If a board fails to obtain a payment bond covering a contract in excess of \$25,000 from the prime contractor, it is subject to the same liability as a surety would be, and a payment bond beneficiary is entitled to a lien on money due to the prime contractor in the same manner and to the same extent as if the contract were subject to Subchapter J, Chapter 53, Property Code. *Gov’t Code 2253.027*

NO BOND FOR
DESIGN SERVICES
ONLY

A payment or performance bond is not required ~~for,~~ and may not provide coverage for, the **design** portion of ~~athe~~ design-build contract ~~that includes with the~~ design ~~services only.~~ ~~Education-build firm.~~ **Gov't Code 44.0364**~~2267.311(a)~~ [See **CVGCVE** for more information on design/build contracts, including bond amounts]

BOND FOR
INSURED LOSS

A board shall ensure that an insurance company that is fulfilling its obligation under a contract of insurance by arranging for the replacement of a loss, rather than by making a cash payment directly to the governmental entity, furnishes or has furnished by a contractor:

1. A performance bond for the benefit of a district, as described above; and
2. A payment bond, as described above. If the payment bond is not furnished, a district is subject to the same liability that a surety would have if the surety had issued the payment bond and the district had required the bond to be provided.

These bonds shall be furnished before the contractor begins work. It is an implied obligation under a contract of insurance for the insurance company to furnish these bonds.

EXCEPTION TO
BOND
REQUIREMENT

The requirement that a district secure a performance or payment bond from an insurance company, above, does not apply when a surety company is complying with an obligation under a bond that had been issued for the benefit of the district.

Gov't Code 2253.022

~~OUT OF STATE
BIDDERS~~

~~A board shall not award a contract for general construction, improvements, services, or public works projects or for purchase of supplies, materials, or equipment to a bidder whose principal place of business is not in this state, unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located. Gov't Code 2252.001, 2252.002~~

~~This requirement shall not apply to a contract involving federal funds. A district shall rely on information published by the comptroller in evaluating the bids of a nonresident bidder. Gov't Code 2252.003, 2252.004~~

PREVAILING WAGE ON
PUBLIC WORKS

A worker, laborer, or mechanic employed on a public work, exclusive of maintenance work, by or on behalf of a district shall be paid not less than the general prevailing rate of per diem wages. The general prevailing rate of per diem wages is the rate of per diem

wages for work of a similar character in the locality in which the work is performed, and also includes the rate of per diem wages for legal holiday and overtime work. A worker is employed on a public work if the worker is employed by a contractor or subcontractor in the execution of a contract for public work with a district. *Gov't Code 2258.001, ~~2258.021~~*

A board shall determine, as a sum certain, the general prevailing rate of per diem wages in a district for each craft or type of worker needed to execute the contract and also for legal holiday and overtime work. To ascertain the general prevailing rate of per diem wages, a board shall either conduct a survey of the wages received by classes of workers, laborers, and mechanics employed on projects of a character similar to the contract work in a district or adopt the prevailing wage rate as determined by the U.S. Department of Labor. A board shall specify the prevailing rate of per diem wages in the call for bids and in the contract itself. A board's determination of the general prevailing rates of per diem wages shall be final. *Gov't Code 2258.001, ~~2258.022~~*

ENFORCEMENT

A board, and an agent or officer of the board, shall receive complaints regarding violations of the prevailing wage requirements of Chapter 2258, and withhold money from the contractor as required by statute. Upon receipt of a complaint, a board shall determine, before the 31st day after the date the information is received, whether good cause exists to believe that a contractor or subcontractor has failed to pay the prevailing wage and shall provide written notice of its determination to the contractor or subcontractor and any affected laborer, worker, or mechanic of its initial determination. *Gov't Code 2258.051, ~~2258.052~~*

RETAINAGE AND REIMBURSEMENT

A board shall retain any amounts due under the contract pending a final determination of the violation. Upon a final determination that violations have occurred, a board shall use those retained amounts to pay the laborer, worker, or mechanic the difference between the amount the worker received in wages and the amount the worker would have received at the prevailing rate of per diem wages provided in the arbitrator's award. A board may adopt rules, orders, or ordinances relating to the manner in which the reimbursement is made. *Gov't Code 2258.052(d), ~~2258.056~~*

PENALTY FOR NONCOMPLIANCE

The contractor to whom the contract is awarded or any subcontractors of the contractor shall pay not less than the specified rates to all laborers, workers, and mechanics employed in the execution of the contract. A contractor or subcontractor who fails to pay the specified rates as required shall pay to a district \$60 for each worker, laborer, or mechanic employed for each calendar day or part of a calendar day the worker is paid less than the wage rates

specified in the contract. A board must specify this penalty in the contract. If a district does not determine the prevailing wage rates and specify them in the contract, the contractor or subcontractor may not be fined. A board shall use any penalty money collected to offset the costs incurred in administering Government Code Chapter 2258. *Gov't Code 2258.023*

REQUIRED WORKERS'
COMPENSATION
COVERAGE

When a district enters into a building or construction contract on a project, it shall fulfill the following requirements regarding required workers' compensation coverages. A project includes the provision of all services related to a building or construction contract for a district. A district shall:

1. Include in the bid specifications all the duties and responsibilities of contractors pertaining to required workers' compensation coverages. [See CV(EXHIBIT)]
2. As part of the contract, using the language required by ~~28-TAC~~ **Administrative Code** 110.110(c)(7), require the contractor to perform the duties and responsibilities pertaining to required workers' compensation coverages. [See CV(EXHIBIT)]
3. Obtain from the contractor a certificate of coverage for each person providing services on the project, prior to that person's beginning work on the project. This provision includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracts directly with the contractor and regardless of whether that person has employees. This includes, but is not limited to, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity furnishing persons to perform services on the contract. Services include, but are not limited to, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to a project. Services do not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
4. Obtain from the contractor a new certificate of coverage showing extension of coverage:
 - a. Before the end of the coverage period, if the contractor's current certificate shows that the coverage period ends during the duration of the project; and

- b. No later than seven days after the expiration of the coverage for each other person providing services on the project whose current certificate shows that the coverage period ends during the duration of the project.
- 5. Retain certificates of coverage on file for the duration of the project and for three years thereafter.
- 6. Provide a copy of the certificate of coverage to the Texas Department of Insurance upon request and to any person entitled to a copy by law.
- 7. Use the prescribed language for bid specifications and contracts without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation. [See CV(EXHIBIT) for prescribed language]

Labor Code 406.096; 28- TAC- 110.110(a)(7)(8), (c)

EXCEPTION

This coverage requirement does not apply to sole proprietors or partners of a covered business entity or corporate officers, if the sole proprietor, partner or officer is explicitly excluded from the coverage of their business entity through an endorsement to the insurance policy or certificate of authority to self insure. Labor Code 406.097; 28 TAC 110.110(i)

CRIMINAL HISTORY

For provisions pertaining to criminal history record information on contractors, see CJA(LEGAL).

IMPERMISSIBLE PRACTICES

A board member, employee, or agent of a district who knowingly or with criminal negligence violates the purchasing laws found in Education Code Chapter 44 as described at Education Code 44.032 is subject to criminal penalties. Education Code 44.032 [See CH]

ENFORCEMENT ACTIONS

Government Code Chapter 2267 may be enforced through an action for declaratory or injunctive relief filed not later than the tenth day after the date on which the contract is awarded. Gov't Code 2267.452

DEFECTS IN INSTRUCTIONAL FACILITIES

A district that brings an action for recovery of damages for the defective design, construction, renovation, or improvement of an instructional facility financed by bonds for which the district receives state assistance under Education Code Chapter 46, Subchapter A (Instructional Facilities Allotment) shall provide the Commissioner with written notice of the action. The Commissioner may join in the action on behalf of the state to protect the state's share.

The district shall use the net proceeds from the action to repair the defect or to replace the facility. Education Code 46.008 applies to the repair.

The state's share is state property. The school district shall send to the comptroller any portion of the state's share not used by the school district to repair the defect or to replace the facility. Education Code 42.258 applies to the state's share.

NET PROCEEDS "Net proceeds" means the difference between the amount recovered by or on behalf of a school district in an action, by settlement or otherwise, and the legal fees and litigation costs incurred by the district in prosecuting the action.

STATE'S SHARE "State's share" means an amount equal to the district's net proceeds from the recovery multiplied by a percentage determined by dividing the amount of state assistance under Education Code Chapter 46, Subchapter A used to pay the principal of and interest on bonds issued in connection with the instructional facility that is the subject of the action by the total amount of principal and interest paid on the bonds as of the date of the judgment or settlement.

Education Code 46.0111

ATTORNEY FEES A governmental contract for general construction, an improvement, a service, or a public works project may not provide for the award of attorney's fees to a district in a dispute in which the district prevails unless the contract provides for the award of attorney's fees to each other party to the contract if that party prevails in the dispute.

~~EXCEPTION~~ ~~This coverage requirement does not apply to sole proprietors or partners of a covered business entity or corporate officers, if the sole proprietor, partner or officer is explicitly excluded from the coverage of their business entity through an endorsement to the insurance policy or certificate of authority to self insure. Labor Code 406.097; 28 TAC 110.110(i)~~

~~CRIMINAL HISTORY~~ ~~For provisions pertaining to criminal history record information on contractors, see CJA(LEGAL). Gov't Code 2252.904~~

~~SELECTING
CONTRACTOR
THROUGH
COMPETITIVE
BIDDING~~

~~Except to the extent prohibited by other law and to the extent consistent with Education Code Chapter 44, Subchapter B, a district may use competitive~~ **“Competitive bidding to select” is a procurement method by which a district contracts with a contractor to perform for the construction, alteration, rehabilitation, alteration, or repair services for of a facility. Education by awarding the contract to the lowest responsible bidder.**

Except as otherwise provided by Government Code Chapter 2267 or other law, a district may contract for the construction, alteration, rehabilitation, or repair of a facility only after the district advertises for bids for the contract in a manner prescribed by law, receives competitive bids, and awards the contract to the lowest responsible bidder.

Gov’t Code ~~44.040(a)~~2267.101

The competitive bidding process is governed by the process outlined below. A district must comply with applicable legal requirements in this policy as well as other applicable legal requirements [see CV(LEGAL)], which include the following steps:

~~1. SELECTING A CONTRACTING METHOD;~~

~~2.1.~~ Giving PUBLIC NOTICE of the project;

~~3.2.~~ Publishing CONTRACT SELECTION CRITERIA; ~~and~~

3. MAKING EVALUATIONS PUBLIC after the contract is awarded; ~~and~~

4. **Providing for INSPECTION, VERIFICATION, AND TESTING necessary for acceptance of the facility by the district.**

Education Code ~~44.040(a)~~031(g); Gov’t Code 2267.052, .055, .056(c), .058, .105

Note: Terms in all capital letters, above, point to margin notes in the referenced policy.

**PREPARATION OF
REQUEST**

The district shall prepare a request for competitive bids that includes construction documents, estimated budget, project scope, estimated project completion date, and other information that a contractor may require to submit a bid. Gov’t Code 2267.103

**USE OF ARCHITECT
OR ENGINEER**

The district shall select or designate an architect or engineer in accordance with Occupations Code Chapter 1051 or 1001, as applicable, to prepare the construction documents required

	<p>for a project to be awarded by competitive bidding. Gov't Code 2267.102 [See CV]</p>
OPENING BIDS	<p>The district shall receive, publicly open, and read aloud the names of the offerors and their bids. Bids shall be opened only by a board at a public meeting or by an officer or employee of a district at or in an office of the district. A bid that has been opened may not be changed for the purpose of correcting an error in the bid price. Gov't Code 2267.104; Local Gov't Code 271.026; Education Code 44.040(b)</p> <p>A board shall have the right to reject any and all bids. <i>Local Gov't Code 271.027(a); Education Code 44.040(b)</i></p>
SAFETY RECORD	<p>In determining who is a responsible bidder, a board may take into account the safety record of the bidder; of the firm, corporation, partnership, or institution represented by the bidder; or of anyone acting for such firm, corporation, partnership, or institution, provided that the board has:</p> <ul style="list-style-type: none">5.1. Adopted a written definition and criteria for accurately determining the safety record of the bidder.6.2. Given notice in the bid specifications that the safety record of a bidder may be considered in determining the bidder's responsibility.7.3. Ascertained that such determination is not arbitrary and capricious. <p><i>Local Gov't Code 271.0275; Education Code 44.040(b)</i></p>
ENGINEER OR ARCHITECT RESPONSIBILITY	<p>A district shall select or designate an engineer or architect to prepare construction documents for the project. The selected or designated engineer or architect has full responsibility for complying with Chapter 1001 and Chapter 1051 of the Occupations Code, as applicable. Education Code 44.040(c)</p>
AWARD OF CONTRACT	<p>A district shall award a competitively bid contract at the bid amount to the bidder offering the best value to the district according to selection criteria that were established by the district. The selection criteria may include factors listed in Education Code 44.031(b). Education Code 44.040(d) [See CH]</p>
CONFLICT OF LAWS	<p>To the extent of any conflict, Education Code Chapter 44, Subchapter B prevails over Local Government Code Chapter 271, Subchapter B. Except as otherwise specifically provided in this policy, Local Government Code Chapter 271, Subchapter B, does not apply to at the competitive bidding process under Education Code Chapter 44. Local. Gov't Code 271.023; Education Code 44.040(b)2267.106</p>
DATE ISSUED: 9/ 14/2004 27/2011	
UPDATE 7391	
CVA(LEGAL)-PRM	

“Competitive sealed proposals” is a procurement method by which a district requests proposals, ranks the offerors, negotiates as prescribed, and then contracts with a general contractor for the construction, rehabilitation, alteration, or repair of a facility. Gov’t Code 2267.151

If a district uses the competitive sealed proposals method as described in this policy, it must comply with applicable legal requirements in this policy as well as other applicable legal requirements [see CV(LEGAL)], which include the following steps:

1. SELECTING A CONTRACTING METHOD;
2. Giving PUBLIC NOTICE of the project;
3. Publishing CONTRACT SELECTION CRITERIA; **and**
4. MAKING EVALUATIONS PUBLIC after the contract is awarded; **and**
5. **Providing for INSPECTION, VERIFICATION, AND TESTING necessary for acceptance of the facility by the district.**

Education Code 44.031(g); Gov’t Code 2267.052, .055, .056(a), (c), .058

Note: Terms in all capital letters, above, point to margin notes in the referenced policy.

**SELECTING
CONTRACTOR
THROUGH SEALED
PROPOSALS
ARCHITECT/
ENGINEER**

~~In selecting a contractor for construction, rehabilitation, alteration, or repair services for a facility through competitive sealed proposals, a district shall follow the procedures below:~~

~~1.—A district shall select or designate an engineer or architect to prepare construction documents for the project. The selected or designated engineer or architect has full responsibility for complying with Occupations Code Title 6, Chapter 1001, or Occupations Code Title 6, Chapter 1051, as applicable. If the engineer or architect is not a full-time employee of a district, the district shall select the engineer or architect on the basis of demonstrated competence and qualifications as provided by Government Code 2254.004. [See CV]~~

**INSPECTION,
TESTING, AND
VERIFICATION**

~~2.—A district shall provide or contract for, independently of the contractor, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the district. A district shall select those services for which it contracts in accordance with Government Code 2254.004 and shall identify them in the request for proposals. [See CV]~~

REQUEST FOR
PROPOSALS

A district shall prepare a request for competitive sealed proposals that includes construction documents, selection criteria **and the weighted value for each criterion**, estimated budget, project scope, ~~schedule~~**estimated project completion date**, and other information that ~~contractors~~**a contractor** may require to respond to the request. ~~A district shall state in the request for proposals the selection criteria that will be used in selecting the successful offerer.~~ **Gov't Code 2267.153**

~~Education Code 44.039~~

~~If there is no newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which a district's central administrative office is located.~~ ~~Education Code 44.031(g)~~

**ARCHITECT/
ENGINEER**

A district shall select or designate an architect or engineer to prepare construction documents for the project. Gov't Code 2267.152 [See CV]

OPENING PROPOSALS

A district shall receive, publicly open, and read aloud the names of the offerors and, ~~if any are required to be stated, all prices stated in each proposal.~~ ~~Within 45 days~~**monetary proposals made by the offerors. Not later than the 45th day** after the date ~~of opening~~**which the proposals are opened**, a district shall evaluate and rank each proposal submitted in relation to the **published selection criteria** ~~set forth in the request for proposals.~~ **Gov't Code 2267.154**

SELECTION

A district shall select the offeror that **submits the proposal that offers the best value for the district based on the published selection criteria in the request for proposal and the weighted value for those criteria in the request for proposal** and on its ranking evaluation.

A district shall first attempt to negotiate **a contract** with the selected offeror ~~a contract~~. A district and its ~~engineer or~~ architect **or engineer** may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If a district is unable to negotiate a **satisfactory** contract with the selected offeror, the district shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.

**BEST VALUE
DETERMINATION**

~~3. In determining best value for the district, a district is not restricted to considering price alone, but may consider any other factor stated in the selection criteria.~~

~~Education~~**Gov't Code 44.0392267.155**

~~DESIGN-BUILD
CONTRACT~~

A “construction manager-agent” is a sole proprietorship, partnership, corporation, or other legal entity that serves as the agent for the district by providing consultation or administrative services during the design and construction phase and managing multiple contracts with various construction prime contractors for construction, rehabilitation, alteration, or repair of a facility. A district may retain a construction manager-agent only as provided by Government Code Chapter 2267, Subchapter E. The contract between the district and the construction manager-agent may require the construction manager-agent to provide administrative personnel, equipment necessary to perform duties under this policy, on-site management, and other services specified in the contract. *Gov’t Code 2267.201–.202*

A construction manager-agent may not:

1. Self-perform any aspect of the construction, rehabilitation, alteration, or repair of the facility.
2. Be a party to a construction subcontract for the construction, rehabilitation, alteration, or repair of the facility.
3. Provide or be required to provide performance and payment bonds for the construction, rehabilitation, alteration, or repair of the facility.

Gov’t Code 2267.203

A construction manager-agent represents a district in a fiduciary capacity. *Gov’t Code 2267.204*

A district may use the ~~design-build~~ construction manager-agent method for the construction, rehabilitation, alteration, or repair of a facility. In using this method, a district must comply with applicable legal requirements in this policy as well as other applicable legal requirements [see CV(LEGAL-~~H~~)], which include the following steps::

1. SELECTING A CONTRACTING METHOD;
2. Giving PUBLIC NOTICE of the project;
3. Publishing CONTRACT SELECTION CRITERIA; ~~and~~
4. MAKING EVALUATIONS PUBLIC after the contract is awarded; ~~and~~
5. Providing for INSPECTION, VERIFICATION, AND TESTING necessary for acceptance of the facility by the district.

Education Code 44.031(g); Gov't Code 2267.052, .055, .056(a), (c), .058, .201(c)

Note: Terms in all capital letters, above, point to margin notes in the referenced policy.

WHEN ENTERING INTO
A CONTRACT FOR
ARCHITECT/
ENGINEER
~~ARCHITECT/
ENGINEER~~

On or before the ~~services~~ selection of a ~~design-build firm~~ construction manager-agent, the ~~contracting~~-district and the ~~design-build firm~~ shall follow the procedures below:

A district shall ~~select or~~ designate an ~~engineer or~~ architect independent of the ~~design-build firm to act as its representative for the duration of the work on~~ or engineer in accordance with Occupations Code Chapter 1051 or 1001, as applicable, to prepare the construction documents for the project. *Gov't Code 2267.205(a) [See CV]*

A district's architect or engineer may not serve, alone or in combination with another person, as the construction manager-agent unless the architect or engineer is hired to serve as the construction manager-agent under a separate or concurrent selection process conducted in accordance with this policy. A district's architect or engineer is not prohibited by this policy from providing customary construction-phase services under the facility. ~~If a district's engineer or architect is not a full-time employee of~~ architect's or engineer's original professional service agreement in accordance with applicable licensing laws. *Gov't Code 2267.205(b)*

To the ~~district, any engineer or architect designated shall extent~~ that the construction manager-agent's services are defined as part of the practice of architecture or engineering under Occupations Code Chapter 1051 or 1001 those services must be ~~selected~~ conducted by a person licensed under the applicable chapter. *Gov't Code 2267.205(c)*

SELECTION OF
CONSTRUCTION
MANAGER-AGENT

A district shall select a construction manager-agent on the basis of demonstrated competence and qualifications in ~~accordance with~~ the same manner that an architect or engineer is selected under Government Code 2254.004.- *Gov't Code 2267.207 [See CV]*

REQUEST FOR
QUALIFICATIONS

1.—A district shall ~~prepare a request for qualifications that includes general information on the project site, project scope, budget, special systems, selection criteria, and other information that may assist potential design-build firms in submitting proposals for the project. A district shall also prepare the design criteria package that includes more detailed information~~

~~on the project as described in Education Code 44.036(a)(3). If the preparation of the design criteria package requires engineering within the meaning of Occupations Code Title 6, Chapter 1001, or the practice of architecture within the meaning of Occupations Code Title 6, Chapter 1051, those services shall be provided in accordance with the applicable law.~~

EVALUATION

~~2. A district shall evaluate statements of qualifications and select a design-build firm in two phases:~~

PHASE ONE:
QUALIFICATION

~~a. In phase one, a district shall prepare a request for qualifications and evaluate each offeror's experience, technical competence, capability to perform, the past performance of the offeror's team and members of the team, and other appropriate factors submitted by the team or firm in response to the request for qualifications, except that cost-related or price-related evaluation factors are not permitted. Each offeror shall certify to a district that each engineer or architect who is a member of its team was selected based on demonstrated competence and qualifications, in the manner provided by Government Code 2254.004. A district shall qualify a maximum of five offerors to submit additional information and, if the district chooses, to interview for final selection.~~

PHASE TWO:
PROPOSALS

~~b. In phase two, a district shall evaluate the information submitted by the offerors on the basis of the selection criteria stated in the request for qualifications and the results of any interview. A district may request additional information regarding demonstrated competence and qualifications, considerations of the safety and long-term durability of the project, the feasibility of implementing the project as proposed, the ability of the offeror to meet schedules, costing methodology, or other factors as appropriate. A district may not require offerors to submit detailed engineering or architectural designs as part of the proposal.~~

~~A district shall rank each proposal submitted on the basis of the criteria set forth in the request for qualifications. A district shall select the design-build firm that submits the proposal offering the best value for the district on the basis of the published selection criteria and on its ranking evaluations.~~

~~A district shall first attempt to negotiate a contract with the selected offeror. If a district is unable to negotiate a satisfactory contract with the selected offeror, the district shall, formally and in writing, end negotiations with that~~

~~offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.~~

DESIGN	<p>3.—Following selection of a design-build firm, the firm's engineers or architects shall complete the design, submitting all design elements for review and determination of scope compliance to a district or a district's engineer or architect before or concurrently with construction.</p> <p>4.—An engineer shall have responsibility for compliance with the engineering design requirements and all other applicable requirements of Occupations Code Title 6, Chapter 1001. An architect shall have responsibility for compliance with the requirements of Occupations Code Title 6, Chapter 1051.</p>
INSPECTION, TESTING, AND VERIFICATION TESTING SERVICES	<p>A district shall provide or contract for, independently of the design-build firm, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the district. A district shall select those services for which it contracts in accordance with Government Code 2254.004. [See CV]</p>
COMPLETION OF PROJECT	<p>The design-build firm shall supply a signed and sealed set of construction documents for the project to a district at the conclusion of construction.</p>
PAYMENT OR PERFORMANCE BOND	<p>A payment or performance bond is not required for, and may not provide coverage for, the portion of a design-build contract that includes design services only. [See CV for more information on payment and performance bonds]</p>
AMOUNT	<p>If a fixed contract amount or guaranteed maximum price has not been determined at the time a design-build contract is awarded, the penal sums of the performance and payment bonds delivered to a district must each be in an amount equal to the project budget, as specified in the design criteria package. The design-build firm shall deliver the bonds not later than the tenth day after the date the design-build firm executes the contract, unless the design-build firm furnishes a bid bond or other financial security acceptable to a district to ensure that the design-build firm will furnish the required performance and payment bonds when a guaranteed maximum price is established.</p>
EDUCATION CODE 44.036 INSURANCE	<p>The construction manager-agent shall maintain professional liability or errors and omissions insurance in the amount of at least \$1 million for each occurrence. Gov't Code 2267.208</p>

**SELECTION OF
CONTRACTORS**

A district using the construction manager-agent method shall procure, in accordance with applicable law and in any manner authorized by Government Code Chapter 2267, a general contractor or trade contractors who will serve as the prime contractor for their specific portion of the work and provide performance and payment bonds to the district in accordance with applicable laws. *Gov't Code 2267.206*

DEFINITION

“Construction manager-at-risk method” is a delivery method by which a district contracts with an architect or engineer for design and construction phase services and contracts separately with a construction manager-at-risk to serve as the general contractor and to provide consultation during the design and construction, rehabilitation, alteration, or repair of a facility. Gov’t Code 2267.251(a)

A construction manager-agent-at-risk is a sole proprietorship, partnership, corporation, or other legal entity that **assumes the risk for construction, rehabilitation, alteration, or repairs of a facility at a contracted price as a general contractor** and provides consultation to a district regarding construction, ~~rehabilitation, alteration, or repair of the facility.~~ **A district using the construction manager-agent method may, under the contract between during and after the district and design of the construction manager-agent, require the construction manager-agent to provide administrative personnel, equipment necessary to perform duties under this section, and on-site management and other services specified in the contract. A construction manager-agent represents a district in a fiduciary capacity.** **facility. The contracted price may be a guaranteed maximum price. Gov’t Code 2267.251(b)**

A district may use the construction manager-agent-at-risk method for the construction, rehabilitation, alteration, or repair of a facility. In using this method, a district must comply with applicable legal requirements in this policy as well as other applicable legal requirements [see CV(LEGAL)], which include the following steps:

1. SELECTING A CONTRACTING METHOD;
2. Giving PUBLIC NOTICE of the project;
3. Publishing CONTRACT SELECTION CRITERIA; ~~and~~
4. MAKING EVALUATIONS PUBLIC after the contract is awarded; ~~and~~
5. **Providing for INSPECTION, VERIFICATION, AND TESTING necessary for acceptance of the facility by the district.**

Education Code 44.031(g); Gov’t Code 2267.052, .055, .056(a), (c), .058, .251(c)

Note: Terms in all capital letters, above, point to margin notes in the referenced policy.

~~In entering into a contract for the services of a construction manager-agent, a district shall follow the procedures below:~~

ARCHITECT ~~+/~~
ENGINEER

~~A~~ On or before the selection of a construction manager-at-risk, the district shall select or designate an architect or engineer or architect ~~who shall~~ to prepare the construction documents for the project ~~and who has full responsibility for complying with Occupations. Gov't Code Title 6, Chapters 1001 or 1051, as applicable. If the engineer or architect is not a full-time employee of a district, the district shall select the engineer or architect on the basis of demonstrated competence and qualifications as provided by Government Code 2254.004.~~ **2267.252(a)** [See CV]

~~A~~ The district's ~~engineer or architect~~ or **engineer for a project** may not serve, alone or in combination with another ~~person~~, as the construction manager-~~agent at-risk~~ unless the ~~engineer or architect~~ or **engineer** is hired to serve as the construction manager-~~agent at-risk~~ under a separate or concurrent procurement conducted in accordance with ~~Education~~ **Government Code Chapter 442267**, Subchapter ~~B. A district's~~ **F, which does not prohibit the** engineer or architect ~~is not prohibited by this policy~~ from providing customary construction- phase services under the ~~engineer's or architect's~~ or **engineer's** original professional service agreement in accordance with applicable licensing laws. **Gov't Code 2267.252(b)**

SELECTION PROCESS
~~SELECTION OF
CONSTRUCTION
MANAGER-AGENT~~

A district shall select ~~at~~ the construction manager-~~agent on the basis~~ ~~at-risk in either a one-step or two-step process. A district shall prepare a single request for proposals, in the case of demonstrated competence a one-step process, and an initial request for~~ qualifications ~~in the same manner as provided for the selection of engineers or architects under Government Code 2254.004. [See CV],~~ in the case of a two-step process that includes:

~~TESTING,
INSPECTION, AND
VERIFICATION
SERVICES~~

- ~~A district or the~~ **A statement as to whether the selection process is a one-step or two-step process;**
- General information on the project site, project scope, schedule, selection criteria and the weighted value for each criterion, and estimated budget and the time and place for receipt of the proposals or qualifications; and**
- Other information that may assist a district in its selection of a construction manager-~~agent shall procure in accordance with Government Code 2254.004 all of the testing of construction materials engineering, at-risk.~~**

~~A district shall state the inspection services, and the verification testing services necessary for acceptance~~ **selection criteria in the request for proposals or qualifications.**

If a one-step process is used, a district may request, as part of the ~~facility by~~ offeror's proposal, proposed fees and prices for fulfilling the general conditions. If a two-step process is used, a district may not request fees or prices in step one. In step two, a district may request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including the construction manager-at-risk's proposed fee and its price for fulfilling the general conditions.

~~OTHER~~
CONTRACTORS
OPENING AND
EVALUATING
PROPOSALS

~~A~~ Gov't Code 2267.253(a)–(e)

At each step, a district shall receive, publicly open, and read aloud the names of the offerors. At the appropriate step, a district shall also read aloud the fees and prices, if any, stated in each proposal as the proposal is opened. Not later than the 45th day after the date on which the final proposals are opened, a district shall evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals. Gov't Code 2267.253(f)–(g)

~~SELECTION PROCEDURE,~~
~~IN ACCORDANCE~~

A district shall select the offeror that submits the proposal that offers the best value for the district based on the published selection criteria and on its ranking evaluation. The district shall first attempt to negotiate a contract with the selected offeror. If the district is unable to negotiate a satisfactory contract with the selected offeror, the district shall, formally and in writing, end negotiations with ~~applicable law and in any manner authorized by Education~~ that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end. Gov't Code ~~Chapter 44, a general contractor,~~ 2267.254(a)–(c)

NOTICE OF RANKINGS

Not later than the seventh day after the date the contract is awarded, the district shall make the proposal rankings public. Gov't Code 2267.254(d)

TRADE
CONTRACTORS/
SUBCONTRACTORS

A construction manager-at-risk shall publicly advertise for bids or proposals and receive bids or proposals from trade contractors, or subcontractors ~~who will serve as the prime~~ for the performance of all major elements of the work other than the minor work that may be included in the general conditions. A construction manager-at-risk may seek to perform portions of the work itself if:

1. The construction manager-at-risk submits its bid or proposal for those portions of the work in the same manner as all other trade contractors or subcontractors; and

2. The district determines that the construction manager-at-risk's bid or proposal provides the best value for the district.

Gov't Code 2267.255

**BIDS OR
PROPOSALS**

The construction manager-at-risk shall review all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to a person not employed by the construction manager-at-risk, architect, engineer, or district. All bids or proposals shall be made available to the district on request and to the public after the later of the award of the contract or the seventh day after the date of final selection of bids or proposals. *Gov't Code 2267.256(a)*

If the construction manager-at-risk reviews, evaluates, and recommends to the district a bid or proposal from a trade contractor ~~for their specific portion of the work~~ or subcontractor but the district requires another bid or proposal to be accepted, the district shall compensate the construction manager-at-risk by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction manager-at-risk incurs because of the district's requirement that another bid or proposal be accepted. *Gov't Code 2267.256(b)*

~~EDUCATION CODE~~
~~44.037~~ DEFAULT

If a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected in accordance with this policy, the construction manager-at-risk may itself fulfill, without advertising, the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements. *Gov't Code 2267.257*

**PAYMENT AND
PERFORMANCE BOND
AMOUNTS**

If a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the district must each be in an amount equal to the project budget, as specified in the request for proposals or qualifications. The construction manager shall deliver the bonds not later than the tenth day after the date the construction manager-at-risk executes the contract, unless the construction manager-at-risk furnishes a bid bond or other financial security acceptable to a district to ensure that the construction manager will furnish the required performance and payment bonds when a guaranteed maximum price is established. *Gov't Code 2267.258* [See CV for more information on payment and performance bonds]

DEFINITION

A “Design-build” is a project delivery method by which a governmental entity contracts with a single entity to provide both design and construction ~~manager-at-risk is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for~~ services for the construction, rehabilitation, alteration, or repair of a facility ~~at a contracted price as a general contractor and provides consultation.~~ *Gov’t Code 2267.301*

This policy applies only to a ~~district regarding~~ facility that is a building or an associated structure, including an electric utility structure. This policy does not apply to:

1. A highway, road, street, bridge, underground utility, water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, wharf, dock, airport runway or taxiway, drainage project, or related type of project associated with civil engineering construction ~~during and after the design of the facility;~~ or
2. A building or structure that is incidental to a project that is primarily a civil engineering construction project.

Gov’t Code 2267.302

A district may use the ~~construction manager-at-risk~~ design-build method for the construction, rehabilitation, alteration, or repair of a ~~facility.~~ building or associated structure. In using this method, ~~a district must comply~~ the district shall enter into a single contract with a design-build firm for the design and construction of the building or associated structure in accordance with applicable legal requirements in this policy as well as other applicable legal requirements [see CV(LEGAL) ~~]]~~] which include the following steps::

- ~~2.1.~~ SELECTING A CONTRACTING METHOD;
- ~~3.2.~~ Giving PUBLIC NOTICE of the project;
- ~~4.3.~~ Publishing CONTRACT SELECTION CRITERIA; ~~and~~
- ~~5.4.~~ MAKING EVALUATIONS PUBLIC after the contract is awarded; ~~and~~
5. Providing for INSPECTION, VERIFICATION, AND TESTING necessary for acceptance of the facility by the district.

Education Code 44.031(g); Gov’t Code 2267.052, .055, .056(a), (c), .058, .303

Note: Terms in all capital letters, above, point to margin notes in the referenced policy.

~~In entering into a contract for the services of a construction manager-at-risk, a district shall follow the procedures prescribed below:~~

DESIGN-BUILD FIRM

A design-build firm must be a sole proprietorship, partnership, corporation, or other legal entity or team that includes an architect or engineer and a construction contractor. *Gov't Code 2267.304*

~~ARCHITECT~~/
ENGINEER

A district shall select or designate an ~~engineer or~~ architect ~~who shall prepare or~~ engineer independent of the ~~construction documents~~ design-build firm to act as the district's representative for the duration of the project ~~and who has full responsibility for complying with~~. *Gov't Code 2267.305 [See CV]*

**REQUEST FOR
QUALIFICATIONS**

A district shall prepare a request for qualifications that includes general information on the project site, project scope, budget, special systems, selection criteria and the weighted value for each criterion, and other information that may assist potential design-build firms in submitting proposals for the project. *Gov't Code 2267.306(a)*

The district may not require offerors to submit architectural or engineering designs as part of a proposal or a response to a request for qualifications. *Gov't Code 2267.306(d)*

**DESIGN CRITERIA
PACKAGE**

A district shall also prepare the design criteria package that includes more detailed information on the project. If the preparation of the design criteria package requires architectural or engineering services that constitute the practice of architecture within the meaning of Occupations Code ~~Title 6, Chapter 1051~~ Chapter 1051 or the practice of engineering within the meaning of Occupations Code Chapter 1001 ~~or 1051, as~~, those services shall be provided in accordance with the applicable ~~law~~. *Gov't Code 2267.306(b)*

The design criteria package must include a set of documents that provides sufficient information, including criteria for selection, to permit a design-build firm to prepare a response to the district's request for qualifications and to provide any additional information requested. The design criteria package must specify criteria the district considers necessary to describe the project and may include, as appropriate, the legal description of the site, survey information concerning the site, interior space requirements, special material requirements,

material quality standards, conceptual criteria for the project, special equipment requirements, cost or budget estimates, time ~~employee of a district, the district shall select the engineer or~~ schedules, quality assurance and quality control requirements, site development requirements, applicable codes and ordinances, provisions for utilities, parking requirements, and any other requirement. Gov't Code 2267.306(c)

EVALUATION
QUALIFICATION

For each design-build firm that responded to the request for qualifications, the district shall evaluate the firm's experience, technical competence, capability to perform, the past performance of the firm and members of the firm, and other appropriate factors submitted by the firm in response to the request for qualifications, except that cost-related or price-related evaluation factors are not permitted. Each firm must certify to the district that each architect ~~on the basis of or~~ engineer that is a member of the firm was selected based on demonstrated competence and qualifications ~~as~~, in the manner provided by Government Code 2254.004. ~~[See CV]~~ A district shall qualify a maximum of five responders to submit proposals that contain additional information and, if the district chooses, to interview for final selection. Gov't Code 2267.307(a)-(c)

~~A district's engineer, architect, or construction manager-agent for a project may not serve, alone or in combination with another, as the construction manager-at-risk unless the engineer or architect is hired to serve as the construction manager-at-risk under a separate or concurrent procurement conducted in accordance with Education Code Chapter 44, Subchapter B, which does not prohibit the engineer or architect from providing customary construction phase services under the engineer's or architect's original professional service agreement in accordance with applicable licensing laws.~~

INSPECTION, TESTING,
VERIFICATION
SERVICES

- ~~1. A district shall provide for, independently of the construction manager-at-risk, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the district. A district shall select those services for which it contracts in accordance with Government Code 2254.004. [See CV]~~
- ~~2. A district shall select the construction manager-at-risk in either a one-step or two-step process.
 - ~~a. A district shall prepare a request for proposals in the case of a one-step process, or a request for qualifications in the case of a two-step process. The request shall include general information on the project site, project scope, schedule, selection criteria, estimated~~~~

~~budget, and the time and place for receipt of proposals or qualifications, as applicable; a statement as to whether the selection process is a one-step or two-step process; and other information that may assist a district in its selection of a construction manager-at-risk.~~

~~A DISTRICT
SHALL STATE
PROPOSALS~~

The district shall evaluate the additional information submitted by the offerors on the basis of the selection criteria stated in the request for ~~proposals or qualifications, as applicable.~~ The and the results of any interview. The district may request additional information regarding demonstrated competence and qualifications, considerations of the ~~selection criteria may include the offeror's experience, past performance, safety record,~~ and long-term durability of the project, the feasibility of implementing the project as proposed ~~personnel and,~~ the ability of the offeror to meet schedules, or costing methodology, ~~and other appropriate factors that demonstrate the capability of the.~~

“Costing methodology” means an offeror’s policies on subcontractor markup, definition of general conditions, range of cost for general conditions, policies on retainage, policies on contingencies, discount for prompt payment, and expected staffing for administrative duties. The term does not include a guaranteed maximum price or bid for overall design or construction ~~manager-at-risk.~~

~~b.—If a one-step process is used, a district may request, as part of the offeror's proposal, proposed fees and prices for fulfilling the general conditions. If a two-step process is used, a district may not request fees or prices in step one. In step two, a district may request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including the construction manager-at-risk's proposed fee and its price for fulfilling the general conditions.~~

~~OPENING AND
EVALUATING
PROPOSALS~~

~~At each step, a district shall receive, publicly open, and read aloud the names of the offerors. At the appropriate step, a district shall also read aloud the fees and prices, if any, stated in each proposal as the proposal is opened. Within 45 days after the date of opening the proposals, a district shall evaluate and Gov't Code 2267.307(d)–(e)~~

The district shall rank each proposal submitted ~~in relation to on~~ the basis of the criteria set forth in the request for ~~proposals.~~ qualifications. Gov't Code 2267.307(f)

SELECTION
~~SELECTION~~
N
A

The district shall select the ~~offeror~~ **design-build firm** that submits the proposal ~~that offers~~ **offering** the best value for the district ~~based~~ on **the basis of** the published selection criteria and on its ranking ~~evaluation.~~ **evaluations.**

A district shall first attempt to negotiate a contract with the selected ~~offeror~~ **firm**. If a district is unable to negotiate a satisfactory contract with the selected ~~offeror~~ **firm**, the district shall, formally and in writing, end **all** negotiations with that ~~offeror~~ **firm** and proceed to negotiate with the next ~~offeror~~ **firm** in the order of the selection ranking until a contract is reached or negotiations with all ranked ~~offerors~~ **firms** end.

~~TRADE CONTRACTORS / SUBCONTRACTORS~~

~~3.—A construction manager-at-risk shall publicly advertise, in accordance with Education Code Section 44.031(g) [see CV], and receive bids or proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in the general conditions. A construction manager-at-risk may seek to perform portions of the work itself if:~~

Gov't Code 2267.308(a)–(c)

NOTICE OF RANKINGS

Not later than the seventh day after the date the contract is awarded, the district shall make the proposal rankings public. *Gov't Code 2267.308(d)*

DESIGN

After selection of the design-build firm, that firm's architects or engineers shall submit all design elements for review and determination of scope compliance to the district or the district's architect or engineer before or concurrently with construction. *Gov't Code 2267.309*

FINAL CONSTRUCTION DOCUMENTS

a.—The **design-build firm** shall supply a set of construction ~~manager-at-risk submits its bid or proposal documents~~ for ~~these portions of the work in completed project to~~ the ~~same manner as all other trade contractors or subcontractors;~~ and

b.—If a district ~~determines that~~ **at the conclusion of** construction ~~manager-at-risk's bid or proposal provides the best value for the district.~~

~~TRADE CONTRACTOR OR SUBCONTRACTOR BIDS OR PROPOSALS~~

. The **documents must note any changes made during** construction ~~manager-at-risk and a district or its representative shall review all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to a person not employed by the construction manager-at-risk, engineer, architect, or district. All bids or proposals shall be made public after the award of the contract or~~

~~within seven days after the date of final selection of bids or proposals, whichever is later.~~ **Gov't Code 2267.310**

~~4. If the construction manager-at-risk reviews, evaluates, and recommends to a district a bid or proposal from a trade contractor or subcontractor, but the district requires another bid or proposal to be accepted, the district shall compensate the construction manager-at-risk by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction manager-at-risk may incur because of the district's requirement that another bid or proposal be accepted.~~

~~5. If a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected in accordance with this section, the construction manager-at-risk may, without advertising, fulfill the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements.~~

PAYMENT ~~AND~~ OR
PERFORMANCE BOND
AMOUNTS

A payment or performance bond is not required and may not provide coverage for the design portion of the design-build contract with the design-build firm. [See CV for more information on payment and performance bonds]

AMOUNT

If a fixed contract amount or guaranteed maximum price has not been determined at the time the **design-build** contract is awarded, the penal sums of the performance and payment bonds delivered to ~~at~~ the district must each be in an amount equal to the **project-construction** budget, as specified in the ~~request for qualifications.~~ **The construction manager design criteria package. The design-build firm** shall deliver the bonds not later than the tenth day after the date the ~~construction manager~~ **design-build firm** executes the contract, unless the ~~construction manager~~ **design-build firm** furnishes a bid bond or other financial security acceptable to ~~at~~ the district to ensure that the ~~construction manager~~ **design-build firm** will furnish the required performance and payment bonds ~~when a guaranteed maximum price is established. [See CV for more information on payment and performance bonds.]~~ **before construction begins.**

~~Education~~ **Gov't Code 44.0382267.311**

“Job order contracting” is a procurement method used for maintenance, repair, alteration, renovation, remediation, or minor construction of a facility when the work is of a recurring nature but the delivery times, type, and quantities of work required are indefinite. Gov’t Code 2267.401

This policy applies only to a facility that is a building, the design and construction of which is governed by accepted building codes, or a structure or land, whether improved or unimproved, that is associated with a building. This policy does not apply to:

- 1. A highway, road, street, bridge, utility, water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, wharf, dock, airport runway or taxiway, drainage project, or related type of project associated with civil engineering construction; or**
- 2. A building or structure that is incidental to a project that is primarily a civil engineering construction project.**

Gov’t Code 2267.402

If a district uses the job order contracts method as described in this policy, it must comply with the applicable legal requirements in this policy as well as other applicable legal requirements [see CV(LEGAL)], which include the following steps:

- 1. SELECTING A CONTRACTING METHOD;**
- 2. Giving PUBLIC NOTICE of the project;**
- 3. Publishing CONTRACT SELECTION CRITERIA; and**
- 4. MAKING EVALUATIONS PUBLIC after the contract is awarded; and**
- 5. Providing for INSPECTION, VERIFICATION, AND TESTING necessary for acceptance of the facility by the district.**

Education Code 44.031(g); Gov’t Code 2267.052, .055, .056(a), (c), .058

Note: Terms in all capital letters, above, point to margin notes in the referenced policy.

A district may award job order contracts for ~~the minor construction~~ **maintenance**, repair, ~~rehabilitation, or~~ **alteration, renovation, remediation, or minor construction** of a facility if the work is of a

	<p>recurring nature, but the delivery times are indefinite and indefinite quantities and orders are awarded substantially on the basis of predescribed and prepriced tasks. The district shall establish the maximum aggregate contract price when it advertises the proposal. The board shall approve each job, task, or purchase order that exceeds \$500,000. Gov't Code 2267.403</p>
ESTABLISHING UNIT PRICES	<p>A district may establish contractual unit prices for a job order contract by:</p> <ol style="list-style-type: none">1. Specifying one or more published construction unit price books and the applicable divisions or line items; or2. Providing a list of work items and requiring the offerors to bid or propose one or more coefficients or multipliers to be applied to the price book or prepriced work items as the price proposal.
TERM OF CONTRACT	The base term of a job order contract is for the period, and with any renewal option, that a district sets forth in the request for proposals. If a district fails to advertise that term, the base term may not exceed two years and is not renewable without further advertisement and solicitation of proposals.
ARCHITECT OR ENGINEER	If job order contracts or orders issued under the contract require engineering or architectural services that are subject to Occupations Code Title 6, Chapters 1001 or 1051, a district shall select or designate an architect or engineer to prepare the construction documents for the facility. If the architect or engineer is not a full-time employee of the district, a district shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Government Code 2254.004. [See CV] <p>Gov't Code 2267.404</p>
ADVERTISING AND OPENING PROPOSALS	<p>A district may use the competitive sealed proposal method under Government Code Chapter 2267, Subchapter D for job order contracts. [See CVB] The district shall advertise for [see CV], receive, and publicly open sealed proposals for job order contracts. A district may require offerors to submit additional information besides in addition to rates, including experience, past performance, and proposed personnel and methodology. Education- Gov't Code 44.041(c), (d) 2267.405</p>
ARCHITECT OR ENGINEER	<p>If a job order contract or an order issued under the contract requires architectural or engineering services that constitute the practice of architecture within the meaning of Occupations Code Chapter 1051 or the practice of engineering within the meaning of Occupations Code Chapter 1001, a district shall</p>

select or designate an architect or engineer to prepare the construction documents for the project.

This requirement does not apply to a job order contract or an order issued under the contract for industrialized buildings or relocatable educational facilities subject to and approved under Occupations Code Chapter 1202 if the contractor employs the services of an architect or engineer who approves the documents for the project.

Gov't Code 2267.408 [See CV]

AWARDING
CONTRACTS

AThe district may award job order contracts to one or more job order contractors in connection with each solicitation of ~~bids or~~ proposals. **Gov't Code 2267.406**

An order for a job or project under ~~the~~ job order contract must be signed by a district's representative and the contractor. The order may be ~~a~~:

1. **A** fixed-price, lump-sum contract based substantially on contractual unit pricing applied to estimated quantities ~~or may be a unit price order based on the quantities and line items delivered.~~; or
2. **A** unit price order based on the quantities and line items delivered.

Gov't Code 2267.410

CONTRACT TERM

The base term for a job order contract may not exceed two years. The district may renew the contract annually for not more than three additional years. **Gov't Code 2267.409**

USE OF CONTRACT

A job order contract may be used to accomplish work only for the district that awards the contract unless:

1. The solicitation for the job order contract and the contract specifically provide for use by other persons; or
2. The district enters into an interlocal agreement that provides otherwise.

Gov't Code 2267.407

BONDS

The contractor shall provide payment and performance bonds, if required by law, based on the amount or estimated amount of any order. **Gov't Code 2267.411** [See CV for more information on payment and performance bonds]

~~Education Code 44.041~~

Please Note: This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

SECTION D: PERSONNEL

DA	EMPLOYMENT OBJECTIVES
DAA	Equal Employment Opportunity
DAB	Objective Criteria for Personnel Decisions
DB	EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
DBA	Credentials and Records
DBAA	Criminal History and Credit Reports
DBB	Medical Examinations and Communicable Diseases
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DBE	Nepotism
DC	EMPLOYMENT PRACTICES
DCA	Probationary Contracts
DCB	Term Contracts
DCC	Continuing Contracts
DCD	At-Will Employment
DCE	Other Types of Contracts
DE	COMPENSATION AND BENEFITS
DEA	Salaries and Wages
DEAA	Incentives and Stipends
DEB	Fringe Benefits
DEC	Leaves and Absences
DECA	Family and Medical Leave
DECB	Military Leave
DED	Vacations and Holidays
DEE	Expense Reimbursement
DEG	Retirement
DF	TERMINATION OF EMPLOYMENT
DFA	Probationary Contracts
DFAA	Suspension/Termination During Contract
DFAB	Termination at End of Year
DFAC	Return To Probationary Status
DFB	Term Contracts
DFBA	Suspension/Termination During Contract
DFBB	Nonrenewal
DFC	Continuing Contracts
DFCA	Suspension/Termination
DFD	Hearings Before Hearing Examiner
DFE	Resignation
DFF	Reduction in Force

Please Note: This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

SECTION D: PERSONNEL

DG	EMPLOYEE RIGHTS AND PRIVILEGES
DGA	Freedom of Association
DGB	Personnel-Management Relations
DGBA	Employee Complaints/Grievances
DGC	Immunity
DH	EMPLOYEE STANDARDS OF CONDUCT
DHA	Gifts and Solicitations
DHE	Searches and Alcohol/Drug Testing
DI	EMPLOYEE WELFARE
DIA	Freedom from Discrimination, Harassment, and Retaliation
DJ	EMPLOYEE RECOGNITION AND AWARDS
DK	ASSIGNMENT AND SCHEDULES
DL	WORK LOAD
DLA	Staff Meetings
DLB	Required Plans and Reports
DM	PROFESSIONAL DEVELOPMENT
DMA	Required Staff Development
DMB	Career Advancement
DMC	Continuing Professional Education
DMD	Professional Meetings and Visitations
DME	Research and Publication
DN	PERFORMANCE APPRAISAL
DNA	Evaluation of Teachers
DNB	Evaluation of Other Professional Employees
DP	PERSONNEL POSITIONS
DPB	Substitute, Temporary, and Part-Time Positions

NOTICE TO PARENTS:
QUALIFICATIONS

As a condition of receiving assistance under Title I, Part A of the ESEA (20 U.S.C. 6301 *et seq.*), a district shall, at the beginning of each school year, notify the parents of each student attending any school receiving such funds that the parents may request, and the district shall provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

1. Whether the teacher has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.
2. Whether the teacher is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived.
3. The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree.
4. Whether the child is provided services by paraprofessionals and, if so, their qualifications.

ADDITIONAL
INFORMATION

A school that receives such federal funds shall also provide to each individual parent timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who is not highly qualified.

20 U.S.C. 6311(h)(6)

PROFESSIONAL
PERSONNEL
CERTIFICATE

A person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or counselor by a district unless the person holds an appropriate certificate or permit. A person who desires to teach shall present the person's certificate for filing with a district before the person's contract with a board is binding.

A person employed by a district as an educational diagnostician before September 1, 2008, may continue employment with the district without obtaining a certificate or permit as an educational diagnostician so long as the person is employed by that district.

Education Code 21.003(a), 21.053(a)

An educator who does not hold a valid certificate may not be paid for teaching or work done before the effective date of issuance of a valid certificate. *Education Code 21.053(b)*

~~FAILURE OF
CERTIFICATION~~

~~An employee's probationary, term, or continuing contract under Education Code Chapter 21 is void if the employee:~~

- ~~1. Does not hold a certificate or permit issued by SBEC; or~~
~~2. Fails to fulfill the requirements necessary to extend the employee's temporary or emergency certificate or permit.~~

~~This provision does not apply to a certified teacher assigned to teach a subject for which the teacher is not certified.~~

~~Education Code 21.0031(a), (e) [See DF]~~

LICENSE

A person may not be employed by a district as an audiologist, occupational therapist, physical therapist, physician, nurse, school psychologist, associate school psychologist, **marriage and family therapist**, social worker, or speech language pathologist unless the person is licensed by the state agency that licenses that profession. A person may perform specific services within those professions for a district only if the person holds the appropriate credentials from the appropriate state agency.

A person employed by a district before September 1, 2011, to perform marriage and family therapy is not required to hold a license as a marriage and family therapist as long as the person remains employed by the same district.

Education Code 21.003(b)

SCHOOL DISTRICT
TEACHING PERMIT

A district may issue a school district teaching permit and employ as a teacher a person who does not hold a teaching certificate issued by SBEC, if the person holds a baccalaureate degree. A baccalaureate degree is not required for persons who will teach only career and technology education.

STATEMENT TO
COMMISSIONER

After employing a person under a school district permit, a district shall promptly send a written statement to the Commissioner. This statement must identify the person, the person's qualifications as a teacher, and the subject or class the person will teach. The person may teach the subject or class pending action by the Commissioner.

Not later than the 30th day after the Commissioner receives a district's statement, the Commissioner may inform the district that the person is not qualified to teach. The person may not teach if the Commissioner finds that the person is not qualified. If the Commissioner fails to act before the 30th day after receiving the statement, a district may issue the school district teaching permit and the person may teach the subject or class identified in the statement sent to the Commissioner.

DURATION OF
PERMIT

A school district teaching permit remains valid unless the district issuing the permit revokes it for cause. A person authorized to

teach under a school district teaching permit issued by a particular district may not teach in another school district unless that other district complies with the permit-issuing provisions. [See DK for Emergency Permits]

Education Code 21.055

Note: The assignment of a teacher to teach a class for which he or she is not properly certified triggers parent notification requirements in accordance with state and federal laws. See DK.

HIGHLY QUALIFIED
STATUS

Pursuant to the No Child Left Behind Act of 2001, each district shall ensure that all teachers teaching in a program supported with funds under Title I, Part A of the ESEA (20 U.S.C. 6301 *et seq.*) are highly qualified.

'CORE ACADEMIC
SUBJECTS'
DEFINED

The term "core academic subjects" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

GENERAL
EDUCATION
PROGRAM

The term "highly qualified":

CERTIFICATION

1. When used with respect to any public elementary school or secondary school teacher, means the teacher:
 - a. Has obtained full state certification as a teacher (including alternative certification); and
 - b. Has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis.

SUBJECT
COMPETENCY

2. When used with respect to an elementary school teacher who is new to the profession, means the teacher:

NEW
ELEMENTARY
TEACHER

- a. Holds at least a bachelor's degree; and
- b. Has demonstrated, by passing a rigorous state test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum.

NEW MIDDLE OR
SECONDARY
TEACHER

3. When used with respect to a middle or secondary school teacher who is new to the profession, means the teacher:
 - a. Holds at least a bachelor's degree; and
 - b. Has demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by:

- (1) Passing a rigorous state academic subject test in each of the academic subjects in which the teacher teaches; or
- (2) Successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing.

EXISTING
TEACHER

4. When used with respect to an elementary, middle, or secondary school teacher who is not new to the profession, means the teacher holds at least a bachelor's degree and:
 - a. Has met the applicable standard as detailed above for new teachers; or
 - b. Demonstrates competence in all academic subjects in which the teacher teaches based on a high objective uniform state standard of evaluation.

20 U.S.C. 6319(a)(1), 7801(23)

SPECIAL
EDUCATION
PROGRAM

The term "highly qualified," when used with respect to a special education teacher, means the teacher meets the above requirements, as applicable, and:

CERTIFICATION
AND EDUCATION

1. Has obtained full state certification as a special education teacher (including alternative certification);
2. Has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
3. Holds at least a bachelor's degree.

SUBJECT
MATTER
COMPETENCY

Special education teachers who teach alternative achievement standards or who teach two or more core academic subjects exclusively to children with disabilities must also demonstrate subject matter competence as set forth below:

ALTERNATIVE
ACHIEVEMENT
STANDARDS

1. New and existing special education teachers who teach core academic subjects exclusively to children who are assessed against alternate achievement standards may:
 - a. Meet the applicable requirements for any new or existing elementary, middle, or secondary teacher; or
 - b. In the case of instruction above the elementary level, demonstrate subject matter knowledge appropriate to the level of instruction being provided, as determined by the state, needed to effectively teach to those standards.

TWO OR MORE CORE ACADEMIC SUBJECTS	<p>2. A special education teacher who teaches two or more core academic subjects exclusively to children with disabilities may either:</p> <ul style="list-style-type: none">a. Meet the applicable requirements for any new or existing elementary, middle, or secondary school teacher;b. In the case of an existing teacher, demonstrate competence in all core academic subjects in which the teacher teaches in the same manner as is required for any other existing elementary, middle, or secondary school teacher. This may include a single, high objective uniform state standard of evaluation covering multiple subjects; orc. In the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, the teacher may demonstrate competence in the other core academic subjects in which the teacher teaches in the same manner as is required for an existing elementary, middle, or secondary school teacher. This may include a single, high objective uniform state standard of evaluation covering multiple subjects. The teacher must demonstrate competence under this section not later than two years after the date of employment.
PARAPROFESSIONAL EMPLOYEES CERTIFICATION	<p><i>20 U.S.C. 1401(10)</i></p> <p>Educational aides shall be certified according to standards established by the State Board for Educator Certification. <i>19 TAC 230.551</i></p>
TITLE I PROGRAM	<p>Each district receiving assistance under Title I, Part A of the ESEA shall ensure that all paraprofessionals working in a program supported with those funds shall:</p>
DUTIES	<p>1. Be assigned only duties consistent with 20 U.S.C. 6319(g).</p>
HIGH SCHOOL DIPLOMA	<p>2. Regardless of the paraprofessionals' hiring date, have earned a secondary school diploma or its recognized equivalent.</p>
HIGHER EDUCATION OR COMPETENCY TEST	<p>3. If hired after January 8, 2002, have one of the following credentials:</p> <ul style="list-style-type: none">a. Completed at least 2 years of study at an institution of higher education;b. Obtained an associate's (or higher) degree; or

- c. Met a rigorous standard of quality and can demonstrate, through a formal state or local academic assessment:
 - (1) Knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or
 - (2) Knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate.

Receipt of a high school diploma is not sufficient to satisfy the formal academic assessment requirement.

EXCEPTIONS

The HIGHER EDUCATION OR COMPETENCY TEST requirements above shall not apply to a paraprofessional:

- 1. Who is proficient in English and a language other than English and who provides services primarily to enhance the participation of children in programs under Title I, Part A by acting as a translator; or
- 2. Whose duties consist solely of conducting parental involvement activities.

20 U.S.C. 6319

CPR AND FIRST AID
CERTIFICATION

A district employee who serves as head director of a school marching band, head coach, or chief sponsor of an extracurricular athletic activity (including cheerleading) that is sponsored or sanctioned by the district or UIL must maintain and submit to the district proof of current certification in first aid and cardiopulmonary resuscitation issued by the American Red Cross, the American Heart Association, or another organization that provides equivalent training and certification. A district shall adopt procedures for administering this requirement, including procedures for the time and manner in which proof of current certification must be submitted. *Education Code 33.086*

AED CERTIFICATION

Each school nurse, assistant school nurse, athletic coach or sponsor, physical education instructor, marching band director, cheerleading coach, and any other employee specified by the Commissioner must receive and maintain certification in the use of an AED from the American Heart Association, the American Red Cross, or a similar nationally recognized association. *Education Code 22.902 [See DMA]*

SCHOOL BUS
DRIVERS
CREDENTIALS

For purposes of the following provisions, a "school bus driver" is a driver transporting school children and/or school personnel on routes to and from school or on a school-related activity trip while

operating a multifunction school activity bus, school activity bus, or school bus. 37 TAC 14.1 [See CNA]

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

1. Be at least 18 years old.
2. Possess a valid driver's license designating a class appropriate (with applicable endorsement, if commercial driver license) for the gross vehicle weight rating and manufacturer's designed passenger capacity of the vehicle to be operated.
3. Meet the medical qualifications specified by the Department of Public Safety (DPS) at 37 TAC 14.12. [See DBB]
4. Maintain an acceptable driving record in accordance with the minimum standards established by the DPS at 37 TAC 14.14.
5. Maintain an acceptable criminal history record, secured from any law enforcement agency or criminal justice agency, and reviewed in accordance with the provisions of Education Code Chapter 22. [See DBAA~~1~~]
6. Possess a valid Texas School Bus Driver Safety Training Certificate, as specified at 37 TAC 14.35 or a valid Enrollment Certificate, as specified at 37 TAC 14.36.

Trans. Code 521.022; 37- TAC 14.11, ~~14.12~~, ~~14.14~~

PRE-EMPLOYMENT
INQUIRIES

An applicant for employment as a school bus driver must disclose to the district:

1. Any violations of motor vehicle laws or ordinances (other than parking violations) of which the applicant was convicted or forfeited bond or collateral during the three years preceding the date the application is submitted;
2. Any serious traffic violations, as defined by Transportation Code 522.003(25), of which the applicant was convicted during the ten years preceding the date the application is submitted; and
3. Any suspension, revocation, or cancellation of driving privilege that the applicant has ever received.

The district shall make an inquiry into the applicant's complete driving record, with DPS and with any state in which the applicant held a motor vehicle operator's license or permit within the past seven years. If no previous driving record is found to exist, the district must document its efforts to obtain such information and certify that no previous driving record exists for the individual.

The district shall review the applicant's driving record to determine whether that person meets minimum requirements, as described at 37 TAC 14.14(d) (penalty points for convictions of traffic law violations and crash involvements).

37 TAC 14.14(b)

ANNUAL
EVALUATION

A district shall, at least once every 12 months, make an inquiry into the complete driving record of each school bus driver it employs, with DPS and with any state in which the individual held a motor vehicle operator's license or permit during that time period. The district shall review the driving record to determine whether the individual meets the minimum requirements described at 37 TAC 14.14(d) (penalty points for convictions of traffic law violations and crash involvements). *Trans. Code 521.022(d); 37- TAC- 14.14(c)*

DISQUALIFICATION

Any person who has accumulated ten or more penalty points shall be considered ineligible to transport students until such time as he or she may become qualified. A school bus driver who receives notice that his or her license, permit, or privilege to operate a motor vehicle has been revoked, suspended, or withdrawn shall notify the district of the contents of the notice before the end of the business day following the day the driver received it. A district shall not permit a disqualified driver to drive a school bus, school activity bus, or multifunction school activity bus. *37 TAC 14.14(g)*

EMPLOYEE RECORDS
PROFESSIONAL
EMPLOYEES

The following records on professional personnel must be readily available for review by the Commissioner:

1. Credentials (certificate or license);
2. Service record(s) and any attachments;
3. Contract;
4. Teaching schedule or other assignment record; and
5. Absence from duty reports.

SERVICE RECORD

The basic document in support of the number of years of professional service claimed for salary increment purposes and both the state's sick and personal leave program data for all personnel is the service record (form FIN-115) or a similar form containing the same information. It is the responsibility of the issuing district to ensure that service records are true and correct and that all service recorded on the service record was actually performed.

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

FORMER
EMPLOYEES

On request by a classroom teacher, librarian, counselor, or nurse or by the school district employing one of those individuals, a district that previously employed the individual shall provide a copy of the individual's service record to the district employing the individual. The district must provide the copy not later than the 30th day after the later of:

1. The date the request is made; or
2. The date of the last day of the individual's service to the district.

The original service record, signed by the employee, shall be given to the employee upon request or sent to the next employing district. A district must maintain a legible copy for audit purposes.

Education Code 21.4031; 19 TAC 153.1021(b), (d)

ACCESS TO
EMPLOYEE
RECORDS

With regard to public access to information in personnel records, custodians of such records shall adhere to the requirements of the Public Information Law. *Gov't Code 552 [See GBA]*

Information in a personnel file is excepted from the requirements of the Public Information Law if the disclosure would constitute a clearly unwarranted invasion of personal privacy.

An employee of a district shall choose whether to allow public access to information in the district's custody that relates to the employee's home address, home telephone number, ~~or Social Security~~ **emergency contact information, or social security** number, or that reveals whether the person has family members.

Gov't Code 552.024, ~~552.102(a)~~

EMPLOYEE
RIGHT OF
ACCESS

All information in the personnel file of a district employee shall be made available to that employee or the employee's designated representative as public information is made available under the Public Information Law. An employee or an employee's authorized representative has a special right of access, beyond the right of the general public, to information held by a district that relates to the employee and that is protected from public disclosure by laws intended to protect the employee's privacy interests.

A district may not deny to the employee or his or her representative access to information relating to the employee on the grounds that the information is considered confidential by privacy principles under the Public Information Law. A district may assert as grounds for denial of access other provisions of the Public Information Law or other laws that are not intended to protect the employee's privacy interests.

If a district determines that information in the employee's records is exempt from disclosure under an exception of Government Code Chapter 552, Subchapter C, other than an exception intended to protect the privacy interest of the requestor or the person whom the requestor is authorized to represent, it shall submit a written request for a decision to the attorney general before disclosing the information. If a decision is not requested, a district shall release the information to the requestor not later than the tenth day after the request for information is received.

Gov't Code 552.023, ~~552.102(a)~~, ~~552.307~~

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CONFLICT OF INTEREST

DBD
(LEGAL)

RESTRICTION ON
PUBLIC SERVANTS —
PENAL CODE

“Public servant,” for purposes of the following Penal Code provisions, includes a person elected, selected, appointed, employed, or otherwise designated as an officer, employee, or agent of government, even if the person has not yet qualified for office or assumed his or her duties. *Penal Code 1.07(a)(41)(A), (E)*

BRIBERY

1. A public servant shall not intentionally or knowingly offer, confer, agree to confer on another, solicit, accept, or agree to accept a benefit:
 - a. As consideration for the public servant’s decision, opinion, recommendation, vote, or other exercise of discretion as a public servant.
 - b. As consideration for a violation of a duty imposed on the public servant by law.
 - c. That is a political contribution as defined by Title 15 of the Election Code or an expenditure made and reported as a lobbying expense in accordance with Government Code, Chapter 305, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion, if such exercise of official discretion would not have been taken or withheld but for the benefit.

“Benefit” means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

Penal Code 36.01(3), 36.02

ILLEGAL GIFTS

2. A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions shall not solicit, accept, or agree to accept any benefit from a person the public servant knows is interested in or likely to become interested in any such transactions of a district. *Penal Code 36.08(d)*

A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under this section may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax exempt charitable organization formed for educational, religious, or scientific purposes. *Penal Code 36.08(i)*

EXCEPTIONS

“Illegal Gifts to Public Servants” does not apply to:

- a. A fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he or she gives legitimate consideration in a capacity other than as a public servant;
- b. A gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;
- c. A benefit to a public servant required to file a statement under Chapter 572, Government Code, or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:
 - (1) The benefit and the source of any benefit in excess of \$50 is reported in the statement; and
 - (2) The benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or political subdivision;
- d. A political contribution as defined by Title 15, Election Code;
- e. An item with a value of less than \$50, excluding cash or a negotiable instrument as described by Business and Commerce Code 3.104;
- f. An item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity; or
- g. Food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.

Penal Code 36.10

HONORARIA AND
EXPENSES

- 3. A public servant commits a Class A misdemeanor offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties. However, a public servant is not prohibited from accepting transportation and lodging expenses or meals in connection with a conference or similar event in which the public servant renders services, such as addressing an audience or engaging in a seminar, to

the extent those services are more than merely perfunctory.
Penal Code 36.07

ABUSE OF PUBLIC
EMPLOYMENT

4. A public servant shall not, with intent to obtain a benefit or with intent to harm or defraud another, intentionally or knowingly violate a law relating to the public servant's office or employment, or misuse district property, services, personnel, or any other thing of value, that has come into his or her custody or possession by virtue of his or her office or employment. *Penal Code 39.02(a)*

"Law relating to the public servant's office or employment" means a law that specifically applies to a person acting in the capacity of a public servant and that directly or indirectly imposes a duty on the public servant or governs the conduct of the public servant. *Penal Code 39.01(1)*

"Misuse" means to deal with property contrary to:

- a. An agreement under which the public servant holds the property;
- b. A contract of employment or oath of office of a public servant;
- c. A law, including provisions of the General Appropriations Act specifically relating to government property, that prescribes the manner of custody or disposition of the property; or
- d. A limited purpose for which the property is delivered or received.

Penal Code 39.01(2)

~~TEXTBOOK~~INSTRUCTI
ONAL MATERIALS
VIOLATIONS
— COMMISSIONS

An administrator or teacher commits an offense if the person receives any commission or rebate on any ~~textbooks, electronic textbooks,~~ instructional materials, or technological equipment used in the schools with which the person is associated. *Education Code 31.152(a)*

INSTRUCTIONAL
MATERIALS
VIOLATIONS —
CONFLICT

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

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

“Gift, favor, or service” does not include staff development, in-service, or teacher training; or **instructional ancillary** materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.

Education Code 31.152(b)–(d)

**INSTRUCTIONAL
MATERIALS
VIOLATIONS —
PURCHASE AND
DISTRIBUTION**

A person commits a Class C misdemeanor offense if the person knowingly violates any law providing for the purchase or distribution of free **textbooks instructional materials** for the public schools. *Education Code 31.153*

**HOLDING CIVIL
OFFICE**

No person shall hold or exercise at the same time more than one civil office of emolument, except for offices listed in the constitutional provision, unless otherwise specifically provided. *Tex. Const., Art. XVI, Sec. 40(a); State v. Pirtle, 887 S.W.2d 291 (Tex. Ct. Crim. App. 1994); Atty. Gen. Op. DM-212 (1993)*

Individuals who receive all or part of their compensation either directly or indirectly from funds of the state of Texas and who are not state officers shall not be barred from serving as members of the governing bodies of school districts (other than those in which they are employed), cities, towns, or other local governmental districts. Such individuals may not receive a salary for serving as members of such governing bodies. *Tex. Const., Art. XVI, Sec. 40(b); Atty. Gen. Op. DM-55 (1991)*

**CONFLICT
DISCLOSURE
STATEMENT**

A district may extend the requirements of Local Government Code 176.003 and 176.004 [see BBFA] to any employee of the district who has the authority to approve contracts on behalf of the district, including a person designated as the representative of the district for purposes of Local Government Code Chapter 271. A district shall identify each employee made subject to Sections 176.003 and 176.004 and shall provide a list of the identified employees on request to any person. A district may reprimand, suspend, or terminate the employment of an employee who knowingly fails to comply with such requirements.

An employee commits a Class C misdemeanor if the employee knowingly violates the requirements. It is an exception to the application of the above penalty, however, that the employee filed the disclosure statement not later than the seventh business day after the person received notice from a district of the alleged violation.

Local Gov't Code 176.005

**DEFINITION OF
“CONTRACT”**

“Contract” means a written agreement for the sale or purchase of real property, goods, or services. *Local Gov't Code 176.001(1-d)*

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CONFLICT OF INTEREST

DBD
(LEGAL)

PERSONAL SERVICES
PERFORMED BY
SUPERINTENDENT

A superintendent of a school district may not receive any financial benefit for personal services performed by the superintendent for any business entity that conducts or solicits business with the district. Any financial benefit received by a superintendent for performing personal services for any other entity, including a school district, open-enrollment charter school, regional education service center, or public or private institution of higher education, must be approved by the board on a case-by-case basis in an open meeting. The receipt of reimbursement for a reasonable expense is not considered a financial benefit. *Education Code 11.201(e)*

Note: See also CBB for requirements when federal funds are involved.

EMPLOYMENT POLICIES	A board shall adopt a policy providing for the employment and duties of district personnel. The policy shall provide that:
SUPERINTENDENT	1. A board employs and evaluates the superintendent;
SELECTION OF PERSONNEL	2. A superintendent has sole authority to make recommendations to a board regarding the selection of all personnel, except that the board may delegate final authority for those decisions to the superintendent [see SUPERINTENDENT RECOMMENDATION, below];
CAMPUS ASSIGNMENTS	3. Each principal must approve each teacher or staff appointment to the principal's campus as provided by Education Code 11.202 [see DK and DP]; and
JOB POSTINGS	4. Notice will be provided of vacant positions [see POSTING OF VACANCIES, below].
EMPLOYEE GRIEVANCES	5. Each employee has the right to present grievances to the board. [See GRIEVANCES, below]
	<i>Education Code 11.1513</i>
CONTRACT POSITIONS	A board shall establish a policy designating specific positions of employment, or categories of positions based on considerations such as length of service, to which continuing contracts or term contracts apply. <i>Education Code 21.002(c)</i>
DELEGATION OF AUTHORITY	A district's employment policy may specify the terms of district employment or delegate to the superintendent the authority to determine the terms of employment with the district. <i>Education Code 11.1513(c)</i> [For nepotism implications, see BBFB and DBE]
INTERNAL AUDITOR	If a district employs an internal auditor, the board shall select the internal auditor and the internal auditor shall report directly to the board. <i>Education Code 11.170</i>
SUPERINTENDENT RECOMMENDATION	A board may accept or reject a superintendent's recommendation regarding the selection of district personnel and shall include the board's acceptance or rejection in the minutes of the board's open meeting, in the certified agenda or tape recording of a closed meeting, or in the recording required under Government Code 551.125 or 551.127, as applicable. If a board rejects a superintendent's recommendation, the superintendent shall make alternative recommendations until the board accepts a recommendation. <i>Education Code 11.1513</i>
POSTING OF VACANCIES	A district's employment policy must provide that not later than the tenth school day before the date on which a district fills a vacant position for which a certificate or license is required as provided by Education Code 21.003 [see DBA], other than a position that af-

ffects the safety and security of students as determined by the board, the district must provide to each current district employee:

1. Notice of the position by posting the position on:
 - a. A bulletin board at:
 - (1) A place convenient to the public in the district's central administrative office, and
 - (2) The central administrative office of each campus during any time the office is open; or
 - b. The district's Internet Web site, if the district has a Web site; and
2. A reasonable opportunity to apply for the position.

Education Code 11.1513(d)

EXCEPTION

If, during the school year, a district must fill a vacant position held by a teacher, as defined by Education Code 21.201 [see DCB], in less than ten school days, the district must provide notice of the position in the manner described above as soon as possible after the vacancy occurs. However, a district is not required to provide the notice for ten school days before filling the position or to provide a reasonable opportunity to apply for the position. *Education Code 11.1513(e)*

GRIEVANCES

A district's employment policy must provide each employee with the right to present grievances to the board. The policy may not restrict the ability of an employee to communicate directly with a member of the board regarding a matter relating to the operation of a district, except that the policy may prohibit ex parte communication relating to:

1. A hearing under Education Code Chapter 21, Subchapter E (Term Contracts) or F (Hearing Examiners); and
2. Another appeal or hearing in which ex parte communication would be inappropriate pending a final decision by the board.

Education Code 11.1513(i)–(j) [See DGBA]

TRANSFERS

A district's employment policy may include a provision for providing each current district employee with an opportunity to participate in a process for transferring to another school in or position with the district. *Education Code 11.1513(c)(3)* [See DK]

CONTRACT EMPLOYEES

A district shall employ each classroom teacher, principal, librarian, nurse, or counselor under a probationary contract, a continuing

	<p>contract, or a term contract. A district is not required to employ a person other than these listed employees under a probationary, continuing, or term contract. <i>Education Code 21.002</i></p>
	<p>“Classroom teacher” means an educator who is employed by a district and who, not less than an average of four hours each day, teaches in an academic instructional setting or a career and technology instructional setting. The term does not include a teacher’s aide or a full-time administrator. <i>Education Code 5.001(2)</i></p>
<p>LENGTH OF CONTRACT</p>	<p>A contract between a district and an educator must be for a minimum of ten months of service. An educator employed under a ten-month contract must provide a minimum of 187 days of service. The Commissioner may reduce the number of days of service, but such a reduction by the Commissioner does not reduce an educator’s salary. <i>Education Code 21.401</i></p>
<p>EDUCATIONAL AIDES</p>	<p>A board shall establish a plan to encourage the hiring of educational aides who show a willingness to become certified teachers. <i>Education Code 54.214(f)</i></p>
<p>EMPLOYMENT OF RETIREES REPORT TO TRS</p>	<p>A district shall file a monthly certified statement of employment of a retiree in the form and manner required by TRS. A district shall inform TRS of changes in status of the district that affect the district’s reporting responsibilities.</p>
	<p>The certified statement must include information regarding employees of third party entities if the employees are service or disability retirees who were first employed by the third party entity on or after May 24, 2003, and are performing duties or providing services on behalf of or for the benefit of a district.</p>
	<p>An administrator of a district who is responsible for filing the statement, and who knowingly fails to file the statement, commits an offense.</p>
	<p><i>Gov’t Code 824.6022, 825.403(k); 34 TAC 31.2</i></p>
<p>ACUTE SHORTAGE AREAS</p>	<p>For purposes of Government Code 824.602(a)(5) (permitting certain retirees to return to work in acute shortage areas) a board shall determine by rule whether there are acute shortage areas in a district based on TEA’s acute shortage area guidelines. The guidelines must include:</p>
	<p>1. A list of acute shortage areas;</p> <p>2. Suggested criteria for identifying local acute shortage areas;</p> <p>and</p>

~~3.—A requirement that a certified applicant for a position as a classroom teacher who is not a retiree be given preference in hiring.~~

~~Gov't Code 824.602(m)~~

FORMER BOARD
MEMBER
EMPLOYMENT

A board member is prohibited from accepting employment with the district until the first anniversary of the date the board member's membership on a board ends. *Education Code 11.063*

NEW HIRES
I-9 FORMS

A district shall ensure that an employee properly completes section 1—"Employee Information and Verification"—on Form I-9 at the time of hire.

A district must verify employment eligibility, pursuant to the Immigration Reform and Control Act, and complete Form I-9 by the following dates:

1. Within three business days of initial hiring. If a district hires an individual for employment for a duration of less than three business days, the district must verify employment at the time of hire.

A district shall not be deemed to have hired an individual if the individual is continuing in his or her employment and has a reasonable expectation of employment at all times.

When a district rehires an individual, the district may, in lieu of completing a new I-9, inspect a previously completed I-9 executed within three years of the date of rehire, to determine whether the individual is still eligible to work.

2. For an individual whose employment authorization expires, not later than the date of expiration.

~~8- CFR 274a.2(b)(1)(ii), (iii), (vii), (viii)~~

NEW HIRE
REPORTING

A district shall furnish to the Directory of New Hires (Texas Attorney General's Office) a report that contains the name, address, and social security number of each newly hired employee. The report shall also contain a district's name, address, and employer identification number.

A district may also provide, at its option, the employee's date of hire, date of birth, expected salary or wages, and the district's payroll address for mailing of notice to withhold child support.

A district shall report new hire information on a Form W-4 or an equivalent form, by first class mail, telephonically, electronically, or by magnetic media, as determined by the district and in a format acceptable to the attorney general.

DEADLINE	<p>New hire reports are due:</p> <ol style="list-style-type: none"> 1. Not later than 20 calendar days after the date a district hires the employee; or 2. In the case of a district transmitting reports magnetically or electronically, by two monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart. <p>New hire reports shall be considered timely if postmarked by the due date or, if filed electronically, upon receipt by the agency.</p>
PENALTIES	<p>A district that knowingly violates the new hire provisions may be liable for a civil penalty, as set forth at Family Code 234.105.</p> <p><i>42 U.S.C. 653a(b), (c); Family Code 234.101–.105; 1 TAC 55, Subch. I</i></p>
SOCIAL SECURITY NUMBERS	<p>It shall be unlawful for a A district to shall not deny to any individual any right, benefit, or privilege provided by law because of the individual's refusal to disclose his or her social security number.</p>
EXCEPTIONS	<p>The above provision does not apply to:</p> <ol style="list-style-type: none"> 1. Any disclosure that is required by federal statute. The United States Internal Revenue Code provides that the social security number issued to an individual for purposes of federal income tax laws shall be used as the identifying number for taxpayers; 2. Any disclosure to a district maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted before such date to verify the identity of an individual; or 3. Any use for the purposes of establishing the identity of individuals affected by any tax, general public assistance, driver's license, or motor vehicle registration law within a district's jurisdiction.
STATEMENT OF USES	<p>A district that requests disclosure of a social security number shall inform that individual whether the disclosure is mandatory or voluntary, by what statutory authority such number is solicited, and what uses will be made of it.</p> <p><i>Privacy Act of 1974, Pub. L. No. 93-579, sec. 7(b), 88 Stat. 1896, 1897 (1974)</i></p>

PERSONS UNDER
PROBATIONARY
CONTRACTS

Except as provided below, each of the following persons shall be employed under a probationary contract when the person is employed by a district for the first time or if the person has not been employed by the district for two consecutive school years subsequent to August 28, 1967:

1. Principal.
2. Supervisor.
3. Classroom teacher.
4. Counselor.
5. Other full-time professional employee who is required to hold a certificate issued under Education Code Chapter 21, Subchapter B.
6. Nurse.

Education Code 21.101, 21.102(a)

EXCEPTIONS
REHIRES

A person who previously was employed as a teacher by a district, and after at least a two-year lapse in district employment returns to district employment, may be employed under a probationary contract. ***Education Code 21.102(a)***

PRINCIPAL OR
CLASSROOM
TEACHER

A district may employ a person as a principal or classroom teacher under a term contract if the person has experience as a public school principal or classroom teacher, respectively, regardless of whether the person is being employed by the district for the first time or whether a probationary contract would otherwise be required under Section 21.102. ***Education Code 21.202(b)***

~~***Education Code 21.101, 21.102(a), 21.202(b)***~~

**VOLUNTARY
REASSIGNMENT**

A person may be employed under a probationary contract if the person voluntarily accepts an assignment in a new professional capacity that requires a different class of certificate than the class of certificate held by the person in the professional capacity in which the person was previously employed. If the person is returned by the district to the person's previous professional capacity, the person is entitled to be employed under the contractual status held by the person during the previous employment in that capacity. *Education Code 21.102(a-1), 19 TAC 232.2*

TERM OF CONTRACT

A probationary contract may not be for a term exceeding one school year.

MAXIMUM

A probationary contract may be renewed for two additional one-year periods, for a maximum permissible probationary contract pe-

riod of three school years, except that the probationary period may not exceed one year for a person who has been employed as a teacher in public education for at least five of the eight years preceding employment by a district.

EXCEPTION

A probationary contract period may be extended beyond the third consecutive year of employment if, during the third year of the probationary period, ~~the Board~~ **board** determines that it is doubtful whether a continuing contract or a term contract should be given. If the ~~Board~~ **board** makes such a determination, a district may make a probationary contract for a term ending with the fourth consecutive school year.

Education Code 21.102

~~PEACE OFFICERS~~

~~IF~~ DUTY WEAPON AND
BADGE

On the death of a ~~district~~ peace officer ~~dis~~employed by a district, the district shall provide, at no cost, the ~~deceased person's officer's~~ duty weapon, if any, and badge to the ~~person's officer's~~ designated beneficiary, or, if there is no designated beneficiary, to the ~~person's officer's~~ estate. A district shall provide peace officers with a form on which they may designate their beneficiaries for this purpose. If a district peace officer dies and is to be buried in the person's uniform, the district shall provide the uniform at no cost. *Gov't Code 615.102-.103*

HEALTH INSURANCE

CONTINUATION
BENEFITS TO
SURVIVORS

~~WHEN~~ SURVIVOR
BENEFITS

NOTICE TO ERS

The following provisions apply to a person employed by a district as a peace officer or in another position listed at Government Code 615.001 and who dies ~~in the line of duty~~ as a result of a personal injury, as ~~that term is~~ defined at Government Code 615.021 and 615.072(c), ~~an eligible survivor is~~, sustained in the line of duty.

The surviving spouse and children of the deceased employee may be eligible for benefits under Government Code Chapter 615, Subchapter B. As soon as practicable after the death of a peace officer or other covered employee, a district shall furnish proof of death to the Employees Retirement System. *Gov't Code 615.041*

CONTINUATION OF
HEALTH
INSURANCE

The surviving spouse and any dependents of the deceased employee may be entitled to purchase ~~continued~~ or continue health insurance benefits ~~from~~ through the district ~~as set forth at~~ under Government Code Chapter 615, Subchapter D. ~~An~~ A district shall provide written notice to an eligible survivor of the survivor's rights not later than the tenth day after the date of the employee's death. Not later than the 150th day after the employee's death, the district shall send a subsequent written notice by certified mail to any eligible survivor ~~is a person who~~ who has not already elected to purchase or continue coverage on ~~the~~ or before that date ~~of~~.

If an eligible survivor is a minor child, the district shall also provide notice, at the ~~peace officer's death is~~ same time, to the ~~officer's surviving spouse or dependent.~~ ~~Government~~ child's parent or guardian unless, after reasonable effort, the parent or guardian cannot be located.

Gov't Code ~~Ch. 615, Subch. D.075~~

Note: This policy addresses leave for an employee's military service. For provisions on leaves in general, see DEC. For provisions regarding the Family and Medical Leave Act (FMLA), including FML for an employee seeking leave because of a relative's military service, see DECA.

FEDERAL MILITARY
LEAVE
REEMPLOYMENT

Any person who is absent from a position of employment by reason of voluntary or involuntary service in the uniformed services shall be entitled to certain reemployment rights and benefits under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) if:

1. The person (or an appropriate officer of the uniformed service in which such service is performed) has given advance written or verbal notice of such service to a district (unless notice is precluded by military necessity or is otherwise unreasonable or impossible);
2. The cumulative length of the absence and of all previous absences from a position of employment with the district does not exceed five years; and
3. The person reports to or submits an application for reemployment to the district and complies with the appropriate procedural requirements that apply under the circumstances.

For purposes of federal military leave, "uniformed services" means the Armed Forces; the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Services; and any other category of persons designated by the President in time of war or emergency.

A person who is reemployed under USERRA is entitled to the seniority, and other rights and benefits determined by seniority, that the person had on the date of the commencement of uniformed service, plus the additional seniority, rights, and benefits that such person would have attained if the person had remained continuously employed.

EXCEPTION

A district is not required to reemploy a person if:

1. The district's circumstances have so changed as to make reemployment impossible or unreasonable;
2. The reemployment of such person would impose an undue hardship on the district; or

3. The employment from which the person leaves to serve in the uniformed services is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.

~~38-~~ U.S.C. 4301, et. seq.

STATE LEAVE FOR
MEMBER OF MILITARY
OR RESCUE TEAM
SHORT TERM

~~All employees~~**An employee** of a district who ~~are members~~**is a member** of the state military forces, a reserve component of the United States Armed Forces, or a member of a state or federally authorized Urban Search and Rescue team shall be granted a paid leave of absence from ~~their~~**the employee's** duties without loss of time, efficiency rating, vacation time, personal time, sick leave, or salary on all days during which ~~they are~~**the employee is** engaged in authorized training or duty ordered or authorized by proper authority. Such leave shall not exceed 15 workdays in a federal fiscal year. *Gov't Code 431.005(a), (b)*

CALLED TO DUTY

A member of the state military forces who is ordered to active state duty by the governor or other proper authority under state law is entitled to the same benefits and protections provided to persons performing service in the uniformed services under 38 U.S.C. 4301–4313 and 4316–4319 (USERRA) and to persons in the military service of the United States under 50 App. U.S.C. 501–536, 560, and 580–594, as those laws existed on April 1, 2003. *Gov't Code 431.017*

LONG TERM
CHAPTER 431

A district may not terminate the employment of an employee who is a member of the military forces of this state or any other state because the employee is ordered to authorized training or duty by a proper authority. The employee is entitled to return to the same employment held when ordered to training or duty and may not be subjected to loss of time, efficiency rating, vacation time, or any benefit of employment during or because of the absence. The employee, as soon as practicable after release from duty, must give written or actual notice of intent to return to employment. *Gov't Code 431.006*

CHAPTER 613

Any employee, other than a temporary employee, who leaves a position with a district to enter active military service is entitled to be reemployed by the district in the same position held at the time of the induction, enlistment, or order, or to a position of similar seniority, status, and pay. To be entitled to reemployment, the employee must be discharged, separated, or released from active military service under honorable conditions not later than the fifth anniversary after the date of induction, enlistment, or call to active military service and must be physically and mentally qualified to perform the duties of the position. *Gov't Code 613.001(3), ~~613.002~~*

An employee who cannot perform the duties of the position because of a disability sustained during military service is entitled to reemployment in a district in a position that the employee can perform and that has like seniority, status, and pay as the former position, or the nearest possible seniority, status, and pay. *Gov't Code 613.003*

To be reemployed, a veteran of the military must apply for reemployment not later than the 90th day after the date the veteran is discharged or released from active military service. Application must be made in writing to the superintendent and have attached to it evidence of the veteran's discharge, separation, or release from military service under honorable conditions. *Gov't Code 613.004*

A person reemployed after active military service shall not be discharged without cause before the first anniversary of the date of the reemployment. *Gov't Code 613.005*

"Military service" means service as a member of the Armed Forces of the United States, a reserve component of the Armed Forces of the United States, the Texas National Guard, or the Texas State Guard. *Gov't Code 613.001(2)*

USE OF PERSONAL
LEAVE

An employee with available personal leave is entitled to use the leave for compensation during a term of active military service. This provision applies to any personal or sick leave available under former law or provided by local policy.

A district may adopt a policy providing for paid leave for active military service as part of the consideration of employment.

Education Code 22.003(d), (e)

Note:	For a detailed treatment of termination and nonrenewal of educator contracts, see policies DFAA and DFAB (Probationary Contracts), DFBA and DFBB (Term Contracts), and DFCA (Continuing Contracts).
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WITHHOLDING INFORMATION	An attempt by any district employee to encourage or coerce a child to withhold information from the child's parent is grounds for discharge or suspension under Education Code 21.104 (probationary contracts), 21.156 (continuing contracts), and 21.211 (term contracts). <i>Education Code 26.008(b)</i>
DISCHARGE OF CONVICTED EMPLOYEES	<p>A district shall discharge an employee if the district obtains information through a criminal history record information (CHRI) review that:</p> <ol style="list-style-type: none"> 1. The employee has been convicted of: <ol style="list-style-type: none"> a. A felony under Penal Code Title 5; b. An offense requiring registration as a sex offender under Code of Criminal Procedure Chapter 62; or c. An offense under the laws of another state or federal law that is equivalent to an offense under paragraphs a or b; and 2. At the time the offense occurred, the victim of the offense was under 18 years of age or was enrolled in a public school.
EXCEPTION	<p>However, a district is not required to discharge an employee if the person committed an offense under Title 5, Penal Code, and:</p> <ol style="list-style-type: none"> 1. The date of the offense is more than 30 years before June 15, 2007; and 2. The employee satisfied all terms of the court order entered on conviction.
CERTIFICATION TO SBEC	Each school year, a superintendent shall certify to the Commissioner that a district has complied with the above provisions.
SANCTIONS	The State Board for Educator Certification (SBEC) may impose a sanction on an educator who does not discharge an employee if the educator knows or should have known, through a criminal history record information review, that the employee has been convicted of an offense described above.
OPTIONAL TERMINATION	A district may discharge an employee if the district obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not disclose to

SBEC or the district. An employee so discharged is considered to have been discharged for misconduct for purposes of Labor Code 207.044 (unemployment compensation).

Education Code 22.085 [See DBAA]

CERTAIN OFFENSES
AGAINST
CHILDREN STUDENTS
**AMANDATORY
TERMINATION**

If a district ~~that~~ receives notice ~~under Education Code 21.058(b) of~~ that SBEC has revoked the ~~revocation of a~~ certificate issued of a person based on conviction for a felony under Penal Code Title 5 or an offense requiring registration as a sex offender, and the victim of the offense is under ~~Chapter 21, Subchapter B,~~ 18 years of age, the district shall:

1. Immediately remove the person whose certificate has been revoked from campus or from an administrative office, as applicable, to prevent the person from having any contact with a student ~~[see DK];~~ and
2. ~~As soon as practicable, terminate~~ If the person is employed under a probationary, continuing, or term contract:
 - a. Suspend the person without pay;
 - b. Provide the person with written notice that the person's contract is void [see NOTICE TO EMPLOYEE, below]; and
 - a.c. Terminate the employment of the person ~~in accordance with the person's contract and with Education Code Chapter 21, Subchapter B.~~ as soon as practicable.

~~These removal and termination requirements apply only to a conviction of Education Code 21.058(a), (c)~~

DISCRETIONARY
TERMINATION

If a district becomes aware that a person employed by the district under a probationary, continuing, or term contract has been convicted of or received deferred adjudication for a felony ~~under Penal Code Title 5 or an offense for which the person must register as a sex offender,~~ and the person is not subject to the mandatory termination provision above, the district may:

1. Suspend the person without pay;
2. Provide the person with written notice that the person's contract is void [see NOTICE TO EMPLOYEE, below]; and ~~only if~~
- ~~2.3.~~ Terminate the ~~victim~~ employment of the ~~offense is under 18 years of age~~ person as soon as practicable.

Education Code 21.058(c-1)

<p>FAILURE OF NOTICE TO EMPLOYEE</p>	<p>A person's probationary, continuing, or term contract is void if the district provides written notice to the person, under the mandatory or discretionary termination provisions above, that the person's contract is void. <i>Education Code 21.058(c-2)</i></p>
<p>NO APPEAL</p>	<p>Action taken by a district under the mandatory or discretionary terminations provisions above is not subject to appeal under Education Code Chapter 21 and the notice and hearing requirements of Chapter 21 do not apply to the action. <i>Education Code 21.058(e)</i></p>
<p>INVALID OR EXPIRED CERTIFICATION</p>	<p>An employee's probationary, term, or continuing contract under Education Code Chapter 21 is void if the employee:</p> <ol style="list-style-type: none"> 1. Does not hold a valid certificate or permit issued by SBEC; or 2. Fails to fulfill the requirements necessary to renew or extend the employee's temporary, probationary, or emergency certificate or any other certificate or permit issued under Education Code Chapter 21, Subchapter B; or 3. Fails to comply with any requirement under Education Code Chapter 22, Subchapter C [criminal history review, see DBAA], if the failure results in suspension or revocation of the employee's certificate. <p><i>Education Code 21.0031(a)</i></p> <p>A certificate or permit is not considered to have expired if:</p> <ol style="list-style-type: none"> 1. The employee has completed the requirements for renewal of the certificate or permit; 2. The employee submitted the request for renewal before the expiration date; and 3. The date the certificate or permit would have expired is before the date SBEC takes action to approve the renewal of the certificate or permit.
<p>DISTRICT'S OPTIONS</p>	<p>After an employee receives notice if a district has knowledge that thean employee's contract is void under Education Code 21.0031(a), the district may:</p> <ol style="list-style-type: none"> 1. Terminate the employee; 2. Suspend the employee with or without pay; or 3. Retain the employee for the remainder of the school year on an at-will employment basis in a position other than class-

~~room teacher~~ that does not require a contract under Education Code 21.002, at the employee's existing rate of pay or at a reduced rate.

~~An~~The employee ~~whose contract is void~~ is not entitled to the minimum salary prescribed by Education Code 21.402.

Education Code 21.0031(b)

EXCEPTION

A district may not terminate or suspend an employee under 21.0031(b) because of the employee's lack of a valid certificate or permit, or failure to renew or extend a certificate or permit, if:

1. The employee requests an extension from SBEC to renew, extend, or otherwise validate the employee's certificate or permit; and
2. Not later than the 10th day after the date the contract is void, the employee takes necessary measures to renew, extend, or otherwise validate the employee's certificate or permit, as determined by SBEC.

Education Code 21.0031(b-1)

NO APPEAL OR
CHAPTER 21
HEARING

A school district's decision under Education Code 21.0031(b) is not subject to appeal under Education Code Chapter 21, and the notice and hearing requirements of that chapter do not apply to the decision.

Education Code 21.0031

APPLICABILITY

These void contract provisions do not affect the rights and remedies of a party in an at-will employment relationship and do not apply to a certified teacher assigned to teach a subject for which the teacher is not certified. *Education Code 21.0031; Nunez v. Simms, 341 F.3d 385 (5th Cir. 2003)*

REPORT TO SBEC

In addition to the reporting requirement under Family Code 261.101 [see FFG], a superintendent must file a written report with SBEC not later than the seventh day after the superintendent first obtains or has knowledge of information indicating that a certificate holder's employment at the district was terminated based on a determination that the certificate holder:

1. Sexually or physically abused or otherwise committed an unlawful act with a student or minor;
2. Possessed, transferred, sold, or distributed a controlled substance, as defined by Health and Safety Code Chapter 481 or by 21 U.S.C. Section 801 et seq.;

3. Illegally transferred, appropriated, or expended funds or other property of the district;
4. Attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or permit for the purpose of promotion or additional compensation;
5. Committed a criminal offense or any part of a criminal offense on school property or at a school-sponsored event; or
6. Solicited or engaged in sexual conduct or a romantic relationship with a student or minor.

[See DH regarding elements of report to SBEC of educator misconduct.]

DEFINITIONS

“Abuse” includes the following acts or omissions:

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

“Solicitation of a romantic relationship” means deliberate or repeated acts that can be reasonably interpreted as soliciting a relationship characterized by an ardent emotional attachment or pattern of exclusivity. Acts that constitute the solicitation of a romantic relationship include:

1. Behavior, gestures, expressions, communications, or a pattern of communication with a student that is unrelated to the educator’s job duties and that may reasonably be interpreted as encouraging the student to form an ardent or exclusive emotional attachment to the educator, including statements of love, affection, or attraction. When evaluating whether communications constitute the solicitation of a romantic relationship, the following may be considered:

- a. The nature of the communications;
 - b. The timing of the communications;
 - c. The extent of the communications;
 - d. Whether the communications were made openly or secretly;
 - e. The extent to which the educator attempted to conceal the communications;
 - f. If the educator claims to be counseling a student, TEA staff may consider whether the educator's job duties included counseling, whether the educator reported the subject of the counseling to the student's guardians or to the appropriate school personnel, or, in the case of alleged abuse or neglect, whether the educator reported the abuse or neglect to the appropriate law enforcement agencies; and
 - g. Any other communications tending to show that the educator solicited a romantic relationship with a student.
2. Making inappropriate comments about a student's body.
 3. Making sexually demeaning comments to a student.
 4. Making comments about a student's potential sexual performance.
 5. Requesting details of a student's sexual history.
 6. Requesting a date.
 7. Engaging in conversations regarding the sexual problems, preferences, or fantasies of either party.
 8. Inappropriate hugging, kissing, or excessive touching.
 9. Suggestions that a romantic relationship is desired after the student graduates, including post-graduation plans for dating or marriage.
 10. Any other acts tending to show that the educator solicited a romantic relationship with the student, including providing the student with drugs or alcohol.

Education Code 21.006; 19 TAC 249.14

DISCHARGE Any probationary contract employee may be discharged at any time for good cause as determined by the board. "Good cause" is the failure to meet the accepted standards of conduct for the profession as generally recognized and applied in similarly situated school districts in this state. *Education Code 21.104(a)*

Note: See DF regarding circumstances in which a certified employee's dismissal must be reported to the State Board for Educator Certification (SBEC).

SUSPENSION A district may, for good cause as defined above, suspend an employee without pay in lieu of discharge ~~or pending discharge~~. The period of suspension may not extend beyond the end of the current school year. *Education Code 21.104(b)*

NOTICE Before any probationary contract employee is dismissed or suspended without pay for good cause, the employee shall be given reasonable notice in writing of the charges against him or her and an explanation of a district's evidence, set out in sufficient detail to fairly enable the employee to show any error that may exist. *Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532 (1985)*

HEARING If **the employee is protesting proposed action to suspend or terminate** a probationary contract ~~employee who has received notice of proposed termination or suspension without pay desires~~ **for good cause, under Education Code 21.104, the employee is entitled to** a hearing before an independent hearing examiner, ~~the employee must file a written request with the Commissioner not later than the 15th day after the date~~ **under Education Code Chapter 21, Subchapter F [see DFD].**

EXCEPTION If the employee ~~receives notice of the~~ **is protesting** proposed ~~termination or suspension without pay. The action to terminate a probationary contract before the end of the contract period on the basis of a financial exigency declared under Education Code 44.011 [see CEA], the employee must provide the district with a copy of the request and must provide the Commissioner with a copy of the notice~~ **is entitled to a hearing in the manner provided under Education Code 21.207 for nonrenewal of a term contract [see DFBB] or a hearing under Education Code Chapter 21, Subchapter F, as determined by the board.**

~~The parties may agree in writing to extend by not more than ten days the deadline for requesting a hearing.~~

Education Code 21.251, 21.253 [See DFD]1041

GROUNDS FOR
TERMINATION

~~AA board may terminate a~~ probationary contract ~~employee may be terminated~~ at the end of the contract period if ~~in the Board determines that~~ **board's judgment** such termination will serve the best interests of the ~~District~~ **district**.

NOTICE

~~The Board~~ **A board** shall give the employee notice of its decision to terminate the employment not later than the ~~45th~~ **tenth** day before the last day of instruction required under the contract.

The notice must be delivered personally by hand delivery on the campus at which the employee is employed. If the employee is not present on the campus on the date that hand delivery is attempted, the notice must be mailed by prepaid certified mail or delivered by express delivery service to the employee's address of record with the district. Notice that is postmarked on or before the tenth day before the last day of instruction is considered timely for these purposes.

NO APPEAL

~~The Board's~~ **A board's** decision to terminate a probationary ~~employee~~ **contract** at the end of a contract period is final and may not be appealed.

Education Code 21.103(a)

FAILURE TO NOTIFY

~~Failure~~ **if a board fails** to give **notice of its decision to terminate** a probationary ~~employee notice of termination contract~~ within the time ~~period described above obligates~~ **prescribed**, the ~~Board to~~ **board must** employ the ~~probationary~~ employee for the following school year. ~~The contract will be for a position~~ in the same capacity under:

1. A probationary contract, if the person has been employed under a probationary contract for less than three consecutive school years; or
2. A continuing or term contract, according to ~~District~~ **district** policy, if the person has been employed under a probationary contract for three consecutive school years.

Education Code 21.103(b)

TERM CONTRACTS
SUSPENSION/TERMINATION DURING CONTRACT

DFBA
(LEGAL)

SUSPENSION
WITHOUT PAY

A board may, for good cause as determined by the board, suspend an employee without pay:

1. Pending discharge, or
2. In lieu of termination.

The suspension may not extend beyond the end of the school year.

Education Code 21.211(b)

BACK- PAY

If ~~no discharge occurs subsequent to a suspension~~ an employee is not discharged after being suspended without pay pending discharge, the ~~term contract~~ employee is entitled to back pay for the period of suspension. *Education Code 21.211(c)*

GROUND FOR
DISMISSAL

A board may terminate a term contract and discharge a term contract employee at any time for:

1. Good cause as determined by the board; or
2. A financial exigency that requires a reduction in personnel.

Education Code 21.211(a)

NOTICE

Before any term contract employee is dismissed for good cause, the employee shall be given reasonable notice in writing of the charges against him or her and an explanation of a district's evidence, set out in sufficient detail to fairly enable the employee to show any error that may exist. *Cleveland Bd. of Educ. v. Loudermill, 105-470 U.S. Ct. 1487 532 (1985)*

HEARING

If a term contract employee desires a hearing before an independent hearing examiner, the employee must file a written request with the Commissioner not later than the 15th day after the date the employee receives notice of the proposed termination or suspension without pay. The ~~term contract~~ employee must provide a district with a copy of the request and must provide the Commissioner with a copy of the notice.

The parties may agree in writing to extend by not more than ten days the deadline for requesting a hearing.

Education Code 21.251;(a), 21.253 [See DFD]

FINANCIAL
EXIGENCY

An employee who is protesting proposed action to terminate a term contract at any time on the basis of a financial exigency declared under Education Code 44.011 [see CEA] that requires a reduction in personnel must notify the board in writing not later than the tenth day after the date the employee receives notice of the proposed action. The employee is entitled to a hearing in the manner provided under Education Code 21.207

for nonrenewal of a term contract [see DFBB] or a hearing under Education Code Chapter 21, Subchapter F, as determined by the board. *Education Code 21.159*

SUSPENSION WITH
PAY

The employee may be suspended with pay pending the outcome of the dismissal hearing. *Moore v. Knowles*, 482 F.2d 1069 (5th Cir. 1973)

Note: See DF regarding circumstances in which a certified employee's dismissal must be reported to the State Board for Educator Certification (SBEC).

GROUNDS FOR NONRENEWAL	The board may terminate a term contract for a financial exigency that requires a reduction in personnel. <i>Education Code 21.211(a)</i>
REASONS	The board shall establish by policy reasons for nonrenewal at the end of a school year. <i>Education Code 21.203(b)</i>
EVALUATIONS	Before making a decision not to renew a term contract, the board shall consider the most recent evaluations if the evaluations are relevant to the reason for the board's action. <i>Education Code 21.203(a)</i> [See DNA]
NOTICE	<p>Not later than the 45thtenth day before the last day of instruction in a school year, the board shall notify in writing each term contract employee whose term contract is about to expire of its proposalwhether the board proposes to renew or not renew the contract.</p> <p>The notice must be delivered personally by hand delivery to the employee on the campus at which the employee is employed. If the employee is not present on the campus on the date that hand delivery is attempted, the notice must be mailed by prepaid certified mail or delivered by express delivery service to the employee's address of record with the district. Notice that is postmarked on or before the tenth day before the last day of instruction is considered timely for these purposes.</p>
FAILURE TO PROVIDE TIMELY NOTICE	<p>The board's failure to give timely notice of a proposed renewal or nonrenewal constitutes an election to employ the term contract employee in the same professional capacity for the following school year.</p> <p><i>Education Code 21.201, 21.206</i></p>
REQUEST FOR HEARING	<p>If the employee desires a hearing after receiving notice of the proposed nonrenewal, the employee shall notify the board in writing not later than the 15th day after receiving:</p> <ol style="list-style-type: none">1. The date the employee receives hand delivery of the notice of proposed action. nonrenewal; or;2. The date the notice is delivered to the employee's address of record with the district, if the notice is mailed by prepaid certified mail or delivered by express delivery service. <p>The board shall provide for a hearing to be held within 15 daysnot later than the 15th day after receiving written notice from the employee requesting a hearing unless the parties agree in writing to a different date. SuchThe hearing shall be closed unless the employee requests an open hearing is requested by the employee</p>

and shall be conducted in accordance with rules ~~promulgated~~
~~adopted by a district~~ the board.

Education Code 21.207(a)

**LARGE DISTRICT
OPTION**

In a district with an enrollment of at least 5,000 students, the board may designate an attorney licensed to practice law in this state to hold the hearing on behalf of the board, to create a hearing record for the board's consideration and action, and to recommend an action to the board.

The designee may not be employed by a district and neither the designee nor a law firm with which the designee is associated may be serving as an agent or representative of a district, an employee in a dispute between a district and an employee, or an organization of school employees, school administrators, or school boards.

Not later than the 15th day after completion of the hearing, the designee shall provide to the board a record of the hearing and the designee's recommendation of whether the contract should be renewed or not renewed.

The board shall consider the record of the hearing and the designee's recommendation at the first board meeting for which notice can be posted, in compliance with the Texas Open Meetings Act, following the receipt of the record and recommendation from the designee, unless the parties agree in writing to a different date.

At the meeting, the board shall consider the hearing record and the designee's recommendation and allow each party to present an oral argument to the board. The board by written policy may limit the amount of time for oral argument. The policy must provide equal time for each party. The board may obtain advice concerning legal matters from an attorney who has not been involved in the proceedings. The board may accept, reject, or modify the designee's recommendation.

The board shall notify the employee in writing of the board's decision not later than the 15th day after the date of the meeting.

Education Code 21.207(b-1)

BOARD HEARING

~~If~~At the ~~employee requests a~~ hearing, **before** the board ~~shall hold a hearing at which~~ or the board's designee, the employee may::

1. Be represented by a representative of the employee's choice;
2. Hear the evidence supporting the reason for nonrenewal;

3. Cross-examine adverse witnesses; and
4. Present evidence.

Education Code 21.207(c)

BOARD DECISION

To evaluate the evidence put before it, the board shall use the preponderance of the evidence standard of review. *Whitaker v. Marshall ISD, Comm. Ed. Dec. No. 112-R1-598 (1998)*

Following the hearing, the board shall take the appropriate action and notify the employee in writing of that action within 15 days following the conclusion of the hearing.

NO HEARING

If the employee fails to request a hearing, the board shall take the appropriate action and notify the employee in writing of that action not later than the 30th day after the date the notice of proposed nonrenewal was sent.

Education Code 21.208

HEARING EXAMINER

The board may use the process described at DFD. *Education Code 21.207(b)*

APPEALS

An employee aggrieved by a decision of the board to nonrenew a term contract may appeal to the Commissioner for a review of the board's decision. *Education Code 21.209*

DISCHARGE ~~A teacher~~**An employee** employed under a continuing contract may be discharged at any time for good cause as determined by the board. "Good cause" is the failure to meet the accepted standards of conduct for the profession as generally recognized and applied in similarly situated school districts in this state.

SUSPENSION ~~A~~**For good cause as defined above, a** district may suspend ~~a teacher~~**an employee** without pay and for a period not to extend beyond the end of the current school year in lieu of discharge,~~for good cause as defined above or pending discharge.~~

Education Code 21.156

REDUCTION IN FORCE Continuing contract employees may be released from employment by a district at the end of a school year because of **a** necessary reduction of personnel.

~~Necessary~~**A necessary** reduction of personnel shall be made ~~in the reverse order of seniority~~**primarily based upon teacher appraisals administered under Education Code 21.352** in the specific teaching fields **and other criteria as determined by the board.**

Education Code 21.157

NOTICE Before any employee under a continuing contract is discharged, suspended without pay in lieu of discharge, or released because of a necessary reduction in personnel, the employee shall be notified in writing by the board of the proposed action and the grounds for the action. *Education Code 21.158(a)*

An employee who is discharged or suspended without pay for actions related to the inability or failure of the employee to perform assigned duties is entitled, as a matter of right, to a copy of each evaluation report or any other written memorandum that concerns the fitness or conduct of the employee, by requesting in writing a copy of these documents. *Education Code 21.158(b)*

HEARING ~~If, upon written notification of the proposed action, the~~**An employee who** desires to ~~contest the same, the employee shall~~**protest a proposed suspension or contract termination under Education Code 21.156 or 21.157 must** notify the board in writing not later than the tenth day after the date ~~of receipt of the official~~**employee receives** notice ~~and must provide the Commissioner with a copy of the notice. A timely request for~~**of the proposed action.**

An employee who notifies a ~~hearing entitles~~**board within the employee** ~~time prescribed is entitled to a:~~

1. A hearing before ~~an independent~~ hearing examiner ~~under Education Code Chapter 21, Subchapter F [see DFD], if the employee is protesting proposed action to suspend or terminate the employee's continuing contract under Education Code 21.156; or~~

~~The parties may agree in writing to extend by not more than ten days the deadline for requesting a hearing.~~

2. ~~Education Code 21.251(a)(1), 21.253,~~ A hearing in the manner provided under Education Code 21.207 for nonrenewal of a term contract [see DFBB] or a hearing under Education Code Chapter 21, Subchapter F, as determined by the board, if the employee is protesting proposed action under Education Code 21.157 on the basis of a financial exigency declared under Section 44.011 [see CEA] that requires a reduction in personnel.

Education Code 21.159 ~~[See DFD]~~

HEARING NOT
REQUESTED

If the employee ~~fails to~~ **does not** request a hearing ~~not later than~~ **within** the ~~tenth day after receiving notice of the proposed action~~ **time prescribed**, the board shall take the appropriate action and notify the employee in writing of the action not later than the 30th day after the date the board sent the notice of the proposed action. *Education Code 21.159(c)*

Note: See DF regarding circumstances under which a certified employee's termination during the year shall be reported to the State Board for Educator Certification (SBEC).

APPLICABILITY This hearing process applies only if an employee requests a hearing after receiving notice of a proposed decision to:

1. Terminate a continuing contract at any time, **except as provided below**;
2. Terminate a probationary or term contract before the end of the contract period, **except as provided below**; or
3. Suspend without pay.

EXCEPTION

This hearing process does not apply to a decision to:

1. Terminate a probationary contract at the end of the contract term; ~~or~~
2. Not renew a term contract, unless a board has adopted this process for nonrenewals; **or**
- ~~2.~~**3. Terminate a probationary or term contract before the end of the contract period or terminate a continuing contract at any time, based on a financial exigency declared under Education Code 44.011 [see CEA] that requires a reduction in personnel, unless the board has decided to use this hearing process.**

Education Code 21.251

REQUEST FOR
HEARING

Not later than the 15th day after the date the employee receives notice of one of the proposed contract actions listed above, the employee must file a written request with the Commissioner for a hearing before a hearing examiner. The employee must provide the district with a copy of the request and must provide the Commissioner with a copy of the notice. The parties may agree in writing to extend by not more than ten days the deadline for requesting a hearing. *Education Code 21.253*

ASSIGNMENT OF
HEARING EXAMINER
BY AGREEMENT

The parties may agree to select a hearing examiner from the list maintained by the Commissioner or a person who is not certified to serve as a hearing examiner, provided that person is licensed to practice law in Texas. If the parties agree on a hearing examiner the parties shall, before the date the Commissioner is permitted to assign a hearing examiner, notify the Commissioner in writing of the agreement, including the name of the hearing examiner selected.

BY APPOINTMENT

If the parties do not select a hearing examiner by agreement, the Commissioner shall assign the hearing examiner not earlier than the sixth business day and not later than the tenth business day after the date on which the Commissioner receives the request for

	<p>a hearing. When a hearing examiner has been assigned, the Commissioner shall notify the parties immediately.</p>
REJECTION	<p>The parties may agree to reject a hearing examiner for any reason and either party is entitled to reject an assigned hearing examiner for cause. A rejection must be in writing and filed with the Commissioner not later than the third day after the date of notification of the hearing examiner's assignment. If the parties agree to reject the hearing examiner or if the Commissioner determines that one party has good cause for the rejection, the Commissioner shall assign another hearing examiner.</p>
FINALITY OF DECISION	<p>After the employee receives notice of the proposed contract action, the parties may agree in writing that the hearing examiner's decision be final and nonappealable on all or some issues.</p> <p><i>Education Code 21.254</i></p>
POWERS OF HEARING EXAMINER	<p>The hearing examiner may issue subpoenas, administer oaths, rule on motions and the admissibility of evidence, maintain decorum, schedule and recess the proceedings, allow the parties to take depositions or use other means of discovery, and make any other orders as provided by Commissioner rule.</p>
CONDUCT OF HEARING	<p>The hearing and any depositions must be held within the geographical boundaries of a district or at the regional education service center that serves the district.</p> <p><i>Education Code 21.255</i></p>
SCHEDULE RESTRICTION	<p>A hearing before a hearing examiner may not be held on a Saturday, Sunday, or a state or federal holiday, unless all parties agree.</p> <p><i>Education Code 21.257(c)</i></p>
PRIVATE	<p>A hearing before a hearing examiner shall be private unless the employee makes a written request for a public hearing.</p>
EXCEPTION	<p>If necessary to maintain decorum, the hearing examiner may close a hearing that an employee has requested be public.</p>
PROTECTION OF WITNESSES	<p>To protect the privacy of a witness who is a child, the hearing examiner may close the hearing to receive the testimony or order that the testimony be presented by procedures in Article 38.071, Code of Criminal Procedure.</p>
EMPLOYEE RIGHTS	<p>At the hearing, the employee has the right to:</p> <ol style="list-style-type: none">1. Be represented by a representative of the employee's choice;2. Hear the evidence on which the charges are based;3. Cross-examine each adverse witness; and

4. Present evidence.

The hearing is not subject to the Administrative Procedure Act.

The hearing shall be conducted in the same manner as a trial without a jury in state district court. A certified shorthand reporter shall record the hearing.

EVIDENCE	The Texas Rules of Civil Evidence shall apply at the hearing. An evaluation or appraisal of the teacher is presumed to be admissible at the hearing. The hearing examiner's findings of fact and conclusions of law shall be presumed to be based only on admissible evidence.
BURDEN OF PROOF	A district has the burden of proof by a preponderance of the evidence at the hearing. <i>Education Code 21.256</i>
COSTS	A district shall bear the cost of the services of the hearing examiner and certified shorthand reporter and the production of any original hearing transcript. Each party shall bear its costs of discovery, if any, and its attorney's fees. <i>Education Code 21.255(e)</i>
RECOMMENDATION	Not later than the 60th day after the date on which the Commissioner receives a request for a hearing before a hearing examiner, the hearing examiner shall complete the hearing and make a written recommendation. The recommendation must include findings of fact and conclusions of law. The recommendation may include a proposal for granting relief, including reinstatement, back pay, or employment benefits. The proposal for relief may not include attorney's fees or other costs associated with the hearing or appeals from the hearing. The hearing examiner shall send a copy of the recommendation to each party, the board president, and the Commissioner.
WAIVER OF DEADLINE	The parties may agree in writing to extend by not more than 45 days the right to a recommendation by the date specified above. <i>Education Code 21.257</i>
CONSIDERATION	A board or a designated subcommittee shall consider the hearing examiner's record and recommendation at the first board meeting for which notice can be posted in compliance with the open meetings laws. The meeting must be held not later than the 20th day after the date that the board president receives the hearing examiner's recommendation and record.
ORAL ARGUMENT AND RECORDING	At the meeting, a board or subcommittee shall allow each party to present an oral argument to the board or subcommittee. A board

may, by written policy, limit the amount of time for oral argument, provided equal time is allotted each party. A certified shorthand reporter shall record any such oral argument.

LEGAL ADVICE

A board or subcommittee may obtain advice from an attorney who has not been involved in the proceedings.

Education Code 21.258, ~~21.260~~

DECISION

Not later than the tenth day after the date on which the meeting to consider the hearing examiner's recommendation is held, a board or subcommittee shall announce its decision, which must include findings of fact and conclusions of law, and may include a grant of relief.

A board or subcommittee may adopt, reject, or change the hearing examiner's conclusions of law or proposal for granting relief. ~~A board may reject or change a finding of fact made by the hearing examiner:~~ **A determination by the hearing examiner regarding good cause for the suspension of an employee without pay or the termination of a probationary, continuing, or term contract is a conclusion of law and may be adopted, rejected, or changed by the board or board subcommittee.**

A board may reject or change a finding of fact made by the hearing examiner:

1. Only after reviewing the record of the proceedings; and
2. Only if the finding of fact is not supported by substantial evidence.

A board or subcommittee shall state in writing the reason for and legal basis for a change or rejection.

Education Code 21.257, .259

RECORDING

A certified shorthand reporter shall record the announcement of the decision. A district shall bear the cost of the reporter's services.

Education Code ~~21.259~~, 21.260

RECORD OF
PROCEEDINGS

The Commissioner shall consider the appeal solely on the basis of the local record and may not consider any additional evidence or issue. *Education Code 21.301(c)*

The record of the proceedings before the independent hearing examiner shall include:

1. The transcripts of proceedings at the local level;
2. All evidence admitted;

3. All offers of proof;
4. All written pleadings, motions, and intermediate rulings;
5. A description of matters officially noticed;
6. If applicable, the recommendation of the independent hearing examiner;
7. The transcript of the oral argument before the board or board subcommittee;
8. The decision of the board or board subcommittee; and
9. If applicable, the board or board subcommittee's written reasons for changing the recommendation of the independent hearing examiner.

19 TAC 157.1072(e)

TERMINATION OF EMPLOYMENT
RESIGNATION

DFE
(LEGAL)

RESIGNATION
WITHOUT CONSENT
(UNILATERAL
RESIGNATION)

An educator employed under a probationary contract for the following school year, or under a term or continuing contract, may relinquish the position and leave district employment at the end of the school year without penalty by filing a written resignation with a board or a board's designee not later than the 45th day before the first day of instruction of the following school year.

A written resignation mailed by prepaid certified or registered mail to a board president or a board's designee at the post office address of the district is considered filed at the time of mailing.

Education Code 21.105(a), 24.160(a), 24.210(a)

An unequivocal resignation filed not later than the 45th day before the first day of instruction of the following school year is effective upon filing with a district and the district cannot reject such a resignation. The resignation cannot be withdrawn by the teacher based on an argument that the district has not accepted the resignation. *Fantroy v. Dallas Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 034-R9-0206 (Mar. 5, 2009); Garcia v. Miles Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 055-RI-503 (Nov. 30, 2006).*

RESIGNATION WITH
CONSENT

The educator may resign, with the consent of the board or the board's designee, at any other time. *Education Code 21.105(b), 24.160(b), 24.210(b)*

SANCTIONS FOR
ABANDONMENT OF
CONTRACT

On written complaint by a district, the State Board for Educator Certification (SBEC) may impose sanctions against an educator who is employed under a probationary contract, or under a continuing or term contract, for the following school year, and who:

1. Resigns;
2. Fails without good cause to comply with the resignation deadline or the provision regarding resignation by consent; and
3. Fails without good cause to perform the contract.

Education Code 21.105(c), 24.160(c), 24.210(c)

Acceptance or approval of a resignation indicates consent to abandonment of contract. *Quitman Indep. Sch. Dist. v. Wilkerson, Tex. Comm'r of Educ. Decision No. 142-TTC-698 (Dec. 2, 1999); Houston Indep. Sch. Dist. v. Johnson, Tex. Comm'r of Educ. Decision No. 054-TTC-1196 (Sept. 28, 1998)*

SBEC shall not pursue sanctions against an educator who is alleged to have abandoned his or her contract unless a board:

1. Renders a finding that good cause did not exist for the employee's resignation; and

2. Submits a written complaint to SBEC within 30 calendar days after the educator files a written resignation with the district in the manner provided by Education Code 21.105, 21.160, or 21.210.

This deadline applies even if the district does not accept the educator's written resignation. If the educator does not submit a written resignation, the employing district may determine the effective resignation date for purposes of submitting a complaint to SBEC. The effective resignation date shall not be later than 14 days after the educator fails to appear for work without district permission under the terms of the contract.

19- TAC 249.14(f)

NOTICE TO SBEC

In addition to the reporting requirement under Family Code 261.101 [see FFG], a superintendent must file a written report with SBEC not later than the seventh day after the superintendent first obtains or has knowledge of information indicating that an educator resigned and reasonable evidence supported a recommendation by the superintendent to terminate the educator because he or she committed one of the acts specified at Education Code 21.006(b).

Before accepting the educator's resignation, a superintendent shall inform the educator in writing that a report will be filed which may result in sanctions against the employee's certificate.

A superintendent shall notify a board before filing a report of a resignation with SBEC.

Education Code 21.006(b), (c), (d); 19 TAC 249.14(d) [See DF, DH]

INVESTIGATION

A superintendent shall complete an investigation of an educator that is based on reasonable cause to believe the educator may have abused or otherwise committed an unlawful act with a student or minor, despite the educator's resignation from district employment before completion of the investigation. *Education Code 21.006(b-1)*

EMPLOYEE FREE
SPEECH

District employees do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.

However, neither an employee nor anyone else has an absolute constitutional right to use all parts of a school building or its immediate environs for unlimited expressive purposes. When a public employee makes statements pursuant to his or her official duties, the employee is not speaking as a citizen for First Amendment purposes, and the Constitution does not insulate the communications from employer discipline.

Garcetti v. Ceballos, 547 U.S. 410 (2006); *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969) [See also GKD]

WHISTLEBLOWER
PROTECTION

A board or its agents shall not suspend or terminate the employment of, or take other adverse personnel action against, an employee who in good faith reports a violation of law by a district or another public employee to an appropriate law enforcement authority.

A “report” is made to an “appropriate law enforcement authority” if the authority is a part of a state or local governmental entity or the federal government that the employee in good faith believes is authorized to:

1. Regulate under or enforce the law alleged to be violated in the report; or
2. Investigate or prosecute a violation of criminal law.

Gov’t Code 554.002

A supervisor who suspends or terminates the employment of or takes an adverse personnel action against an employee for reporting a violation of law shall be subject to civil penalties. *Gov’t Code 554.008*

DEFINITIONS

“Employee” means an employee or appointed officer who is paid to perform services for a district. It does not include independent contractors. *Gov’t Code 554.001(4)*

“Law” means a state or federal statute, an ordinance of a local governmental entity, or a rule adopted under a statute or ordinance. *Gov’t Code 554.001(1)0.*

A “good faith” belief that a violation of the law occurred means that:

1. The employee believed that the conduct reported was a violation of law; and
2. The employee’s belief was reasonable in light of the employee’s training and experience.

Wichita County v. Hart, 917 S.W.2d 779 (Tex. 1996)

A "good faith" belief that a law enforcement authority is an appropriate one means:

1. The employee believed the governmental entity was authorized to:
 - a. Regulate under or enforce the law alleged to be violated in the report, or
 - b. Investigate or prosecute a violation of criminal law; and
2. The employee's belief was reasonable in light of the employee's training and experience.

Tex. Dep't of Transp. v. Needham, 82 S.W.3d 314 (Tex. 2002)WHISTLEBLOWER
COMPLAINTS

An employee who alleges a violation of whistleblower protection may sue a district for injunctive relief, actual damages, court costs, and attorney's fees, as well as other relief specified in Government Code 554.003. *Gov't Code 554.003*

INITIATE
GRIEVANCE

Before suing, an employee must initiate action under a district's grievance policy or other applicable policies concerning suspension or termination of employment or adverse personnel action.

The employee must invoke a district's grievance procedure not later than the 90th day after the date on which the alleged suspension, termination, or other adverse employment action occurred or was discovered by the employee through reasonable diligence.

LEGAL ACTION

If a board does not render a final decision before the 61st day after grievance procedures are initiated, the employee may elect to:

1. Exhaust a district's grievance procedures, in which case the employee must sue not later than the 30th day after the date those procedures are exhausted to obtain relief under Government Code Chapter 554; or
2. Terminate district grievance procedures and sue within the time lines established by Government Code 554.005 and 554.006.

Gov't Code 554.005, 554.006 [See DGBA regarding grievance procedures]

BURDEN OF PROOF

If the employee brings a lawsuit, the employee has the burden of proof unless the suspension, termination, or adverse personnel action occurred within 90 days after the employee reported a violation of law, in which case the suspension, termination, or adverse

personnel action is presumed, subject to rebuttal, to be because the employee made the report.

AFFIRMATIVE
DEFENSE

It is an affirmative defense to a whistleblower suit that the district would have taken the action against the employee that forms the basis of the suit based solely on information, observation, or evidence that is not related to the fact that the employee made a report protected under the whistleblower law.

Gov't Code 554.004

NOTICE OF RIGHTS

A board shall inform its employees of their rights regarding whistleblower protection by posting a sign in a prominent location in the workplace. The design and content of the sign shall be as prescribed by the attorney general. *Gov't Code 554.009*

PROTECTION FOR
REPORTING CHILD
ABUSE

A board or its agents may not suspend or terminate the employment of, or otherwise discriminate against, a professional employee who in good faith:

1. Reports child abuse or neglect to:
 - a. The person's supervisor,
 - b. An administrator of the facility where the person is employed,
 - c. A state regulatory agency, or
 - d. A law enforcement agency; or
2. Initiates or cooperates with an investigation or proceeding by a governmental entity relating to an allegation of child abuse or neglect.

A person whose employment is suspended or terminated or who is otherwise discriminated against in violation of the foregoing may sue for injunctive relief, damages, or both. A district employee who has a cause of action under WHISTLEBLOWER PROTECTION may not bring an action under PROTECTION FOR REPORTING CHILD ABUSE.

Family Code 261.110

ATTENDANCE
COMMITTEE
MEMBERSHIP

~~A member of an attendance committee is not personally liable for any act or omission arising out of duties as a member of an attendance committee. Education Code 25.092(c)~~

REPORT OF DRUG
OFFENSES

~~A teacher, administrator, or other district employee is not liable in civil damages for reporting to a school administrator or governmental authority, in the exercise of professional judgment within the scope of the teacher's, administrator's, or employee's duties, a~~

~~student whom the teacher suspects of using, passing, or selling, on school property any of the following substances:~~

PROTECTION FROM DISCIPLINARY PROCEEDINGS

For purposes of the following provisions, “disciplinary proceeding” means discharge or suspension of a professional employee, or termination or nonrenewal of a professional employee’s term contract. [See DGC regarding immunity] *Education Code 22.0512(b)*

REPORTING CHILD ABUSE OR MALTREATMENT

A district employee may not be subject to any disciplinary proceeding resulting from an action taken in compliance with Education Code 38.0041 [prevention of child abuse and other maltreatment, see FFG]. *Education Code 38.0041*

USE OF PHYSICAL FORCE

A professional employee may not be subject to disciplinary proceedings for the employee's use of physical force against a student to the extent justified under Penal Code 9.62. This provision does not prohibit a district from enforcing a policy relating to corporal punishment or bringing a disciplinary proceeding against a professional employee of the district who violates the district policy relating to corporal punishment. *Education Code 22.0512(a); Tex. Att’y Gen. Op. GA-0202 (2004)*

Penal Code 9.62 provides that the use of force, other than deadly force, against a person is justified:

- ~~1. Marijuana or a controlled substance, as defined by the Texas Controlled Substances Act.~~
- ~~2. A dangerous drug, as defined by If the Texas Dangerous Drug Act.~~
1. An abusable glue or aerosol paint, as defined by Health and Safety Code Chapter 485, or a volatile chemical, if actor is entrusted with the substance is used or sold for care, supervision, or administration of the person for a special purpose of inhaling its fumes or vapors.; and
- ~~2. An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.~~

~~*Education Code 37.016*~~

~~REPORT TO LOCAL LAW ENFORCEMENT~~

~~A principal or person designated by the principal is not liable in civil damages for making a good faith report to law enforcement, as required by law, of an activity specified at Education Code 37.015. *Education Code 37.015 [See GRA]*~~

~~ADMINISTRATION OF MEDICATION~~

~~A district, a board, and its employees shall be immune from civil liability for damages or injuries resulting from the administration of~~

PROTECTION OF NURSES	<p>medication to a student in accordance with Education Code 22.052. <i>Education Code 22.052(a), (b)</i> [See FFAC]</p> <p>A district may not suspend, terminate, or otherwise discipline or discriminate against a nurse who refuses to engage in an act or omission relating to patient care that:</p> <ol style="list-style-type: none"> 1. <i>Would constitute grounds for reporting the nurse to the Board of Nurse Examiners under Occupations Code Chapter 301, Subchapter I;</i> 2. <i>Constitutes a minor incident, as defined at Occupations Code 301.419; or</i> 3. <i>Would violate Occupations Code Chapter 301 or a rule of the Board of Nurse Examiners, if the nurse notifies the district at the time of the refusal that this is the reason for refusing to engage in the act or omission.</i> <p><i>Occupations Code 301.352(a)</i></p>
IMMUNITY FROM INDIVIDUAL LIABILITY	<p>The statutory immunity detailed below is in addition to and does not preempt the common law doctrine of official and governmental immunity. <i>Education Code 22.051(b)</i></p>
'PROFESSIONAL EMPLOYEES'	<p>A professional employee of a school district is not personally liable for any act that is incident to or within the scope of the duties of the employee's position of employment and that involves the exercise of judgment or discretion, except in circumstances where, in disciplining a student, the employee uses excessive force or his or her negligence results in bodily injury to the student.</p> <p>"Professional employee of a school district" includes a superintendent; principal; teacher, including a substitute teacher or a teacher employed by a company that contracts with a school district to provide the teacher's services to the district; a supervisor; social worker; counselor; nurse; teacher's aide; a student in an education preparation program participating in a field experience or internship; a DPS-certified school bus driver, and any other person whose employment requires certification and the exercise of discretion.</p>
MOTOR VEHICLE EXCEPTION	<p>Education Code 22.0511 does not apply to the operation, use, or maintenance of any motor vehicle.</p> <p><i>Education Code 22.0511(a)-(b), 22.051; Hopkins v. Spring Indep. Sch. Dist., 736 S.W.2d 617 (Tex. 1987); Barr v. Bernhard, 562 S.W.2d 844 (Tex. 1978)</i></p>
'INDIVIDUALS'	<p>In addition to the immunity described above [at PROFESSIONAL EMPLOYEES], and under other provisions of state law, an individ-</p>

~~ual is entitled to any immunity and any other protections afforded under the Paul D. Coverdell Teacher Protection Act of 2001 (Coverdell Act). [See TEACHERS, below] Nothing in Education Code 22.0511(c) shall be construed to limit or abridge any immunity or protection afforded an individual under state law. Education Code 22.0511(c)~~

~~NO-WAIVER~~

~~A district may not, by policy, contract, or administrative directive:~~

- ~~1. Require an employee to waive the employee's immunity from liability under Education Code 22.0511; or~~
- ~~2. Require an employee who acts in good faith to pay for or replace property belonging to a student or other person that the employee possessed because of an act incident to or within the scope of employment. [See TEXTBOOKS AND TECHNOLOGICAL EQUIPMENT, below]~~

~~Education Code 22.0511(d)~~

~~'TEACHERS'
(COVERDELLACT)~~

~~Except as provided in 20 U.S.C. Section 6736(b), no "teacher" in a school shall be liable for harm caused by an act or omission of the teacher on behalf of the school if:~~

- ~~1. The teacher was acting within the scope of the teacher's employment or responsibilities to a school or governmental entity;~~
- ~~2. The actions of the teacher were carried out in conformity with federal, state, and local laws (including rules and regulations) in furtherance of efforts to control, discipline, expel, or suspend a student or maintain order or control in the classroom or school;~~
- ~~3. If appropriate or required, the teacher was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice involved in the state in which the harm occurred, where the activities were or practice was undertaken within the scope of the teacher's responsibilities;~~
- ~~4. The harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the teacher; and~~
- ~~5. The harm was not caused by the teacher's operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires the operator or the owner of the vehicle, craft, or vessel to:

 - ~~a. Possess an operator's license; or~~~~

~~b.— Maintain insurance.~~

~~“Teacher” means:~~

- ~~1.— A teacher, instructor, principal, or administrator;~~
- ~~2.— Another educational professional who works in a school;~~
- ~~3.— An individual member of a school board (as distinct from the board); or~~
- ~~4.— A professional or nonprofessional employee who works in a school, and:

 - ~~a.— In the employee's job, maintains discipline or ensures safety; or~~
 - ~~b.— In an emergency, is called on to maintain discipline or ensure safety.~~~~

~~20 U.S.C. Sections 6733, 6736(a)~~

3. **TEXTBOOKS** When and to the degree the actor reasonably believes the force is necessary to further the special purpose or to maintain discipline in a group.

INSTRUCTIONAL MATERIALS AND TECHNOLOGICAL EQUIPMENT

A board may not require an employee who acts in good faith to pay for ~~a textbook, electronic textbook,~~ **instructional materials** or technological equipment that is damaged, stolen, misplaced, or not returned. An employee may not waive this provision by contract or any other means.

EXCEPTION

A district may enter into a written agreement with an employee whereby the employee assumes financial responsibility for electronic ~~textbook~~ **instructional material** or technological equipment usage off school property or outside of a school-sponsored event in consideration for the ability of the employee to use the electronic ~~textbook~~ **instructional material** or technological equipment for personal business.

The written agreement shall be separate from the employee's contract of employment, if applicable, and shall clearly inform the employee of the amount of the financial responsibility and advise the employee to consider obtaining appropriate insurance. An employee may not be required to enter into such an agreement as a condition of employment.

Education Code 31.104(e)

~~IMMUNITY FOR
SHELTER WORKERS~~

~~An officer or employee of a district is not civilly liable for an act performed in the discharge of duty if the person is performing an activity related to sheltering or housing individuals in connection with the evacuation of an area stricken or threatened by disaster. Gov't Code 418.006, 431.085~~

CHARITABLE
CONTRIBUTIONS

A board or a district employee may not directly or indirectly require or coerce any district employee to:

1. Make a contribution to a charitable organization or in response to a fund-raiser; or
2. Attend a meeting called for the purpose of soliciting charitable contributions.

A board or district employee may not directly or indirectly require or coerce any district employee to refrain from the same acts.

*Education Code 22.011*PROTECTION OF
NURSES

A district may not suspend, terminate, or otherwise discipline or discriminate against a nurse who refuses to engage in an act or omission relating to patient care that:

1. Would constitute grounds for reporting the nurse to the Board of Nurse Examiners under Occupations Code Chapter 301, Subchapter I;
2. Constitutes a minor incident, as defined at Occupations Code 301.419; or
3. Would violate Occupations Code Chapter 301 or a rule of the Board of Nurse Examiners, if the nurse notifies the district at the time of the refusal that this is the reason for refusing to engage in the act or omission.

Occupations Code 301.352(a)

EMPLOYEE RIGHTS AND PRIVILEGES
IMMUNITY

DGC
(LEGAL)

IMMUNITY FROM
INDIVIDUAL LIABILITY

The statutory immunity detailed below is in addition to and does not preempt the common law doctrine of official and governmental immunity. *Education Code 22.051(b)*

'PROFESSIONAL
EMPLOYEES'

A professional employee of a school district is not personally liable for any act that is incident to or within the scope of the duties of the employee's position of employment and that involves the exercise of judgment or discretion, except in circumstances where, in disciplining a student, the employee uses excessive force or his or her negligence results in bodily injury to the student.

"Professional employee of a school district" includes a superintendent; principal; teacher, including a substitute teacher or a teacher employed by a company that contracts with a school district to provide the teacher's services to the district; a supervisor; social worker; counselor; nurse; teacher's aide; a student in an education preparation program participating in a field experience or internship; a DPS-certified school bus driver, and any other person whose employment requires certification and the exercise of discretion.

MOTOR VEHICLE
EXCEPTION

Education Code 22.0511 does not apply to the operation, use, or maintenance of any motor vehicle.

Education Code 22.0511(a)-(b), .051; Hopkins v. Spring Indep. Sch. Dist., 736 S.W.2d 617 (Tex. 1987); Barr v. Bernhard, 562 S.W.2d 844 (Tex. 1978)

'INDIVIDUALS'

In addition to the immunity described above [at PROFESSIONAL EMPLOYEES], and under other provisions of state law, an individual is entitled to any immunity and any other protections afforded under the Paul D. Coverdell Teacher Protection Act of 2001 (Coverdell Act). [See TEACHERS, below] Nothing in Education Code 22.0511(c) shall be construed to limit or abridge any immunity or protection afforded an individual under state law. *Education Code 22.0511(c)*

NO WAIVER

A district may not, by policy, contract, or administrative directive:

1. Require an employee to waive the employee's immunity from liability under Education Code 22.0511; or
2. Require an employee who acts in good faith to pay for or replace property belonging to a student or other person that the employee possessed because of an act incident to or within the scope of employment. [See DG at INSTRUCTIONAL MATERIAL AND TECHNOLOGICAL EQUIPMENT]

Education Code 22.0511(d)

'TEACHERS'
(COVERDELL ACT)

Except as provided in 20 U.S.C. Section 6736(b), no "teacher" in a school shall be liable for harm caused by an act or omission of the teacher on behalf of the school if:

1. The teacher was acting within the scope of the teacher's employment or responsibilities to a school or governmental entity;
2. The actions of the teacher were carried out in conformity with federal, state, and local laws (including rules and regulations) in furtherance of efforts to control, discipline, expel, or suspend a student or maintain order or control in the classroom or school;
3. If appropriate or required, the teacher was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice involved in the state in which the harm occurred, where the activities were or practice was undertaken within the scope of the teacher's responsibilities;
4. The harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the teacher; and
5. The harm was not caused by the teacher's operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires the operator or the owner of the vehicle, craft, or vessel to:
 - a. Possess an operator's license; or
 - b. Maintain insurance.

"Teacher" means:

1. A teacher, instructor, principal, or administrator;
2. Another educational professional who works in a school;
3. An individual member of a school board (as distinct from the board); or
4. A professional or nonprofessional employee who works in a school, and:
 - a. In the employee's job, maintains discipline or ensures safety; or
 - b. In an emergency, is called on to maintain discipline or ensure safety.

20 U.S.C. Sections 6733, 6736(a)

EMPLOYEE RIGHTS AND PRIVILEGES
IMMUNITY

DGC
(LEGAL)

REPORT OF DRUG
OFFENSES

A teacher, administrator, or other district employee is not liable in civil damages for reporting to a school administrator or governmental authority, in the exercise of professional judgment within the scope of the teacher's, administrator's, or employee's duties, a student whom the teacher suspects of using, passing, or selling, on school property any of the following substances:

1. Marijuana or a controlled substance, as defined by the Texas Controlled Substances Act.
2. A dangerous drug, as defined by the Texas Dangerous Drug Act.
3. An abusable glue or aerosol paint, as defined by Health and Safety Code Chapter 485, or a volatile chemical, if the substance is used or sold for the purpose of inhaling its fumes or vapors.
4. An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

Education Code 37.016

REPORT TO LOCAL
LAW ENFORCEMENT

A principal or person designated by the principal is not liable in civil damages for making a good faith report to law enforcement, as required by law, of an activity specified at Education Code 37.015.

Education Code 37.015 [See GRAA]

CHILD ABUSE AND
MALTREATMENT

The requirements of Education Code 38.0041 [regarding prevention of abuse and other maltreatment of children, see FFG] are considered to involve an employee's judgment and discretion and are not considered ministerial acts for purposes of immunity from liability under Education Code 22.0511 [see IMMUNITY FROM INDIVIDUAL LIABILITY, above]. *Education Code 38.0041 [See DG regarding protection from disciplinary proceedings]*

ATTENDANCE
COMMITTEE
MEMBERSHIP

A member of an attendance committee is not personally liable for any act or omission arising out of duties as a member of an attendance committee. *Education Code 25.092(c)*

ADMINISTRATION OF
MEDICATION

A district, a board, and its employees shall be immune from civil liability for damages or injuries resulting from the administration of medication to a student in accordance with Education Code 22.052. *Education Code 22.052(a), (b) [See FFAC]*

IMMUNITY FOR
SHELTER WORKERS

An officer or employee of a district is not civilly liable for an act performed in the discharge of duty if the person is performing an activity related to sheltering or housing individuals in connection with the evacuation of an area stricken or threatened by disaster. *Gov't Code 418.006, 431.085*

RESTRICTIONS ON
WRITTEN REPORTS

A board shall limit redundant requests for information and the number and length of written reports that a classroom teacher is required to prepare.

A classroom teacher may not be required to prepare any written information other than:

1. Any report concerning the health, safety, or welfare of a student;
2. A report of a student's grade on an assignment or examination;
3. A report of a student's academic progress in a class or course;
4. A report of a student's grades at the end of each grade reporting period;
5. A ~~textbook~~ report **on instructional materials**;
6. A unit or weekly lesson plan that outlines, in a brief and general manner, the information to be presented during each period at the secondary level or in each subject or topic at the elementary level;
7. An attendance report;
8. Any report required for accreditation review;
9. Any information required by a district that relates to a complaint, grievance, or actual or potential litigation and that requires the classroom teacher's involvement; or
10. Any information specifically required by law, rule, or regulation.

A district may collect essential information, in addition to the information specified above, from a classroom teacher on agreement between the classroom teacher and the district.

PAPERWORK REVIEW

A board shall review paperwork requirements imposed on classroom teachers and transfer to existing noninstructional staff a reporting task that can reasonably be accomplished by that staff. [See BAA]

Education Code 11.164

The Commissioner of Education may authorize special accreditation investigations in response to repeated complaints concerning imposition of excessive paperwork requirements on classroom teachers. *Education Code 39.075(b-1)*

STAFF DEVELOPMENT Staff development shall be predominantly campus-based, related to achieving campus performance objectives, and developed and approved by the campus-level committee [see BQB].

TRAINING
SPECIFICS

The staff development provided by a school district must be conducted in accordance with standards developed by the district and designed to improve education in the district.

The staff development must include training, based on scientifically based research, that relates to the instruction of students with disabilities and is designed for educators who work primarily outside the area of special education. A district is required to provide such training only if the educator does not possess the knowledge and skills necessary to implement the individualized education program developed for a student receiving instruction from the educator. A district may determine the time and place at which the training is delivered. In developing or maintaining such training, a district must consult persons with expertise in research-based practices for students with disabilities, including colleges, universities, private and nonprofit organizations, regional education service centers, qualified district personnel, and any other persons identified as qualified by the district.

The staff development may include:

1. Training in technology, conflict resolution, and discipline strategies, including classroom management, district discipline policies, and the Student Code of Conduct; and
2. Instruction as to what is permissible under law, including opinions of the United States Supreme Court, regarding prayer in public school.

Education Code 21.451

A district may use district-wide staff development that has been developed and approved through the district-level decision process. *Education Code 21.452(c)*

**CHILD ABUSE AND
MALTREATMENT**

A district's methods for increasing awareness of issues regarding sexual abuse and other maltreatment of children [see BQ, district improvement plan, and FFG] must address employee training.

The training must be provided as part of a new employee orientation to new educators, including counselors and coaches, and other professional employees. The training may be provided annually to any employee. The training may be included in staff development under Education Code 21.451.

The training shall address:

- 1. Factors indicating a child is at risk for sexual abuse or other maltreatment;**
- 2. Likely warning signs indicating a child may be a victim of sexual abuse or other maltreatment;**
- 3. Internal procedures for seeking assistance for a child who is at risk for sexual abuse or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;**
- 4. Techniques for reducing a child's risk of sexual abuse or other maltreatment; and**
- 5. Community organizations that have relevant existing research-based programs and that are able to provide training or other education for employees, students, and parents.**

A district shall maintain records of the training that include the name of each employee who participated.

If a district determines that the district does not have sufficient resources to provide the required training, the district shall work with a community organization to provide the training at no cost to the district.

Education Code 38.0041

SPECIAL PROGRAMS
TRAINING

TITLE I STAFF
DEVELOPMENT

A district that receives assistance under Title I, Part A, shall include in its plan [see AID] a description of the strategy the district will use to provide professional development for teachers and principals, and, if appropriate, pupil services personnel, administrators, parents and other staff, including district staff, in accordance with 20 U.S.C. 6318 and 6319 (No Child Left Behind Act). *20 U.S.C. 6312(b)(1)(D), 7801(34)*

READING
ACADEMIES

A teacher shall attend a reading academy under 19 Administrative Code 102.1101 if:

- 1. The teacher teaches at a campus that fails to satisfy any performance standard under Education Code 39.054(d) [see AIA] on the basis of student performance on the state reading assessment instrument administered to students in any grade level at the campus; and**
- 2. The teacher teaches in general education, special education, or English as a second language for students in grade 6, 7, or 8, and:**

- a. The teacher is a certified, full-time English language arts and reading teacher who instructs English language arts and/or reading for at least 50 percent of the teacher's instructional duties; or
- b. The teacher is a certified, full-time content area teacher who instructs mathematics, science, and/or social studies for at least 50 percent of the teacher's instructional duties.

From funds appropriated for this purpose, a teacher who attends a reading academy is entitled to a stipend in the amount determined by the Commissioner. The stipend shall not be considered in determining whether a district is paying the teacher the state minimum monthly salary [see DEA].

Education Code 21.4551(c), (e); 19 TAC 102.1101(b)

GIFTED AND
TALENTED
EDUCATION

A district shall ensure that:

1. Before assignment to the program for gifted students, teachers who provide instruction and services that are part of the program have a minimum of 30 hours of staff development that includes nature and needs of gifted/talented students, assessment of student needs, and curriculum and instruction for gifted students.
2. Teachers without the required training who provide instruction and services that are part of the gifted/talented program complete the 30-hour training requirement within one semester.
3. Teachers who provide instruction and services that are part of a program for gifted students receive a minimum of six hours annually of professional development in gifted education.
4. Administrators and counselors who have authority for program decisions have a minimum of six hours of professional development that includes nature and needs of gifted/talented students and program options.

19- TAC 89.2

ELECTIVE BIBLE
COURSE

A teacher of an elective Bible course offered under Education Code 28.011 [see EMI] must hold a minimum of a High School Composite Certification in language arts, social studies, or history with, where practical, a minor in religious or biblical studies. The teacher must successfully complete the staff development training developed by the Commissioner with respect to Bible elective courses.
Education Code 28.011(f)

PROFESSIONAL DEVELOPMENT
REQUIRED STAFF DEVELOPMENT

DMA
(LEGAL)

ADULT EDUCATION	<p>All adult education staff shall receive at least 12 clock hours of professional development annually. All staff new to adult education shall receive six clock hours of preservice professional development before they begin work in an adult education program. 19-TAC- 89.25(1), (2)</p> <p>Directors, teachers, counselors, and supervisors who do not have valid Texas teacher certification must attend 12 clock hours of in-service professional development annually in addition to the 12 hours required above until they have completed either six clock hours of adult education college credit or attained two years of adult education experience. 19-TAC- 89.25(4)(B)</p>
EXCEPTIONS	<p>The in-service professional development requirements may be reduced by local programs in individual cases where exceptional circumstances prevent employees from completing the required hours of in-service professional development. Documentation justifying such circumstances must be kept. Requests for exemption in individual cases may be submitted to TEA for approval in the application for funding and must include justification and proposed qualification. 19-TAC- 89.25(5)</p>
VOLUNTEERS	<p>The above requirements also apply to volunteers who generate student contact time that is accrued by the adult education program and reported to TEA for funding purposes. 19 TAC 89.25(7)</p>
RECORDS	<p>Records of staff qualifications and professional development shall be maintained by a district and must be available for monitoring. 19-TAC- 89.25(6)</p>
AUTOMATED EXTERNAL DEFIBRILLATORS	<p>A district shall annually make available to employees and volunteers instruction in the principles and techniques of cardiopulmonary resuscitation and the use of an automated external defibrillator (AED).</p> <p>The instruction provided in the use of AEDs must meet guidelines for approved AED training under Health and Safety Code 779.002. Each school nurse, assistant school nurse, athletic coach or sponsor, physical education instructor, marching band director, cheerleading coach, and any other employee specified by the Commissioner, and each student who serves as an athletic trainer, must:</p> <ol style="list-style-type: none">1. Participate in the instruction;2. Receive and maintain certification in the use of an AED from the American Heart Association, the American Red Cross, or a similar nationally recognized association.

Education Code 22.902

EXTRACURRICULAR
ACTIVITY SAFETY
TRAINING

The following persons must satisfactorily complete the extracurricular safety training program developed by the Commissioner:

1. A coach or sponsor for an extracurricular athletic activity;
2. A trainer, unless the trainer has completed the educational requirements for licensure as a licensed athletic trainer set forth at 22 Administrative Code 871.7 and the continuing education requirements at 22 Administrative Code 871.12;
3. A physician who is employed by a district or who volunteers to assist with an extracurricular athletic activity, unless the physician attends a continuing medical education course that specifically addresses emergency medicine; and
4. A director responsible for a school marching band.

The training may be conducted by a district, the American Red Cross, the American Heart Association, or a similar organization, or by the ~~UIL~~ **University Interscholastic League (UIL)**.

Education Code 33.202(b), (f); 19 TAC 76.1003

RECORDS

A superintendent shall maintain complete and accurate records of the district's compliance and the district shall make available to the public proof of compliance for each person employed by or volunteering for the district who is required to receive safety training.

A campus that is determined by a superintendent to be out of compliance with the safety training requirements shall be subject to the range of penalties determined by the UIL.

Education Code 33.206; 19 TAC 76.1003(e)

STEROIDS

A district shall require that each employee who serves as an athletic coach at or above the seventh grade level for an extracurricular athletic activity sponsored or sanctioned by the ~~University Interscholastic League (UIL)~~ **UIL** complete:

1. The educational program developed by the UIL regarding the health effects of steroids; or
2. A comparable program developed by the district or a private entity with relevant expertise.

Education Code 33.091(c-1)

CONCUSSIONS

At least once every two years, the following employees shall take a training course from an authorized provider in the subject matter of concussions:

1. A coach of an interscholastic athletic activity shall take a course approved by the UIL.
2. An athletic trainer who serves as a member of a district's concussion oversight team shall take a course approved by the Texas Department of State Health Services Advisory Board of Athletic Trainers (TDSHS-ABAT) or a course approved for continuing education credit by the licensing authority for athletic trainers.
3. A licensed health-care professional, other than an athletic trainer, who serves as a member of a district's concussion oversight team shall take a course approved by the UIL, TDSHS-ABAT, or the appropriate licensing authority for the profession.

The employee must submit proof of timely completion of an approved course to the superintendent or designee. A licensed health-care professional who is not in compliance with these training requirements may not serve on a concussion oversight team in any capacity. [See FM]

Education Code 38.158

RESOURCES FOR
STAFF DEVELOPMENT

If a district receives resources from the Commissioner's staff development account, it must pay to the Commissioner for deposit in the account an amount equal to one-half of the cost of the resources provided to the district. *Education Code 21.453*

PERSONNEL POSITIONS

DP
(LEGAL)

PRINCIPAL QUALIFICATIONS CERTIFICATION	<p>The BoardA board, by local policy, shall adopt qualifications for principals. <i>Education Code 11.202(c)</i></p> <p>To be eligible to receive a Standard Principal Certificate, an individual must::</p> <ol style="list-style-type: none">1. Successfully complete the educator assessments required under 19-TACAdministrative Code 230.5.2. Hold a master's degree from an accredited institution of higher education.3. Have two years of creditable teaching experience as a classroom teacher, as defined by 19 TACAdministrative Code Chapter 230, Subchapter Y. <p>19- TAC 241.25</p>
DUTIES	<p>The principal shall be the instructional leader of the school and shall be provided with adequate training and personnel assistance to assume that role. <i>Education Code 11.202(a)</i></p> <p>TheA principal shall::</p> <ol style="list-style-type: none">1. Approve all teacher and staff appointments for the campus. [See DK]2. Set specific education objectives for the campus, through the planning process.3. Develop budgets for the campus.4. Assume administrative responsibility and instructional leadership, under the supervision of the Superintendentssuperintendent, for discipline at the campus.5. Assign, evaluate, and promote all personnel assigned to the campus.6. Recommend to the Superintendentssuperintendent the termination, suspension, or nonrenewal of an employee assigned to the campus.7. Perform any other duties assigned by the Superintendentssuperintendent pursuant to Boardboard policy.8. Regularly consult with the campus-level committee in the planning, operation, supervision, and evaluation of the campus educational program. [See BQ series]9. Each school year, with the assistance of the campus-level committee, develop, review, and revise the campus improvement plan. [See BQ]

~~10. Report the maximum attendance for the school to the Superintendent for the purpose of textbook requisitions. [See CMD]~~

~~11.10.~~ (For high school principals only) Serve, or appoint someone to serve, as deputy registrar for the county in which the school is located. *Election Code 13.046*

Education Code 11.202(b), ~~11.253(c), (h), 31.103(a)~~ [See also DMA]

Please Note: This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

SECTION E: INSTRUCTION

EA	INSTRUCTIONAL GOALS AND OBJECTIVES
EB	SCHOOL YEAR
EC	SCHOOL DAY
ED	ORGANIZATION OF INSTRUCTION
EE	INSTRUCTIONAL ARRANGEMENTS
EEA	Grouping for Instruction
EEB	Class Size
EEC	Scheduling for Instruction
EED	Student Schedules
EEH	Homebound Instruction
EEJ	Individualized Learning
EEL	Contracts with Outside Agencies
EEM	Juvenile Residential Facilities
EEP	Lesson Plans
EF	INSTRUCTIONAL RESOURCES
EFA	Instructional Materials- Selection and Adoption
EFAA	Textbook Selection and Adoption
EFB	Library Media Programs
EFC	Community Instructional Resources
EFD	Field Trips
EFF	Instructional Television
EG	CURRICULUM DEVELOPMENT
EGA	Innovative and Magnet Programs
EH	CURRICULUM DESIGN
EHA	Basic Instructional Program
EHAA	Required Instruction (All Levels)
EHAB	Required Instruction (Elementary)
EHAC	Required Instruction (Secondary)
EHAD	Elective Instruction
EHB	Special Programs
EHBA	Special Education
EHBAA	Identification, Evaluation, and Eligibility
EHBAB	ARD Committee and Individualized Education Program
EHBAC	Students in Non-District Placement
EHBAD	Transition Services
EHBAE	Procedural Requirements
EHBB	Gifted and Talented Students

Please Note: This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

SECTION E: INSTRUCTION

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

	<p>Textbooks Instructional materials selected for use in the public schools shall be furnished without cost to students attending those schools. Except as provided by Education Code 31.104(d), a district may not charge a student for instructional material or technological equipment purchased by the district with the district's instructional materials allotment [see CMD]. <i>Education Code 31.001</i></p>
<p>PARENTAL ACCESS</p>	<p>A parent is entitled to review all teaching materials, textbooks instructional materials, and other teaching aids used in the classroom of the parent's child and to review each test administered to the child after the test is administered. A district shall make teaching materials and tests readily available for parental review and may specify reasonable hours for such review.</p> <p>A student's parent is entitled to request that a district allow the student to take home any textbook instructional materials used by the student. Subject to the availability of a textbook the instructional materials, a district or school shall honor the request. A student who takes home a textbook instructional materials must return the textbook instructional materials to school at the beginning of the next school day if requested to do so by the student's teacher.</p> <p><i>Education Code 26.006</i></p>
<p>INFORMATION COLLECTION AND ACCESS</p> <p>U.S. DOE FUNDED SURVEYS</p> <p>CONSENT REQUIRED</p>	<p>No student shall be required, as part of any program funded in whole or in part by the U.S. Department of Education (DOE), to submit to a survey, analysis, or evaluation that reveals information concerning the topics listed at PROTECTED INFORMATION, below, without the prior consent of the student (if the student is an adult or emancipated minor), or, in the case of an unemancipated minor, without the prior written consent of the parent. <i>20 U.S.C. 1232h(b)</i></p>
<p>PARENTAL INSPECTION</p>	<p>All instructional materials, including teacher's manuals, films, tapes, or other supplementary material, that will be used in connection with any survey, analysis, or evaluation as part of any program funded in whole or in part by the U.S. DOE shall be available for inspection by the parents or guardians of the children. <i>20 U.S.C. 1232h(a)</i></p>
<p>INFORMATION COLLECTION FUNDED BY OTHER SOURCES</p> <p>POLICIES</p>	<p>Except as provided by 20 U.S.C. 1232h(a) or (b) [see U.S. DOE FUNDED SURVEYS, above], as a condition of receiving funds for a program funded in whole or in part by the U.S. DOE, a district shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), regarding the following:</p>

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

A district need not develop and adopt new policies if TEA or the district had in place, on January 8, 2002, policies covering the requirements of 20 U.S.C. 1232h(c)(1). [See CRD, FFAA, FL, and FNG]

PARENTAL
NOTIFICATION

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

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

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

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

20 U.S.C. 1232h(c)(1)–(4) [See FFAA]

PROTECTED
INFORMATION

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

1. Political affiliations or beliefs of the student or the student's parents.
2. Mental and psychological problems of the student or the student's family.
3. Sex behavior and attitudes.
4. Illegal, anti-social, self-incriminating, and demeaning behavior.
5. Critical appraisals of other individuals with whom respondents have close family relationships.
6. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.
7. Religious practices, affiliations, or beliefs of the student or student's parent.

8. Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

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

'PERSONAL
INFORMATION'
DEFINED

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

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

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

Note: For provisions regarding inventory and requisition of ~~textbooks, see CMD.~~

~~STATE TEXTBOOK~~ and instructional materials ~~LISTS~~, see **CMD**.

~~For each subject and grade level, the State Board of Education (SBOE) shall adopt two lists of textbooks: conforming and nonconforming:~~

- ~~CONFORMING LIST~~ 1. ~~The conforming list includes each textbook that meets applicable physical specifications and contains material covering each element of the essential knowledge and skills of the subject and grade level.~~
- ~~NONCONFORMING LIST~~ 2. ~~The nonconforming list includes each textbook that meets the applicable physical specifications and contains material covering at least half, but not all, of the elements of the essential knowledge and skills.~~

~~Education Code 31.023~~

~~OPEN SOURCE TEXTBOOKS~~ The SBOE shall place an open source textbook for a secondary-level course submitted for adoption by an eligible institution on a conforming or nonconforming list if it satisfies the requirements described in Education Code 31.0241. ~~Education Code 31.0241(b)~~

~~An open source textbook is an electronic textbook~~

DEFINITIONS

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

“Open-source instructional material” is electronic instructional material that is available for downloading from the Internet at no charge to a student and without requiring the purchase of an unlock code, membership, or other access or use charge, except for a charge to order an optional printed copy of all or part of the ~~textbook.~~ ~~19 TAC 66.1101(3)~~ instructional material. *Education Code 31.002(1-a)*

	<p>“Technological equipment” is hardware, a device, or equipment necessary for instructional use in the classroom, including to gain access to or enhance the use of electronic instructional materials; or professional use by a classroom teacher. <i>Education Code 31.002(4)</i></p>
SBOE INSTRUCTIONAL MATERIALS LIST	<p>For each subject and grade level, the State Board of Education (SBOE) shall adopt a list of instructional materials.</p> <p>The list includes each instructional material that meets applicable physical specifications and contains material covering at least half of the elements of the essential knowledge and skills of the subject and grade level. <i>Education Code 31.023(a)</i></p>
OPEN-SOURCE INSTRUCTIONAL MATERIAL	<p>The SBOE shall place open-source instructional material for a secondary-level course submitted for adoption by an eligible institution on the list if it satisfies the requirements described in Education Code 31.0241. <u><i>Education Code 31.0241(b)</i></u></p>
ELECTRONIC TEXTBOOK AND COMMISSIONER INSTRUCTIONAL MATERIALS LIST	<p>The Commissioner, with input from the SBOE, shall adopt a list of:</p> <ol style="list-style-type: none">1. Electronic textbooks instructional material; and2. Instructional material Material that conveys information to the student or otherwise contributes to the learning process, including tools, models, and investigative materials designed for use as part of the foundation curriculum for science in kindergarten through grade 5 and personal financial literacy in kindergarten through grade 8. <p><i>Education Code 31.0231</i></p> <p>An electronic textbook is defined as computer software, interactive videodisc, magnetic media, CD-ROM, computer courseware, on-line services, an electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means. 19 TAC 66.1001(1(a))</p>
SUPPLEMENTAL TEXTBOOK INSTRUCTIONAL MATERIALS LIST	<p>The SBOE may adopt supplemental textbooks instructional materials that are not on the conforming or nonconforming lists. A supplemental textbook SBOE instructional materials list. Supplemental instructional material contains material covering one or more primary focal points or primary topics of a subject in the required curriculum but is not designed to serve as the sole textbook for a full course. <i>Education Code 31.035(a), (b)</i></p>
LOCAL SELECTION	<p>Each year, during a period established by the SBOE, a board shall select textbooks instructional materials for subjects in the founda-</p>

	tion and enrichment curricula and notify the SBOE in accordance with Education Code 31.101. <i>Education Code 31.101(a)</i>
POLICY	A board shall adopt a policy for selecting instructional materials. Final selections must be recorded in board minutes. <i>19 TAC 66.104(a)</i>
FOUNDATION TEXTBOOKS CURRICULUM	A board shall select textbooks instructional materials for a subject in the foundation curriculum from among the textbooks on the appropriate conforming list or the nonconforming instructional materials list, including the electronic textbook and Commissioner's instructional materials list. <i>Education Code 31.101(a)(1)</i>
ENRICHMENT CURRICULUM	A board may select a instructional materials for a subject in the enrichment curriculum from the instructional materials list, including the Commissioner's instructional materials list, or it may select instructional materials that do not appear on the list. <i>Education Code 31.101(a)(2)</i>
SUPPLEMENTAL MATERIALS	A board may select supplemental textbook instructional materials adopted by the SBOE, as set forth at Education Code 31.035 [see CMD]. If a board selects a supplemental textbook for a course in the foundation curriculum instructional materials , the district shall certify to TEA that the supplemental textbook instructional materials , in combination with any other textbooks instructional materials or supplemental textbooks instructional materials used by the district, cover the essential knowledge and skills for the course. <i>Education Code 31.035(d), (f)</i>
ENRICHMENT TEXTBOOKS	A board may select textbooks for courses in the enrichment curriculum from among the textbooks on the appropriate conforming list or the nonconforming list, including the electronic textbook and instructional materials list, or it may select books that do not appear on either list (nonadopted materials). <i>Education Code 31.101(a)(2)</i>
BRAILLE / LARGE- TYPE	A district is responsible for providing Braille and/or large type versions of nonadopted enrichment materials. <i>19 TAC 66.104(d)</i>
CLASSROOM SET OF TEXTBOOKS	Notwithstanding any other provision of Education Code Chapter 31, a district must purchase a classroom set of textbooks adopted by the SBOE on the conforming or nonconforming list or the supplemental textbook list for each subject and grade level in the foundation and enrichment curriculum. <i>Education Code 31.101(c-1); 19 TAC 66.104(f)</i> A classroom set is defined as the total count of SBOE-adopted textbooks on the conforming or nonconforming list necessary to provide one copy to each student during the class period. A classroom kit that includes materials for every student in the classroom is considered to be a classroom set. <i>19 TAC 66.104(s)</i>

OPEN-SOURCE MATERIAL	A district may adopt state-developed open-source instructional material at any time, regardless of the instructional material review and adoption cycle. <i>Education Code 31.073(c)</i>
SPECIAL EDUCATION	Adopted instructional materials shall be supplied to a student in special education classes as appropriate to the level of the student's ability and without regard to the grade for which the instructional material is adopted or the grade in which the student is enrolled. <i>19 TAC 66.104(m)</i>
DURATION OF SELECTION	Once instructional materials have been requisitioned and delivered, including nonadopted materials, a district shall continue to use those materials during the period of the review and adoption cycle the SBOE has established for the subject and grade level for which the materials are used. <i>Education Code 31.101(d); 19 TAC 66.104(f), (j)</i>
EXCEPTION LISTED MATERIALS	A district that selects a subscription-based electronic textbook or instructional material on the conforming SBOE instructional materials list or the electronic textbook and instructional material on the Commissioner's instructional materials list may cancel the subscription and subscribe to a new electronic textbook or instructional material on either the SBOE list or electronic instructional material on the Commissioner's list before the end of the state contract period if: <ol style="list-style-type: none">1. The district has used the electronic textbook or instructional material for at least one school year; and2. TEA approves the change based on a written request to TEA by the district that specifies the reasons for changing the electronic textbook or instructional material used by the district. <i>Education Code 31.101(e)</i>
REPORT	By April 1 of each year, a district shall transmit a report to TEA listing
OTHER MATERIALS	For instructional material that is not on the instructional materials selected for list, a district must use in the district. Selections certified to TEA are final and, therefore, not subject to reconsideration during instructional material for the original contract period or readoption contract periods covering of the instructional materials selected. <i>19 TAC 66.104(g), (h)</i> review and adoption cycle the SBOE has established for the subject and grade level for which the instruction material is used. <i>Education Code 31.101(d)</i>
CRIMINAL OFFENSE	A board member, administrator, or teacher commits an offense if the person receives any commission or rebate on any textbooks,

~~electronic textbooks,~~ instructional materials, or technological equipment used in the schools with which the person is associated.

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

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

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

1. Staff development, in-service, or teacher training; or
2. ~~Instructional~~ **Ancillary** materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.

Education Code 31.152

ANCILLARY
MATERIALS

Selection and use of ancillary materials is at the discretion of a board. *19 TAC 66.104(p)*

HUMAN SEXUALITY
MATERIALS

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

PURPOSE

A primary purpose of the public school curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage. A district shall foster the continuation of the tradition of teaching United States and Texas history and the free enterprise system in regular subject matter, in reading courses, and in the adoption of textbooks. *Education Code 28.002(h)*

As a condition of accreditation, a district shall provide instruction in the essential knowledge and skills at appropriate grade levels in the foundation and enrichment curriculum. *Education Code 28.002(c); 19 TAC 74.1(b)*

A district shall ensure that all children in the district participate actively in a balanced curriculum designed to meet individual needs. *Education Code 28.002(g)*

Instruction may be provided in a variety of arrangements and settings, including mixed-age programs designed to permit flexible learning arrangements for developmentally appropriate instruction for all student populations to support student attainment of course and grade-level standards. *19 TAC 74.2*

REQUIRED
CURRICULUM

A district that offers kindergarten through grade 12 shall offer the following as a required curriculum:

FOUNDATION
CURRICULUM

1. A foundation curriculum that includes:
 - a. English Language Arts and reading;
 - b. Mathematics;
 - c. Science; and
 - d. Social studies, consisting of Texas, United States, and world history; government; and geography.

Education Code 28.002(a)(1); 19 TAC 74.1(a)(1)

ENRICHMENT
CURRICULUM

2. An enrichment curriculum that includes:
 - a. Languages other than English, to the extent possible. American Sign Language is a language for these purposes and the district may offer an elective course in the language;
 - b. Health, with emphasis on the importance of proper nutrition and exercise;
 - c. Physical education;

- d. Fine Arts;
- ~~e. Economics, with emphasis on the free enterprise system and its benefits;~~
- ~~f.~~e. Career and technical education;
- ~~g.~~f. Technology applications; and
- ~~h.~~g. Religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature.

Education Code 28.002(a)(2); 19 TAC 74.1(a)(2)

LOCAL CREDIT

A district may offer courses for local credit, at its discretion, in addition to those in the required curriculum, but it may not delete or omit instruction in the foundation and enrichment curricula specified above. *Education Code 28.002(f); 19 TAC 74.1(b)*

LOCAL
INSTRUCTIONAL PLAN

A district's local instructional plan may draw on state curriculum frameworks and program standards as appropriate. A district is encouraged to exceed minimum requirements of law and State Board rule. *Education Code 28.002(g)*

COORDINATED
HEALTH PROGRAMS

TEA shall make available to a district one or more coordinated health programs or allow the development of district programs designed to prevent obesity, cardiovascular disease, and type 2 diabetes in elementary, middle, and junior high school students. Each program must provide for coordinating:

1. Health education;
2. Physical education and physical activity;
3. Nutrition services; and
4. Parental involvement.

Education Code 38.013; 19 TAC 102.1031(a)

A district shall participate in appropriate training to implement TEA's coordinated health program and shall implement the program in each elementary, middle, and junior high school in the district. *Education Code 38.014*

Coordinated school health programs that are developed by districts and that meet TEA criteria may be approved and made available as approved programs. Districts must use materials that are proven effective, such as TEA-approved textbooks or materials developed by nationally recognized and/or government-approved entities. *19 TAC 102.1031(c)*

PHYSICAL EDUCATION Each school district shall establish specific objectives and goals the district intends to accomplish through the physical education curriculum. The physical education curriculum must be sequential, developmentally appropriate, and designed, implemented, and evaluated to enable students to develop the motor, self-management, and other skills, knowledge, attitudes, and confidence necessary to participate in physical activity throughout life.

A physical education course shall:

1. Offer students an opportunity to choose among many types of physical activity in which to participate;
2. Offer students both cooperative and competitive games; and
3. Be an enjoyable experience for students.

On a weekly basis, at least 50 percent of a physical education class shall be used for actual student physical activity and the activity shall be, to the extent practicable, at a moderate or vigorous level.

STUDENT/TEACHER
RATIO

The objectives and goals shall include, to the extent practicable, student/teacher ratios [see EEB] that are small enough to enable the district to:

1. Carry out the purposes of and requirements for the physical education curriculum; and
2. Ensure the safety of students participating in physical education.

If a district establishes a student to teacher ratio greater than 45 to 1 in a physical education class, the district shall specifically identify the manner in which the safety of the students will be maintained.

Education Code 25.114, 28.002(d); 19 TAC 74.37

CLASSIFICATION
FOR PHYSICAL
EDUCATION

A district shall classify students for physical education on the basis of health into one of the following categories:

1. Unrestricted—not limited in activities.
2. Restricted—excludes the more vigorous activities. Restricted classification is of two types:
 - a. Permanent—A member of the healing arts licensed to practice in Texas shall provide written documentation to the school as to the nature of the impairment and the expectations for physical activity for the student.

- b. Temporary—Students may be restricted from physical activity of the physical education class. A member of the healing arts licensed to practice in Texas shall provide written documentation to the school as to the nature of the temporary impairment and the expected amount of time for recovery. During recovery time, the student shall continue to learn the concepts of the lessons but shall not actively participate in the skill demonstration.
3. Adapted and remedial—specific activities prescribed or prohibited for students as directed by a member of the healing arts licensed to practice in Texas.

19 TAC 74.31

SCHOOL HEALTH
ADVISORY COUNCIL

A board shall establish a local school health advisory council to assist the district in ensuring that local community values are reflected in the district's health education instruction. *Education Code 28.004(a)* [See BDF regarding composition of council and FFA regarding federal wellness requirements]

DUTIES

The council's duties include recommending:

1. The number of hours of instruction to be provided in health education;
2. Curriculum appropriate for specific grade levels designed to prevent obesity, cardiovascular disease, and type 2 diabetes through coordination of health education, physical education and physical activity, nutrition services, parental involvement, and instruction to prevent the use of tobacco;
3. Appropriate grade levels and methods of instruction for human sexuality instruction; and
4. Strategies for integrating the curriculum components specified by item 2, above, with the following elements in a coordinated school health program:
 - a. School health services;
 - b. Counseling and guidance services;
 - c. A safe and healthy school environment; and
 - d. School employee wellness.

Education Code 28.004(c)

The council shall consider and make policy recommendations to the district concerning the importance of daily recess for elementary school students. The council must consider research regarding

	<p>unstructured and undirected play, academic and social development, and the health benefits of daily recess in making the recommendations. The council shall ensure that local community values are reflected in any policy recommendation made to the district concerning the importance of daily recess for elementary school students. <i>Education Code 28.004(l)</i></p>
CONTENT OF HUMAN SEXUALITY INSTRUCTION	<p>The board shall determine the specific content of a district's instruction in human sexuality. <i>Education Code 28.004(h)</i></p> <p>The board shall select any instruction relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS) with the advice of the local school health advisory council. The instruction must:</p> <ol style="list-style-type: none">1. Present abstinence as the preferred choice of behavior for unmarried persons of school age;2. Devote more attention to abstinence than to any other behavior;3. Emphasize that abstinence is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, infection with HIV or AIDS, and the emotional trauma associated with adolescent sexual activity;4. Direct adolescents to a standard of behavior in which abstinence before marriage is the most effective way to prevent pregnancy, sexually transmitted diseases, and infection with HIV or AIDS; and5. Teach contraception and condom use in terms of human use reality rates instead of theoretical laboratory rates, if instruction on contraception and condoms is included in the curriculum. <p><i>Education Code 28.004(e)</i></p>
CONDOMS	<p>A district may not distribute condoms in connection with instruction relating to human sexuality. <i>Education Code 28.004(f)</i></p>
SEPARATE CLASSES	<p>If a district provides human sexuality instruction, it may separate students according to sex for instructional purposes. <i>Education Code 28.004(g)</i> [See FBA regarding single-sex classes under Title IX]</p>
NOTICE TO PARENTS	<p>Before each school year, a district shall provide written notice to a parent of each student enrolled in the district of the board's decision regarding whether the district will provide human sexuality in-</p>

struction to district students. If instruction will be provided, the notice must include:

1. A summary of the basic content of the district's human sexuality instruction to be provided to the student, including a statement informing the parent of the instructional requirements under state law;
2. A statement of the parent's right to:
 - a. Review curriculum materials as provided by Education Code 28.004(j); and
 - b. Remove the student from any part of that instruction without subjecting the student to any disciplinary action, academic penalty, or other sanction imposed by the district or the student's school; and
3. Information describing the opportunities for parental involvement in the development of the curriculum to be used in human sexuality instruction, including information regarding the local school health advisory council.

A parent may use the grievance procedure at FNG concerning a complaint of a violation of notice requirements.

Education Code 28.004(i), (f)-(i-1)

AVAILABILITY OF
MATERIALS

A district shall make all curriculum materials used in human sexuality instruction available for reasonable public inspection. *Education Code 28.004(j)* [See EFAA regarding selection of curriculum materials for human sexuality instruction]

STEROID NOTICE AND
EDUCATION

A district shall, at appropriate grade levels as determined by the State Board of Education, provide to students involved in extracurricular athletic activities information developed by TEA regarding the use of anabolic steroids and the health risks involved with such use. *Education Code 38.0081(b)*

Each school in a district in which there is a grade level of seven or higher shall post in a conspicuous location in the school gymnasium and each other place in a building where physical education classes are conducted a notice regarding steroids, using the text set forth at Education Code 38.008 [see FNCF(EXHIBIT)]. *Education Code 38.008*

Courses in the foundation and enrichment curriculum in grades 6–12 must be provided in a manner that allows all grade promotion and high school graduation requirements to be met in a timely manner. A district is not required to offer a specific course in the foundation and enrichment curriculum except as specified in 19 Administrative Code 74.3. *19 TAC 74.3(c)*

GRADES 6–8

A district that offers grades 6–8 must provide instruction in the required curriculum as specified in 19 Administrative Code 74.1, relating to essential knowledge and skills. A district must ensure that sufficient time is provided for teachers to teach and for students to learn English language arts, mathematics, science, social studies, fine arts, health, physical education, technology applications, and to the extent possible, languages other than English. The school district may provide instruction in a variety of arrangements and settings, including mixed-age programs designed to permit flexible learning arrangements for developmentally appropriate instruction for all student populations to support student attainment of course and grade level standards. *19 TAC 74.3(a)(1)*

PHYSICAL ACTIVITY
REQUIREMENTS

A district shall require students in grades 6–8 to participate in moderate or vigorous daily physical activity for at least 30 minutes for at least four semesters during those grade levels as part of the district's physical education curriculum.

A district may as an alternative require a student enrolled in a grade level for which the district uses block scheduling to participate in moderate or vigorous physical activity for at least 225 minutes during each period of two school weeks.

EXEMPTIONS

A district must provide an exemption for:

1. A student who is unable to participate in the required physical activity because of illness or disability; and
2. A student who participates in an extracurricular activity with a moderate or vigorous physical activity component that is considered a structured activity and meets the requirements for extracurricular activity as defined at 19 Administrative Code 76.1001.

A district may allow an exemption for a student on a middle or junior high school campus participating in a school-related activity or an activity sponsored by a private league or club only if that activity meets each of the following requirements:

1. The activity must be structured;
2. The board must certify the activity; and

3. The student must provide proof of participation in the activity.

A “structured activity” is an activity that meets, at a minimum, each of the following requirements:

1. The activity is based on the grade appropriate movement, physical activity and health, and social development strands of the essential knowledge and skills for physical education specified in 19 Administrative Code Chapter 116; and
2. The activity is organized and monitored by school personnel or by appropriately trained instructors who are part of a program that has been certified by the board.

Education Code 28.002(I), (I-1); 19 TAC 103.1003

FINE ARTS
REQUIREMENT

The school district must ensure that, beginning with students who enter grade 6 in the 2010–11 school year, each student completes one Texas Essential Knowledge and Skills-based fine arts course in grade 6, grade 7, or grade 8. *Education Code 28.002(c-1); 19 TAC 74.3(a)(2)*

HIGH SCHOOL
COURSES AT EARLIER
GRADES

A district may offer courses designated for grades 9–12 in earlier grade levels. *19 TAC 74.26(b)*

(Optional provision)

GRADES 9–12
COURSE OFFERINGS

A district that offers grades 9–12 shall provide instruction in the required curriculum as specified in 19 Administrative Code 74.1. A district shall ensure that sufficient time is provided for teachers to teach and for students to learn the subjects in the required curriculum. *19 TAC 74.3(b)(1)*

A district shall offer the courses listed below in grades 9–12 and shall maintain evidence that students have the opportunity to take these courses:

1. English language arts — English I, II, III, IV.
2. Mathematics — Algebra I, Algebra II, Geometry, Precalculus, and Mathematical Models with Applications.
3. Science — Integrated Physics and Chemistry, Biology, Chemistry, and Physics. Science courses shall include at least 40 percent hands-on laboratory investigations and field work using appropriate scientific inquiry.
4. Social studies — United States History Studies Since Reconstruction, World History Studies, United States Government, and World Geography Studies.

5. Economics — Economics with Emphasis on the Free Enterprise System and Its Benefits.

Each district shall provide to a student instruction in personal financial literacy in any course meeting the requirements for an economics credit, using materials approved by the State Board of Education (SBOE). The instruction in personal financial literacy must include instruction on completing the application for federal student aid provided by the Department of Education. In fulfilling the requirement to provide financial literacy instruction, a district may use an existing state, federal, private, or nonprofit program that provides students without charge the described instruction. Each district shall ensure that a district student enrolled at an institution of higher education in a dual credit course meeting the requirements for an economics credit receives the personal financial literacy instruction.

Education Code 28.0021

- ~~5.6.~~ Physical education — at least two of the following:

- a. Foundations of Personal Fitness;
- b. Adventure/Outdoor Education;
- c. Aerobic Activities; or
- d. Team or Individual Sports.

- ~~6.7.~~ Health education — Health I.

A district shall use the parenting and paternity awareness program developed by the ~~State Board of Education~~ SBOE in its high school health curriculum. In high schools that do not have a family violence prevention program, the program must address skills relating to the prevention of family violence [see PARENTING AWARENESS PROGRAM, below]. *Education Code 28.002(p)*

- ~~7.8.~~ Fine arts — courses selected from at least two of the four fine arts areas (art, music, theatre, and dance) as follows:

- a. Art I, II, III, IV;
- b. Music I, II, III, IV;
- c. Theatre I, II, III, IV; or
- d. Dance I, II, III, IV.

~~8-9~~. Career and technical education [see EEL] — coherent sequences of courses selected from at least three of the following 16 career clusters:

- a. Agriculture, Food, and Natural Resources;
- b. Architecture and Construction;
- c. Arts, Audio/Video Technology, and Communications;
- d. Business Management and Administration;
- e. Education and Training;
- f. Finance;
- g. Government and Public Administration;
- h. Health Science;
- i. Hospitality and Tourism;
- j. Human Services;
- k. Information Technology;
- l. Law, Public Safety, Corrections, and Security;
- m. Manufacturing;
- n. Marketing;
- o. Science, Technology, Engineering, and Mathematics;
and
- p. Transportation, Distribution, and Logistics.

~~9-10~~. Languages other than English — Levels I, II, and III or higher of the same language.

~~10-11~~. Technology applications — at least four courses selected from Computer Science I, Computer Science II, Desktop Publishing, Digital Graphics/Animation, Multimedia, Video Technology, Web Mastering, or Independent Study in Technology Applications.

~~11-12~~. Speech — Communications Applications.

19 TAC 74.3(b)(2)

A district must provide each student the opportunity each year to select courses in which he or she intends to participate from a list that includes all courses listed above. If a district will not offer all required courses every year, but intends to offer particular courses

only every other year, it must notify all enrolled students of that fact. 19 TAC 74.3(b)(4)

A district shall teach any course a student is required to take for graduation or any course in which ten or more students indicate they will participate. For those courses in which fewer than ten students indicate that they will participate, a district shall either teach the course or use alternate delivery systems, as described in 19 Administrative Code, Chapter 74, Subchapter C, to provide the course and shall maintain evidence thereof. 19 TAC 74.3(b)(4)

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

APPLIED COURSES

A school district may offer the foundation curriculum required by the Recommended and Advanced/Distinguished Achievement High School Programs in an applied manner. The courses must cover the essential knowledge and skills, and the student shall be administered the applicable end-of-course assessment instrument. Education Code 28.025(b-4)

RESEARCH WRITING
COMPONENT

For students entering grade 9 beginning with the 2007–08 school year, districts must ensure that one or more courses offered in the required curriculum for the Recommended and Advanced/Distinguished Achievement High School Programs include a research writing component. 19 TAC 74.3(b)(5)

PARENTING
AWARENESS
PROGRAM
HIGH SCHOOL

A district shall use the parenting and paternity awareness program developed by the ~~State Board of Education (SBOE)~~ in its high school health curriculum.

MIDDLE AND
JUNIOR HIGH
SCHOOL

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

PROGRAM
REQUIREMENTS

Implementation of this requirement shall comply with the requirement that the board establish a local school health advisory council to assist the district in ensuring that local community values are reflected in the district's health education instruction.

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

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

3. Skills relating to the prevention of family violence, only if the district's middle, junior high, or high schools do not have a family violence program.

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

LOCAL PROGRAMS
AND MATERIALS

A district may develop or adopt research-based programs and curriculum materials for use in conjunction with the program developed by the SBOE. The programs and curriculum materials may provide instruction in:

1. Child development;
2. Parenting skills, including child abuse and neglect prevention; and
3. Assertiveness skills to prevent teenage pregnancy, abusive relationships, and family violence.

PARENT
PERMISSION

A student under 14 years of age may not participate in the program without the permission of the student's parent or person standing in parental relation to the student.

Education Code 28.002(p); 19 TAC 74.35(a)

ALCOHOL
AWARENESS
INSTRUCTION

A district shall incorporate instruction in the dangers, causes, consequences, signs, symptoms, and treatment of binge drinking and alcohol poisoning into any course meeting a requirement for a health education credit.

A district shall choose an evidence-based alcohol awareness program to use in the district's middle school, junior high school, and high school health curriculum from a list of programs approved by the Commissioner for this purpose.

"Evidence-based alcohol awareness program" means a program, practice, or strategy that has been proven to effectively prevent or delay alcohol use among students, as determined by evaluations that use valid and reliable measures and that are published in peer-reviewed journals.

Education Code 28.002(r); 19 TAC 74.35(b)

DYSLEXIA AND
RELATED DISORDERS

A board shall ensure that procedures are implemented for identifying and providing appropriate instructional services to students for dyslexia and related disorders, in accordance with the State Board of Education's *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*.

IDENTIFICATION
AND TESTING

Screening should be done only by individuals who are trained to assess students for dyslexia and related disorders.

Before an identification or assessment procedure is used selectively with an individual student, a district shall notify the student's parent or guardian or another person standing in parental relation to the student.

A process for early identification, intervention, and support for students at risk for dyslexia and related disorders must be available, as outlined in the *Dyslexia Handbook*.

TREATMENT

Each school shall provide each identified student access at his or her campus to instructional programs required at READING PROGRAM below and to the services of a teacher trained in dyslexia and related disorders. A district may, with the approval of each student's parents or guardians, offer additional services at a centralized location, but centralized services shall not preclude each student from receiving services at his or her campus.

READING
PROGRAM

A district shall purchase a reading program or develop its own reading program that is aligned with the descriptors in the *Dyslexia Handbook*.

Teachers who screen and treat these students must be trained in instructional strategies that utilize individualized, intensive, multi-sensory, phonetic methods and a variety of writing and spelling components described in the *Dyslexia Handbook*. The professional development activities specified by the district- and/or campus-level committees shall include these instructional strategies.

REASSESSMENT

Unless otherwise provided by law, a student determined to have dyslexia during testing or accommodated because of dyslexia may not be retested for dyslexia for the purpose of reassessing the student's need for accommodations until the district reevaluates the information obtained from previous testing of the student.

NOTICE TO
PARENTS

A district shall inform parents and guardians of students eligible under Section 504 [see FB] of all services and options available to the student under that statute.

PARENT
EDUCATION

A district shall provide a parent education program for parents and guardians of students with dyslexia and related disorders. This

program should include awareness of characteristics of dyslexia and related disorders; information on testing and diagnosis of dyslexia; information on effective strategies for teaching dyslexic students; and awareness of information on modifications, especially modifications allowed on standardized testing.

Education Code 38.003; 19 TAC 74.28

ADMISSION, REVIEW,
AND DISMISSAL
COMMITTEE

A district shall establish an admission, review, and dismissal (ARD) committee for each eligible student with a disability and for each student for whom a full and individual initial evaluation is conducted. The ARD committee shall be the individualized education program (IEP) team defined at 34 CFR 300.321.

RESPONSIBILITIES
OF ARD
COMMITTEE

The responsibilities of the ARD committee and the district include:

1. Evaluation, re-evaluation, and determination of eligibility for special education and related services;
2. Placement of students with disabilities including disciplinary changes in placement;
3. Development of the student's IEP;
4. Development and implementation of service plans for students who have been placed by their parents in private schools and who have been designated to receive special education and related services;
5. Compliance with the least restrictive environment standard;
6. Compliance with state requirements for reading diagnosis and state assessments;
7. Development of personal graduation plans;
8. Development of accelerated instruction under Education Code 28.0211 and intensive programs of instruction under Education Code 28.0213 [see EHBC];
9. Evaluation, placement, and coordination of services for students who are deaf, hard of hearing, blind, or visually impaired; and
10. Determining eligibility for extracurricular activities, under Education Code 33.081.

19 TAC 89.1050(a); 34 CFR 300.116(a), ~~300.321(a)~~

COMMITTEE
MEMBERS

A district shall ensure that each ARD committee meeting includes all of the following:

1. The parents of a child with a disability;
2. At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
3. At least one special education teacher or, if appropriate, at least one special education provider of the child;

4. A representative of the district who:
 - a. Is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities;
 - b. Is knowledgeable about the general education curriculum; and
 - c. Is knowledgeable about the availability of resources of the district;
5. An individual who can interpret the instructional implications of evaluation results, who may be a member of the ARD committee (who may be a member of the committee listed in items 2–5);
6. The child, if appropriate;
7. Other individuals who have knowledge or special expertise regarding the child. at the discretion of the district or the parent;
8. For a child with an auditory impairment, including deaf-blindness, a teacher who is certified in the education of children with auditory impairments;
9. For a child with a visual impairment, including deaf-blindness, a teacher who is certified in the education of children with visual impairments;
10. For a child with limited English proficiency, a member of the language-proficiency assessment committee (LPAC), when selecting assessments; and
11. When considering initial or continued placement of a student in a career and technical education program, a representative from career and technical education, preferably the teacher.

20 U.S.C. 1414(d)(1)(B); 34 CFR 300.321; 19 TAC 75.1023(d)(1), 89.1131(b)(3)–(4), 101.1009

A district member of the ARD committee shall not be required to attend an IEP meeting, in whole or in part, if the parent and the district agree in writing that the attendance is not necessary because the member's area of the curriculum or related services is not being modified or discussed during the meeting.

A district member of the ARD committee may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services if the parent, in writing, and the district

consent to the excusal and the member submits, in writing, to the parent and the ARD committee, input into the development of the IEP before the meeting.

20 U.S.C. 1414(d)(1)(C); 34 CFR 300.321(e)

MEMBERSHIP
FOR TRANSITION
MEETINGS

If the purpose of the meeting is to consider postsecondary goals and the transition services needed to assist the student in reaching those goals, a district shall invite:

1. The student. If the student does not attend, a district shall take steps to ensure that the student's preferences and interests are considered.
2. To the extent appropriate, and with the consent of the parent or adult student, a representative of any other agency that is likely to be responsible for providing or paying for transition services.

34 CFR 300.321(b) [See EHBAD]

PARENT
INVOLVEMENT

A district shall take steps to ensure that one or both parents of a student with a disability are present at each ARD committee meeting or are afforded an opportunity to participate, including:

1. Notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend (the notice shall include the purpose, time, and location of the meeting, who will be in attendance, that persons with knowledge or special expertise may be invited by either the parent or the district, and that the Part C service coordinator or other representatives of the Part C system may be invited to the initial meeting for a child previously served under a Part C early childhood intervention program); and
2. Scheduling the meeting at a mutually agreed on time and place.

If the purpose of the meeting is to consider transition services, the notice must also indicate this purpose, indicate that the district will invite the student, and identify any other agency that will be invited to send a representative.

34 CFR 300.322(a)–(b); 19 TAC 89.1045

ALTERNATIVE
MEANS OF
MEETING
PARTICIPATION

If neither parent can attend an ARD meeting, the district must use alternative means of meeting participation, such as individual or conference telephone calls. *20 U.S.C. 1414(f); 34 CFR 300.322(c)*

An ARD meeting may be conducted without a parent in attendance if a district is unable to convince the parents that they should at-

tend, but the district shall have a record of its attempts to arrange a mutually agreed on time and place, such as detailed records of telephone calls, correspondence, or visits made or attempted and the results of any of those actions. *34 CFR 300.322(d)*

MEETINGS

A district shall initiate and conduct ARD committee meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability. The committee shall review each child's IEP periodically, and, if appropriate, revise the IEP. A meeting must be held for this purpose at least once a year. The ARD committee must also determine the child's placement once a year.

A "meeting" does not include informal or unscheduled conversations involving district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provisions if those issues are not addressed in the child's IEP. A "meeting" also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

20 U.S.C. 1414(d)(4); 34 CFR 300.116(b)(1), 300.324(b), (c)(1)

MEETING AT
PARENT'S
REQUEST

A parent may request an ARD committee meeting at any mutually agreeable time to address specific concerns about his or her child's special education services. A district must respond to the request by holding the meeting or requesting TEA's assistance through the mediation process. A district shall inform parents of the functions of the ARD committee and the circumstances or types of problems for which requesting an ARD committee meeting would be appropriate. *19 TAC 89.1045(b)*

TRANSFER STUDENTS

If a student transfers districts, and the student had a previous IEP in place, a district will provide the child with FAPE, including services comparable to those described in the previous IEP, in consultation with the parents, until:

1. In the case of a student who transfers within the state, the district adopts the previous IEP or develops, adopts, and implements a new IEP.
2. In the case of a student who had an IEP in effect in another state, the district conducts an evaluation, if determined necessary by the district, and develops, adopts, and implements a new IEP, if appropriate.

20 U.S.C. 1414(d)(2)(C)(i); 34 CFR 300.323(e), ~~(f)~~

TRANSFER OF
RECORDS

The district in which the child enrolls shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of

special education or related services to the child, from the previous district.

The previous district shall take reasonable steps to promptly respond to the request from the new district.

20 U.S.C. 1414(d)(2)(C)(ii); 34 CFR 300.323(g)

MILITARY
DEPENDENTS

A district shall initially provide comparable services to a military student with disabilities based on his or her current IEP. This does not preclude the district from performing subsequent evaluations to ensure appropriate placement of the student. *Education Code 162.002 art. V, § C* [See FDD]

INDIVIDUALIZED
EDUCATION
PROGRAM (IEP)

A district shall develop, review, and revise an IEP for each child with a disability. *20 U.S.C. 1412(a)(4); 34 CFR 300.320(a)*

At the beginning of each school year, a district shall have in effect, for each child with a disability in its jurisdiction, an IEP. *20 U.S.C. 1414(d)(2)(A); 34 CFR 300.323(a)*

The term “individualized education program” means a written statement for each child with a disability that includes:

1. A statement of the child’s present levels of academic achievement and functional performance;
2. A statement of measurable annual goals, including academic and functional goals;
3. A description of how the child’s progress toward the annual goals will be measured and when periodic reports on the progress of the child will be provided;
4. A statement of the specific special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child;
5. A statement of the program modifications or supports for school personnel that will be provided for the child;
6. An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in extracurricular and nonacademic activities;
7. The projected dates for initiation of services and modifications and the anticipated frequency, location, and duration of these services and modifications;
8. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement

and functional performance of the child on state or district-wide assessments;

9. If the ARD committee determines that the child must take an alternative assessment instead of a particular regular state or district-wide assessment, a statement of why the child cannot participate in the regular assessment and why the particular assessment selected is appropriate for the child;
10. Beginning not later than the first IEP to be in effect when the child is 16, or younger if determined appropriate by the ARD committee, and updated annually thereafter, a statement of appropriate, measurable postsecondary goals and transition services needed to assist the child in reaching those goals [see EHBAD]; and
11. Beginning not later than one year before the child reaches the age of 17, a statement that the child has been informed of the rights that will transfer to the child upon reaching the age of majority.

20 U.S.C. 1414(d); 34 CFR 300.320; 19 TAC 89.1055

The written statement of a student's IEP may be required to include only information included in the model form developed by TEA under Education Code 29.0051(a) and posted on the TEA Web site. A district may use the model form to comply with the requirements for an IEP under 20 U.S.C. 1414(d). Education Code 29.005(f), .0051

TRANSLATION OF
IEP INTO NATIVE
LANGUAGE

If the parent is unable to speak English and Spanish is the parent's native language, a district shall provide a written or audiotaped copy of the student's IEP translated into Spanish. If the parent's native language is other than Spanish or English, a district shall make a good faith effort to provide a written or audiotaped copy of the student's IEP translated into the parent's native language.
Education Code 29.005(d); 19 TAC 89.1050(e)

AUTISM /
PERVASIVE
DEVELOPMENTAL
DISORDER

For students with autism/pervasive developmental disorders, the following strategies shall be considered by the ARD committee, based on peer-reviewed, research-based educational programming practices to the extent practicable and, when needed, addressed in the IEP:

1. Extended educational programming;
2. Daily schedules reflecting minimal unstructured time and active engagement in learning activities;

3. In-home training and community-based training or viable alternatives that assist the student with the acquisition of social/behavioral skills;
4. Positive behavior support strategies based on relevant information;
5. Beginning at any age, futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and post-secondary environments;
6. Parent/family training and support, provided by qualified personnel with experience in Autism Spectrum Disorders (ASD);
7. Suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social/behavioral progress based on the child's developmental and learning level (acquisition, fluency, maintenance, generalization) that encourages work towards individual independence;
8. Communication interventions, including language forms and functions that enhance effective communication across settings;
9. Social skills supports and strategies based on social skills assessment/curriculum and provided across settings;
10. Professional educator/staff support; and
11. Teaching strategies based on peer-reviewed, research-based practices for students with ASD.

If the ARD committee determines that services are not needed in one or more of the areas in 1–11 above, the IEP shall include a statement reflecting that decision and the basis upon which the determination was made.

19 TAC 89.1055(e)–(f)

VISUAL
IMPAIRMENT

If a district provides special education services to students with visual impairments, it shall have written procedures as required in Education Code 30.002(c)(10) (staff access to resources). *19 TAC 89.1075(b)*

COLLABORATIVE
PROCESS

All members of the ARD committee shall have the opportunity to participate in a collaborative manner in developing the IEP. Decisions concerning the required elements of the IEP shall be made by agreement of the required members, if possible. The ARD committee may agree to an annual IEP or an IEP of shorter duration.

TEN-DAY RECESS When agreement about all required elements of the IEP is not achieved, the parent or adult student [see EHBAD for more information on rights of adult students] who disagrees shall be offered a single opportunity to have the committee recess for a period not to exceed ten school days. This recess is not required when:

1. The student's presence on campus represents a danger of physical harm to the student or others;
2. The student has committed an expellable offense; or
3. The student has committed an offense that may lead to placement in a disciplinary alternative education program. [See FOF]

These requirements do not prohibit the members of the ARD committee from recessing an ARD committee meeting for reasons other than failure of the parents and the district to reach agreement about all required elements of an IEP.

During the recess, the committee members shall consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons to enable the committee to reach agreement.

The date, time, and place for continuing the ARD committee meeting shall be determined by agreement before the recess.

FAILURE TO
REACH
AGREEMENT

If, after the ten-day recess, the ARD committee still cannot reach agreement, a district shall implement the IEP it has determined to be appropriate for the student. A written statement of the basis for the disagreement shall be included in the IEP. The members who disagree shall be offered the opportunity to write their own statements.

When a district implements an IEP with which the parents or adult student disagree, it shall provide prior written notice in compliance with the notice provisions described at EHBAE.

Parents shall have the right to file a complaint, request mediation, or request a due process hearing at any point, when they disagree with ARD committee decisions.

19 TAC 89.1050(h)

MODIFICATION OF
EXISTING IEP

Changes to the IEP may be made either by the entire ARD committee or by amending the IEP by agreement, rather than redrafting the entire IEP.

After the annual IEP meeting for a school year, the parent and district may agree not to convene an IEP meeting for the purposes of

making changes to the IEP and instead may develop a written document to amend or modify the child's current IEP.

Upon request, a parent shall be provided with a revised copy of the IEP with amendments incorporated.

To the extent possible, a district shall encourage the consolidation of reevaluation meetings for the child and other ARD meetings for the child.

20 U.S.C. 1414(d)(3)(D)–(F); 34 CFR 300.324(a)(4)–(a)(6)

**TEACHER REQUEST
TO REVIEW IEP**

In accordance with TEA rules, each district shall develop a process to be used by a teacher who instructs a student with a disability in a regular classroom setting:

- 1. To request a review of the student's IEP;**
- 2. That provides for a timely district response to the teacher's request; and**
- 3. That provides for notification to the student's parent or legal guardian of that response.**

Education Code 29.001(11)

TRANSITION
SERVICES DEFINED

“Transition services” means a coordinated set of activities for a child with a disability that:

1. Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child to facilitate the child’s movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.
2. Is based on the individual child’s needs, taking into account the child’s strengths, preferences, and interests.
3. Includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and if appropriate, acquisition of daily living skills and functional vocational evaluation.

20 U.S.C. 1401(34); 34 CFR 300.43

INDIVIDUAL
TRANSITION
PLANNING

Beginning not later than the first individualized education program (IEP) to be in effect when a student turns ~~16~~14 (or younger, if determined appropriate by the admission, review, and dismissal [ARD] committee), and updated annually, the student’s IEP shall include:

1. Appropriate, measurable post-secondary goals based on age appropriate transition assessments related to training, education, employment and, where appropriate, independent living skills; and
2. The transition services, including courses of study, needed to assist the child in reaching these goals.

If a participating agency other than the district fails to provide the transition services described in the IEP, the district shall reconvene the ARD committee to identify alternative strategies to meet the transition objectives.

[See EHBAB regarding membership of ARD committee for transition services meetings]

*20 U.S.C. 1414(d)(1)(A)(i)(VIII), 1414(d)(6); 34 CFR 300.320(b);
Education Code 29.0111*

GRADUATION

Graduation with a regular high school diploma under 19 Administrative Code 89.1070(b)(1), (2), or (4) terminates a student’s eligibility for special education services. For students who receive a diploma according to 19 Administrative Code 89.1070(b)(3), the ARD committee shall determine needed educational services upon

the request of the student or parent to resume services, as long as the student meets the age requirements. [See EHBAA]

Graduation from high school with a regular diploma constitutes a change in placement that requires written prior notice to parents.

A district is not required to conduct an evaluation before termination of eligibility due to graduation from secondary school with a regular high school diploma or due to exceeding the age eligibility for a FAPE under state law.

A district shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

[See EIF]

20 U.S.C. 1414(c)(5); 34 CFR 300.305(e)(2); 19 TAC 89.1070

SPECIAL PROGRAMS
OTHER INSTRUCTIONAL INITIATIVES

EHBK
(LEGAL)

RECOGNITION DATES	A district shall regularly observe the following recognition days, weeks, and months by appropriate programs, celebrations, and activities:
WOMEN'S INDEPENDENCE DAY	August 26: Women's Independence Day, to commemorate the ratification in 1920 of the Nineteenth Amendment to the United States Constitution, which guaranteed women the right to vote. <i>Gov't Code 662.051</i>
TEXAS FIRST RESPONDERS DAY	September 11: Texas First Responders Day, in honor of the bravery, courage, and determination of Texas men and women who assist others in emergencies. <i>Gov't Code 662.050</i>
CONSTITUTION DAY	September 17: A district that receives federal funds for a fiscal year shall hold an educational program on the United States Constitution for the students served by the district. <i>Pub. L. 108-447 (2004)</i>
CELEBRATE FREEDOM WEEK	Week of September 17: Celebrate Freedom Week, to educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded. [See CELEBRATE FREEDOM WEEK, below] <i>Education Code 29.907</i>
HYDROCEPHALUS AWARENESS MONTH	October: Hydrocephalus Awareness Month, to: <ol style="list-style-type: none">1. Increase public awareness of hydrocephalus, a serious neurological condition characterized by the abnormal buildup of cerebrospinal fluids in the ventricles of the brain; and2. Encourage the development of partnerships between the federal government, health care professionals, and patient advocacy groups to advance the public's understanding of the condition, improve the diagnosis and treatment of the condition, and support research for a cure. <i>Gov't Code 662.106</i>
FATHER OF TEXAS DAY	November 3: Father of Texas Day, in memory of Stephen F. Austin, the great pioneer patriot and the real and true Father of Texas. <i>Gov't Code 662.045</i>
SAM RAYBURN DAY	January 6: Sam Rayburn Day, in memory of that great Texas and American statesman, Sam Rayburn. <i>Gov't Code 662.041</i>
STATE OF TEXAS ANNIVERSARY REMEMBRANCE DAY	February 19: State of Texas Anniversary Remembrance Day (STAR Day), in honor of Texas joining the Union and the day that James Pinckney Henderson became the first governor of the State of Texas in 1846. <i>Gov't Code 662.047</i>

SPECIAL PROGRAMS
OTHER INSTRUCTIONAL INITIATIVES

EHBK
(LEGAL)

TEXAS HISTORY MONTH	March: Texas History Month, in honor of those Texans who helped shape the history of the State of Texas and in recognition of events throughout Texas' history. <i>Gov't Code 662.102-</i>
PARAPROFESSIONAL DAY	The second Wednesday in May: Public School Paraprofessional Day, in recognition of education paraprofessionals including teacher assistants, instructional aides, educational trainers, library attendants, bilingual assistants, special education associates, mentors, and tutors. <i>Gov't Code 662.049</i>
OPTIONAL RECOGNITION DATES	In addition, a district may observe the following recognition days, weeks, or months, by appropriate celebrations and activities:
DR. HECTOR P. GARCIA DAY	Third Wednesday of September: Dr. Hector P. Garcia Day, in memory of the significant contributions to the Mexican American civil rights movement of Dr. Hector P. Garcia, a distinguished physician and a recipient of the Presidential Medal of Freedom and the founder of the American GI Forum, which promotes civil rights protection of Hispanic veterans and all Americans. Dr. Garcia, a World War II hero, was awarded a Bronze Star Medal with six battle stars in recognition of his meritorious service to the United States. <i>Gov't Code 662.055</i>
PERSONS WITH DISABILITIES HISTORY AND AWARENESS MONTH	October: Persons with Disabilities History and Awareness Month, to increase public awareness of the many achievements of people with disabilities; encourage public understanding of the disability rights movement; and reaffirm the local, state, and federal commitment to providing equality and inclusion for people with disabilities. <i>Gov't Code 662.109</i>
TEXAS NATIVE PLANT WEEK	Third week in October: Texas Native Plant Week, to celebrate the native plants of Texas. <i>Gov't Code 662.154</i>
LUNG CANCER AWARENESS MONTH	November: Lung Cancer Awareness Month, to increase awareness of lung cancer and encourage funding of research and more effective treatments. <i>Gov't Code 662.104</i>
CHILD SAFETY MONTH	April: Child Safety Month, in recognition of the children of this state as this state's most precious resource. <i>Gov't Code 662.105</i>
CELEBRATE FREEDOM WEEK	The week in which September 17 falls is designated as Celebrate Freedom Week in public schools. For purposes of this section, Sunday is considered the first day of the week. <i>Education Code 29.907</i>
APPROPRIATE INSTRUCTION	Each social studies class shall include, during Celebrate Freedom Week or during another full school week as determined by the board, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the United

States Constitution, including the Bill of Rights, in their historical context.

The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the United States Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

19 TAC 74.33(a)

RECITATION

Each district shall require that, during Celebrate Freedom Week or other prescribed week of instruction, students in grades 3–12 study and recite the following text: “We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness — That to secure these Rights, Governments are instituted among Men, deriving their Just Powers from the Consent of the Governed.”

EXCEPTION

Each district shall excuse from recitation a student:

1. Whose parent or guardian submits to the district a written request that the student be excused;
2. Who, as determined by the district, has a conscientious objection to the recitation; or
3. Who is the child of a representative of a foreign government to whom the United States government extends diplomatic immunity.

19 TAC 74.33(b), .36

~~“EDUCATION: GO GET IT”~~
GENERATION
TEXAS WEEK

Each district offering middle school, junior high school, or high school grade levels shall designate one week during the school year as ~~“Education: Go Get It”~~ **Generation Texas Week**. During the designated week, each middle school, junior high school, and high school shall provide students with comprehensive grade-appropriate information about the pursuit of higher education, including:

1. Higher education options;
2. Standard admission requirements for institutions of higher education, including:
 - a. Overall high school grade point average;
 - b. Required curriculum; ~~and~~

c. College readiness standards and expectations as determined under Education Code 28.008; and

~~c.~~**d.** Scores necessary on generally recognized tests or assessment instruments used in admissions determinations, including the Scholastic Assessment Test and the American College Test;

3. Automatic admission of certain students to general academic teaching institutions under Education Code 51.803 [see EIC]; and
4. Financial aid availability and requirements, including the financial aid information provided by counselors under Education Code 33.007(b) [see EJ].

In addition, each middle school, junior high school, and high school shall provide to students at least one public speaker to promote the importance of higher education.

Education Code 29.911

CHARACTER
EDUCATION

A district may provide a character education program, which must:

1. Stress positive character traits, such as:
 - a. Courage;
 - b. Trustworthiness, including honesty, reliability, punctuality, and loyalty;
 - c. Integrity;
 - d. Respect and courtesy;
 - e. Responsibility, including accountability, diligence, perseverance, and self-control;
 - f. Fairness, including justice and freedom from prejudice;
 - g. Caring, including kindness, empathy, compassion, consideration, patience, generosity, and charity;
 - h. Good citizenship, including patriotism, concern for the common good and the community, and respect for authority and the law; and
 - i. School pride;
2. Use integrated teaching strategies; and
3. Be age appropriate.

In developing or selecting a character education program under this section, a school district shall consult with a committee selected by the district that consists of parents of district students, educators, and other members of the community, including community leaders.

The provisions above do not require or authorize proselytizing or indoctrinating concerning any specific religious or political belief.

Education Code 29.906

STUDENT ELECTIONS

An election for the participation of students in kindergarten through grade 12 may be held in conjunction with a general, special, or primary election. The student election may be ordered by:

1. The commissioners court, for a student election held in conjunction with an election ordered by the governor or a county authority;
2. The governing body of a political subdivision, for a student election held in conjunction with an election of the political subdivision; or
3. The county executive committee, for a student election held in conjunction with a primary election.

A student election may be held only on election day or the day before election day.

The authority ordering a student election shall specify in the order each grade that may participate in the election. A student in a specified grade may enter a precinct polling place for the purpose of casting an unofficial ballot in the student election on the same offices and measures that appear on the official ballot.

The election officers serving in the official election may not serve in the student election. The authority ordering a student election shall appoint a separate set of election officers to conduct the student election, supervise the participating students, and tabulate and report the results of that election. The authority ordering a student election shall make the results of that election available to the public but only after the polling places are closed on election day.

Expenses incurred in the conduct of a student election, including any personnel expenses, may be paid only from private grant funds or donations.

Election Code 276.007

SPECIAL PROGRAMS
OTHER INSTRUCTIONAL INITIATIVES

EHBK
(LEGAL)

CPR INSTRUCTION

A district may accept from TEA donations the agency receives under Education Code 7.026 for use in providing instruction to students in the principles and techniques of CPR. A district may accept other donations, including donations of equipment, for use in providing CPR instruction. *Education Code 29.903*

NOTICE TO PARENTS Each school year, a district shall notify the parent of each student enrolled in grade 9 or above of the availability of programs under which a student may earn college credit, including advanced placement programs, dual credit programs, joint high school and college credit programs, and international baccalaureate programs. The notice must include the name and contact information of any public or private entity offering such a program in the district.

A district may provide the notice on the district's Internet Web site.

Education Code 28.010

Note: For information on dual credit courses available through the Texas Virtual School Network (TxVSN), see EHDE and www.txvsn.org.

COLLEGE CREDIT
PROGRAM

A district shall implement a program under which students may earn the equivalent of at least 12 semester credit hours of college credit in high school. If requested by the district, a public institution of higher education in this state shall assist the district in developing and implementing the program. The college credit may be earned through:

1. International baccalaureate, advanced placement, or dual credit courses;
2. Articulated postsecondary courses provided for local credit or articulated postsecondary advanced technical credit courses provided for state credit; or
3. Any combination of the courses in items 1 and 2.

Annually, a district shall report to TEA:

1. The number of students, including career and technical students, who have participated in the program ~~and earned college credit~~; and
2. The ~~cumulative number of~~ courses in which participating students have ~~enrolled and college~~ **earned high school** credit ~~hours the students have earned~~ **under this section**.

A district is not required to pay a student's tuition or other associated costs for taking a course under this section.

Education Code 28.009

COLLEGE-LEVEL
COURSES

A board may adopt a policy that allows a student to be awarded credit toward high school graduation for completing a college-level course. The course must be provided only by an institution of

higher education that is accredited by any of the following regional accrediting associations:

1. Southern Association of Colleges and Schools
2. Middle States Association of Colleges and Schools
3. New England Association of Colleges and Schools
4. North Central Association of Colleges and Schools
5. Western Association of Colleges and Schools
6. Northwest Association of Colleges and Schools

To be eligible to enroll and be awarded credit toward state graduation requirements, a student shall have the approval of the high school principal or other school official designated by a district. The course(s) for which credit is awarded shall provide advanced academic instruction beyond or in greater depth than the essential knowledge and skills for the equivalent high school course.

19 TAC 74.25

DUAL CREDIT
PROGRAMS
DEFINITIONS

For purposes of the following provisions, “college” means a public two-year associate degree–granting institution or a public university.

“Dual credit” means the process by which a high school student enrolls in a college course and receives simultaneous academic credit for the course from both the college and high school.

19 TAC 4.83(2), (4)

PARTNERSHIP
AGREEMENTS WITH
PUBLIC COLLEGES

A district may enter into an agreement with a public college to form a dual credit partnership in accordance with 19 Administrative Code Chapter 4, Subchapter D. *Education Code 130.008; 19 TAC Ch. 4, Subch. D*

COMMUNITY
COLLEGE
JURISDICTION

A school district that operates a high school may enter into an agreement with a community college district, regardless of whether the high school is located within the service area of the community college district, to offer a course as provided by Education Code 130.008 but only if the community college district that serves the area where the high school is located is unable to provide the requested course to the satisfaction of the school district. *Education Code 130.008(d)–(d-1)*

ATTENDANCE
ACCOUNTING

The time during which a student attends a dual credit course, including a course provided under the college credit program, shall be counted as part of the minimum instructional hours required for

PARTNERSHIP
AGREEMENT

a student to be considered a full-time student in average daily attendance. [See FEB] *Education Code 42.005*

The board of a district and the governing board of a college must approve any dual credit partnership between the schools before offering such courses.

The partnership agreement must address:

1. Eligible courses;
2. Student eligibility;
3. Location of class;
4. Student composition of class;
5. Faculty selection, supervision, and evaluation;
6. Course curriculum, instruction, and gathering;
7. Academic policies and student support services;
8. Transcribing of credit; and
9. Funding.

19 TAC 4.84-.85

INSTRUCTIONAL
PARTNERSHIPS WITH
COMMUNITY COLLEGE
DISTRICTS

Types of instructional partnerships between a district and a community college district include:

1. Award of High School Credit Only (see HIGH SCHOOL CREDIT-ONLY COURSES, below).
2. Award of Concurrent Course Credit (see DUAL CREDIT PROGRAMS, above).
3. Tech-Prep Programs (see TECH-PREP PROGRAMS, below).
4. Remedial or Developmental Instruction (see REMEDIAL PROGRAMS, below).

19 TAC 9.143

AGREEMENT

For any educational partnership between a district and a community college district, an agreement must be approved by the board or designee of both the district and the college district. The partnership agreement must address the following:

1. Student eligibility requirements.
2. Faculty qualifications.
3. Location and student composition of classes.

4. Provision of student learning and support services.
5. Eligible courses.
6. Grading criteria.
7. Transcribing of credit.
8. Funding provisions.

19 TAC 9.144

HIGH SCHOOL
CREDIT-ONLY
COURSES

A district may contract with a community college district for the college district to provide coursework necessary for students to complete high school as described in 19 Administrative Code 9.125. The district and college district shall negotiate an agreed cost for instruction. *19 TAC 9.125, .143(a)*

TECH-PREP
PROGRAMS

A district may partner with a college district to allow for the articulation of high school technical courses taught by the high school to high school students for immediate high school credit and later college credit, to be awarded upon enrollment of the students in the college district in an associate degree or certificate program. *19 TAC 9.143(c)*

REMEDIAL
PROGRAMS

A board may contract, as outlined in 19 Administrative Code 9.125, with the board of the community college district in which a district is located for the college district to provide remedial programs for students enrolled in a district's secondary schools in preparation for graduation from secondary school and entrance into college. The district and college district shall negotiate an agreed cost for instruction. Remedial and developmental courses may not be offered for dual credit. *Education Code 130.090; 19 TAC 9.125, .143(d), .146*

CERTAIN ACADEMIES

A district shall grant a student a maximum of two years' credit toward the academic course requirements for high school graduation for courses successfully completed at the Texas Academy of Leadership in the Humanities (at Lamar University—Beaumont), the Texas Academy of Mathematics and Science (at the University of Texas—Brownsville or University of North Texas—Denton), or the Texas Academy of International Studies (at Texas A&M University—Laredo). *Education Code 28.024*

DISTANCE LEARNING
AND
CORRESPONDENCE
COURSES

Credit toward state graduation requirements may be granted for distance learning and correspondence courses only as follows:

1. The institution offering the correspondence course is The University of Texas at Austin, Texas Tech University, or another public institution of higher education approved by the Commissioner.
2. Students may earn course credit through distance learning technologies such as satellite, Internet, two-way videoconferencing, online courses, the Texas Virtual School Network (TxVSN), and instructional television.
3. The distance learning and correspondence courses must include the state-required essential knowledge and skills for such a course.

19 TAC 74.23

TEXAS VIRTUAL
SCHOOL NETWORK

“Electronic course” means a course in which:

1. Instruction and content are delivered primarily over the Internet;
2. A student and teacher are in different locations for a majority of the student’s instructional period;
3. Most instructional activities take place in an online environment;
4. The online instructional activities are integral to the academic program;
5. Extensive communication between a student and a teacher and among students is emphasized; and
6. A student is not required to be located on the physical premises of a school district or open-enrollment charter school.

Education Code 30A.001(4)

PROVIDER SCHOOL
DISTRICTS

A “**provider school district** ~~rated acceptable or higher may provide~~” **is a district that provides** an electronic course ~~in accordance with Education Code Chapter 30A~~ through the TxVSN to students enrolled in that district or students enrolled in another school district or open-enrollment charter school. ~~Education Code Ch. 30A.001(7)(A), .101~~ **A provider school district may offer electronic courses to students and adults who reside in this state and to students who reside outside this state and who meet the eligibility requirements under Education Code 30A.002(c) [see EXCEPTION FOR MILITARY DEPENDENTS, below]. To qualify, the district must be rated acceptable or**

higher and must provide the course in accordance with Education Code Chapter 30A. Education Code Ch. 30A.001(7)(A), .101, .107(a)

An electronic course or program that was offered or could have been offered during the 2008–09 school year under former Education Code 29.909, as that section existed on January 1, 2009, may be offered during a subsequent school year through the TxVSN. *Education Code 30A.006*

STUDENT
ELIGIBILITY

A student is eligible to enroll in a course provided through the TxVSN only if the student:

GENERALLY

1. ~~Is younger than 21 years of age on~~ On September 1 of the school year **is younger than 21 years of age or is younger than 26 years of age and entitled to the benefits of the Foundation School Program under Education Code 42.003**;
2. Has not graduated from high school; and
3. Is otherwise eligible to enroll in a public school in this state.

A student is eligible to enroll full-time in courses provided through the TxVSN only if:

1. The student was enrolled in a public school in this state in the preceding school year; or
2. The student has been placed in substitute care in this state, regardless of whether the student was enrolled in a public school in this state in the preceding school year.

EXCEPTION
FOR MILITARY
DEPENDENTS

A student is eligible to enroll in one or more courses provided through the TxVSN or enroll full-time in courses provided through the network if the student:

1. Is a dependent of a member of the United States military;
2. Was previously enrolled in high school in this state; and
3. Does not reside in this state due to a military deployment or transfer.

Education Code 30A.002

ENROLLED
STUDENTS

A student who is enrolled in the district as a full-time student may take one or more electronic courses through the TxVSN. *Education Code 30A.107(b)*

UNENROLLED
STUDENTS

A student who resides in this state but who is not enrolled in a school district or open-enrollment charter school in this state as a

full-time student may, subject to Education Code 30A.155, enroll in electronic courses through the TxVSN. The student:

1. May not in any semester enroll in more than two electronic courses offered through the TxVSN;
2. Is not considered to be a public school student;
3. Must obtain access to a course provided through the network through the school district or open-enrollment charter school attendance zone in which the student resides;
4. Is not entitled to enroll in a course offered by a school district or open-enrollment charter school other than an electronic course provided through the network; and
5. Is not entitled to any right, privilege, activities, or services available to a student enrolled in a public school, other than the right to receive the appropriate unit of credit for completing an electronic course.

Education Code 30A.107(c)

POLICY

A district shall adopt a policy that provides district or school students with the opportunity to enroll in electronic courses provided through TxVSN. The policy must be consistent with the requirements regarding notice, enrollment requests, and students with disabilities as described below. *Education Code 30A.007(a)*

NOTICE

At the time and in the manner that a district informs students and parents about courses that are offered in the district's traditional classroom setting, the district shall notify parents and students of the option to enroll in an electronic course offered through the TxVSN.

REQUESTS TO ENROLL

A district in which a student is enrolled as a full-time student may not unreasonably deny the request of a parent of a student to enroll the student in an electronic course offered through the TxVSN. The district shall make all reasonable efforts to accommodate the enrollment of a student in the course under special circumstances.

A district is not considered to have unreasonably denied a request to enroll a student in an electronic course if:

1. The district can demonstrate that the course does not meet state standards or standards of the district that are of equivalent rigor as the district's standards for the same course provided in a traditional classroom setting;

2. A student attempts to enroll in a course load that:
 - a. Is inconsistent with the student's high school graduation plan; or
 - b. Could reasonably be expected to negatively affect the student's performance on an assessment instrument administered under Education Code 39.023; or
3. The student requests permission to enroll in an electronic course at a time that is not consistent with the enrollment period established by the district providing the course.

APPEALS

A parent may appeal to the Commissioner a district's decision to deny a request to enroll a student in an electronic course offered through the TxVSN. The Commissioner's decision under this subsection is final and may not be appealed.

Education Code 26.0031

**STUDENTS WITH
DISABILITIES**

For purposes of the policy, the determination of whether or not an electronic course will meet the needs of a student with a disability shall be made by the student's admission, review, and dismissal committee in a manner consistent with state and federal law, including the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794. *Education Code 30A.007(b)*

PROHIBITION ON
REQUIRED
ENROLLMENT

A school district or open-enrollment charter school may not require a student to enroll in an electronic course. *Education Code 30A.107(d)*

COURSE
PORTABILITY

A student who transfers from one educational setting to another after beginning enrollment in an electronic course is entitled to continue enrollment in the course. *Education Code 30A.1051*

STUDENT
ASSESSMENT

Each student enrolled under this chapter in an electronic course offered through the TxVSN must take any assessment instrument under Education Code 39.023 that is administered to students who are provided instruction in the course material in the traditional classroom setting. The administration of the assessment instrument to the student enrolled in the electronic course must be supervised by a proctor.

A district shall report to the Commissioner through the Public Education Information Management System (PEIMS) the results of assessment instruments administered to students enrolled in an electronic course offered through the TxVSN separately from the results of assessment instruments administered to other students.

Education Code 30A.110

FEES

A district may charge a fee for enrollment in an electronic course provided through the TxVSN to a student who resides in this state and:

1. Is enrolled in a school district or open-enrollment charter school as a full-time student; and
2. Is enrolled in a course load greater than that normally taken by students in the equivalent grade level in other school districts or open-enrollment charter schools.

A district may charge a fee for enrollment in an electronic course provided through the TxVSN during the summer.

A district shall charge a fee for enrollment in an electronic course provided through the TxVSN to a student who resides in this state and is not enrolled in a school district or open-enrollment charter school as a full-time student.

The amount of a fee charged a student for each electronic course in which the student enrolls through the TxVSN may not exceed the lesser of:

1. The cost of providing the course; or
2. \$400.

A district that is not the provider school district or school may charge a student enrolled in the district a nominal fee, not to exceed the amount specified by the Commissioner, if the student enrolls in an electronic course provided through the TxVSN that exceeds the course load normally taken by students in the equivalent grade level.

Education Code 30A.155(a)-(c-1)

APPLICABILITY

Unless a district chooses to participate in providing an electronic course or an electronic diagnostic assessment under Education Code Chapter 30A to a student who is located on the physical premises of a school district or open-enrollment charter school, Chapter 30A does not affect the provision of a course to such a student.

Requirements imposed by or under Education Code Chapter 30A do not apply to a virtual course provided by a district only to district students if the course is not provided as part of the TxVSN.

Education Code 30A.004

GRADING POLICY A district shall adopt a grading policy, including provisions for the assignment of grades on class assignments and examinations, before each school year. A district grading policy:

1. Must require a classroom teacher to assign a grade that reflects the student's relative mastery of an assignment;
2. May not require a classroom teacher to assign a minimum grade for an assignment without regard to the student's quality of work; and
3. 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.

Education Code 28.0216

END-OF-COURSE ASSESSMENTS A district shall adopt a policy that requires a student's performance on an end-of-course (EOC) assessment instrument for an Algebra I, Algebra II, geometry, biology, chemistry, physics, English I, English II, English III, world geography, world history, and United States history course in which the student is enrolled [see EKB] to account for 15 percent of the student's final grade for the course.

RETAKES If a student retakes an EOC assessment instrument referenced above, the district is not required to use the student's performance on the subsequent administration or administrations of the assessment instrument to determine the student's final grade for the course.

Education Code 39.023(c)

FINALITY OF GRADE An examination or course grade issued by a classroom teacher is final and may not be changed unless the grade is arbitrary, erroneous, or not consistent with the district grading policy applicable to the grade, as determined by the board.

A determination by the board is not subject to appeal.

This subsection does not prohibit an appeal related to a student's eligibility to participate in extracurricular activities under Education Code 33.081.

Education Code 28.0214

STUDENT ELECTION CLERKS A student who is appointed as a student election clerk under Election Code 32.0511 may apply the time served toward:

1. A requirement for a school project at the discretion of the teacher who assigned the project; or

2. A service requirement for participation in an advanced academic course program at the discretion of the program sponsor or a school-sponsored extracurricular activity at the discretion of the school sponsor.

Education Code 33.092

PROGRESS REPORTS

A board shall adopt a policy that:

1. Provides for a conference between parents and teachers;
2. Requires a district, at least once every 12 weeks, to give written notice to a parent of a student's performance in each class or subject; and
3. Requires a district, at least once every three weeks, or during the fourth week of each nine-week grading period, to give written notice to a parent if a student's performance in a foundation curriculum subject [see EHAA] is consistently unsatisfactory, as determined by the district.

The notice required by items 2 and 3 must provide for the signature of the student's parent and must be returned to the district.

"Parent" includes a guardian, conservator, or other person having lawful control of a student.

EXCEPTIONS

These requirements do not apply to a student who:

1. Is 18 or older and living in a different residence than the student's parents;
2. Is married; or
3. Has had the disabilities of minority removed for general purposes.

Education Code 28.022(a)

NOTICE OF
PERFORMANCE
RATING

The first written notice of a student's performance that a district gives during a school year under Education Code 28.022(a)(2) [see PROGRESS REPORTS, item 2, above] must include a statement of whether the campus at which the student is enrolled has been awarded a distinction designation under Education Code Chapter 39, Subchapter G or has been identified as an unacceptable campus under Education Code Chapter 39, Subchapter E and an explanation of the information's significance. [See AIB] *Education Code 39.361*

NOTICE OF STUDENT
PERFORMANCE

The district shall provide a record of the comparisons of student performance made under Education Code 39.034 and provided to

the district under Education Code 39.302 in a written notice to the student's parent or other person standing in parental relationship.

For a student who failed to perform satisfactorily as determined under either performance standard under Education Code 39.0241 on an assessment instrument administered under Education Code 39.023(a), (c), or (l), the district shall include in the notice specific information relating to access to ~~online~~-educational resources at the appropriate assessment instrument content level, including ~~educational resources described by Education Code 32.252(b)(2)~~ ~~and~~ assessment instrument questions and answers released under Education Code 39.023(e).

Education Code 39.303

GRADE
ADVANCEMENT
REQUIREMENTS

School districts shall implement grade advancement requirements in accordance with 19 Administrative Code Chapter 101, Subchapter BB and the TEA procedures outlined in the official Grade Placement Committee (GPC) Manual, published annually by TEA.

NOTICE

As specified in 19 Administrative Code 101.9, a superintendent shall notify parents or guardians of the grade advancement requirements at the beginning of the school year.

19 TAC 101.2001(a), .2009(a)

PROMOTION

A student may be promoted only on the basis of academic achievement or demonstrated proficiency of the subject matter of the course or grade level. *Education Code 28.021(a)* [See EI]

In determining promotion, a district shall consider:

1. The recommendation of the student's teacher;
2. The student's grade in each subject or course;
3. The student's score on an assessment instrument administered under Education Code 39.023(a), (b), or (~~1~~), **to the extent applicable**; and
4. Any other necessary academic information, as determined by the district.

Education Code 28.021(c)

In addition to local policy relating to grade advancement, students in grades 5 and 8 must demonstrate proficiency by meeting the passing standard on the appropriate assessment instrument listed at GRADE ADVANCEMENT TESTING or on a state-approved alternate assessment.

A student who does not demonstrate proficiency may advance to the next grade only if:

1. The student has completed the required accelerated instruction under 19 Administrative Code 101.2006;
2. The student's GPC determines by unanimous decision, in accordance with the standards for promotion established by the board, that the student is likely to perform at grade level at the end of the next year given additional accelerated instruction. In accordance with Education Code 28.021, to determine grade promotion, a district is required to consider:
 - a. The recommendation of the student's teacher,
 - b. The student's grades,

- c. The student's assessment scores, and
 - d. Any other necessary academic information; and
3. In accordance with Education Code 28.0211(n), the district will ensure that a student who is promoted by a GPC under 19 Administrative Code 101.2007 shall be assigned in each subject in which the student failed to perform satisfactorily on an assessment instrument specified under Education Code 28.0211(a), to a teacher who meets all state and federal qualifications to teach that subject and grade.

19 TAC 101.2001(b)

A student does not have a property interest in promotion. *Education Code 28.0211(e)*

NOTICE

By the start of the school year, a district shall make public the requirements for student advancement under Education Code 28.021. *Education Code 28.021(ed)*

RETENTION

A district is not precluded from retaining, in accordance with state law or board policy, a student who performs satisfactorily on a grade advancement test. *Education Code 28.0211(g)*

Students who have been retained in grade 8 in accordance with the grade advancement testing requirements may earn course credit for high school graduation during the next school year in subject areas other than the required courses in the subject area which caused the student to be retained. *19 TAC 101.2019(a)*

GRADE
ADVANCEMENT
TESTING

A district shall test eligible students in accordance with the grade advancement requirements set forth below.

ELIGIBLE
STUDENTS

An eligible student is subject to all grade advancement requirements, including automatic retention, if the student is enrolled in a district or charter school on any day between January 1 and the date of the first administration of the grade advancement assessments.

An eligible student who does not meet the criteria specified above but enrolls in a district at any time after the date of the first administration of the grade advancement assessments is not subject to the grade advancement requirements.

A district must provide the student the opportunity to test and access to accelerated instruction.

19 TAC 101.2003(b), (f)-(c)

REQUIRED
ASSESSMENT

A student may not be promoted to:

1. The sixth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the fifth grade mathematics and reading assessment instruments; or
2. The ninth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the eighth grade mathematics and reading assessment instruments. This applies to the assessment instrument administered to students in eighth grade beginning with the 2007–08 school year.

Education Code 28.0211(a); 19 TAC 101.9

EXCEPTION

Education Code 28.0211 does not require the administration of a fifth or eighth grade assessment instrument in a subject under Education Code 39.023(a) to a student enrolled in the fifth or eighth grade, as applicable, if the student:

1. **Is enrolled in a course in the subject intended for students above the student's grade level and will be administered an assessment instrument adopted or developed under Education Code 39.023(a) [see EKB] that aligns with the curriculum for the course in which the student is enrolled; or**
2. **Is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an end-of-course assessment instrument [see EKB] for the course.**

Notwithstanding any other provision of Education Code 28.0211, the student may not be denied promotion on the basis of failure to perform satisfactorily on an assessment instrument not required to be administered to the student.

Education Code 28.0211(o)–(p)

TEST SCHEDULE

TEA shall provide three opportunities per year for the tests required for grade advancement. A superintendent shall establish procedures to ensure that:

1. Each eligible student who is absent or does not receive a test score for any test administration shall receive appropriate accelerated instruction as warranted on an individual basis; and
2. Each eligible student who is absent or does not receive a test score for all three test opportunities and is consequently retained shall receive other appropriate means of evaluation,

including an alternate assessment, so that the GPC has sufficient evidence for its review upon appeal by a parent or guardian.

19 TAC 101.2005(b)–(c)

A district must accommodate the request of an out-of-district student to participate in the third administration of a test required for grade advancement if the district is testing one or more local students on the applicable test and if the out-of-district student has registered to take the test by a date determined by TEA. *19 TAC 101.2005(d)*

NOTICE OF GRADE
ADVANCEMENT
TESTING
REQUIREMENTS

A superintendent shall be responsible for:

1. Notifying each student and the student's parent or guardian in writing no later than the beginning of the student's first-grade year or no later than the beginning of the student's kindergarten year, for students attending kindergarten in a district, of the testing requirements for grade advancement;
2. Notifying each student in grades 1–8 who is new to the district and the student's parent or guardian in writing of the testing requirements for grade advancement; and
3. Notifying each student required to take the grade advancement tests of the dates, times, and locations of testing.

19 TAC 101.13(b)

UNSATISFACTORY
PERFORMANCE ON
ASSESSMENT
INSTRUMENTS

Each time a student fails to perform satisfactorily on an assessment instrument administered under Education Code 39.023(a) in the third, fourth, fifth, sixth, seventh, or eighth grade [see EKB], the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area.

Accelerated instruction shall be based on, but not limited to, guidelines on research-based best practices and effective strategies as outlined in the GPC manual, published annually by TEA, which districts may use for developing accelerated instruction.

Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations.

A school district must accommodate the request of an out-of-district student to participate in any established, on-campus summer accelerated instruction program, provided the student is living away from his or her home district and the program matches the accelerated instruction prescribed by the student's GPC.

Education Code 28.0211(a-1); 19 TAC 101.2001(c), .2006(a)–(d)

UNSATISFACTORY
PERFORMANCE
ON GRADE
ADVANCEMENT TESTS

A district shall provide to a student who initially fails to perform satisfactorily on a grade advancement test at least two additional opportunities to take the assessment instrument. *Education Code 28.0211(b)*

ACCELERATED
INSTRUCTION

Each time a student fails to perform satisfactorily on a grade advancement test, a district shall provide the student with accelerated instruction in the applicable subject area. A student who fails to perform satisfactorily on a grade advancement test shall be provided accelerated instruction before the next administration of the applicable assessment. An accelerated instruction group for students who have failed an assessment may not have a ratio of more than ten students for each teacher per class. The accelerated instruction must satisfy the standards found in 19 Administrative Code 101.2006. [See UNSATISFACTORY PERFORMANCE ON ASSESSMENT INSTRUMENTS, above] *Education Code 28.0211(c); 19 TAC 101.2006(e)(1)*

If a student fails to perform satisfactorily on a grade advancement test after three attempts, the accelerated instruction shall be provided during the next school year according to an educational plan developed for the student by the student's GPC. A district shall provide the instruction regardless of whether the student has been promoted or retained. The educational plan shall be designed to enable the student to perform at the appropriate grade level by the conclusion of the school year. During the school year, the student shall be monitored to ensure the student is progressing in accordance with the plan. A district shall administer to the student the assessment instrument for the grade level in which the student is placed at the time the district regularly administers the assessment instrument for that school year. *Education Code 28.0211(f)*

NOTICE TO
PARENTS OF
PERFORMANCE
AND ACCELERATED
INSTRUCTION

In addition to providing the accelerated instruction, a district shall notify the student's parent or guardian of:

1. The student's failure to perform satisfactorily on the assessment instrument;
2. The accelerated instruction program to which the student is assigned; and
3. The possibility that the student might be retained at the same grade level for the next school year.

Whenever a district is required to notify a parent or guardian about the requirements related to promotion and accelerated instruction, the district shall make a good-faith effort to ensure that the notice is provided either in person or by regular mail, is clear and easy to

understand, and is written in English or in the parent or guardian's native language.

Education Code 28.0211(d), (h)

AFTER EARLY
IDENTIFICATION OF
AT-RISK STUDENTS
NOTICE

A district shall provide early notice to parents or guardians of students identified in a preceding grade to be at risk of failure on the first administration of the assessment required for grade advancement the next year. A superintendent shall establish the instruments/procedures to be used to make this determination. This notice shall include accelerated instruction participation requirements as stipulated by 19 Administrative Code 101.2006 and be provided before the end of the school year preceding the grade advancement requirements. *19 TAC 101.2009(b)*

AFTER FIRST
TESTING
OPPORTUNITY
NOTICE

A district shall establish procedures to notify the parent or guardian of a student who has failed to demonstrate proficiency on the first administration of a grade advancement assessment. This notification should be made within five working days of a district's receipt of student assessment results from this administration. This notice shall include the student's assessment results, a description of the district's grade advancement policy, the required accelerated instruction to which the student has been assigned, and the possibility that the student might be retained at the same grade level for the next school year. In addition, the notice shall encourage parents or guardians to meet immediately with the student's teacher to outline mutual responsibilities to support the student during accelerated instruction. *19 TAC 101.2009(c)*

AFTER SECOND
TESTING
OPPORTUNITY
NOTICE

Within five working days of a district's receipt of student assessment results for the second administration of the assessment required for grade advancement, the district shall notify the campus principal of student assessment results for each student who fails to demonstrate proficiency. Upon receipt of this notice, the principal shall notify the teacher and parent or guardian of the assessment results. This notice shall include a description of the purpose and responsibilities of a GPC and the time and place for the first meeting of the GPC. *19 TAC 101.2007(c)*

GRADE
PLACEMENT
COMMITTEE

After a student fails to perform satisfactorily on an assessment instrument a second time, a GPC shall be established to prescribe the accelerated instruction the student is to receive before the assessment instrument is administered the third time. The superintendent of each district shall establish procedures for convening the GPC.

In accordance with 19 Administrative Code 101.2006(d), decisions by the GPC shall be made on an individual student basis, address required participation of the student in accelerated instruction, and

ensure the most effective instruction to support the student's academic achievement on grade level.

The GPC shall be composed of the principal or the principal's designee, the student's parent or guardian, and the student's teacher of the subject of the grade advancement assessment on which the student failed to perform satisfactorily. If this teacher is unavailable, the principal shall designate to serve on the committee a teacher certified in the subject of the assessment on which the student failed to perform satisfactorily and who is most familiar with the student's performance in that subject area.

If more than one parent or guardian has the authority to make educational decisions regarding the student, a good faith effort must be made to notify both parents, but participation of any one parent or guardian is sufficient. Either parent or only one guardian may initiate an appeal. If both parents or guardians serve on the GPC but do not agree, either may agree to promote the student if the remaining members of the GPC also agree to the promotion. A district may accept a parent's or guardian's written designation of another person to serve on the GPC for all purposes. A district may accept a parent's or guardian's written and signed waiver of participation in the GPC and designation of the remaining members of the GPC as the decision-making entity for all purposes.

If a parent or guardian or designee is unable to attend a meeting, a district may use other methods to ensure parent participation, including individual or conference telephone calls. A district may designate another person to act on behalf of the student in place of a parent, guardian, or designee if no such person can be located. A surrogate parent named to act on behalf of a student with a disability shall be considered a parent for this purpose. The district shall make a good faith effort to notify a parent or guardian to attend the GPC. If the parent or guardian is unavailable, the remaining members of the GPC must convene as required by law and take all necessary actions required.

Education Code 28.0211(c); 19 TAC 101.2007(a), (f)-(b)

ALTERNATE
ASSESSMENT

For the third testing opportunity, a board may choose to use a state-approved alternate assessment instead of the statewide assessment instrument. If a board adopts such a policy, the district shall select from a list provided annually by the Commissioner only one test for each applicable grade and subject. The alternate assessment must be given during the period established by the Commissioner in the assessment calendar to coincide with the date of the third administration of the statewide assessment.

19 TAC 101.2011(a)-(b)

PARENTAL
WAIVER

A superintendent shall establish a waiver process by which a parent or guardian may request that a student not participate in the third test opportunity due to potential harm to the student. The waiver must provide documentation of potential harm, student need, and other appropriate information. If a parental waiver is granted, the student must still participate in all required accelerated instruction and is subject to retention based on the failure on the second test administration. *19 TAC 101.2015*

AFTER THIRD
TESTING
OPPORTUNITY
NOTICE

The GPC must convene again if a student fails to demonstrate proficiency on the third administration of an assessment required for grade advancement and is thereby automatically retained at the same grade level. Within five working days of receipt of student assessment results for this administration, a district shall notify the campus principal of the assessment results for each eligible student who fails to demonstrate proficiency. Upon receipt of this notice, the principal shall notify the teacher and parent or guardian of the time and place for the GPC to hold a meeting. This notice shall inform the parent or guardian of the opportunity to appeal the automatic retention of the student. A district shall establish a procedure to ensure a good faith effort is made toward securing the parent's or guardian's receipt of the retention notification. *19 TAC 101.2007(e)*

RETENTION AND
APPEAL

A student who fails to perform satisfactorily after at least three attempts on one of the grade advancement tests shall be retained at the same grade level for the next school year. The parent or guardian may appeal the retention by submitting a request to the GPC within five working days of receipt of the retention notification. *Education Code 28.0211(e); 19 TAC 101.2007(e)*

The GPC may not agree to promote a student unless a parent, guardian, or designee has appealed. *19 TAC 101.2007(b)(2)*

If an appeal is initiated by the parent or guardian, the GPC may decide in favor of promotion only if the GPC concludes, upon review of all facts and circumstances, and in accordance with standards adopted by the board, that the student is likely to perform on grade level given additional accelerated instruction during the next school year. A student may be promoted only if the decision of the GPC is unanimous and the student has completed all required accelerated instruction.

The review and decision of the GPC must be appropriately documented as meeting the standards adopted by the board and made in conformance with procedures specified in the GPC manual and as required by 19 Administrative Code 101.2001(b). These standards must include consideration of the following:

1. The recommendation of the student's teacher;
2. The student's grades;
3. The student's assessment scores; and
4. Any other necessary academic information as determined by the district.

19 TAC 101.2007(f)

The placement decision by the GPC shall be made before the start of the next school year, or if applicable, upon re-enrollment of the student after this date. *19 TAC 101.2007(g)*

The committee's decision regarding placement is final and may not be appealed. *Education Code 28.0211(e)*

A student who is promoted to the next grade level must complete accelerated instruction required under Education Code 28.0211(a-1) [see UNSATISFACTORY PERFORMANCE ON ASSESSMENT INSTRUMENTS, above] before placement in the next grade level. A student who fails to complete required accelerated instruction may not be promoted. *Education Code 28.0211(a-2); 19 TAC 101.2006(e)(2)*

In each subject in which the student failed to perform satisfactorily on the grade advancement test, a student who is promoted by the GPC must be assigned to a teacher who meets all state and federal qualifications to teach that subject and grade. *Education Code 28.0211(n)*

TRANSFER STUDENTS

A student who has been promoted upon completion of a school year in a school other than a Texas public school may be enrolled in that grade without regard to whether the student has successfully completed a grade advancement test. This does not limit a district's ability to appropriately place such a student. *19 TAC 101.2007(h)* [See FDA]

LIMITED ENGLISH
PROFICIENT (LEP)
STUDENTS

The language proficiency assessment committee (LPAC) shall determine appropriate assessment and accelerated instruction for a limited English proficient (LEP) student who is administered a grade advancement test in English or Spanish, except as provided by 19 Administrative Code 101.1011. The GPC for a LEP student shall make its decisions in consultation with a member of the student's LPAC. *19 TAC 101.2003(e)*

SPECIAL EDUCATION
STUDENTS

A student who is receiving special education services, including a LEP student, who is enrolled in grade 5 or 8, and who is receiving instruction in the essential knowledge and skills in reading or mathematics is eligible for grade advancement testing as outlined in

the official GPC manual. The student's admission, review, and dismissal (ARD) committee shall determine appropriate assessment and accelerated instruction for the student. Decisions regarding assessments for LEP students who receive special education services shall be made by the ARD committee in conjunction with the LPAC. *Education Code 28.0211(i); 19 TAC 101.2003(d), (f)*

DYSLEXIC
STUDENTS

In measuring the academic achievement or proficiency of a student who is dyslexic, the student's potential for achievement or proficiency in the area must be considered. *Education Code 28.021(b); 19 TAC 101.2003(g)* [See policies at EHB, EKB, and FB]

AGE-APPROPRIATE
ASSIGNMENT

A board may establish a policy that provides for the placement of retained students in an age-appropriate learning environment. In accordance with local grade configurations for elementary, middle, and high school campuses, a board may specify the age by which a retained student should be placed on the next level campus even though not yet promoted to the grade of that campus. *19 TAC 101.2019(b)*

TRANSPORTATION TO
ACCELERATED
INSTRUCTION
PROGRAMS

A district shall provide students required to attend the accelerated programs described above with transportation to those programs if the programs occur outside of regular school hours. *Education Code 28.0211(j); 19 TAC 101.2006(b)*

OPTIONAL EXTENDED-
YEAR PROGRAM

A student who does not meet district standards or policies for promotion on the basis of academic achievement or demonstrated proficiency of the subject matter of the course or grade level shall be eligible for services under the optional extended-year program. *19 TAC 105.1001(c)* [See EHBC]

A student who attends at least 90 percent of the extended-year program days and who satisfies the requirements for promotion (academic achievement or demonstrated proficiency of the subject matter of the course or grade level) shall be promoted to the next grade level at the beginning of the next school year. However, if the student's parent presents a written request to the school principal asking that the student not be promoted, the principal shall hold a formal meeting with the parent, the teacher, and the counselor, as soon as practicable after receiving such a request. During the meeting, the principal, teacher, or counselor shall explain the possible effects of not promoting a student. If the parent withdraws the request after the meeting, the student shall be promoted, and the district shall continue to use innovative practices to ensure that the student is successful in school in succeeding school years.

If a district provides an extended-year program, it shall adopt a policy designed to lead to immediate reduction and ultimate elimination of student retention.

Education Code 29.082(e), (f) [See EHBC]

A student may graduate and receive a diploma only if the student successfully completes:

1. The curriculum requirements identified by the State Board of Education [see STATE GRADUATION REQUIREMENTS, below] and has performed satisfactorily on the exit-level assessments [see EKB]; or
2. An individualized education program (IEP) developed under Education Code 29.005. [See EHBAB]

Education Code 28.025(c); 19 TAC 101.4001(a)

POSTHUMOUS
DIPLOMA

Beginning with students enrolled in grade 12 during the 2005–06 school year, and on request of the student’s parent, a district shall issue a high school diploma posthumously to a student who died while enrolled in the district at grade level 12, provided that the student was academically on track at the time of death to receive a diploma at the end of the school year in which the student died. “School year” includes any summer session following the spring semester.

EXCEPTION

A district is not required to issue a posthumous diploma if the student was convicted of a felony offense under Title 5 or 6, Penal Code, or adjudicated as having engaged in conduct constituting a felony offense under Title 5 or 6, Penal Code.

Education Code 28.0254

DIPLOMAS FOR
VETERANS

Notwithstanding any other provision of this policy, a district may issue a high school diploma to a person who is an honorably discharged member of the armed forces of the United States; was scheduled to graduate from high school after 1940 and before 1975 or after 1989; and left school after completing the sixth or a higher grade, before graduating from high school, to serve in:

1. **World War II, the Korean War, the Vietnam War, the Persian Gulf War, the Iraq War, or the war in Afghanistan; or**
2. **Any other war formally declared by the United States, military engagement authorized by the United States Congress, military engagement authorized by a United Nations Security Council resolution and funded by the United States Congress, or conflict authorized by the president of the United States under the War Powers Resolution of 1973, 50 U.S.C. 1541, et seq.**

Education Code 28.0251

DIPLOMA /
TRANSCRIPT /
CERTIFICATE OF
COURSEWORK
COMPLETION

Graduates of each high school are awarded the same type of diploma. The academic achievement record or transcript, rather than the diploma, records individual accomplishments, achievements, and courses completed and displays appropriate graduation seals. *19 TAC 74.51(a), .61(a)* [See EI for provisions regarding certificate of coursework completion]

SPECIAL
EDUCATION
STUDENTS

A student receiving special education services who successfully completes the requirements of his or her IEP shall receive a high school diploma. *19 TAC 101.7(c)*

PERSONAL
GRADUATION
PLAN (PGP)

A principal shall designate a guidance counselor, teacher, or other appropriate individual to develop and administer a personal graduation plan (PGP) for each student enrolled in a junior high, middle, or high school who:

1. Does not perform satisfactorily on a state assessment instrument; or
2. Is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade level 9, as determined by a district.

A PGP must:

1. Identify educational goals for the student;
2. Include diagnostic information, appropriate monitoring and intervention, and other evaluation strategies;
3. Include an intensive instruction program described in Education Code 28.0213 [see EHBC];
4. Address participation of the student's parent or guardian, including consideration of the parent's or guardian's educational expectations for the student; and
5. Provide innovative methods to promote the student's advancement, including flexible scheduling, alternative learning environments, online instruction, and other interventions that are proven to accelerate the learning process and have been scientifically validated to improve learning and cognitive ability.

In addition, a district is encouraged to establish for each student entering grade 9 a PGP that identifies a course of study that:

1. Promotes college and workforce readiness;
2. Promotes career placement and advancement; and

3. Facilitates the student's transition from secondary to postsecondary education.

Education Code 28.0212

STUDENTS
RECEIVING
SPECIAL
EDUCATION
SERVICES

For a student receiving special education services, the student's admission, review, and dismissal (ARD) committee and the district are responsible for developing the student's PGP.

A student's IEP developed under Education Code 29.005 may be used as the student's PGP.

Education Code 28.0212(c); 19 TAC 89.1050(a) [See EHBAB]

EARLY GRADUATION

A parent is entitled to request, with the expectation that the request will not be unreasonably denied, that the parent's child be permitted to graduate from high school earlier than the child would normally graduate, if the child completes each course required for graduation. The decision of a board concerning the request is final and may not be appealed. *Education Code 26.003(a)(3)(C), 26.003(b) [See FMH, FNG]*

STATE GRADUATION
REQUIREMENTS

All credit for graduation must be earned no later than grade 12. *19 TAC 74.51(b), .61(b)*

Note: For current state graduation requirements, including those for students who entered grade 9 before the 2004–05 school year but that are not otherwise referenced in this policy, see Education Code 28.025 and www.tea.state.tx.us/rules/tac/chapter074/index.html.

MINIMUM HIGH
SCHOOL PROGRAM

A district shall ensure that each student enrolls in the courses necessary to complete the Recommended or Advanced/Distinguished Achievement High School Program unless the student, the student's parent or other person standing in parental relation to the student, and a school counselor or school administrator agree in writing signed by each party that the student should be permitted to take courses under the Minimum High School Program and the student:

1. Is at least 16 years of age;
2. Has completed two credits required for graduation in each subject of the foundation curriculum under Education Code 28.002(a)(1); or
3. Has failed to be promoted to the tenth grade one or more times as determined by the school district.

	<p>A student agreeing to take courses under the Minimum High School Program may, upon request, resume taking courses under the Recommended High School Program.</p>
STUDENTS WITH DISABILITIES	<p>If an ARD committee makes decisions that place a student with a disability on a modified curriculum in a subject area, the student will be automatically placed in the Minimum High School Program.</p>
NOTICE	<p>Before a student's parent or other person standing in parental relation to the student may agree that the student be permitted to take courses under the Minimum High School Program, a district must provide the written notice developed by TEA to the parent or person standing in parental relation explaining the benefits of the Recommended High School Program.</p>
APPLICABILITY	<p>A student who was permitted to take courses under the Minimum High School Program prior to the 2009–10 school year may remain in the Minimum High School Program.</p> <p><i>Education Code 28.025(b), (b-6), (b-8); 19 TAC 74.51(d), .52–.54, .61(c)–(e), .62–.64</i></p>
REQUIREMENTS	<p>A student must earn at least 22 credits to complete the Minimum High School Program. A student who entered grade 9 in the 2004–05, 2005–06, or 2006–07 school year must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.52. A student who entered grade 9 in 2007–08 or thereafter must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.62. <i>19 TAC 74.52, .62</i></p>
RECOMMENDED HIGH SCHOOL PROGRAM	<p>A student who entered grade 9 in the 2004–05, 2005–06, or 2006–07 school year must earn at least 24 credits to complete the Recommended High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.53.</p> <p>A student who entered grade 9 in the 2007–08 school year or thereafter must earn at least 26 credits to complete the Recommended High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.63.</p> <p><i>Education Code 28.025; 19 TAC 74.53, .63</i></p>
ADVANCED / DISTINGUISHED ACHIEVEMENT HIGH SCHOOL PROGRAM	<p>A student who entered grade 9 in the 2004–05, 2005–06, or 2006–07 school year must earn at least 24 credits to complete the Advanced/Distinguished Achievement High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.54.</p>

A student who entered grade 9 in the 2007–08 school year or thereafter must earn at least 26 credits to complete the Advanced/Distinguished Achievement High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.64.

Education Code 28.025; 19 TAC 74.54, .64

CURRICULUM MAY
NOT VARY

A district may not vary the curriculum for a course in the required curriculum based on whether a student is enrolled in the Minimum, Recognized, or Advanced/Distinguished Achievement High School Program. *Education Code 28.004(q)*

SUBSTITUTIONS

No substitutions are allowed for high school graduation requirements in the Recommended and Advanced/Distinguished Achievement High School Programs, except as provided by State Board rule. *19 TAC 74.53(d), .54(e), .63(d), .64(e)*

AP OR IB COURSES

College Board Advanced Placement and International Baccalaureate courses may be substituted for required courses in appropriate areas. These courses may be used as electives in all three high school graduation programs. *19 TAC 74.51(h), .61(k)*

READING

A district may offer a maximum of 3 credits of reading for state graduation elective credit for identified students if the district:

1. Adopts policies to identify students in need of additional reading instruction;
2. Has procedures that include assessment of individual student needs and ongoing evaluation of each student's progress; and
3. Monitors instructional activities to ensure that student needs are addressed.

Reading credits may be selected from Reading I, II, or III.

19 TAC 74.51(e), .61(e)

COLLEGE
COURSES

A student may comply with the curriculum requirements under the Minimum, Recommended, or Advanced/Distinguished Achievement High School Program for each subject of the foundation curriculum and for languages other than English by successfully completing appropriate courses in the core curriculum of an institution of higher education. *Education Code 28.002(b-7); 19 TAC 74.51(i), .61(l)*

PHYSICAL
EDUCATION
SUBSTITUTIONS

**OTHER
PHYSICAL
ACTIVITY**

In accordance with local district policy, up to one credit for any one of the physical education courses listed in 19 Administrative Code Chapter 74 [see EHAC] may be earned through participation in any of the following activities:

1. Drill team;
2. Marching band; and
3. Cheerleading.

In accordance with local district policy, credit for any physical education course may be earned through participation in the following activities:

1. Athletics;
2. JROTC; and
3. Appropriate private or commercially sponsored physical activity programs conducted on or off campus. A district must apply to the Commissioner for approval of such programs, which may be substituted for state graduation credit in physical education. Such approval may be granted under the following conditions:
 - a. Olympic-level participation and/or competition includes a minimum of 15 hours per week of highly intensive, professional, supervised training. The training facility, instructors, and the activities involved in the program must be certified by the superintendent to be of exceptional quality. Students qualifying and participating at this level may be dismissed from school one hour per day. Students dismissed may not miss any class other than physical education.
 - b. Private or commercially sponsored physical activities include those certified by the superintendent to be of high quality and well supervised by appropriately trained instructors. Student participation of at least five hours per week must be required. Students certified to participate at this level may not be dismissed from any part of the regular school day.

RESTRICTIONS All substitution activities must include at least 100 minutes per five-day school week of moderate to vigorous physical activity.

No more than four substitution credits may be earned through any combination of substitutions listed above.

**STUDENTS
STUDENT WITH
DISABILITY OR
ILLNESS**

In accordance with State Board of Education (SBOE) rules, a student who is unable to participate in physical activity due to disability or illness is allowed to substitute one credit in English language arts, mathematics, science, or social studies or one academic elective credit for the required physical education credit. A credit allowed to be substituted may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The determination regarding a student's ability to participate in physical activity must be made by:

1. If the student receives special education services under Education Code Chapter 29, Subchapter A, the student's ARD committee;
2. If the student does not receive special education services under Education Code Chapter 29, Subchapter A but is covered by Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794, the committee established for the student under that Act; or
3. If each of the described committees is inapplicable, a committee established by the school district of persons with appropriate knowledge regarding the student.

**STUDENT WITH
PHYSICAL
LIMITATIONS**

If a student entering grade 9 during the 2007–08 school year or thereafter is unable to comply with all of the requirements for a physical education course due to a physical limitation certified by a licensed medical practitioner, a modification to a physical education course does not prohibit the student from earning a Recommended or Advanced/Distinguished High School Program diploma. A student with a physical limitation must still demonstrate proficiency in the relevant knowledge and skills in a physical education course that do not require physical activity.

Education Code 28.025(b-10)–(b-11); 19 TAC 74.52(b)(7), .53(b)(7), .54(b)(7), .62(b)(7), .63(b)(7), .64(b)(7)

**TRANSFERS FROM
OUT-OF-STATE OR
NONPUBLIC SCHOOLS**

Out-of-state or out-of-country transfer students (including foreign exchange students) and transfer students from Texas nonpublic schools are eligible to receive Texas diplomas but shall complete all applicable high school graduation requirements. Any course credits required for graduation that are not completed before enrollment may be satisfied through credit by examination, correspondence courses, distance learning, or completing the course, according to the provisions of 19 Administrative Code 74.26. 19 TAC 74.51(f), .61(f) [See EHDB, EHDC, EHDE, and EI]

PRIOR COURSES

High school courses successfully completed prior to grade 9 and the 2007–08 school year shall count toward graduation in the manner established in 19 Administrative Code Chapter 74 for credit in the year the course is successfully completed.

Science and physical education graduation requirements successfully completed prior to the 2010–11 school year shall count toward graduation in the manner established at the time the credit was earned.

Physical education graduation requirements successfully completed through a two- or three-credit career and technical education work-based training course prior to the 2011–12 school year shall count toward graduation.

19 TAC 74.61(f), (m)

GRADUATION OF
SPECIAL EDUCATION
STUDENTS

A student receiving special education services may graduate and be awarded a regular high school diploma if the student meets one of the following conditions:

COMPLETION OF
GENERAL
EDUCATION
REQUIREMENTS

1. The student has satisfactorily completed the state's or district's (whichever is greater) required standards in 19 Administrative Code Chapters 110–128 and Chapter 130 and credit requirements applicable to students in general education for graduation under the Recommend or Advanced/Distinguished Achievement Programs, including satisfactory performance as established in Education Code Chapter 39, on the required state assessments.
2. The student has satisfactorily completed the state's or district's (whichever is greater) required standards in 19 Administrative Code Chapters 110–128 and Chapter 130 and credit requirements applicable to students in general education for graduation under the Minimum High School Program, including participation in state assessments. The student's ARD committee shall determine whether satisfactory performance on the required state assessments is necessary for graduation.

COMPLETION OF
IEP

3. The student has satisfactorily completed the state's or district's (whichever is greater) required standards in 19 Administrative Code Chapters 110–128 and Chapter 130 through courses, one or more of which contain modified content that is aligned to the standards required under the Minimum High School Program as well as the credit requirements under the Minimum High School Program, including participation in required state assessments. The student's ARD committee shall determine whether satisfactory performance on the re-

quired state assessments is necessary for graduation. The student must also successfully complete the student's IEP and meet one of the following conditions, consistent with the IEP:

- a. Full-time employment, based on the student's abilities and local employment opportunities, in addition to sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the local school district;
- b. Demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the local school district; or
- c. Access to services that are not within the legal responsibility of public education, or employment or educational options for which the student has been prepared by the academic program.

Employability and self-help skills are those skills directly related to the preparation of students for employment, including general skills necessary to obtain or retain employment.

The ARD committee shall determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age eligibility requirements.

AGING OUT

4. The student no longer meets age eligibility requirements and has completed the requirements specified in the IEP.

19 TAC 89.1070(b), (e)–(f)

EVALUATION

Special education students graduating under the above provisions shall be provided with a summary of academic achievement and functional performance as described at 34 CFR 300.305(e)(3). The summary shall consider, as appropriate, the views of the parent and student and written recommendations from adult service agencies on how to assist the student in meeting postsecondary goals. If the student is graduating based on completion of his or her IEP, the evaluation under 34 CFR 300.305(e) shall be included as part of the summary. Students who participate in graduation ceremonies but who are not graduating under 19 Administrative Code 89.1070(b)(3) and who will remain in school to complete their education do not have to be evaluated. *19 TAC 89.1070(c)–(d)*

ACADEMIC ACHIEVEMENT
GRADUATION

EIF
(LEGAL)

GRADUATION OF
MILITARY
DEPENDENTS

COURSE WAIVER

District officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed by a military student in another district or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the district shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

TRANSFERS
DURING SENIOR
YEAR

Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from the district after all alternatives have been considered, the sending and receiving districts shall ensure the receipt of a diploma from the sending district, if the student meets the graduation requirements of the sending district. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student.

SUBSTITUTE
PASSING
STANDARD

The Commissioner shall adopt a passing standard on one or more national norm-referenced achievement tests for purposes of permitting a qualified military dependent to meet that standard as a substitute for completing a specific course otherwise required for graduation. The passing standard is available only for a student who enrolls in a public school in this state for the first time after completing the ninth grade or who reenrolls in a public school in this state at or above the tenth grade level after an absence of at least two years from the public schools of this state. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.

Education Code 162.002 art. VII, §§ A, C [See FDD]

STATE ASSESSMENT
OF ACADEMIC SKILLS

Every student receiving instruction in the essential knowledge and skills shall take the appropriate criterion-referenced assessments, as required by Education Code Chapter 39, Subchapter B [see TESTING IN GRADES 3–8, below]. *Education Code 39.023(a), (c), (f); 19 TAC 101.5(a)*

To be eligible to receive a high school diploma, a nonexempt student must demonstrate satisfactory performance on the end-of-course (EOC) assessment instruments [see END-OF-COURSE ASSESSMENTS, below]. *Education Code 39.025(a); 19 TAC 101.7(a)*

LIMITED ENGLISH
PROFICIENT (LEP)
STUDENTS

In grades 3–12, a limited English proficient (LEP) student, as defined by Education Code Chapter 29, Subchapter B, shall participate in the state assessment in accordance with Commissioner's rules at 19 Administrative Code 101.5 and 19 Administrative Code Chapter 101, Subchapter AA. *19 TAC 101.5(c)* [See EKBA]

SPECIAL
EDUCATION

TEA shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program for whom a state assessment instrument adopted under Education Code 39.023(a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal (ARD) committee. Each testing accommodation shall be documented in the student's individualized education program (IEP). *Education Code 39.023(b)–(c); 19 TAC 101.5(b)*

MILITARY
DEPENDENTS

If the student is a military dependent, the district shall accept:

1. Exit or EOC exams required for graduation from the sending state;
2. National norm-referenced achievement tests; or
3. Alternative testing, in lieu of testing requirements for graduation in the receiving state.

In the event the above alternatives cannot be accommodated by the receiving state for a military dependent transferring in his or her senior year, then a Commissioner's substitute passing standard shall apply.

SUBSTITUTE
PASSING
STANDARD

The Commissioner shall adopt a passing standard on one or more national norm-referenced achievement tests for purposes of permitting a qualified military dependent to meet that standard as a substitute for achieving a score on an assessment instrument otherwise required for graduation. The passing standard is available only for a student who enrolls in a public school in this state for the

first time after completing the ninth grade or who reenrolls in a public school in this state at or above the tenth grade level after an absence of at least two years from the public schools of this state. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.

Education Code 162.002 art. VII, §§ B–C [See FDD]

ADMINISTRATION

A district shall follow the test administration procedures established by TEA in the applicable test administration materials. A superintendent shall be responsible for:

1. Administering tests;
2. Maintaining the integrity of the test administration process; and
3. Ensuring that every test administrator receives at least annual training in these procedures as provided by TEA through the education service centers.

19 TAC 101.25, ~~101.27~~

SCHEDULE

The Commissioner shall specify the schedule for testing. Participation in University Interscholastic League (UIL) area, regional, or state competitions is prohibited on any days on which testing is scheduled between Monday and Thursday of the school week in which the primary administration of assessment instruments occurs.

The Commissioner may provide alternate dates for the administration of tests required for a high school diploma to students who are migratory children and who are out of the state.

19 TAC 101.25

ALTERNATE TEST
DATES

The Commissioner shall consider requests from districts or campuses for alternate test dates on a case-by-case basis. Alternate test dates will only be allowed if the campus or district is closed on the day on which testing is scheduled or if there is an exceptional circumstance, defined below, that may affect a district's or campus's ability to administer an assessment or the students' performance on the assessment.

"Exceptional circumstances" include:

1. Inclement weather or natural disasters that would cause a district or campus to be closed or that would cause a small per-

centage of students to be in attendance on the day testing is scheduled;

2. Health epidemics that result in a large number of students being absent on the day of testing;
3. Death of a student or school official that may impact student performance; and
4. Sudden emergencies that occur on the day of testing or shortly before testing that may inhibit students from completing the assessments, such as a fire on campus, a bomb threat, an extended power outage, or a water main break.

If an alternate test date for primary test administration is approved, the Commissioner may prohibit a district or campus from participating in UIL competition on the new test date if that is determined to be in the best interest of the district, campus, and students.

19 TAC 101.5003

NOTICE TO PARENTS
AND STUDENTS

A superintendent shall be responsible for providing written notice to each student and the student's parent or guardian of:

GRADE
ADVANCEMENT
TESTING

1. The testing requirements for grade advancement [see EIE] and the dates, times, and locations of testing.

Notice of testing requirements shall be provided no later than the beginning of the student's kindergarten year, for students attending kindergarten in the district, and no later than the beginning of the student's first-grade year for all other students. The superintendent shall also provide such notice for students in grades 1–8 who are new to the district.

GRADUATION
TESTING

2. The testing requirements for graduation and the dates, times, and locations of testing.

Notice of testing requirements shall be provided no later than the beginning of the student's seventh-grade year. The superintendent shall also provide such notice for students in grades 7–12 who are new to the district. Notice of the dates, times, and locations of testing shall be provided to each student who will take the tests and to out-of-school individuals.

19 TAC 101.13

TESTING IN GRADES
3–8

All Except as provided below, all students, **except other than** students who are assessed under Education Code 39.023(b) (alternative assessment instrument) or **39.023(l)** (LEP students) or **who are exempt** **exempted under Education Code 39.027**, shall be assessed in:

1. Mathematics, annually in grades 3 through 7 without the aid of technology and in grade 8 with the aid of technology on any assessment instrument that includes algebra;
2. Reading, annually in grades 3– through 8;
3. Writing, including spelling and grammar, in grades 4 and 7;
4. Social studies in grade 8;
5. Science in grades 5 and 8; and
6. Any other subject and grade required by federal law.

Education Code 39.023(a)

EXCEPTION

A student is not required to be assessed in a subject otherwise assessed at the student's grade level if the student:

1. **Is enrolled in a course in the subject intended for students above the student's grade level and will be administered an assessment instrument adopted or developed under the list above that aligns with the curriculum for the course in which the student is enrolled; or**
2. **Is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an end-of-course assessment instrument for the course.**

Education Code 39.023(a-2)

ACCOMMODATIONS

Testing accommodations are permitted for any student unless they would make a particular test invalid. Decisions regarding testing accommodations shall take into consideration the needs of the student and the accommodations the student routinely receives in classroom instruction. Permissible testing accommodations shall be described in the appropriate test administration materials.

The committee established by a board to determine the placement of students with dyslexia or related disorders shall determine whether any allowable modification is necessary in administering an assessment to such a student.

For a student receiving special education services, the ARD committee shall determine the allowable accommodations and shall document them in the student's IEP.

19 TAC 101.29; Education Code 39.023(c), (n)

**END-OF-COURSE
ASSESSMENTS**

The Commissioner shall adopt rules requiring a student participating in the Recommended or Advanced/Distinguished Achievement

High School Program to be administered an EOC assessment instrument for secondary-level courses in Algebra I, Algebra II, geometry, biology, chemistry, physics, English I, English II, English III, world geography, world history, and United States history. The rules shall require a student participating in the Minimum High School Program to be administered an EOC assessment instrument only for a listed course in which the student is enrolled and for which an EOC assessment instrument is administered. A student may not receive a high school diploma until the student has performed satisfactorily on the EOC assessment instruments.

**STUDENTS
ENROLLED BELOW
HIGH SCHOOL
LEVEL**

Nothing in Education Code 39.025 has the effect of prohibiting the administration of an EOC assessment instrument to a student enrolled below the high school level who is enrolled in the course for which the assessment instrument is adopted. In accordance with Commissioner’s rules, the student’s performance on the assessment instrument is to be considered in the same manner for purposes of Education Code 39.025 as the performance of a student enrolled at the high school level.

**SATISFACTORY
PERFORMANCE**

A student is required to achieve, in each subject in the foundation curriculum, a cumulative score that is at least equal to the product of the number of EOC assessment instruments administered to the student in that subject and a scale score that indicates satisfactory performance, as determined by the Commissioner under Education Code 39.0241(a). A student must achieve a minimum score as determined by the Commissioner to be within a reasonable range of the scale score under Education Code 39.0241(a) on an EOC assessment instrument for the score to count towards the student’s cumulative score. A student’s cumulative score is determined using the student’s highest score on each EOC assessment instrument administered to the student.

**IMPACT ON
GRADES**

A student’s performance on an EOC assessment instrument listed above must count for 15 percent of the student’s final grade for the course. [See EIA]

**ADDITIONAL STATE
ASSESSMENTS**

TEA may adopt EOC assessment instruments for courses not listed in statute, as described above. A student’s performance on these EOC assessment instruments is not subject to the performance requirements established for the statutory assessments.

*Education Code 39.~~025(a)-(a-3)~~,**023** (c), (c-2), .025(a)-~~(a-3)~~, (e-1)*

**FOREIGN
EXCHANGE
STUDENTS**

A foreign exchange student who has waived in writing his or her intention to receive a Texas high school diploma may be excused from the exit-level assessment requirement. 19 TAC 101.5(d)

IMPLEMENTATION
SCHEDULE

A student shall not be required to demonstrate performance on exit-level tests at a standard higher than the one in effect when the student was first eligible to take the test.

Students who were enrolled in grade 8 or a lower grade on January 1, 2001, must fulfill testing requirements for graduation with the exit-level Texas Assessment of Knowledge and Skills (TAKS) tests, as required by Education Code 39.023(c), as that section existed before amendment by Senate Bill 1031, 80th Texas Legislature, 2007.

Beginning with the 2011–12 school year, students first enrolled in grade 9 or lower must fulfill testing requirements for graduation with the EOC assessment instruments as required by Education Code 39.023, as amended by Senate Bill 1031, 80th Texas Legislature, 2007.

19 TAC 101.7(a)–(b), ~~101.3003~~

ALTERNATIVE
ASSESSMENTS

An eligible student who has met the passing standard on a state-approved alternative assessment instrument, as set forth at 19 Administrative Code 101.4001, in a particular area has satisfied the exit-level testing requirement in that subject area.

A student is eligible to substitute an alternative exit-level assessment for a TAKS exit-level assessment if the student, after January 1 of the year in which the student would otherwise be eligible to graduate:

1. Enrolls in a public school in Texas for the first time; or
2. Enrolls in a public school in Texas after an absence of at least four years from any public school in the state. A student meets this requirement if the student has not been enrolled for one or more days in a public school in Texas in the four years preceding the date on which the student enrolls.

VERIFICATION OF
ELIGIBILITY

An eligible student is responsible for providing a district an official copy of the student's scores from the alternative assessment.

Each district shall be responsible for verifying a student's eligibility for the alternative exit-level assessment. Upon receipt of official results of an approved alternative exit-level assessment, a district must:

1. Verify the student's score on the alternative assessment; and
2. Determine whether the student met the performance standard required to qualify for a public high school diploma in Texas as established by the Commissioner.

Education Code 39.025(d); 19 TAC 101.4001, ~~101.4003~~, ~~101.4005~~

RETAKES	<p>Each time an EOC assessment instrument is administered, a student who failed to achieve a minimum score shall retake the assessment instrument. [See SATISFACTORY PERFORMANCE, above]</p> <p>A student who fails to perform satisfactorily on an Algebra II or English III EOC assessment instrument under the college readiness performance standard, as provided under Education Code 39.024(b), may retake the assessment instrument.</p> <p>Any other student may retake an EOC assessment instrument for any reason.</p> <p>A student is not required to retake a course as a condition of retaking an EOC assessment instrument.</p> <p><i>Education Code 39.025(b); 19 TAC 101.7(a)(2), (d)</i></p>
REPORTING RESULTS TO THE PUBLIC	<p>Overall student performance data, aggregated by ethnicity, sex, grade level, subject area, campus, and district, shall be made available to the public, with appropriate interpretations, at regularly scheduled meetings of a board, after receipt from TEA. The information shall not contain the names of individual students or teachers. <i>Education Code 39.030(b)</i></p>
TO THE BOARD	<p>A superintendent shall accurately report all test results with appropriate interpretations to a board according to the schedule in the applicable test administration materials.</p>
TO PARENTS AND STUDENTS	<p>A district shall notify each of its students and his or her parent or guardian of test results, observing confidentiality requirements stated at CONFIDENTIALITY, below. All test results shall be included in each student's academic achievement record and shall be furnished for each student transferring to another district or school. [See BQ series, FD, and FL]</p> <p><i>19 TAC 101.81; No Child Left Behind Act, 20 U.S.C. 6311(h)(6)</i></p> <p>TEA shall adopt a series of questions to be included in an EOC assessment instrument administered under Education Code 39.023(c) to be used for purposes of identifying students who are likely to succeed in an advanced high school course. A school district shall notify a student who performs at a high level on the questions and the student's parent or guardian of the student's performance and potential to succeed in an advanced high school course. A school district may not require a student to perform at a particular level on the questions to be eligible to enroll in an advanced high school course. <i>Education Code 39.0233(b)</i></p>

PARENTAL ACCESS	<p>A parent is entitled to access to a copy of each state assessment instrument administered to the parent's child. This right of access does not apply, however, to those instruments or particular questions that are being field-tested by TEA. <i>Education Code 26.005, 26.006(a)(2)</i></p>
FURTHER INSTRUCTION ACCELERATED INSTRUCTION	<p>A district shall provide each student who fails to perform satisfactorily as determined by the Commissioner under Education Code 39.0241(a) on an EOC assessment instrument with accelerated instruction in the subject assessed by the assessment instrument. [See EHBC]</p>
COLLEGE PREPARATORY COURSE	<p>If a district determines that a student, on completion of grade 11, is unlikely to achieve the cumulative score requirements for one or more subjects prescribed by Education Code 39.025(a) [see SATISFACTORY PERFORMANCE, above] for receiving a high school diploma, the district shall require the student to enroll in a corresponding content-area college preparatory course for which an EOC assessment instrument has been adopted, if available.</p> <p>A student who enrolls in a college preparatory course shall be administered an EOC assessment instrument for the course, with the instrument scored on a scale as determined by the Commissioner not to exceed 20 percent of the cumulative score requirements required to graduate. A student may use the student's score on the EOC assessment instrument for the college preparatory course towards satisfying the cumulative score requirements.</p> <p><i>Education Code 39.025(b-1)–(b-2)</i></p>
SECURITY	<p>The statewide assessment program is a secure testing program. Procedures for maintaining security shall be specified in the appropriate test administration materials. Secure test materials must be accounted for before, during, and after each test administration. Only authorized personnel may have access to secure test materials. <i>19 TAC 101.61</i></p>
CONFIDENTIALITY	<p>The contents of each test booklet and answer document are confidential in accordance with state and federal law. Individual student performance results are confidential and may be released only in accordance with the Family Educational Rights and Privacy Act of 1974. <i>Education Code 39.030(b); 19 TAC 101.63</i> [See FL and GBA]</p>
PENALTIES	<p>Violation of security or confidential integrity of any test shall be prohibited. A person who engages in prohibited conduct may be subject to sanction of credentials.</p> <p>Procedures for maintaining the security and confidential integrity of a test shall be specified in the appropriate test administration mate-</p>

rials. Conduct that violates the security and confidential integrity of a test is defined as any departure from the test administration procedures established by the Commissioner. Conduct of this nature may include the following acts and omissions:

1. Duplicating secure examination materials;
2. Disclosing the contents of any portion of a secure test;
3. Providing, suggesting, or indicating to an examinee a response or answer to a secure test item or prompt;
4. Changing or altering a response or answer of an examinee to a secure test item or prompt;
5. Aiding or assisting an examinee with a response or answer to a secure test item or prompt;
6. Encouraging or assisting an individual to engage in the conduct described in 1–5 above; or
7. Failing to report to an appropriate authority that an individual has engaged in conduct outlined in 1–6 above.

Any person who violates, assists in the violation of, or solicits another to violate or assist in the violation of test security or confidential integrity, and any person who fails to report such a violation are subject to the following penalties:

1. Placement of restrictions on the issuance, renewal, or holding of a Texas teacher certificate, either indefinitely or for a set term;
2. Issuance of an inscribed or non-inscribed reprimand;
3. Suspension of a Texas teacher certificate for a set term; or
4. Revocation or cancellation of a Texas teacher certificate without opportunity for reapplication for a set term or permanently.

Any irregularities in test security or confidential integrity may also result in the invalidation of student results.

A superintendent and campus principal shall develop procedures to ensure the security and confidential integrity of the tests and shall be responsible for notifying TEA in writing of conduct that violates the security or confidential integrity of a test. Failure to report can subject the person responsible to the applicable penalties specified above.

19 TAC 101.65

SERVICE ANIMAL
SERVICE DOGS

“Service animal” means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.

The work or tasks performed by a service animal must be directly related to the **handler's individual's** disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

28 CFR 35.104

POLICIES,
PRACTICES, OR
PROCEDURES

A district shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability, unless the district can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. *28 CFR 35.130(b)(7), .136(a)* [See FB(LEGAL)]

ACCESS

Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of a district's facilities where members of the public, participants in services, programs or activities, or invitees, as relevant, are allowed to go. *28 CFR 35.136(g)*

EXCEPTIONS

A district may ask an individual with a disability to remove a service animal from the premises if:

1. The animal is out of control and the animal's handler does not take effective action to control it; or
2. The animal is not housebroken.

28 CFR 35.136(b)

The ADA does not require a district to permit an individual to participate in or benefit from the services, programs, or activities of that

district when that individual poses a direct threat to the health or safety of others. *28 CFR 35.139* [See FB(LEGAL)]

If a district properly excludes a service animal, it shall give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises. *28 CFR 35.136(c)*

ANIMAL
UNDER
HANDLER'S
CONTROL

A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means). *28 CFR 35.136(d)*

INQUIRIES

A district shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. A district may ask if the animal is required because of a disability and what work or task the animal has been trained to perform.

A district shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.

Generally, a district may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

28 CFR 35.136(f)

CARE OR
SUPERVISION OF
ANIMAL

A district is not responsible for the care or supervision of a service animal. *28 CFR 35.136(e)*

SURCHARGES

A district shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets.

If a district normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

28 CFR 35.136(h)

MINIATURE HORSES REASONABLE MODIFICATIONS	A district shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.
ASSESSMENT FACTORS	<p>In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, a district shall consider:</p> <ol style="list-style-type: none">1. The type, size, and weight of the miniature horse and whether the facility can accommodate these features;2. Whether the handler has sufficient control of the miniature horse;3. Whether the miniature horse is housebroken; and4. Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.
OTHER REQUIREMENTS	<p>Provisions at 28 CFR 35.136(c) through (h) shall also apply to miniature horses.</p> <p><i>28 CFR 35.136(i)</i></p>
ASSISTANCE ANIMALS	<p>"Assistance animal" means an animal that is specially trained or equipped to help a person with a disability and that:</p> <ol style="list-style-type: none">1. Is used by a person with a disability who has satisfactorily completed a specific course of training in the use of the animal; and2. Has been trained by an organization generally recognized by agencies involved in the rehabilitation of persons with disabilities as reputable and competent to provide animals with training of this type. <p><i>Human Resources Code 121.002(1)</i></p>
ASSISTANCE ANIMAL ACCESS	<p>No person with a disability may be denied admittance to any public facility in the state because of the person's disability or may be denied the use of an assistance animal.</p> <p>Regulations relating to the use of public facilities by any designated class of persons from the general public may not prohibit the use of particular public facilities by persons with disabilities who, except for their use of assistance animals, would fall within the designated class.</p>

An assistance animal in training shall not be denied admittance to any public facility when accompanied by an approved trainer who is an agent of an organization generally recognized by agencies involved in the rehabilitation of persons who are disabled as reputable and competent to provide training for assistance animals, and/or their handlers.

Human Resources Code 121.003(c), (e), (i)

HARASSMENT AND
HARM PROHIBITED

A person may not assault, harass, interfere with, kill, or injure in any way, or attempt to assault, harass, interfere with, kill, or injure in any way, an assistance animal. *Human Resources Code 121.003(j)*

TRANSPORTATION

No public conveyance or mode of transportation operating within the state may refuse to accept as a passenger a person with a disability solely because of the person's disability, nor may a person with a disability be required to pay an additional fare because of his or her use of an assistance animal. *Human Resources Code 121.003(b)*

RESPONSIBILITIES
OF PERSONS WITH
DISABILITIES

A person with a disability who uses an assistance animal for assistance in travel is liable for any damages done to the premises or facilities by the animal.

A person with a disability who uses an assistance animal for assistance in travel or auditory awareness shall keep the animal properly harnessed or leashed, and a person who is injured by the animal because of the failure of a person with a disability to properly harness or leash the animal is entitled to maintain a cause of action for damages in a court of competent jurisdiction under the same law applicable to other causes brought for the redress of injuries caused by animals.

Human Resources Code 121.005

PENALTIES

A person, association, or other organization or the agent of a person, association, or other organization who violates a provision of Human Resources Code 121.003 commits a misdemeanor punishable by a fine of not less than \$300 or more than \$1,000 and is deemed to have deprived a person with a disability of his or her civil liberties. The person with a disability deprived of his or her civil liberties may maintain a cause of action for damages in a court of competent jurisdiction, and there is a conclusive presumption of damages in the amount of at least \$100 to the person with a disability. *Human Resources Code 121.004*

GENERAL ELIGIBILITY A board or its designee shall admit into the public schools of a district free of tuition all persons who are over five and younger than 21 years of age on September 1 of any school year in which admission is sought, and may admit a person who is at least 21 and under 26 for the purpose of completing the requirements for a high school diploma, if any of the following conditions exist:

- STUDENT AND PARENT 1. The person and either parent reside in the district.
- CONSERVATOR 2. The person does not reside in the district, but one of the parents resides in the district and that parent is a joint managing conservator or the sole managing conservator or possessory conservator of the person.
- GUARDIAN OR PERSON HAVING LAWFUL CONTROL 3. The person and his or her guardian or other person having lawful control under an order of a court reside in the district.
- STUDENTS LIVING SEPARATE AND APART 4. The person is under the age of 18 and has established a separate residence in the district apart from his or her parent, guardian, or other person having lawful control under an order of a court and has established that the person’s presence in the district is not for the primary purpose of participation in extracurricular activities. A board is not required to admit such person, however, if the person has:
 - a. Engaged in conduct that resulted in removal to a disciplinary alternative education program or expulsion within the preceding year;
 - b. Engaged in delinquent conduct or “conduct in need of supervision” and is on probation or other conditional release for that conduct; or
 - c. Been convicted of a criminal offense and is on probation or other conditional release.

Education Code 25.001(a), ~~(c)~~-(b), (d)

- HOMELESS STUDENTS 5. The person is a homeless child. [See also FDC]
 - a. A child is “homeless,” under the McKinney-Vento Homeless Education Act, if the child lacks a fixed, regular, and adequate nighttime residence. This includes:
 - (1) Children who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in

emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

- (2) Children who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
- (3) Children who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- (4) Migratory children living in circumstances described above.

“Migratory child” means a child who is, or whose parent, spouse, or guardian is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent, spouse, or guardian in order to obtain, temporary or seasonal employment in agricultural or fishing work:

- (a) Has moved from one school district to another; or
 - (b) Resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.
- b. A child is homeless, under state law, regardless of the residence of the child, either parent, or the child’s guardian or other person having lawful control, if:
- (1) The child lacks a fixed, regular, and adequate nighttime residence; or
 - (2) The child has a primary nighttime residence in a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill), an institution providing temporary residence for individuals intended to be institutionalized, or a public or private place not designated for, or ordinarily used as, a regular sleeping accommodation for human beings.

Education Code 25.001(b); 20 U.S.C. 6399; 42 U.S.C. 11434a

FOREIGN
EXCHANGE
STUDENTS

6. The person is a foreign exchange student placed with a host family that resides in the district by a nationally recognized foreign exchange program, unless the district has applied for and been granted a waiver by the Commissioner because:
 - a. This requirement would impose a financial or staffing hardship on the district;
 - b. The admission would diminish the district’s ability to provide high quality education services for the district’s domestic students; or
 - c. The admission would require domestic students to compete with foreign exchange students for educational resources.

Education Code 25.001(b)(6), (e)

STUDENTS IN
RESIDENTIAL
FACILITY

7. The person resides at a residential facility, as defined in Education Code 5.001, located in the district. For purposes of enrollment, a person who resides in a residential facility is considered a resident of the district in which the facility is located. *Education Code 25.001(b)(7), 29.012(c)*

STUDENTS OVER 18

8. The person resides in the district and is 18 or older or the person’s disabilities of minority have been removed. *Education Code 25.001(b)(8)*

RESIDENT
GRANDPARENT

9. The person does not reside in the district but the grandparent of the person:
 - a. Resides in the district; and
 - b. Provides a substantial amount of after-school care for the person as determined by the board.

Education Code 25.001(b)(9)

PROOF OF ELIGIBILITY

A district may require evidence that a person is eligible to attend the public schools of the district at the time it considers an application for admission of the person. A board or its designee shall establish minimum proof of residency acceptable to a district. A board or its designee may make reasonable inquiries to verify a person’s eligibility for admission. When admission is sought under item 4 above, a board shall determine whether an applicant qualifies as a resident of a district and may adopt reasonable guidelines for making that determination as necessary to protect the best interest of students. *Education Code 25.001(c), (d)*

A district may withdraw any student who ceases to be a resident. *Daniels v. Morris, 746 F.2d 271 (5th Cir. 1984)*

~~ILLEGAL ALIENS~~

IMMIGRATION STATUS

Denying enrollment based upon immigration status to children who are not legally admitted into the United States violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. *Plyler v. Doe*, 457 U.S. 202 (1982)

HIGH SCHOOL
EQUIVALENCY
CERTIFICATE

A student who has received a high school equivalency certificate is entitled to enroll in a public school in the same manner as any other student who has not received a high school diploma. *Education Code 29.087(h)*

SUBSTITUTE FOR
PARENT OR
GUARDIAN

A board by policy may allow a person showing evidence of legal responsibility for a child other than an order of a court to substitute for a guardian or other person having lawful control of the child under court order. *Education Code 25.001(j)*

AUTHORIZATION
AGREEMENT

A parent, **as defined in Family Code 101.024**, or both parents of a child may enter into an authorization agreement with the child's grandparent, adult sibling, or adult aunt or uncle to authorize the relative to perform acts described in Family Code 34.002 in regard to the child, such as:

1. Authorizing medical, dental, psychological, or surgical treatment and immunization of the child, including executing any consents or authorizations for the release of information as required by law relating to the treatment or immunization;
2. Enrolling the child in the district; and
3. Authorizing the child to participate in age-appropriate extracurricular, civic, social, or recreational activities, including athletic activities.

A parent may also enter into an authorization agreement with a relative or other person with whom a child is placed under a parental child safety placement agreement approved by the Department of Family and Protective Services (DFPS) to allow the person to perform the acts described above with regard to the child during an investigation of abuse or neglect or while the department is providing services to the parent.

The authorization agreement must conform to the requirements of Family Code Chapter 34.

Only one authorization agreement may be in effect for a child at any time. Execution of a subsequent authorization agreement does not by itself supersede, invalidate, or terminate a prior authorization agreement. An authorization agreement is void if it is executed while a prior authorization agreement remains in effect.

IMMUNITY

A person who is not a party to the authorization agreement who relies in good faith on the authorization agreement, without actual knowledge that the authorization agreement is void, revoked, or invalid, is not subject to civil or criminal liability to any person, and is not subject to professional disciplinary action, for that reliance if the agreement is completed as required by Family Code Chapter 34.

Family Code 34.001–.009

Note: The Authorization Agreement for Nonparent Relative is available at https://www.dfps.state.tx.us/documents/Child_Protection/2638.pdf.

STUDENTS IN FOSTER CARE

A student placed in foster care by an agency of the state or a political subdivision, and whose foster parents reside in a district, shall be permitted to attend district schools free of any charge to the foster parents or to the agency. No durational residency requirement shall be used to prohibit such a student from fully participating in all activities sponsored by a district. *Education Code 25.001(f)*

A student enrolled in high school in grade 9, 10, 11, or 12 who is placed in temporary foster care by the Department of Human Services at a residence outside the attendance area for a school or outside a district is entitled to complete high school at the school in which the student was enrolled at the time of placement without payment of tuition. *Education Code 25.001(g)*

TRANSFERS FROM OTHER STATES

A district shall charge tuition for a student who resides in a residential facility and whose maintenance or expenses are paid in whole or in part by another state or the United States. Any such tuition charge must be submitted to the Commissioner for approval. The attendance of students admitted under this provision shall not be counted for purposes of allocating state funds to a district. *Education Code 25.003*

TEXAS ~~YOUTH~~
~~COMMISSION~~
JUVENILE JUSTICE
DEPARTMENT

A school-age child of an employee of the Texas ~~Youth Commission~~ (~~TYC~~ **Juvenile Justice Department (TJJD)**) residing in an adjacent district may attend school in a district free of charge to his or her parents or guardian. Any tuition required by the admitting district shall be paid by the district from which the student transfers out of any funds appropriated to the ~~TYC~~ **TJJD** facility. *Education Code 25.042*

ENROLLMENT

A child must be enrolled by the child's parent, guardian, or other person with legal control under a court order. A district shall record

the name, address, and date of birth of the person enrolling the child. *Education Code 25.002(f)*

LEGAL SURNAME

A student must be identified by the student’s legal surname as it appears on the student’s birth certificate or other document suitable as proof of the student’s identity, or in a court order changing the student’s name. *Education Code 25.0021*

REQUIRED DOCUMENTATION

If a parent or other person with legal control of a child enrolls the child in a district school, the parent or other person, or the school district in which the child most recently attended school, shall furnish to the district all of the following:

1. The child’s birth certificate, or another document suitable as proof of the child’s identity as defined by the Commissioner of Education in the *Student Attendance Accounting Handbook*.
2. A copy of the child’s records from the school the child most recently attended if he or she was previously enrolled in a school in Texas or in another state.

Students shall not be denied enrollment or be removed solely because they fail to provide the documentation required in items 1 and 2, above.

3. A record showing that the child has the immunizations required by Education Code 38.001, proof that the child is not required to be immunized, or proof that the child is entitled to provisional admission. [See FFAB]

Education Code 25.002(a); 19 TAC 129.1(a), (c)-(b)

A district must furnish information under items 1 and 2 not later than the tenth working day after the date the district receives a request for the information.

A parent or other person with legal control of a child under a court order must furnish information under items 1 and 2 not later than the 30th day after the date a child is enrolled in a public school.

If a parent or other person with legal control of a child under a court order requests that a district transfer a child’s student records, the district to which the request is made shall notify the parent or other person as soon as practicable that the parent or other person may request and receive an unofficial copy of the records for delivery in person to a school in another district.

Education Code 25.002(a-1)

FOOD ALLERGY INFORMATION

On enrollment, a district shall request, by providing a form or otherwise, that a parent or other person with legal control of

the child under a court order disclose whether the child has a food allergy or a severe food allergy that, in the judgment of the parent or other person with legal control, should be disclosed to the district to enable the district to take any necessary precautions regarding the child’s safety [see FFAF and FB]; and specify the food to which the child is allergic and the nature of the allergic reaction.

The district shall maintain the confidentiality of the provided information, and may disclose the information to teachers, school counselors, school nurses, and other appropriate school personnel only to the extent consistent with district policy under Education Code 38.009 and permissible under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1232g. [See FL]

“Severe food allergy” means a dangerous or life-threatening reaction of the human body to a food-borne allergen introduced by inhalation, ingestion, or skin contact that requires immediate medical attention.

Education Code 25.0022(a)–(c)

CHILD IN
~~FPS~~DFPS
POSSESSION

A district shall enroll a child without the required documentation if the ~~Department of Family and Protective Services (FPS)~~DFPS has taken possession of the child. ~~FPS~~DFPS shall ensure that the required documentation is furnished to a district not later than the 30th day after the date the child is enrolled. *Education Code 25.002(g)*

INCONSISTENT
DOCUMENTATION

If a child is enrolled under a name other than the name that appears in the identifying documents or records, a district shall notify the missing children and missing persons information clearinghouse of the child’s name as shown on the identifying records and the name under which the child is enrolled.

MISSING
DOCUMENTATION

If the required documents and other records are not furnished to a district within 30 days after enrollment, the district shall notify the police department of the city or the sheriff’s department of the county in which the district is located and request a determination of whether the child has been reported as missing.

Education Code 25.002(b), ~~(f)~~–(c)

STUDENTS UNDER 11

On enrollment of a child under 11 years of age in a school for the first time at the school, the school shall:

1. Request from the person enrolling the child the name of each previous school attended by the child;

2. Request from each school identified in item 1 the school records for the child and, if the person enrolling the child provides copies of previous school records, request verification from the school of the child's name, address, date, and grades and dates attended; and
3. Notify the person enrolling the student that not later than the 30th day after enrollment, or the 90th day if the child was not born in the United States, the person must provide:
 - a. A certified copy of the child's birth certificate; or
 - b. Other reliable proof of the child's identity and age and a signed statement explaining the person's inability to produce a copy of the child's birth certificate.

If a person enrolls a child under 11 years of age in school and does not provide the valid prior school information or documentation required, the school shall notify the appropriate law enforcement agency before the 31st day after the person fails to comply.

Code of Criminal Procedure 63.019

FALSE INFORMATION

When accepting a child for enrollment, a district shall inform the parent or other person enrolling the child that presenting a false document or false records in connection with enrollment is a criminal offense under Penal Code 37.10 (Tampering with Governmental Records) and that enrolling the child under false documents makes the person liable for tuition or other costs as provided below. *Education Code 25.002(d)*

In addition to the penalty under Penal Code 37.10, a person who knowingly falsifies information on a form required for a student's enrollment in a district is liable to the district if the student is not eligible for enrollment, but is enrolled on the basis of false information. For the period during which the ineligible student is enrolled, the person is liable for the maximum tuition fee a district may charge [see FDA] or the amount a district has budgeted per student as maintenance and operating expense, whichever is greater. *Education Code 25.001(h)*

A district may include on its enrollment form notice of the legal penalties and liability for falsifying information on the form. *Education Code 25.001(i)*

PLACEMENT OF
TRANSFERS
CREDITS AND
RECORDS

A district shall accept all credits earned toward state graduation requirements by students in accredited Texas school districts, including credits earned in accredited summer school programs. Credits earned in local credit courses may be transferred at a district's discretion. Transfer students shall not be prohibited from at-

tending school pending receipt of transcripts or academic records from the district the student previously attended. *19 TAC 74.26(a)(1)*

A district shall grant a student credit toward the academic course requirements for high school graduation for courses the student successfully completes in ~~Texas Youth Commission~~ TJJJ educational programs. *Education Code 30.104*

Each district shall consider course credit earned by a student while in a juvenile justice alternative education program as credit earned in a district school. *Education Code 37.001(d)*

NONPUBLIC
SCHOOLS

Records and transcripts of students from Texas nonpublic schools or from out of state or out of the country (including foreign exchange students) shall be evaluated, and students shall be placed promptly in appropriate classes. A district may use a wide variety of methods to verify the content of courses for which a transfer student has earned credit. *19 TAC 74.26(a)(2)*

FOUNDATION SCHOOL
PROGRAM

A person is entitled to the benefits of the available school fund for a school year if:

1. On September 1 of the year, the person is at least five years of age and under 21 years of age, and has not graduated from high school.
2. On September 1 of the year, the person is at least 21 years of age and under 26 years of age and is admitted by a school district to complete the requirements for a high school diploma.
3. The person is enrolled in prekindergarten under Education Code 29.153 [see EHBG].
4. The person is younger than five years of age and performs satisfactorily on the state assessment instrument administered to third graders and a district has adopted a policy to admit students younger than five years of age.
5. The person is enrolled in the first grade and is at least six years of age at the beginning of the current school year or has been enrolled in the first grade, or has completed kindergarten, in the public schools of another state before transferring to a Texas public school.

Education Code 25.001(a), 42.003

SCREENING

The principal of each district school shall ensure that each student admitted to that school has complied with requirements for screening of special senses and communication disorders, spinal screening, and a risk assessment for Type 2 diabetes, or has submitted

ADMISSIONS

FD
(LEGAL)

an affidavit of exemption. *Health and Safety Code 36.005, 37.002, 95.003(c)* [See FFAA]

PEST CONTROL
INFORMATION

At the time a student is registered, district personnel shall inform parents, guardians, or managing conservators that the school periodically applies pesticides indoors and that information on the application of pesticides is available on request. *Occupations Code 1951.455* [See CLB]

GENERAL RULE

Students who are at least six years of age, or who have been previously enrolled in first grade, and who have not yet reached their eighteenth birthday shall attend school for the entire period the program is offered, unless exempted as indicated below. Students enrolled in prekindergarten or kindergarten shall attend school.

STUDENTS 18 AND OVER

A person who voluntarily enrolls in school or voluntarily attends school after the person's 18th birthday shall attend school each school day for the entire period the program of instruction is offered. A district may revoke for the remainder of the school year the enrollment of a person who has more than five unexcused absences in a semester. A person whose enrollment is revoked for exceeding this limit may be considered an unauthorized person on school grounds for the purposes of Education Code 37.107 regarding trespassing.

A board may adopt a policy requiring the student to attend school until the end of the school year. If a board adopts such a policy, Education Code 25.094 [see STUDENT LIABILITY, below] applies to the student, but Education Code 25.093 and 25.095 do not apply to the student's parent.

ACCELERATED /
COMPENSATORY
PROGRAMS

A student must also attend:

1. An extended-year program for which the student is eligible that is provided by a district for students identified as likely not to be promoted to the next grade level or tutorial classes required by the district under Education Code 29.084 [see EHBC];
2. An accelerated reading instruction program to which the student has been assigned under Education Code 28.006(g) [see EKC];
3. An accelerated instruction program to which the student is assigned under Education Code 28.0211 [see EIE];
4. A basic skills program to which the student is assigned under Education Code 29.086 [see EHBC]; or
5. A summer program provided:
 - a. To a student placed in in-school suspension or other alternative setting, other than a disciplinary alternative education program (DAEP), who has been offered the opportunity to complete each course in which the student was enrolled at the time of removal. [See FO]

- b. To a student removed to a DAEP who has been offered an opportunity to complete coursework, before the beginning of the next school year. [See FOCA]

Education Code 25.085

EXEMPTIONS

Students who meet one or more of the following conditions shall be exempt from compulsory attendance requirements:

EQUIVALENCY
DIPLOMA

- 1. The student is at least 17 years of age and has been issued a high school equivalency certificate or diploma.

PRIVATE OR HOME
SCHOOL

- 2. The student attends a private or parochial school that includes in its course a study of good citizenship.

A student in a home school shall be exempt from compulsory attendance if he or she is pursuing in good faith a curriculum consisting of books, workbooks, other written materials (including those that appear on an electronic screen of either a computer or video tape monitor), or any combination of these. The curriculum shall be designed to meet basic education goals of reading, spelling, grammar, mathematics, and a study of good citizenship. *TEA v. Leeper*, 893 S.W.2d 432 (Tex. 1994)

SPECIAL
EDUCATION —
NONDISTRICT
PLACEMENT

- 3. The student is eligible to participate in a district's special education program under Education Code 29.003 and cannot be appropriately served by the resident district.

MEDICAL
CONDITION

- 4. The student has a temporary and remediable physical or mental condition that renders attendance infeasible and the student has a certificate from a qualified physician that specifies the condition, indicates the prescribed treatment, and covers the anticipated time of absence needed for receiving and recuperating from remedial treatment.

EXPULSION — NO
JJAEP

- 5. The student has been expelled in accordance with legal requirements in a district that does not participate in a mandatory juvenile justice alternative education program. [See FOD]

17-YEAR-OLD IN
GED COURSE

- 6. The student is at least 17 years old, is attending a course of instruction to prepare for the high school equivalency examinations, and:
 - a. Has the permission of the student's parent or guardian to attend the course;
 - b. Is required by court order to attend the course;

ATTENDANCE
COMPULSORY ATTENDANCE

FEA
(LEGAL)

	<ul style="list-style-type: none">c. Has established a residence separate and apart from the student's parent, guardian, or other person having lawful control of the student; ord. Is homeless as defined by 42 U.S.C. 11302.
HIGH SCHOOL REPLACEMENT PROGRAMS	7. The student is enrolled in the Texas Academy of Leadership in the Humanities or Texas Academy of Mathematics and Science.
16-YEAR-OLD IN GED PROGRAM OR JOB CORPS	8. The student is at least 16 years old and is attending a course of instruction to prepare for the high school equivalency examinations, if: <ul style="list-style-type: none">a. The student is recommended to take the course by a public agency that has supervision or custody of the student under a court order; orb. The student is enrolled in a Job Corps training program under the Workforce Investment Act of 1998, 29 U.S.C. 2801.
OTHER EXEMPTION	9. The student is specifically exempted under another law. <i>Education Code 25.086</i>
EXCUSED ABSENCES FOR COMPULSORY ATTENDANCE DETERMINATIONS	A district shall excuse a student from attending school for the following purposes:
RELIGIOUS HOLY DAYS	1. Observing religious holy days. A student who is observing holy days is allowed up to one day of excused travel for traveling to the site where the student will observe the holy days and up to one day of excused travel for traveling from that site.
COURT APPEARANCES	2. Attending a required court appearance. A student who is attending a required court appearance is allowed up to one day of excused travel for traveling to the site where the student will attend the required court appearance and up to one day of excused travel for traveling from that site.
CITIZENSHIP PROCEEDINGS	3. Appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship. A student who is appearing at a governmental office to complete such paperwork is allowed up to one day of excused travel for traveling to the site where the student will complete the paperwork and up to one day of excused travel for traveling from that site.

ATTENDANCE
COMPULSORY ATTENDANCE

FEA
(LEGAL)

4. Taking part in a United States naturalization oath ceremony. A student who is taking part in such a ceremony is allowed up to one day of excused travel for traveling to the site where the student will take part in the ceremony and up to one day of excused travel for traveling from that site.
- ELECTION CLERKS 5. Serving as an election clerk. A student who is serving as an election clerk is allowed up to one day of excused travel for traveling to the site where the student will serve as an election clerk and up to one day of excused travel for traveling from that site.
- HEALTH-CARE APPOINTMENTS 6. Temporary absence resulting from an appointment with a health-care professional if that student commences classes or returns to school on the same day of the appointment. The appointment should be supported by a document such as a note from the health-care professional. "Temporary absence" includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student's appointment with a health-care practitioner to receive a generally recognized service for persons with autism spectrum disorder, including applied behavioral analysis, speech therapy, and occupational therapy.

Education Code 25.087(b), (b-3); 19 TAC 129.21(k) [See FEB]

CAMPUS VISITS A district may excuse a student from attending school to visit an institution of higher education accredited by a generally recognized accrediting organization during the student's junior and senior years of high school for the purpose of determining the student's interest in attending the institution of higher education, provided that:

1. The district may not excuse for this purpose more than two days during the student's junior year and two days during the student's senior year; and
2. The district adopts:
 - a. A policy to determine when an absence will be excused for this purpose; and
 - b. A procedure to verify the student's visit at the institution of higher education.

Education Code 25.087(b-2); 19 TAC 129.21(k)(9)

TAPS AT MILITARY
FUNERAL

In addition, a district may excuse a student in grades 6 through 12 for the purpose of sounding "Taps" at a military honors funeral held in this state for a deceased veteran.

ATTENDANCE
COMPULSORY ATTENDANCE

FEA
(LEGAL)

MAKE-UP WORK	<p>The student shall be allowed a reasonable time to make up school work missed on the days described above. If the student satisfactorily completes the work, the days of absence shall be counted as days of compulsory attendance. The student shall not be penalized for the absence.</p> <p><i>Education Code 25.087(c)</i></p>
OTHER EXCUSED ABSENCES	<p>A person required to attend school may be excused for temporary absence resulting from any cause acceptable to the teacher, principal, or superintendent of the school in which the person is enrolled. <i>Education Code 25.087(a)</i></p>
TEMPORARY ABSENCES	
SPECIAL EDUCATION MATTERS	<p>Students may be excused for special education assessment procedures and for special education-related services. <i>19 TAC 129.21(l)</i></p>
MILITARY DEPENDENTS	<p>A student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the superintendent to visit with the student's parent or legal guardian relative to such leave or deployment of the parent or guardian. <i>Education Code 162.002 art. V, E</i> [See FDD]</p>
NOTICES TO PARENTS WARNING NOTICE	<p>A district shall notify a student's parent in writing at the beginning of the school year that, if the student is absent from school on ten or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period, the student's parent is subject to prosecution under Education Code 25.093, and the student is subject to prosecution under Education Code 25.094 or to referral to a juvenile court in a county with a population less than 100,000.</p>
NOTICE OF ABSENCES	<p>A district shall notify a student's parent if the student has been absent from school, without excuse under Education Code 25.087, on three days or parts of days within a four-week period. The notice must:</p> <ol style="list-style-type: none">1. Inform the parent that:<ol style="list-style-type: none">a. It is the parent's duty to monitor the student's school attendance and require the student to attend school,b. The parent is subject to prosecution under Education Code 25.093; and2. Request a conference between school officials and the parent to discuss the absences.

The fact that a parent did not receive the notices described above is not a defense to prosecution for the parent's failure to require a child to attend school nor for the student's failure to attend school.

Education Code 25.095

NON-ATTENDANCE
PARENT LIABILITY

A parent or person standing in parental relation commits an offense if:

1. A warning notice is issued;
2. The parent with criminal negligence fails to require the child to attend school as required by law; and
3. The child has absences for the amount of time specified under Education Code 25.094.

The attendance officer [see FED] or other appropriate school official shall file a complaint against the parent in an appropriate court, as permitted under Education Code 25.093.

AFFIRMATIVE
DEFENSE —
PARENT

It is an affirmative defense to prosecution that one or more of the absences required to be proven was excused by a school official or should be excused by the court. A decision by the court to excuse an absence for this purpose does not affect the ability of a district to determine whether to excuse the absence for another purpose.

Education Code 25.093

STUDENT LIABILITY

A student who is **12 years of age or older and younger than 18 years of age, who is** required to attend school under the compulsory attendance laws, and **who** fails to attend school on ten or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period may be prosecuted for nonattendance in:

1. The constitutional county court of the county in which the individual resides or in which the school is located, if the county has a population of ~~two~~ **1.75** million or more;
2. The justice court of any precinct in the county in which the student resides;
3. The justice court of any precinct in the county in which the school is located;
4. The municipal court in the municipality in which the child resides; or
5. The municipal court in the municipality in which the school is located.

Education Code 25.094(a), (f)–(b)

CONDUCT IN
NEED OF
SUPERVISION

Conduct indicating a need for supervision includes the absence of a child on ten or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period from school. ~~Family Code 51.03(b)(2)~~ **“Child” means a person who is ten years of age or older, who is alleged or found to have engaged in the conduct as a result of acts committed before becoming 18 years of age, and who is required to attend school under Education Code 25.085. Family Code 51.03(b)(2), (e-1)**

AFFIRMATIVE
DEFENSE —
STUDENT

It is an affirmative defense to prosecution for nonattendance or to an allegation of conduct in need of supervision that one or more of the absences required to be proven were excused by a school official or by the court or that one or more of the absences were involuntary, but only if there is an insufficient number of unexcused or voluntary absences remaining to constitute an offense.

A decision by the court to excuse an absence for this purpose does not affect the ability of a district to determine whether to excuse the absence for another purpose.

Education Code 25.094(f), (f)–(g); Family Code 51.03(d)

DISTRICT COMPLAINT
OR REFERRAL

If a student fails to attend school without excuse on ten or more days or parts of days within a six-month period in the same school year, a district shall within ten school days of the student's tenth absence:

1. File a complaint against the student or the student's parent or both in a county, justice, or municipal court for an offense under Education Code 25.093 or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000; or
2. Refer the student to a juvenile court for conduct indicating a need for supervision under Family Code 51.03(b)(2).

A court shall dismiss a complaint or referral by a district that does not comply with these requirements.

A district may take the actions listed above if a student fails to attend school without excuse on three or more days or parts of days within a four-week period, but does not fail to attend school for the time specified above.

Education Code 25.0951

FILING
REQUIREMENTS

Each referral to juvenile court for conduct described by Family Code 51.03(b)(2) or complaint filed in county, justice, or

municipal court alleging a violation by a student of Education Code 25.094 must:

- 1. Be accompanied by a statement from the student's school certifying that the school applied the truancy prevention measures [see FED] to the student, and the measures failed to meaningfully address the student's school attendance; and**
- 2. Specify whether the student is eligible for or receives special education services under Education Code Chapter 29, Subchapter A.**

Education Code 25.0915(b)

ATTENDANCE
ATTENDANCE ENFORCEMENT

FED
(LEGAL)

ATTENDANCE
OFFICER

A board may select a school attendance officer. A school attendance officer also may be selected by two or more boards to serve their districts jointly. Education Code 25.088

In districts where no attendance officer has been selected, the superintendent and the peace officers in a district shall perform the duties of attendance officer, but no additional compensation shall be paid for the services. *Education Code 25.090* [See PEACE OFFICERS, below]

POWERS AND
DUTIES

An attendance officer employed by a district who is not commissioned as a peace officer has the following powers and duties with respect to enforcement of compulsory school attendance requirements:

1. To investigate each case of a violation of the compulsory school attendance requirements referred to the attendance officer;
2. To enforce compulsory school attendance requirements by **applying truancy prevention measures adopted under Education Code 25.0915 to the student and if the measures fail to meaningfully address the student's conduct:**
 - a. Referring **athe** student to a juvenile court or filing a complaint against **athe** student in a county, justice, or municipal court if the student has unexcused absences for the amount of time specified under Education Code 25.094 or under Family Code 51.03(b)(2); and
 - b. Filing a complaint in a county, justice, or municipal court against a parent who violates Education Code 25.093;
3. To monitor school attendance compliance by each student investigated by the officer;
4. To maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the board, or the Commissioner, to provide a record to the individual or entity requesting the record;
5. To make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that the attendance officer may not enter a residence without permission of the parent or of the owner or tenant of the residence;

6. At the request of a parent, to escort a student from any location to a school campus to ensure the student's compliance with compulsory school attendance requirements; and
7. If the attendance officer has or is informed of a court-ordered legal process directing that a student be taken into custody and the district employing the officer does not employ its own police department, to contact the sheriff, constable, or any peace officer to request that the student be taken into custody and processed according to the legal process.

Education Code 25.091(b)

PEACE OFFICERS

A peace officer serving as an attendance officer has the following powers and duties concerning enforcement of compulsory school attendance requirements:

1. To investigate each case of a violation of compulsory school attendance requirements referred to the peace officer;
2. To enforce compulsory school attendance requirements by **applying truancy prevention measures adopted under Education Code 25.0915 to the student and if the measures fail to meaningfully address the student's conduct:**
 - a. Referring **athe** student to a juvenile court or filing a complaint against **athe** student in a county, justice, or municipal court if the student has unexcused absences for the amount of time specified under Education Code 25.094 or under Family Code 51.03(b)(2); **and/or**
 - b. Filing a complaint in a county, justice, or municipal court against a parent who violates Education Code 25.093;
3. To serve court-ordered legal process;
4. To review school attendance records for compliance by each student investigated by the officer;
5. To maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the board, or the Commissioner, to provide a record to the individual or entity requesting the record;
6. To make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that a peace officer may not enter a residence without the permission of the parent of a student required to attend school or of the tenant or owner of the resi-

dence except to lawfully serve court-ordered legal process on the parent; and

7. To take a student into custody with the permission of the student's parent or in obedience to a court-ordered legal process.

A peace officer who has probable cause to believe that a child is in violation of the compulsory attendance law may take the child into custody for the purpose of returning the child to the school campus of the child to ensure the child's compliance with compulsory attendance requirements.

Education Code 25.091(a), (b-1)

**TRUANCY
PREVENTION
MEASURES**

A district shall adopt truancy prevention measures designed to address student conduct related to truancy in the school setting, minimize the need for referrals to juvenile court for conduct described by Family Code 51.03(b)(2), and minimize the filing of complaints in county, justice, and municipal courts alleging a violation of Education Code 25.094. *Education Code 25.0915(a)*

**JUVENILE CASE
MANAGER**

On approval of the board, a district may employ or agree in accordance with Government Code Chapter 791 to jointly employ a case manager to provide services in cases involving juvenile offenders before a court consistent with the court's statutory powers.

FUNDING

A district may apply to the criminal justice division of the governor's office for reimbursements of the costs of employing a juvenile case manager. ~~Code of Criminal Procedure 45.056~~ **Pursuant to Code of Criminal Procedure 102.0174, the district may pay the salary and benefits of a juvenile case manager and the costs of training, travel, office supplies, and other necessary expenses relating to the position of the juvenile case manager from the juvenile case manager fund.**

RULES

The board of a district that employs a juvenile case manager shall adopt and implement reasonable rules for juvenile case managers that provide a code of ethics, and for the enforcement of the code of ethics; appropriate educational preservice and in-service training standards for juvenile case managers; and training in:

1. **The role of the juvenile case manager;**
2. **Case planning and management;**
3. **Applicable procedural and substantive law;**
4. **Courtroom proceedings and presentation;**

5. **Services to at-risk youth under Family Code Chapter 264, Subchapter D;**
6. **Local programs and services for juveniles and methods by which juveniles may access those programs and services; and**
7. **Detecting and preventing abuse, exploitation, and neglect of juveniles.**

Code of Criminal Procedure 45.056

PHYSICAL FITNESS ASSESSMENT	<p>Annually, a district shall assess the physical fitness of students in grades 3 through 12, grade 3 or higher in a course that satisfies the curriculum requirements for physical education under Education Code 28.002(a)(2)(C), using an assessment instrument adopted by the Commissioner.</p> <p>A district is not required to assess a student for whom, as a result of disability or other condition identified by Commissioner rule, the assessment instrument is inappropriate.</p> <p>Each student must be assessed based on factors related to student health, including aerobic capacity; body composition; and muscular strength, endurance, and flexibility, unless a particular factor is inappropriate for that student because of a health classification defined in 19 Administrative Code 74.31 [see EHAA].</p>
REPORT	<p>A district shall compile provide the results of individual student performance on the physical fitness assessment and provide summary results, aggregated by grade level and any other appropriate category identified by Commissioner rule, to TEA. The summary results may not contain the names of individual students or teachers or a student's social security number or date of birth.</p>
CONFIDENTIALITY	<p>The results of individual student performance on the physical fitness assessment instrument are confidential and may be released only in accordance with state and federal law.</p> <p>A district may accept donations made to facilitate implementation of this subchapter.</p> <p><i>Education Code Ch. 38, Subch. C; 19 TAC 103.1001</i></p>
VISION AND HEARING SCREENING	<p>As soon as possible after admission and within a period set by rule, a student required to be screened shall undergo approved screening for vision and hearing disorders and any other special senses and communication disorders specified by the Texas Department of State Health Services (TDSHS). <i>Health and Safety Code 36.005(a)</i></p>
DISTRICT RESPONSIBILITY	<p>A superintendent shall ensure that each student admitted to a district complies with the screening requirements set by TDSHS or submits an affidavit of exemption (see below). <i>Health and Safety Code 36.005(c)</i></p>
SCREENING SCHEDULE ROUTINE SCREENING	<p>All students enrolled in a district shall be screened for vision and hearing problems in prekindergarten; kindergarten; and first, third, fifth, and seventh grades before May 31 of each year. Upon written request approved by TDSHS, the screening of vision and hearing</p>

	may instead occur in prekindergarten; kindergarten; and first, second, fourth, and sixth grades. <i>25 TAC 37.23(d), (f)</i>
SCREENING ON ENROLLMENT	Students four years of age and older, who are enrolled in a district for the first time, must be screened for possible vision and hearing problems within 120 calendar days of enrollment. If the student is enrolled within 60 days of the date school closes for the summer, the student must be tested by December 31 of that year. <i>25 TAC 37.23(e)(1)</i>
OUTSIDE SCREENING	Except for students enrolled in kindergarten or first grade, a district shall exempt a student from screening if the student's parent or legal guardian submits proof that the student's vision and/or hearing has been screened within the prior reporting year. Proof of vision and hearing screening upon initial enrollment must be submitted to a district by the dates for screening upon enrollment. Proof for all other students must be submitted by May 31. <i>25 TAC 37.23(e)(3), 37.26(a)-(b)</i>
PROVISIONAL ADMISSION	A parent, guardian, managing conservator, or person having legal responsibility for the student's support may execute an affidavit stating that a person other than the screener used by a district shall conduct the screening as soon as is feasible. The student may be admitted on a provisional basis, or the student may be denied admission, until the screening results are provided to the district. <i>25 TAC 37.23(g)</i>
EXEMPTION—RELIGIOUS BELIEFS	A district shall not require a student to be screened if the parent, guardian, managing conservator, or person having legal responsibility for the student's support submits to the district, on or before the date vision or hearing screening is scheduled, an affidavit in lieu of the record of screening stating that the vision or hearing screening conflicts with the tenets or practices of a church or religious denomination of which the affiant is an adherent or member. <i>Health and Safety Code 36.005(b); 25 TAC 37.23(h)</i>
RECORDS	A district shall maintain the screening records required by statute and regulation. <i>Health and Safety Code 36.006; 25 TAC 37.24</i>
TRANSFER OF RECORDS	A student's screening records may be transferred among districts without the consent of the student or minor student's parent, managing conservator, or guardian. A district shall honor an original or true copy of the proofs of screening upon the transfer of a student from another Texas district. When a district's official record for a student contains entries of vision or hearing examinations or screening test results, the original or true and correct copy of the record may be transferred between districts. <i>Health and Safety Code 36.006(c); 25 TAC 37.28</i>

REPORTS	<p>On or before June 30 of each year, a district shall submit to TDSHS a report on the screening status of its aggregate population screened during the reporting year. The results of required professional examinations or screening tests shall be reported as specified on forms approved by TDSHS. <i>Health and Safety Code 36.006; 25 TAC 37.26(c)(1)</i></p>
RISK ASSESSMENT FOR TYPE 2 DIABETES	<p>As soon as possible after admission and as required by rule, each student required to be assessed shall undergo approved risk assessment for type 2 diabetes. The risk assessment should:</p> <ol style="list-style-type: none">1. Identify students with acanthosis nigricans; and2. Further assess students identified under paragraph 1 to determine the students':<ol style="list-style-type: none">a. Body mass index; andb. Blood pressure. <p>The risk assessment shall be performed at the same time hearing and vision screening or spinal screening is performed.</p> <p><i>Health and Safety Code 95.002(d), 95.003(a)</i></p>
DISTRICT RESPONSIBILITY	<p>A superintendent shall ensure that each student admitted to a district complies with the risk assessment requirements or submits an affidavit of exemption. <i>Health and Safety Code 95.003(c)</i></p>
APPLICABILITY	<p>Students who attend public schools located in TEA Regional Education Service Centers 1, 2, 3, 4, 10, 11, 13, 15, 18, 19, and 20 shall be subject to risk assessment. <i>Health and Safety Code 95.002(b)</i></p>
OUTSIDE SCREENING	<p>The student or minor student's parent, managing conservator, or guardian may elect to substitute a professional examination for the risk assessment. <i>Health and Safety Code 95.003(a)</i></p>
EXEMPTION—RELIGIOUS BELIEFS	<p>A student is exempt from risk assessment if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or a member. To qualify for the exemption, the student or minor student's parent, managing conservator, or guardian must submit, on or before the day of the risk assessment process, an affidavit stating the objections to the risk assessment. <i>Health and Safety Code 95.003(b)</i></p>
RECORDS	<p>A superintendent shall maintain the risk assessment records required by the statute and regulations and enter the risk assessment information for each individual on the surveillance software selected by the University of Texas—Pan American Border Health Office (the Office). The risk assessment records are open for in-</p>

	specation by the Office or the local health department. <i>Health and Safety Code 95.004(a)</i>
TRANSFER OF RECORDS	A student's risk assessment records may be transferred among schools without the consent of the individual, or, if the student is a minor, the student's parent, managing conservator, or guardian. <i>Health and Safety Code 95.004(c)</i>
ANNUAL REPORT	Each district shall submit to the Office an annual report on the risk assessment status of the students in attendance during the reporting year and shall include in the report any other required information. <i>Health and Safety Code 95.004(e)</i>
SPINAL SCREENING	Each student required by rule of TDSHS to be screened shall undergo approved screening for abnormal spinal curvature. <i>Health and Safety Code 37.002(a)</i>
DISTRICT RESPONSIBILITY	A superintendent shall ensure that each student admitted to a district complies with the screening requirements or submits an affidavit of exemption (see below). <i>Health and Safety Code 37.002(c), 25 TAC 37.148(m)</i>
SCREENING SCHEDULE ROUTINE SCREENING	Students in grades six6 and nine9 shall be screened for abnormal spinal curvature before the end of the school year. The screening requirement for students entering grades six6 or nine9 may be met if the student has been screened for spinal deformities during the previous year. Districts may implement a program that includes screening in grades five5 and eight8 in lieu of grades six6 and nine9 . <i>25 TAC 37.148(a), (c)-(b)</i>
SCREENING ON ENROLLMENT	New students enrolling in grades scheduled for screening (i.e., grades six6 and nine9 or five5 and eight8), who have no record of having received their scheduled screening(s) shall be screened the year they enroll. Districts shall consider offering a student enrolling in grades ten10 , 11, or 12 the opportunity for spinal screening if the student has no record of having been screened previously. <i>25 TAC 37.148(c)</i>
EXEMPTION—RELIGIOUS BELIEFS	A student is exempt from screening if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or a member. The minor student's parent, managing conservator, or guardian must submit an affidavit stating the objections to screening. This affidavit shall be submitted on or before the day of the screening procedure each year the screening is performed. <i>Health and Safety Code 37.002(b); 25 TAC 37.148(d)</i>
ANNUAL REPORT	Each district shall submit to TDSHS an annual report of spinal screening performed during the school year no later than June 30

	<p>of the reporting year. The report shall be submitted as specified on a form issued by TDSHS. <i>25 TAC 37.148(n)</i></p>
TRANSFER OF RECORDS	<p>A student's health record shall be acceptable as proof of screening if such record contains entries of screening results. In such case, the original or a true and correct copy of that record may be transferred between schools and shall be honored upon transfer of a student from another district in Texas or within the United States. <i>25 TAC 37.148(o)</i></p>
POLICY	<p>As a condition of receiving funds under a program funded in whole or in part by the U.S. Department of Education (DOE), a district shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), regarding the administration of physical examinations or screenings that a district may administer to the student. A district shall provide notice of the policies at least annually, at the beginning of the school year and within a reasonable time after any substantive change in the policies.</p> <p>A district need not develop and adopt new policies if TEA or the district had in place, on January 8, 2002, policies covering the requirements of 20 U.S.C. 1232h(c)(1).</p>
NOTIFICATION AND OPT-OUT	<p>At least annually at the beginning of the school year, a district shall directly notify the parent of a student of the specific or approximate dates during the school year when any nonemergency, invasive physical examination or screening, described below, is scheduled or expected to be scheduled. The required notification applies to nonemergency, invasive physical examinations or screenings that are:</p> <ol style="list-style-type: none">1. Required as a condition of attendance;2. Administered and scheduled by the school in advance; and3. Not necessary to protect the immediate health and safety of the student or of other students. <p>At a minimum, a district shall offer an opportunity for the parent to opt the student out of participation in the examination or screening.</p>
EXCEPTION	<p>These provisions do not apply to any physical examination or screening that is permitted or required by an applicable state law, including physical examinations or screenings that are permitted without parental notification.</p> <p><i>20 U.S.C. 1232h(c)(1)(D), (2)–(4)</i> [See EF]</p>

DIABETES
MANAGEMENT AND
TREATMENT PLAN

The parent or guardian of a student who will seek care for diabetes while at school or while participating in a school activity, and the physician responsible for the student's diabetes treatment, shall develop a diabetes management and treatment plan (DMTP).

REQUIRED
ELEMENTS

The DMTP must:

1. Identify the health-care services the student may receive at school;
2. Evaluate the student's ability to manage and level of understanding of the student's diabetes; and
3. Be signed by the parent or guardian and the physician.

SUBMISSION TO
SCHOOL

The parent or guardian must submit the DMTP to the school, and the school must review the plan:

1. Before or at the beginning of the school year;
2. On enrollment of the student, if the student enrolls after the beginning of the school year; or
3. As soon as practicable following a diagnosis of diabetes for the student.

Health and Safety Code 168.002

INDIVIDUALIZED
HEALTH PLAN

Upon receiving the student's DMTP, the school principal, or designee, and the school nurse, if a school nurse is assigned to the school, shall develop an individualized health plan (IHP) for the student. The IHP shall be developed in collaboration with the student's parent or guardian and, to the extent practicable, the physician responsible for the student's diabetes treatment and one or more of the student's teachers.

A student's IHP must incorporate components of the student's DMTP, including the information required under Health and Safety Code 168.002(b) [see REQUIRED ELEMENTS, above].

Health and Safety Code 168.001(3);~~168~~, .003

INDEPENDENT
MONITORING AND
TREATMENT

In accordance with the student's IHP, a school shall permit the student to attend to the management and care of the student's diabetes, which may include:

1. Performing blood glucose level checks;
2. Administering insulin through the insulin delivery system the student uses;
3. Treating hypoglycemia and hyperglycemia;

4. Possessing on the student's person at any time any supplies or equipment necessary to monitor and care for the student's diabetes; and
5. Otherwise attending to the management and care of the student's diabetes in the classroom, in any area of the school or school grounds, or at any school-related activity.

Health and Safety Code 168.008

REQUIRED CARE

Each school shall adopt a procedure to ensure that a school nurse or at least one unlicensed diabetes care assistant (UDCA) is present and available to provide the required care to a student with diabetes during the regular school day. A district may not restrict the assignment of a student with diabetes to a particular campus on the basis that the campus does not have the required UDCA's.

Health and Safety Code 168.007(c)–(d)

If a school nurse is assigned to a campus and the nurse is available, the nurse shall perform the tasks necessary to assist a student with diabetes in accordance with the student's IHP.

SCHOOL NURSE
NOT AVAILABLE

If a school nurse is not assigned to the campus or a school nurse is not available, a UDCA shall perform the tasks necessary to assist the student in accordance with the student's IHP and in compliance with any guidelines provided during UDCA training. A UDCA may perform these tasks only if the parent or guardian of the student signs an agreement that:

1. Authorizes a UDCA to assist the student; and
2. States that the parent or guardian understands that a UDCA is not liable for civil damages [see IMMUNITY FROM LIABILITY, below].

Health and Safety Code 168.007(a)

If a school nurse is not assigned to a campus:

1. A UDCA must have access to an individual with expertise in the care of persons with diabetes, such as a physician, a registered nurse, a certified diabetes educator, or a licensed dietitian; or
2. The principal must have access to the physician responsible for the student's diabetes treatment.

Health and Safety Code 168.007(b)

UNLICENSED
DIABETES CARE
ASSISTANTS

At each school in which a student with diabetes is enrolled, the principal, or designee, shall:

1. Seek school employees who are not health-care professionals to serve as UDCA's and to care for students with diabetes; and
2. Make efforts to ensure the school has:
 - a. At least one UDCA if a full-time nurse is assigned to the school; and
 - b. At least three UDCA's if a full-time nurse is not assigned to the school.

"School employee" means a person employed by a school, a local health department that assists the school under Health and Safety Code Chapter 168 (Care of Students with Diabetes), or another entity with whom the school has contracted to perform its duties under that chapter.

"Unlicensed diabetes care assistant" means a school employee who has successfully completed the required training [see UDCA TRAINING, below].

A school employee may not be subject to any penalty or disciplinary action for refusing to serve as a UDCA.

A UDCA shall serve under the supervision of the principal.

Health and Safety Code 168.001(5)–(6), ~~168.003–.004~~

UDCA TRAINING

If a school nurse is assigned to a campus, the nurse shall coordinate the training of school employees acting as UDCA's. Training for UDCA's must be provided by a health-care professional with expertise in the care of persons with diabetes or by a school nurse. The training must include instruction in the elements set forth at Health and Safety Code 168.005(d).

Training must be provided before the beginning of the school year or as soon as practicable following:

1. The enrollment of a student with diabetes at a campus that previously had no students with diabetes; or
2. A diagnosis of diabetes for a student at a campus that previously had no students with diabetes.

The school nurse or principal shall maintain a copy of the training guidelines and any records associated with the training.

Health and Safety Code 168.005

Note: Guidelines for training school employees who are not licensed health-care professionals to care for students with diabetes are available at <http://www.dshs.state.tx.us/diabetes/PDF/HB984.pdf>.

INFORMATION TO
EMPLOYEES

A district shall provide to each district employee who is responsible for providing transportation for a student with diabetes or supervising a student with diabetes during an off-campus activity a one-page information sheet that:

1. Identifies the student who has diabetes;
2. Identifies potential emergencies that may occur as a result of the student's diabetes and the appropriate responses to such emergencies; and
3. Provide the telephone number of a contact person in case of an emergency involving the student with diabetes.

Health and Safety Code 168.006

IMMUNITY FROM
LIABILITY

A school employee may not be subject to any disciplinary proceeding, as defined by Education Code 22.0512(b), resulting from any action taken in compliance with Health and Safety Code Chapter 168. The requirements of Chapter 168 are considered to involve the employee's judgment and discretion and are not considered ministerial acts for purposes of immunity under Education Code 22.0511. *Health and Safety Code 168.009(a)* [See DG]

A school nurse is not responsible for and may not be subject to disciplinary action under Occupations Code Chapter 301 for actions performed by a UDCA. *Health and Safety Code 168.009(b)*

A UDCA who assists a student as provided above [see REQUIRED CARE] in compliance with the student's IHP:

1. Is not considered to be engaging in the practice of professional or vocational nursing under Occupations Code Chapter 301 or other state law; and
2. Is exempt from any applicable state law or rule that restricts the activities that may be performed by a person who is not a health-care provider.

A UDCA may exercise reasonable judgment in deciding whether to contact a health-care provider in the event of a medical emergency involving a student with diabetes.

Health and Safety Code 168.007(e)-(f)

**CERTAIN STUDENTS
AT RISK FOR
ANAPHYLAXIS**

The board shall adopt and administer a policy for the care of students with a diagnosed food allergy at risk for anaphylaxis based on guidelines developed by the commissioner of state health services. A district that implements a policy for the care of students with a diagnosed food allergy at risk for anaphylaxis before the development of the commissioner's guidelines shall review the policy and revise the policy as necessary to ensure the policy is consistent with the guidelines.

The commissioner's guidelines may not:

1. Require a district to purchase prescription anaphylaxis medication, such as epinephrine, or require any other expenditure that would result in a negative fiscal impact on the district; or
2. Require the personnel of a district to administer anaphylaxis medication, such as epinephrine, to a student unless the anaphylaxis medication is prescribed for that student.

This section does not waive any liability or immunity of the district or its officers or employees, or create any liability for or a cause of action against the district or its officers or employees.

Education Code 38.0151(a)-(d)

Note: See FB for the application of Section 504 of the Rehabilitation Act to students who qualify for individualized health plans.

LIAISON FOR COURT-RELATED STUDENTS

A district shall appoint at least one educator, as defined by Education Code 5.001(5), to act as a liaison officer for court-related students. The liaison officer shall provide counseling and other services for court-related students and their parents to establish or reestablish normal attendance and progress in school. *Education Code 37.014*

LIAISON FOR HOMELESS STUDENTS

A district shall designate an appropriate staff person as the district liaison for homeless children. A district shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaison.

The liaison shall ensure that:

1. Homeless children are identified by school personnel and through coordination activities with other entities and agencies;
2. Homeless children enroll in, and have a full and equal opportunity to succeed in, district schools;
3. Homeless families and children receive educational services for which they are eligible, including Head Start, Even Start, and district preschool programs, and referrals to health care, dental, mental health, and other appropriate services;
4. The parents or guardians of homeless children are informed of the available educational and related opportunities and are provided meaningful opportunities to participate in the education of their children;
5. Public notice of the educational rights of homeless children is disseminated where such children receive services, such as schools, family shelters, and soup kitchens;
6. Enrollment disputes are mediated; and
7. The parent or guardian of a homeless child, and any unaccompanied youth, are fully informed of all transportation services, including transportation to the school of origin, and are assisted in accessing transportation to the school of enrollment.

42 U.S.C. 11432(g)(6)(A)

LIAISON FOR CHILDREN IN CONSERVATORSHIP OF THE STATE

Each district shall appoint at least one employee to act as a liaison officer to facilitate the enrollment in or transfer to a public school of a child in the district who is in the conservatorship of the state. *Education Code 33.904*

SCHOOL-COMMUNITY
GUIDANCE CENTER

*A district may establish a school-community guidance center designed to locate and assist children with problems that interfere with their education, including juvenile offenders and children with severe behavioral problems or character disorders.

Each center shall coordinate efforts of district personnel, local police departments, school attendance officers, and probation officers in working with students, dropouts, and parents in identifying and correcting factors that adversely affect the education of the children.

Education Code 37.051

Upon request from a superintendent, a governmental agency concerned with children that has jurisdiction in a district shall cooperate with the school-community guidance center and shall designate a liaison to work with the center in identifying and correcting problems affecting school-age children in the district. The governmental agency may establish or finance a school-community guidance center jointly with a district according to terms approved by the governing body of each participating entity. *Education Code 37.053*

COOPERATIVE
PROGRAMS

*A board may develop cooperative programs with state youth agencies for children found to have engaged in delinquent conduct. *Education Code 37.052*

*(Optional provision)

PARENTAL NOTICE
AND ACCESS TO
INFORMATION

Before a student is admitted to a school-community guidance center, the administrator of the center shall notify the student's parent or guardian that the student has been assigned to attend the center.

The notice must include:

1. The reason the student has been assigned to the center;
2. A statement that on request the parent or guardian is entitled to be fully informed in writing of any treatment method or testing program involving the student; and
3. A statement that the parent or guardian may request to be advised and to give written, signed consent for any psychological testing or treatment involving the student.

If after notification, the parent refuses to consent to testing or treatment of the student, the center may not provide any further psychological treatment or testing.

A parent or guardian of a student attending a center is entitled to inspect:

1. Any instructional or guidance material to be used by the student, including teachers' manuals, tapes, and films; and
2. The results of any treatment, testing, or guidance method involving the student.

The administrator of the center may set a schedule for inspection of materials that allows reasonable access but does not interfere with the conduct of classes or business activities of the school.

Education Code 37.054

PARENTAL
INVOLVEMENT

On admitting a student to a school-community guidance center, a representative of a district, the student, and the student's parent or legal guardian shall develop an agreement that specifies the responsibilities of the parent and the student. The agreement must include:

1. A statement of the student's behavioral and learning objectives;
2. A requirement that the parent attend specified meetings and conferences for teacher review of the student's progress; and
3. The parent's acknowledgement that the parent understands and accepts the responsibilities imposed by the agreement regarding attendance at meetings and conferences and assistance in meeting objectives, defined by the district, to aid student remediation.

A superintendent may obtain a court order from a district court in the district requiring a parent to comply with such an agreement. A parent who violates such a court order may be punished for contempt of court.

COURT
SUPERVISION

If a district, the student, and the parent or guardian for any reason fail to reach an agreement, any party may request the juvenile court or its designee to conduct a hearing and enter an order establishing the responsibilities and duties of each of the parties as the court deems appropriate.

Education Code 37.055, ~~37.~~.056

~~PUBLIC SCHOOL
CHILD CARE~~

~~A district shall annually consider, during at least two public hearings, the need for and availability of child care before, after, or both before and after the school day and during school holidays and vacations for the district's school-age students. A district shall effec-~~

~~tively publicize the hearings and hold all hearings before the start of the school year.~~

~~For purposes of this requirement, "school-age" means children enrolled as students in prekindergarten through grade 7.~~

~~By May 1 of each year, the Work and Family Policies Clearinghouse in the Texas Workforce Commission shall distribute to each affected district information that describes model prekindergarten and school-age child care programs and explains how a district may obtain federal or state funds to operate such programs. A district shall distribute the information to the public at the hearings.~~

~~Education Code 33.902~~

~~**Note:** This section applies only to districts that: (1) on September 1 of a school year have a student membership of 5,000 or more; and (2) do not provide directly or by contract child care services before and after the school day and during school holidays and vacations for a district's school-age students.~~

This introductory page outlines the contents of the student records policy. See the following sections for statutory provisions on:

SECTION I	Education Records	pages 2–4
	<ol style="list-style-type: none"> 1. Definition of ‘education records’ 2. Screening records 3. Immunization records 4. Medical records 5. Food allergy information 5.6. Assessment instruments 6.7. Academic achievement record 7.8. Enrollment records 	
SECTION II	Access, Disclosure, and Amendment	pages 4 5–16
	<ol style="list-style-type: none"> 1. Access to education records 2. Information collection 3. Subpoenaed and sex offender records 4. Request procedure 5. Destruction of requested records 6. De-Identified records, authenticating requestors’ identities 7. Transfer by third parties to other persons 8. Record of access to student records 9. Right to amend records 10. Fees for copies 11. Records of students with disabilities 12. Annual notification of rights 	
SECTION III	Directory Information	pages 16–19
	<ol style="list-style-type: none"> 1. Definition and disclosure of directory information 2. Designation of directory information 3. Annual notice, contents 4. Student recruiting information, parental consent to release 	
SECTION IV	Videotapes and Recordings	page 19 pages 19–20
	<ol style="list-style-type: none"> 1. Parental consent 2. Exceptions to consent 	
SECTION V	Information from Law Enforcement	pages 19–21 20–22
	<ol style="list-style-type: none"> 1. Criminal records 2. Duty to flag records of missing children 	

SECTION I: EDUCATION RECORDS**'EDUCATION
RECORDS' DEFINED**

For the purposes of this policy, the term "education records" means those records, files, documents, and other materials that contain information directly related to a student and are maintained by an education agency or institution or by a person acting for such agency or institution.

The term "education records" does not include:

1. Records that are created or received by a district after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student.
2. Records made by district personnel that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to anyone other than a temporary substitute for the maker of the record.
3. Records maintained by a law enforcement unit of a district that were created by that law enforcement unit for the purpose of law enforcement.
4. Records on a student who is 18 years of age or older, or who is attending an institution of postsecondary education, that are:
 - a. Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;
 - b. Made, maintained, or used only in connection with treatment of the student; and
 - c. Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.
5. Grades on peer-graded papers before they are collected and recorded by a teacher.

20 U.S.C. 1232g; 34 CFR 99.3

**SCREENING
RECORDS**

The principal of each school shall maintain records of screening for special senses and communication disorders, spinal screening, and assessment for type 2 diabetes for each student in the school. Records shall be open for inspection by the state or local health department. The Texas-Mexico Border Health Coordination Office

may, directly or through local health departments, enter a school and inspect records relating to assessment for type 2 diabetes. Individual screening records may be transferred among schools in accordance with provisions below concerning ACCESS BY OTHER PERSONS. *20 U.S.C. 1232g; Health & Safety Code 36.006, 37.003, 95.004; 25 TAC 37.148(o)* [See FFAA]

IMMUNIZATION
RECORDS

A district shall maintain an individual immunization record during the period of attendance for each student admitted. The records shall be open for inspection at all reasonable times by the Texas Education Agency or by representatives of local health departments or the Texas Department of State Health Services. A district shall cooperate with other districts in transferring students' immunization records between other schools. Specific approval from students, parents, or guardians is not required prior to making such record transfers. *Education Code 38.002* [See FFAB]

MEDICAL RECORDS

The parent or guardian of a student is entitled to access to the student's medical records maintained by a district. On request of a student's parent or guardian, a district shall provide a copy of the student's medical records to the parent or guardian. A district may not impose a charge that exceeds the amount authorized by Section 552.261 of the Government Code [see GBA]. *Education Code 38.0095*

PRIVACY RULE FOR
NON-EDUCATION
RECORDS'

To the extent a district is a covered entity under the Health Insurance Portability and Accountability Act (HIPAA), the district must comply with the Privacy Rule, 45 CFR Part 164, with respect to protected health information that is not an education record. *45 CFR 160.103, 164.501* [See CRD]

FOOD ALLERGY
INFORMATION

Information regarding a child's food allergy, regardless of how it is received by the school or school district, shall be retained in the child's student records but may not be placed in the health record maintained for the child by the district.

EXCEPTIONS

If the school receives documentation of a food allergy from a physician, that documentation shall be placed in the health record maintained for the child by the district.

A registered nurse may enter appropriate notes about a child's possible food allergy in the health record maintained for the child by the district, including a notation that the child's student records indicate that a parent has notified the district of the child's possible food allergy.

Education Code 25.0022(d)-(f)

ASSESSMENT
INSTRUMENTS

The results of individual student performance on basic skills assessment instruments or other achievement tests administered by a district are confidential and may be made available only to the student, the student's parent or guardian, and to the school personnel directly involved with the student's educational program. However, overall student performance data shall be aggregated by ethnicity, sex, grade level, subject area, campus, and district, and made available to the public, with appropriate interpretations, at regularly scheduled board meetings. The information may not contain the names of individual students or teachers. *Education Code 39.030(b)* [See EKB]

ACADEMIC
ACHIEVEMENT
RECORD (GRADES
9–12)

A district shall use the academic achievement record (transcript) form adopted by the State Board. This form shall serve as the academic record for each student and shall be maintained permanently by the district. Copies of the record shall be made available to students transferring to another district. The information may be provided to the student or to the receiving district or to both. A district shall respond promptly to all requests for student records from receiving districts. *19 TAC 74.14(b)* [See EI]

ENROLLMENT
RECORDS

If a parent or other person with legal control of a child enrolls the child in a district school, the parent or other person, or the school district in which the child most recently attended school, shall furnish to the district all of the following:

1. The child's birth certificate, or another document suitable as proof of the child's identity as defined by the Commissioner in the *Student Attendance Accounting Handbook*.
2. A copy of the child's records from the school the child most recently attended if he or she was previously enrolled in a school in Texas or in another state.

Education Code 25.002(a)

A district must furnish information under items 1 and 2 not later than the tenth working day after the date the district receives a request for the information.

If a parent or other person with legal control of a child under a court order requests that a district transfer a child's student records, the district to which the request is made shall notify the parent or other person as soon as practicable that the parent or other person may request and receive an unofficial copy of the records for delivery in person to a school in another district.

Education Code 25.002(a-1) [See FD]

SECTION II: ACCESS, DISCLOSURE, AND AMENDMENTACCESS TO
EDUCATION RECORDS

DEFINITIONS

'ATTENDANCE'

"Attendance" includes, but is not limited to:

1. Attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and
2. The period during which a person is working under a work-study program.

'DISCLOSURE'

"Disclosure" means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

'PARENT'

"Parent" includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

'PERSONALLY
IDENTIFIABLE
INFORMATION'

"Personally identifiable information" includes, but is not limited to:

1. The student's name;
2. The name of the student's parent or other family members;
3. The address of the student or student's family;
4. A personal identifier, such as the student's biometric record, defined as a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual (e.g., fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting); social security number; or student number;
5. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;
6. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
7. Information requested by a person who the district reasonably believes knows the identity of the student to whom the education record relates.

'RECORD'

"Record" means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

34 CFR 99.3

'SIGNED AND
DATED WRITTEN
CONSENT'

"Signed and dated written consent" may include a record and signature in electronic form that:

1. Identifies and authenticates a particular person as the source of the electronic consent; and
2. Indicates such person's approval of the information contained in the electronic consent.

34 CFR 99.30(d)

ACCESS BY
PARENTS

Access to the education records of a student who is or has been in attendance at a school in a district shall be granted to the parent of the student who is a minor or who is a dependent for tax purposes.

34 CFR 99.10, 99.31(a)(8)

A district shall presume that a parent has authority to inspect and review the student's records unless it has been provided with evidence that there is a court order, state statute, or legally binding document that specifically revokes these rights. A court may order the custodian of records to delete all references in a child's records to the place of residence of either party appointed as conservator before their release to another party appointed as conservator.

34 CFR 99.4; Family Code 153.012, ~~153.073~~

A parent is entitled to access to all written records of a district concerning the parent's child, including attendance records, test scores, grades, disciplinary records, counseling records, psychological records, applications for admission, health and immunization information, teacher and counselor evaluations, and reports of behavioral patterns. *Education Code 26.004*

ACCESS BY
STUDENT

Whenever a student has attained 18 years of age or is attending an institution of postsecondary education, the rights accorded to, and consent required of, parents transfer from the parents to the student.

Nothing in this section prevents a district from disclosing education records, or personally identifiable information from education records, to a parent without prior written consent of an eligible student if the disclosure meets the conditions in 34 CFR 99.31(a), including if the student is a dependent for tax purposes or in the case of a health or safety emergency.

34 CFR 99.5

If material in the education record of a student includes information on another student, only the portion of the material relating to the

student whose records were requested may be inspected and reviewed. *34 CFR 99.12(a)*

ACCESS BY OTHER
PERSONS

Personally identifiable information in education records shall not be released without the written consent of the student's parents, except to the following:

SCHOOL
OFFICIALS

1. School officials, including teachers, who have legitimate educational interests. An administrator, nurse, or teacher is entitled to access to a student's medical records maintained by a district for reasons determined in district policy.

A contractor, consultant, volunteer, or other party to whom a district has outsourced institutional services or functions may be considered a school official under this paragraph provided that the outside party:

- a. Performs an institutional service or function for which the district would otherwise use employees;
- b. Is under the direct control of the district with respect to the use and maintenance of education records; and
- c. Is subject to the requirements of 34 CFR 99.33(a) governing the use and redisclosure of personally identifiable information from education records.

A district must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests. A district that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it remains in compliance with the legitimate educational interest requirement.

34 CFR 99.31, .36; Education Code 38.009

OFFICIALS OF
OTHER SCHOOLS

2. Officials of other schools or school systems in which the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer, provided that a district either:
 - a. Includes in its policies a statement that notifies the parent or student that it forwards education records on request of the other school to such officials; or
 - b. Makes a reasonable attempt to notify the parent (unless the record transfer is initiated by the parent).

In either case, a district shall furnish a copy of the transferred records to the parent if requested and shall give the parent an opportunity for a hearing to challenge the content of the record.

34 CFR 99.34

AUTHORIZED
GOVERNMENTAL
REPRESENTATIVES

3. Authorized representatives of the officials or agencies headed by the Comptroller General of the United States, the Attorney General of the United States, the Secretary of Education, or state and local educational authorities who require access to student or other records necessary in connection with the audit and evaluation of federal- or state-supported education programs or in connection with the enforcement of or compliance with federal legal requirements that relate to such programs. *34 CFR 99.35*

A district may not refuse to report information concerning a student holding an F, J, or M visa on the basis of the Family Educational Rights and Privacy Act (FERPA) and any regulation implementing FERPA. A district is authorized and required to report information that would ordinarily be protected by FERPA only to the extent required by 8 U.S.C. 1372, 8 CFR 214.3, or any corresponding regulation. *8 U.S.C. 1372(c)(2); 8 CFR 214.1(h)*

FINANCIAL AID
PERSONNEL

4. Personnel involved with a student's application for, or receipt of, financial aid.

JUVENILE
JUSTICE
OFFICIALS

5. State and local officials to whom such information is specifically allowed to be reported or disclosed by state statute **adopted if:**

~~a. Prior to November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve the student whose records are released, or~~

~~b. After November 19, 1974, if:~~

~~a. The allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve, prior to adjudication, the student whose records are released; and~~

~~b. The officials and authorities to whom such information is disclosed certify in writing to the district that the information will not be disclosed to any other party except as provided under state law without the prior written consent of the parent of the student.~~

A school district superintendent or the superintendent's designee shall disclose information contained in a student's educational records to a juvenile service provider as required by Family Code 58.0051 [see GRAC].

Education Code 37.084(a)

ORGANIZATIONS
CONDUCTING
STUDIES

6. Organizations conducting studies for, or on behalf of, districts for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction. Such studies must be conducted so that personal identification of students and their parents will not be revealed to persons other than authorized personnel of the organizations conducting the studies who have legitimate interests in the information. Such information must be destroyed when no longer needed for the original purposes of the studies.

The district must enter into a written agreement with the organization that:

- a. Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
- b. Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;
- c. Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in this part, by anyone other than representatives of the organization with legitimate interests; and
- d. Requires the organization to destroy or return to the district all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be returned or destroyed.

A district is not required to initiate a study or agree with or endorse the conclusions or results of the study.

ACCREDITING
ORGANIZATIONS

7. Accrediting organizations that require the information for purposes of accreditation.

HEALTH OR
SAFETY
EMERGENCY

8. Appropriate persons, including the student's parents, who, in an emergency, must have such information in order to protect the health or safety of the student or other person.

In making a determination, a district may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If the district determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. If, based on the information available at the time of the determination, there is a rational basis for the determination, the United States Department of Education will not substitute its judgment for that of the district in evaluating the circumstances and making its determination.

34 CFR 99.36

DIRECTORY
INFORMATION

9. Any person requesting directory information after a district has given public notice of that definition. *34 CFR 99.37*

20 U.S.C. 1232g(b); 34 CFR 99.31

WRITTEN
CONSENT

The parent shall provide a signed and dated written consent before a district discloses personally identifiable information from a student's education records to any individual, agency, or organization other than the parent, the student, or those listed above. Such consent shall specify records to be released, the reason for such release, and to whom the records are to be released. *34 CFR 99.30*

INFORMATION
COLLECTION

U.S. DOE FUNDED
SURVEYS

No student shall be required, as part of any program funded in whole or in part by the U.S. Department of Education (DOE), to submit to a survey, analysis, or evaluation that reveals information concerning the following topics without the prior consent of the student (if the student is an adult or emancipated minor), or, in the case of an unemancipated minor, without the prior written consent of the parent:

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

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

20 U.S.C. 1232h(b)

INFORMATION
COLLECTION
FUNDED BY OTHER
SOURCES

Except as provided by 20 U.S.C. 1232h(a) or (b), as a condition of receiving funds from programs funded in whole or in part by the U.S. DOE, a district shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), and provide for parent notification in accordance with 20 U.S.C. ~~1232~~1232h(c)(2). **20 U.S.C. 1232h(c)(1)–(4)** [See EF]

SUBPOENAED
RECORDS

A district shall release student records to an entity or persons designated in a subpoena. A district shall not disclose to any person the existence or contents of the subpoena if a court orders the district to refrain from such disclosure. Unless the court or other issuing agency orders the district to refrain from such disclosure or the order is an ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331, the district shall make a reasonable effort to notify the parents and the student of all such subpoenas in advance of compliance. *20 U.S.C. 1232g(b)(1)(J), (b)(2)(B); 34 CFR 99.31(a)(9)*

SEX OFFENDERS

A district may disclose personally identifiable information without consent if the disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to the district under 42 U.S.C. 14071 and applicable federal guidelines. *34 CFR 99.31(a)(16)*

REQUEST
PROCEDURE

Upon request of a properly qualified individual, access to a student's education record shall be granted within a reasonable period of time, not to exceed 45 days. A district shall respond to reasonable requests for explanations and interpretations of the records. *34 CFR 99.10*

DESTRUCTION OF
RECORDS

A district shall not destroy any education records if there is an outstanding request to inspect and review the records. *34 CFR 99.10(e)*

DE-IDENTIFIED
RECORDS

A district, or a party that has received education records or information from education records, may release the records or information without the parent's written consent after the removal of all personally identifiable information provided that the district or other party has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information.

EDUCATION
RESEARCH

A district, or a party that has received education records or information from education records, may release de-identified student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that:

1. A district or other party that releases de-identified data under this section does not disclose any information about how it generates and assigns a record code, or that would allow a recipient to identify a student based on a record code;
2. The record code is used for no purpose other than identifying a de-identified record for purposes of education research and cannot be used to ascertain personally identifiable information about a student; and
3. The record code is not based on a student's social security number or other personal information.

AUTHENTICATING
REQUESTORS'
IDENTITIES

A district must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom the district discloses personally identifiable information from education records.

34 CFR 99.31(b)–(c)

TRANSFER NOT
PERMITTED

Personal information from student education records shall be transferred to a third party only on the condition that such party will not permit any other party to have access to such information without the written consent of the student's parent. If a third party permits access to information in violation of this policy, a district shall not permit access to information from education records to that third party for a period of not less than five years. *20 U.S.C. 1232g(b)(4)(B); 34 CFR 99.33(a)(1)*

A district shall inform a party to whom a disclosure is made of the requirements of 34 CFR 99.33, unless the disclosure is made pursuant to a court order, lawfully issued subpoena, or litigation; the disclosed information is directory information; the disclosure concerns sex offenders; or the disclosure is made to a parent of a stu-

dent who is not an eligible student or to a student. 34 CFR 99.33(c), (f)-(d)

A district may disclose personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of the district if:

1. The disclosures meet the requirements of 34 CFR 99.31; and
2. The district has complied with the requirements of 34 CFR 99.32(b) regarding the record of disclosure; or a state or local educational authority or federal official or agency listed requesting information through a subpoena or ex parte order has complied with the requirements of 34 CFR 99.32(b)(2).

34 CFR 99.33(b)

RECORD OF ACCESS
TO STUDENT
RECORDS

Each school shall maintain a record, kept with the education record of each student that indicates all individuals, agencies, or organizations that have requested or obtained access to a student's education records, as well as the names of state and local educational authorities and federal officials and agencies listed in 34 CFR 99.31(a)(3) that may make further disclosures of personally identifiable information from the student's education records without consent. A district must obtain a copy of the record of further disclosures maintained by the named authorities, officials, and agencies under 34 CFR 99.32(b)(2) and make it available in response to a parent's request to review the record.

A district must record the following information when it discloses personally identifiable information from education records under the health or safety emergency exception [see HEALTH & SAFETY EMERGENCY, above]:

1. The articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and
2. The parties to whom the district disclosed the information.

34 CFR 99.32

The records shall include at least the name of the person or agency that made the request and the legitimate interest the person or agency had in the information. The record will be maintained as long as the district maintains the student's education record. The record of access shall be available only to parents, school officials responsible for custody of the records, and those state, local, and federal officials authorized to audit the operation of the system.

20 U.S.C. 1232g(b)(4)(A)

	<p>The record shall not include requests for access by, or access granted to, parents of the student or officials of a district, requests accompanied by prior written consent of the parent, requests for directory information, or a party seeking or receiving records in accordance with a subpoena or ex parte order. <i>34 CFR 99.32(d)</i></p>
RIGHT TO AMEND RECORDS	<p>The parent of a student whose records are covered by this policy may ask a district to amend the student's record if the parent believes it contains information that is inaccurate, misleading, or in violation of the student's right of privacy or other rights. If a district decides not to amend the education records requested, it shall inform the parent of its decision and his or her right to a hearing to challenge the content of the student's education records.</p> <p>If a district decides to amend the records as a result of the hearing, it shall inform the parent in writing. If, as a result of the hearing, the district decides not to amend the records, it shall inform the parent of the right to place a statement in the records commenting on the contested information and/or stating why the parent disagrees with the decision of the district. Any explanation shall be maintained with the contested part of the record for as long as the record is maintained and shall be disclosed whenever the contested portion of the record is disclosed.</p> <p><i>34 CFR 99.20, 99.21</i></p>
FEES FOR COPIES	<p>No fee shall be charged to search for or to retrieve the education records of a student. A fee may be charged for copies of education records that are made for the parents or students under this policy provided that the fee does not effectively prevent them from exercising their right to inspect and review those records. Hardship cases shall be dealt with on an individual basis. <i>20 U.S.C. 1232g; 34 CFR 99.11; Education Code 26.012</i></p>
RECORDS OF STUDENTS WITH DISABILITIES	<p>A district shall permit parents to inspect and review education records collected, maintained, or used for purposes of identifying, evaluating, placing, or educating students with disabilities. <i>34 CFR 300.613(a)</i></p>
ACCESS RIGHTS	<p>In addition to policies applicable to all student records, the following guidelines shall apply when parents of a student with disabilities request to review or inspect district records relating to the education of their child:</p> <ol style="list-style-type: none"> 1. Parents may request that a representative inspect and review the records. <i>34 CFR 300.613(b)(3)</i> 2. A district shall comply with a request without unnecessary delay and before any meeting regarding an individualized education program (IEP) or hearing relating to the identification,

evaluation, or placement of the child, and in no case longer than 45 days after the request. *34 CFR 300.613(a)*

3. A district shall keep a record of persons obtaining access to these student records (except access by parents and authorized employees), including name, date of access, and the purpose for which the person is authorized to use the records. *34 CFR 300.614*

LIST OF TYPES AND LOCATIONS OF INFORMATION

A district shall provide parents on request a list of types and locations of education records. *34 CFR 300.616*

PARENTAL CONSENT

Parental consent must be obtained before personally identifiable information is used for any purpose other than meeting a requirement under the Individuals with Disabilities Education Act or disclosed to anyone other than officials of agencies collecting or using this information. A district may not release information from these records without parental consent except as provided in FERPA. *34 CFR 300.622*

CONFIDENTIALITY

A district shall protect the confidentiality of personally identifiable information in collection, storage, disclosure, and destruction of records. One official in a district shall assume responsibility for ensuring confidentiality of personally identifiable information. All persons collecting or using this information shall receive training or instruction concerning the legal requirements involved in handling these records. A district shall maintain for public inspection a current listing of the names and positions of employees who may have access to this information. *34 CFR 300.623*

DESTRUCTION OF INFORMATION

A district shall inform parents when personally identifiable information collected, maintained, or used to provide special education and related services is no longer needed to provide educational services to the student. Such information shall be destroyed at the request of the parents.

A permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

34 CFR 300.624

ANNUAL NOTIFICATION OF RIGHTS

A district shall give parents of students in attendance and eligible students in attendance annual notification of their rights under FERPA.

The notice must inform parents or eligible students that they have the right to:

1. Inspect and review the student's education records;
2. Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;
3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the Act and 34 CFR 99.31 authorize disclosure without consent; and
4. File with the United States Department of Education a complaint under 34 CFR 99.63 and 99.64 concerning alleged failures by the district to comply with the requirements of the Act and 34 CFR part 99.

The notice must include all of the following:

1. The procedure for exercising the right to inspect and review education records.
2. The procedure for requesting amendment of records under 34 CFR 99.20.
3. If the district has a policy of disclosing education records under 34 CFR 99.31(a)(1), a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

A district may provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights.

A district shall effectively notify parents who are disabled and parents of students who have a primary or home language other than English.

20 U.S.C. 1232g(e); 34 CFR 99.7

SECTION III: DIRECTORY INFORMATION

DIRECTORY INFORMATION DEFINITION

"Directory information" means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information includes the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, dates of attendance, grade level, enrollment status, participation in officially recognized activities and sports, weight and height of members of athletic teams, honors and awards received, and the most recent educational agency or institution attended. "Directory information" does not include a student's:

1. Social security number; or

2. Student identification number, unless the student identification number, user identification number, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number, password, or other factor known or possessed only by the authorized user.

DISCLOSURE OF
DIRECTORY
INFORMATION

A district may release directory information if it has given public notice of:

1. The types of personally identifiable information that it has designated as directory information.
2. The right of the parent to refuse to permit the district to designate any or all of that information about the student as directory information.
3. The period of time within which the parent must notify the district in writing that he or she does not want any or all of those types of information about the student designated as directory information.

IN CLASS

A parent or eligible student may not use the right of refusal to opt out of directory information disclosures to prevent a district from disclosing or requiring a student to disclose the student's name, identifier, or institutional e-mail address in a class in which the student is enrolled.

FORMER
STUDENTS

A district may disclose directory information about former students without satisfying the public notice conditions above. However, the district must continue to honor any valid request to opt out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt-out request.

CONFIRMATION
OF IDENTITY OR
RECORDS

A district may not disclose or confirm directory information without meeting the written consent requirements in 34 CFR 99.30 if a student's social security number or other non-directory information is used alone or combined with other data elements to identify or help identify the student or the student's records.

34 CFR 99.3, 99.37

DESIGNATION OF
DIRECTORY
INFORMATION

A district may designate as directory information any or all information defined as directory information by FERPA. Directory information under that Act that is not designated by a district as directory information for that district is excepted from disclosure by the district under Government Code Chapter 552. [See GBA]

Directory information consented to by a parent for use only for a limited school-sponsored purpose, such as for a student directory, student yearbook, or district publication, if any such purpose has been designated by a district, remains otherwise confidential and may not be released under Government Code Chapter 552.

ANNUAL NOTICE

A district shall provide the following to the parent of each district student, at the beginning of each school year or on enrollment of the student after the beginning of the school year:

1. A written explanation of the provisions of FERPA regarding the release of directory information about the student; and
2. Written notice of the right of the parent to object to the release of directory information about the student under FERPA.

CONTENTS OF
NOTICE

The notice must contain:

1. The following statement in boldface type that is 14-point or larger:

“Certain information about district students is considered directory information and will be released to anyone who follows the procedures for requesting the information unless the parent or guardian objects to the release of the directory information about this student. If you do not want [insert name of district] to disclose directory information from your child’s education records without your prior written consent, you must notify the district in writing by [insert date]. [Insert name of district] has designated the following information as directory information: [Here the district must include any directory information it chooses to designate as directory information for the district, such as a student’s name, address, telephone listing, electronic mail address, photograph, degrees, honors, and awards received, date and place of birth, major field of study, dates of attendance, grade level, most recent education institution attended, participation in officially recognized activities and sports, and the weight and height of members of athletic teams.]”;
2. A form, such as a check-off list or similar mechanism, that:
 - a. Immediately follows, on the same page or the next page, the required statement; and
 - b. Allows a parent to record:
 - (1) The parent’s objection to the release of all directory information or one or more specific categories of directory information if district policy permits the par-

ent to object to one or more specific categories of directory information;

- (2) The parent's objection to the release of a secondary student's name, address, and telephone number to a military recruiter or institution of higher education; and
- (3) The parent's consent to the release of one or more specific categories of directory information for a limited school-sponsored purpose if such purpose has been designated by the district and is specifically identified, such as for a student directory, student yearbook, or district publication; and

3. A statement that federal law requires districts receiving assistance under the Elementary and Secondary Education Act of 1965 to provide a military recruiter or an institution of higher education, on request, with the name, address, or telephone number of a secondary student unless the parent has advised the district that the parent does not want the student's information disclosed without the parent's prior written consent.

Education Code 26.013

STUDENT
RECRUITING
INFORMATION

Notwithstanding the DIRECTORY INFORMATION provisions above, each district receiving assistance under the Elementary and Secondary Education Act of 1965 (ESEA) shall provide, on a request made by military recruiters or an institution of higher education, access to secondary school students' names, addresses, and telephone listings.

CONSENT TO
RELEASE

A secondary school student or the parent of the student may request that the student's name, address, and telephone listing described above not be released without prior written parental consent, and a district shall notify parents of the option to make a request and shall comply with any request.

20 U.S.C. 7908

SECTION IV: VIDEOTAPES AND RECORDINGS

VIDEOTAPES AND
RECORDINGS

A district employee must obtain the written consent of a child's parent before the employee may make or authorize the making of a videotape of a child or record or authorize the recording of a child's voice.

EXCEPTIONS

A district employee is not required to obtain the consent of a child's parent before the employee may make a videotape of a child or

authorize the recording of a child's voice if the videotape or voice recording is to be used only for:

1. The purposes of safety, including the maintenance of order and discipline in common areas of the school or on school buses;
2. A purpose related to a cocurricular or extracurricular activity;
3. A purpose related to regular classroom instruction; or
4. Media coverage of the school.

Education Code 26.009 [See EHA, FM, and FO]

SECTION V: INFORMATION FROM LAW ENFORCEMENT

INFORMATION FROM LAW ENFORCEMENT

ORAL NOTICE OF ARREST OR REFERRAL

Upon receipt of oral notice from **the head of** a law enforcement agency **or designee** that ~~the law enforcement agency~~ has arrested a student or referred a student to the juvenile board for a specified offense [see **GRAGRAA**], a superintendent shall ~~promptly~~**immediately** notify all instructional and support personnel who have responsibility for supervising the student. All personnel shall keep the information received confidential.

WRITTEN NOTICE OF ARREST OR REFERRAL

Upon subsequent receipt of confidential, written notice of the arrest or referral, a superintendent or designee **may** send the information in the confidential notice to a district employee having direct supervisory responsibility over the student ~~if the superintendent or designee determines that the employee needs the information for educational purposes or for the protection of the person informed or others.~~

ORAL NOTICE OF CONVICTION OR ADJUDICATION

Upon receipt of oral notice from a prosecuting attorney of a student's conviction, deferred prosecution, or adjudication of a specified offense, including a statement as to whether the student is required to register as a sex offender, a superintendent shall, within 24 hours of receiving the notice, **or before the next school day, whichever is earlier**, notify all instructional and support personnel who have regular contact with the student.

NOTICE OF TRANSFER OR REENROLLMENT

Upon receipt of notice from a parole, probation, or community supervision office having jurisdiction over a student that a student has transferred or reenrolled, the superintendent of the district to which the student transfers or returns shall, within 24 hours of receiving the notice, **or before the next school day, whichever is earlier**, notify all instructional and support personnel who have regular contact with the student.

A person who receives information described above shall not disclose it except as specifically authorized by Code of Criminal Procedure 15.27.

**CONTENTS OF
NOTICE**

Required oral or written notice must include all pertinent details of the offense or conduct, including details of any:

- 1. Assaultive behavior or other violence;**
- 2. Weapons used in the commission of the offense or conduct; or**
- 3. Weapons possessed during the commission of the offense or conduct.**

Code of Criminal Procedure 15.27(a)-(c), (k)

Information received by a district under this provision shall not be attached to the permanent academic file of the student who is the subject of the report. A district shall destroy the information at the end of the academic year in which the report was filed. *Education Code 37.017*

**DUTY TO FLAG
RECORDS**

Upon receipt of notification from a law enforcement agency or the missing children and missing persons information clearinghouse that a child under 11 years of age who attended or who is enrolled in the school is missing, the school shall flag the child's records and maintain the records in its possession so that on receipt of a request regarding the child, the school will be able to notify law enforcement or the missing children and missing persons information clearinghouse that a request for a flagged record has been made.

**REQUEST IN
PERSON**

When a request for a flagged record is made in person, the school may not advise the requesting party that the request concerns a missing child and shall:

1. Require the person requesting the flagged record to complete a form stating the person's name, address, telephone number, and relationship to the child for whom a request is made, and the name, address, and birth date of the child;
2. Obtain a copy of the requesting party's driver's license or other photographic identification, if possible;
3. If the request is for a birth certificate, inform the requesting party that a copy of a certificate will be sent by mail; and
4. Immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and include a physical description of the requesting party, the identity and address of the requesting party, and a copy of the

requesting party's driver's license or other photographic identification.

After providing the information listed above, the school shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

REQUEST IN
WRITING

When a request for a flagged record is made in writing, the school may not advise the requesting party that the request concerns a missing child and shall immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and provide to the law enforcement agency a copy of the written request. After providing the notification, the school shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

REMOVAL OF FLAG

On the return of a missing child under 11 years of age, the law enforcement agency shall notify each school that has maintained flagged records for the child that the child is no longer missing. On receipt of this notification, the school shall remove the flag from the records.

A school that has reason to believe that a missing child has been recovered may request confirmation that the missing child has been recovered from the appropriate law enforcement agency or the missing children and missing persons information clearinghouse. If a response is not received after the 45th day after the date of the request for confirmation, the school may remove the flag from the record and shall inform the law enforcement agency or the missing children and missing persons information clearinghouse that the flag has been removed.

Code of Criminal Procedure 63.020-~~63.~~.022

APPLICABILITY OF UIL RULES AND DISTRICT POLICIES	A student enrolled in a district or who participates in an extracurricular activity or a University Interscholastic League (UIL) competition is subject to district policy and UIL rules regarding participation only when the student is under the direct supervision of an employee of the school or district in which the student is enrolled or at any other time specified by resolution of a board. <i>Education Code 33.081(b)</i> [See FO regarding additional standards of conduct for extracurricular activities]
ATHLETIC ACTIVITIES UIL FORMS	Each student participating in an extracurricular athletic activity must complete the UIL forms entitled "Preparticipation Physical Evaluation — Medical History" and "Acknowledgement of Rules." Each form must be signed by both the student and the student's parent or guardian. <i>Education Code 33.203(a)</i>
NOTICES	<p>Each school that offers an extracurricular athletic activity shall:</p> <ol style="list-style-type: none"> 1. Prominently display at its administrative offices the telephone number and electronic mail address that the Commissioner maintains for reporting violations of Education Code Chapter 33, Subchapter F; and 2. Provide each student participant and the student's parent or guardian a copy of the text of Education Code 33.201–33.207 and a copy of the UIL's parent information manual. The document may be provided in an electronic format unless otherwise requested.
SAFETY TRAINING	<p><i>Education Code 33.207(b), 33.208</i></p> <p>A district shall provide training to students participating in athletic extracurricular activities related to:</p> <ol style="list-style-type: none"> 1. Recognizing the symptoms of potentially catastrophic injuries, including head and neck injuries, concussions, injuries related to second impact syndrome, asthma attacks, heatstroke, cardiac arrest, and injuries requiring use of a defibrillator; and 2. The risks of using dietary supplements designed to enhance or marketed as enhancing athletic performance. <p>The training may be conducted by the district, the American Red Cross, the American Heart Association, or a similar organization, or by the UIL.</p>
RECORDS	<p><i>Education Code 33.202(d), (f)–(e)</i></p> <p>A superintendent shall maintain complete and accurate records of the district's compliance and the district shall make available to the public proof of compliance for each person enrolled in the district who is required to receive safety training.</p>

A campus that is determined by the superintendent to be out of compliance with the safety training requirements or the requirements regarding unsafe practices and safety precautions (see below) shall be subject to the range of penalties determined by the UIL.

Education Code 33.206

UNSAFE
PRACTICES

A coach, trainer, or sponsor for an extracurricular athletic activity may not encourage or permit a student participant to engage in any unreasonably dangerous athletic technique that unnecessarily endangers the health of a student, including using a helmet or any other sports equipment as a weapon. *Education Code 33.204*

SAFETY
PRECAUTIONS

A coach, trainer, or sponsor for an extracurricular athletic activity shall at each athletic practice or competition ensure that:

1. Each student participant is adequately hydrated;
2. Any prescribed asthma medication for a student participant is readily available to the student;
3. Emergency lanes providing access to the practice or competition area are open and clear; and
4. Heatstroke prevention materials are readily available.

If a student participating in a practice or competition becomes unconscious during the activity, the student may not:

1. Return to the activity during which the student became unconscious; or
2. Participate in any extracurricular athletic activity until the student receives written authorization for such participation from a physician.

Education Code 33.205

PREVENTION,
TREATMENT, AND
OVERSIGHT OF
CONCUSSIONS

“Interscholastic athletic activity” includes practice and competition, sponsored or sanctioned by a district, including a home-rule district, or a public school, including any school for which a charter has been granted under Education Code Chapter 12, or the UIL. *Education Code 38.152*

“Concussion” means a complex pathophysiological process affecting the brain caused by a traumatic physical force or impact to the head or body, which may include temporary or prolonged altered brain function resulting in physical, cognitive, or emotional symptoms or altered sleep patterns, and involve loss of consciousness. *Education Code 38.151(4)*

**CONCUSSION
OVERSIGHT
TEAM**

The board of a district with students enrolled who participate in an interscholastic athletic activity shall appoint or approve a concussion oversight team. *Education Code 38.153(a)*

Each concussion oversight team must include at least one physician and, to the greatest extent practicable, considering factors including the population of the metropolitan statistical area in which the district is located, district enrollment, and the availability of and access to licensed health-care professionals in the district or charter school area, must also include one or more of the following: an athletic trainer, an advanced practice nurse, a neuropsychologist, or a physician assistant. If a district employs an athletic trainer, the athletic trainer must be a member of the concussion oversight team.

Each member of the concussion oversight team must have had training in the evaluation, treatment, and oversight of concussions at the time of appointment or approval as a member of the team. The members also must take a training course at least once every two years and submit proof of timely completion to the superintendent or designee in accordance with Education Code 38.158.

Education Code 38.154, .158

**RETURN-TO-
PLAY
PROTOCOL**

Each concussion oversight team shall establish a return-to-play protocol, based on peer-reviewed scientific evidence, for a student's return to interscholastic athletics practice or competition following the force or impact believed to have caused a concussion. *Education Code 38.153(b)*

**REQUIRED
ANNUAL FORM**

A student may not participate in an interscholastic athletic activity for a school year until both the student and the student's parent or guardian or another person with legal authority to make medical decisions for the student have signed a form for that school year that acknowledges receiving and reading written information that explains concussion prevention, symptoms, treatment, and oversight and that includes guidelines for safely resuming participation in an athletic activity following a concussion. The form must be approved by the UIL. *Education Code 38.155*

**REMOVAL FROM
PLAY**

A student shall be removed from an interscholastic athletics practice or competition immediately if one of the following persons believes the student might have sustained a concussion during the practice or competition: a coach; a physician; a licensed health-care professional, as defined by Education Code 38.151(5); or the student's parent or guardian or another

person with legal authority to make medical decisions for the student. *Education Code 38.156*

RETURN TO PLAY

A student removed from an interscholastic athletics practice or competition under Education Code 38.156 may not be permitted to practice or compete again following the force or impact believed to have caused the concussion until:

1. The student has been evaluated, using established medical protocols based on peer-reviewed scientific evidence, by a treating physician chosen by the student or the student's parent or guardian or another person with legal authority to make medical decisions for the student;
2. The student has successfully completed each requirement of the return-to-play protocol established under Education Code 38.153 necessary for the student to return to play;
3. The treating physician has provided a written statement indicating that, in the physician's professional judgment, it is safe for the student to return to play; and
4. The student and the student's parent or guardian or another person with legal authority to make medical decisions for the student have acknowledged that the student has completed the requirements of the return-to-play protocol necessary for the student to return to play, have provided the treating physician's written statement to the person responsible for compliance with the return-to-play protocol and the person who has supervisory responsibilities, and have signed a consent form indicating that the person signing:
 - a. Has been informed concerning and consents to the student participating in returning to play in accordance with the return-to-play protocol;
 - b. Understands the risks associated with the student returning to play and will comply with any ongoing requirements in the return-to-play protocol;
 - c. Consents to the disclosure to appropriate persons, consistent with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, of the treating physician's written statement and, if any, the return-to-play recommendations of the treating physician; and

- d. Understands the immunity provisions under Education Code 38.159.

A coach of an interscholastic athletics team may not authorize a student's return to play.

The school district superintendent or designee shall supervise an athletic trainer or other person responsible for compliance with the return-to-play protocol. The person who has supervisory responsibilities may not be a coach of an interscholastic athletics team.

Education Code 38.157

IMMUNITY

These provisions do not:

1. Waive any immunity from liability of a district or of district officers or employees;
2. Create any liability for a cause of action against a district or against district officers or employees;
3. Waive any immunity from liability under Civil Practice and Remedies Code 74.151; or
4. Create any cause of action or liability for a member of a concussion oversight team arising from the injury or death of a student participating in an interscholastic athletics practice or competition, based on service or participation on the concussion oversight team.

Education Code 38.159

FOOTBALL HELMET SAFETY REQUIREMENTS

A district may not use a football helmet that is 16 years old or older in the district's football program. A district shall ensure that each football helmet used in the district's football program that is 10 years old or older is reconditioned at least once every two years.

A district shall maintain and make available to parents of students enrolled in the district documentation indicating the age of each football helmet used in the district's football program and the dates on which each helmet is reconditioned.

Education Code 33.094(a)–(c)

STEROID TESTING

The UIL shall adopt rules for the annual administration of a steroid testing program under which high school students participating in an athletic competition sponsored or sanctioned by the league are tested at multiple times throughout the year for the presence of steroids [see FNF].

Results of such steroid tests are confidential and, unless required by court order, may be disclosed only to the student and the student's parent and the activity directors, principal, and assistant principals of the school attended by the student.

Education Code 33.091(d)(~~h~~)-(e)

RODEOS
APPLICATION

This section applies only to a primary or secondary school that sponsors, promotes, or otherwise is associated with a rodeo in which children who attend the school are likely to participate.

"Rodeo" means an exhibition or competition, without regard to whether the participants are compensated, involving activities related to cowboy skills, including:

1. Riding a horse, with or without a saddle, with the goal of remaining on the horse while it attempts to throw off the rider;
2. Riding a bull;
3. Roping an animal, including roping as part of a team;
4. Wrestling a steer; and
5. Riding a horse in a pattern around preset barrels or other obstacles.

EDUCATIONAL
PROGRAM

A primary or secondary school to which this section applies shall, before the first rodeo associated with the school in each school year, conduct a mandatory educational program on safety, including the proper use of protective gear, for children planning to participate in the rodeo, **in accordance with 25 Administrative Code 104.4**. The educational program may consist of an instructional video, subject to the Department of State Health Services approval.

RESTRICTION ON
PARTICIPATION

A child may not participate in a rodeo associated with the child's school during a school year unless the child has completed the educational program not more than one year before the first day of the rodeo.

**PROTECTIVE GEAR
FOR BULL RIDING**

A child may not engage in bull riding, including engaging in bull riding outside a rodeo for the purpose of practicing bull riding, unless the child is wearing a protective vest and bull riding helmet in accordance with 25 Administrative Code 104.3.

Health and Safety Code 768.001(6), ~~768.003~~; 25 TAC 104.2-.4

ELIGIBILITY

A student otherwise eligible to participate in an extracurricular activity or a UIL competition is not ineligible because the student is enrolled in a course offered for joint high school and college credit, or in a course offered under a concurrent enrollment program, re-

	<p>ardless of the location at which the course is provided. <i>Education Code 33.087</i></p>
MILITARY DEPENDENTS	<p>The district shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified. <i>Education Code 162.002 art. VI, § B</i> [See FDD]</p>
SUSPENSION FROM EXTRACURRICULAR ACTIVITIES	<p>A student shall be suspended from participation in any extracurricular activity sponsored or sanctioned by a district or the UIL after a grade evaluation period in which the student received a grade lower than the equivalent of 70 on a scale of 100 in any academic class other than a course described below at EXEMPT COURSES.</p>
LENGTH OF SUSPENSION	<p>A suspension continues for at least three school weeks and is not removed during the school year until the conditions of REINSTATEMENT, described below, are met. A suspension shall not last beyond the end of a school year.</p>
GRADE EVALUATION PERIOD	<p>"Grade evaluation period" means:</p> <ol style="list-style-type: none"> 1. The six-week grade reporting period; or 2. The first six weeks of a semester and each grade reporting period thereafter, in the case of a district with a grade reporting period longer than six weeks. <p><i>Education Code 33.081(c)</i></p>
SCHOOL WEEK	<p>The school week is defined as beginning at 12:01 a.m. on the first instructional day of the calendar week and ending at the close of instruction on the last instructional day of the calendar week, excluding holidays. <i>19 TAC 76.1001(b)</i></p>
EXEMPT COURSES	<p>The suspension and reinstatement provisions of Education Code 33.081(c) and (d) do not apply to an advanced placement or international baccalaureate course, or to an honors or dual credit course in the subject areas of English language arts, mathematics, science, social studies, economics, or a language other than English. <i>Education Code 33.081(d-1)</i></p> <p>The following are honors classes for purposes of eligibility to participate in extracurricular activities:</p> <ol style="list-style-type: none"> 1. All College Board Advanced Placement courses and International Baccalaureate courses in all disciplines; 2. English language arts: high school/college concurrent enrollment classes that are included in the "Community College General Academic Course Guide Manual (Part One)";

3. Languages other than English: high school/college concurrent enrollment classes that are included in the “Community College General Academic Course Guide Manual (Part One)” and languages other than English courses Levels IV–VII;
4. Mathematics: high school/college concurrent enrollment classes that are included in the “Community College General Academic Course Guide Manual (Part One)” and precalculus;
5. Science: high school/college concurrent enrollment classes that are included in the “Community College General Academic Course Guide Manual (Part One)”; and
6. Social Studies: Social Studies Advanced Studies, Economics Advanced Studies, high school/college concurrent enrollment classes that are included in the “Community College General Academic Course Guide Manual (Part One).”

Districts may identify additional honors courses in the subject areas of English language arts, mathematics, science, social studies, economics, or a language other than English for the purposes of extracurricular eligibility, but must identify such courses before the semester in which any exemptions related to extracurricular activities occur.

Districts are neither required to nor restricted from considering courses as honors for the purpose of grade point average calculation.

19 TAC 74.30

STUDENTS WITH
DISABILITIES

In the case of a student with a disability that significantly interferes with the student’s ability to meet regular academic standards, suspension must be based on the student’s failure to meet the requirements of the student’s individualized education program (IEP). The determination of whether the disability substantially interferes with the student’s ability to meet the requirements of the student’s IEP must be made by the admission, review, and dismissal (ARD) committee.

For the purposes of this provision, “student with a disability” means a student who is eligible for a district’s special education program under Education Code 29.003(b).

Education Code 33.081(e)

PRACTICE OR
REHEARSAL

A student suspended under Education Code 33.081 may practice or rehearse with other students for an extracurricular activity but may not participate in a competition or other public performance.
Education Code 33.081(f)

REINSTATEMENT Until the suspension is removed or the school year ends, a district shall review the grades of a student at the end of each three-week period following the date on which the suspension began. At the time of a review, the suspension is removed if the student's grade in each class, other than a course described above at EXEMPT COURSES, is equal to or greater than the equivalent of 70 on a scale of 100. The principal and each of the student's teachers shall make the determination concerning the student's grades.
Education Code 33.081(d)

ATTENDANCE AND PARTICIPATION The State Board of Education by rule shall limit participation in and practice for extracurricular activities during the school day and the school week.

The board of a district may adopt a policy establishing the number of times a student who is otherwise eligible to participate in an extracurricular activity may be absent from class to participate in an extracurricular activity sponsored or sanctioned by the district, UIL, or an organization sanctioned by board resolution. The policy must permit a student to be absent from class at least ten times during the school year, and the policy prevails over any conflicting policy adopted by the State Board of Education.

Education Code 33.081(a), ~~33~~.0811

STATE BOARD OF EDUCATION RULES The following provisions apply to any UIL activity.

Other organizations requiring student participation that causes a student to miss a class may request sanction from a board. If sanctioned by resolution of a board, student participation in the organization's activities shall be subject to all provisions of statute and to Texas Administration Code Title 19, section 76.1001. If a board does not grant sanction, any absences incurred by a student while participating with that organization's activities shall be subject to the attendance provisions of the Education Code. *19 TAC 76.1001(f)* [See FEB]

EXTRACURRICULAR ACTIVITIES An extracurricular activity is an activity sponsored by the UIL, a board, or an organization sanctioned by board resolution. The activity is not necessarily directly related to instruction of the essential knowledge and skills, but may have an indirect relation to some areas of the curriculum.

Extracurricular activities include public performances (except as described below), contests, demonstrations, displays, and club activities. In addition, an activity is subject to this policy if any one of the following criteria applies:

1. The activity is competitive;
2. The activity is held in conjunction with another activity that is considered extracurricular;
3. The activity is held off-campus, except in a case in which adequate facilities do not exist on campus;
4. The general public is invited; or
5. An admission is charged.

EXCEPTION —
PUBLIC
PERFORMANCES

A student ineligible to participate in an extracurricular activity, but who is enrolled in a state-approved course that requires demonstration of the mastery of the essential knowledge and skills in a public performance, may participate in the performance if:

1. Only item 4, above, applies; and
2. The requirement for student participation in public is stated in the essential knowledge and skills of the course.

*19 TAC 76.1001(a)*LIMITS ON
PARTICIPATION AND
PRACTICE

Limitations on practice, rehearsal, and student participation during the school week shall be as follows:

DURING THE
SCHOOL WEEK

1. For any given extracurricular activity, a student may not participate in more than one activity per school week, excluding holidays, except as provided in item 2, below.
2. A student may also participate in a tournament or post-district contest, as well as a contest postponed by weather or public disaster that may determine advancement to a post-district level of competition.
3. For each extracurricular activity, a district must limit students to a maximum of eight hours of practice and rehearsal outside the school day per school week.
4. The Commissioner recommends that school districts avoid scheduling extracurricular activities or public performances on the day or evening immediately preceding the day on which the statewide student assessment program is scheduled for grades 3–11.

*19 TAC 76.1001(d); Education Code 33.081(a)*DURING THE
SCHOOL DAY

Limitations on practice and rehearsal during the school day shall be as follows:

1. A district must limit a student to one period of practice during the regularly scheduled school day for practice of extracurricular activities, such as athletics, drill team, or cheerleading.
2. The limit in item 1 does not prohibit a student from enrolling in any state-approved class. A student who is enrolled in a state-approved class that includes essential knowledge and skills that relate to the preparation for an extracurricular activity may practice that extracurricular activity for no more than one period during the school day.
3. A student may not be permitted to miss a scheduled academic class to practice for an unrelated extracurricular activity.
4. A district must limit extracurricular practice during the school day to ensure that class periods for extracurricular practice do not exceed the time allotted for other class periods.
5. Regardless of the schedule type in place (traditional or non-traditional), a school may elect to practice extracurricular activities daily, provided the total minutes allowed for the extracurricular practice is not greater than 300 minutes during the school week.

19 TAC 76.1001(e); Education Code 33.081(a)

RECORD OF ABSENCES	A district shall maintain an accurate record of extracurricular absences for each student in the district each school year. <i>19 TAC 76.1001(c)</i>
PARENTAL NOTICE AND CONSENT	A parent is entitled to full information regarding the school activities of a parent's child except as provided by Education Code 38.004 (regarding child abuse investigations). <i>Education Code 26.008(a)</i>
ANONYMOUS EVALUATIONS	Anonymous evaluations of a student that determine whether the student may participate in a school-related program do not provide full information about the student's school activities. A district may by policy establish the parameters for parental contact with evaluating teachers, taking into account the type of evaluation, the information elicited in the evaluation, and scheduling and workload requirements of the teachers. <i>Byard v. Clear Creek Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 020-R5-1001 (June 17, 2002)</i>
VIDEOTAPING AND RECORDING	A district employee is not required to obtain the consent of a child's parent before the employee may videotape the child or record the child's voice if the videotape or recording is to be used only for a purpose related to a cocurricular or extracurricular activity. <i>Education Code 26.009(b)(2)</i>

DISCRIMINATORY
CLUB

An extracurricular activity sponsored or sanctioned by a district, including an athletic event or an athletic team practice, may not take place at an athletic club located in the United States that denies any person full and equal enjoyment of equipment or facilities provided by the athletic club because of the person's race, color, religion, creed, national origin, or sex.

"Athletic club" means an entity that provides sports or exercise equipment or facilities to its customers or members or to the guests of its customers or members.

Education Code 33.082

STUDENT ELECTION
CLERKS

Unless applied toward instructional requirements [see EIA], a student who is appointed as a student election clerk under Election Code 32.0511 may apply the time served toward a service requirement for participation in a school-sponsored extracurricular activity at the discretion of the school sponsor. *Education Code 33.092*

STUDENT CONDUCT
WEAPONS

FNCG
(LEGAL)

POSSESSION OF
WEAPONS

A student shall be expelled from school if the student possesses, uses, or exhibits any firearm, illegal knife, club, or prohibited weapon, on school property or while attending a school-sponsored or school-related activity on or off school property. *Education Code 37.007(a)(1)* [See also FOD]

EXPULSION
OFFENSE

EXCEPTION

A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

1. At an approved target range facility that is not located on a school campus; and
2. While participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department or a shooting sports sanctioning organization working with the department.

This section does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored shooting sports competition or a shooting sports educational activity.

Education Code 37.007(k)

FEDERAL FIREARMS
PROVISION

In accordance with the Gun-Free Schools Act, a district shall expel from the student's regular program, for a period of one year, any student who is determined to have brought a firearm, as defined by federal law, to any district school. *20 U.S.C. 7151; Education Code 37.007(e)* [See FOD]

EXPULSION
OFFENSE

DEFINITIONS

FIREARM

For purposes of state law, "firearm" shall mean any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. *Penal Code 46.01(3)*

ILLEGAL KNIFE

"Illegal knife" is, as defined by law, a knife with a blade over 5-1/2 inches; hand instrument designed to cut or stab another by being thrown; dagger, including a dirk, stiletto, and poniard; bowie knife; sword; or spear, or is as defined by local policy. *Penal Code 46.01(6); Education Code 37.007(a)(1)(B)*

CLUB

A "club" is an instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, including a blackjack, nightstick, mace, and tomahawk. *Penal Code 46.01(1)*

OTHER PROHIBITED
WEAPONS

A prohibited weapon is:

1. An explosive weapon (any explosive or incendiary bomb, grenade, rocket, or mine that is designed, made, or adapted for

the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes a device designed, made, or adapted for delivery or shooting an explosive weapon). *Penal Code 46.01(2)*

2. A machine gun (any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger). *Penal Code 46.01(9)*
3. A short-barrel firearm (rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a rifle or shotgun that, as altered, has an overall length of less than 26 inches). *Penal Code 46.01(10)*
4. A firearm silencer (any device designed, made, or adapted to muffle the report of a firearm). *Penal Code 46.01(4)*
5. A switchblade knife (any knife with a blade that folds, closes, or retracts into the handle or sheath and that opens automatically by pressing a button or other device on the handle, or opens or releases from the handle or shaft by the force of gravity or centrifugal force, but not a knife that has a spring, detent, or other mechanism 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). *Penal Code 46.01(11)*
6. Knuckles (any instrument consisting of finger rings or guards made of a hard substance that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles). *Penal Code 46.01(8)*
7. Armor-piercing ammunition (handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used primarily in pistols and revolvers). *Penal Code 46.01(12)*
8. A chemical dispensing device (a device, other than a small chemical dispenser sold commercially for personal protection, that is designed, made, or adapted for the purpose of dispensing a chemical capable of causing an adverse psychological or physiological effect on a human being). *Penal Code 46.01(14)*
9. A zip gun (a device or combination of devices that was not originally a firearm and is adapted to expel a projectile

through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance). *Penal Code 46.01(16)*

10. **A tire deflation device (a device, including a caltrop or spike strip, that, when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle's tires; it does not include a traffic control device that is designed to puncture one or more of a vehicle's tires when driven over in a specific direction, and has a clearly visible sign posted in close proximity to the traffic control device that prohibits entry or warns motor vehicle operators of the traffic control device). *Penal Code 46.01(17)***

Penal Code 46.05(a)

STUDENT CONDUCT
ASSAULTS

FNCH
(LEGAL)

ASSAULT PROHIBITED Students are prohibited from assaulting anyone on school property or at any school-related event. *Education Code 37.006; Penal Code 22.01*

DEFINITIONS Simple assault is defined as:

- SIMPLE ASSAULT
1. Intentionally, knowingly, or recklessly causing bodily injury to another. *Education Code 37.006(a)(2)(B); Penal Code 22.01(a)(1)*
 2. Intentionally or knowingly threatening another with imminent bodily injury. *Penal Code 22.01(a)(2)*
 3. Intentionally or knowingly causing physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative. *Penal Code 22.01(a)(3)*

AGGRAVATED ASSAULT Aggravated assault is defined as causing serious bodily injury to another or using or exhibiting a deadly weapon during commission of the assault. *Education Code 37.007(a)(2)(A); Penal Code 22.02(a)*

SEXUAL ASSAULT Sexual assault is defined as intentionally or knowingly causing physical sexual contact or sexual penetration of another person without that person's consent. Sexual assault is without consent of the other person if the actor compels the other person to submit or participate by use of physical force or violence, or threat of force or violence, and the other person believes the actor has the present ability to execute the threat; or the other person cannot consent. *Education Code 37.007(a)(2)(A); Penal Code 22.011*

AGGRAVATED SEXUAL ASSAULT Aggravated sexual assault is defined as sexual assault in which the actor:

1. Causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode; or
2. By acts or words, places the victim in fear that **any person will become the victim of an offense under Penal Code 20A.02(a)(3), (4), (7), or (8) (smuggling of persons) or that** death, serious bodily injury, or kidnapping will be imminently inflicted on any person; or
3. By acts or words occurring in the presence of the victim, threatens to cause **any person to become the victim of an offense under Penal Code 20A.02(a)(3), (4), (7), or (8) (smuggling of persons) or to cause** death, serious bodily injury, or kidnapping; or

4. Uses or exhibits a deadly weapon in the course of the same criminal episode; or
5. Acts in concert with another, who commits a sexual assault directed toward the same victim and occurs during the same criminal episode; or
6. Assaults a victim who is younger than 14 years of age or is an elderly or a disabled individual.

Education Code 37.007(a)(2)(A); Penal Code 22.021

STUDENT CONDUCT
DISRUPTIONS

FNCI
(LEGAL)

DISRUPTION OF
LAWFUL ASSEMBLY

A person commits a Class B misdemeanor if the person, alone or in concert with others, intentionally engages in disruptive activity on the campus or property of any school in a district.

DEFINITION

“Disruptive activity” means:

1. Obstructing or restraining the passage of persons in an exit, entrance, or hallway of any building without the authorization of the administration of the school.
2. Seizing control of any building or portion of a building to interfere with any administrative, educational, research, or other authorized activity.
3. Preventing or attempting to prevent by force or violence or the threat of violence any lawful assembly authorized by the school administration so that a person attempting to participate in the assembly is unable to participate due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur.
4. Disrupting by force or violence or the threat of force or violence a lawful assembly in progress.
5. Obstructing or restraining the passage of any person at an exit or entrance to the campus or property or preventing or attempting to prevent by force or violence or by threats thereof the ingress or egress of any person to or from the property or campus without the authorization of the administration of the school.

FREE SPEECH

This provision shall not be construed to infringe upon any right of free speech or expression guaranteed by the constitutions of the United States or the state of Texas.

Education Code 37.123

DISRUPTION OF
CLASSES

A person commits a Class C misdemeanor if the person, on school property or on public property within 500 feet of school property, alone or in concert with others, intentionally disrupts the conduct of classes or other school activities. **It is an exception to the application of the offense that, at the time the person engaged in the prohibited conduct, the person was a student in the sixth grade or a lower grade level.**

DEFINITIONS

“Disrupting the conduct of classes or other school activities” includes:

1. Emitting noise of an intensity that prevents or hinders classroom instruction.

2. Enticing or attempting to entice a student away from a class or other school activity that the student is required to attend.
3. Preventing or attempting to prevent a student from attending a class or other school activity that the student is required to attend.
4. Entering a classroom without the consent of either the principal or **the** teacher and, ~~either~~ through **either** acts of misconduct or use of loud or profane language, disrupting class activities.

~~For purposes of this provision, "school~~ **"School** property" ~~shall include the~~**includes a** public school ~~campuses~~**campus** or school grounds ~~upon~~**on** which ~~any~~**a** public school is located, and any grounds or buildings used by ~~district schools~~**a school** for ~~assemblies~~**an assembly** or other school-sponsored ~~activities~~**activity**.

~~For purposes of this provision, "public~~ **"Public** property" ~~shall include any~~**includes a** street, highway, alley, public park, or sidewalk.

Education Code 37.124

STUDENT CODE OF
CONDUCT

The board shall adopt a Student Code of Conduct (~~SCOG~~) for a district, with the advice of its district-level committee. The ~~SCOGS-~~**Student Code of Conduct** must:

1. Specify the circumstances, consistent with Education Code Chapter 37, Subchapter A, under which a student may be removed from a classroom, campus, or disciplinary alternative education program (DAEP).
2. Specify the conditions that authorize or require a principal or other appropriate administrator to transfer a student to a DAEP.
3. Outline conditions under which a student may be suspended, as provided by Education Code 37.005 [see FOB], or expelled, as provided by Education Code 37.007 [see FOD].
4. Specify that consideration will be given, as a factor in each decision concerning suspension, removal to a DAEP, expulsion, or placement in a juvenile justice alternative education program, regardless of whether the decision concerns a mandatory or discretionary action, to:
 - a. Self-defense;
 - b. Intent or lack of intent at the time the student engaged in the conduct;
 - c. A student's disciplinary history; or
 - d. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.
5. Provide guidelines for setting the length of removal to a DAEP or of expulsion. Except as provided by Education Code 37.007(e) (Gun-Free Schools Act [see FOD]), a district is not required to specify a minimum term of removal or expulsion.
6. Address the notification of the parent or guardian of a student's violation of the Student Code of Conduct that results in suspension, removal to a DAEP, or expulsion.
7. Prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions.

"Bullying" means engaging in written or verbal expression or physical conduct that a board or its designee determines:

 - a. Will have the effect of physically harming a student, damaging a student's property, or placing a student in rea-

sonable fear of harm to the student's person or of damage to the student's property; or

- b. Is sufficiently severe, persistent, or pervasive that the action or threat creates an intimidating, threatening, or abusive educational environment for a student.

"Harassment" means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student's physical or emotional health or safety.

"Hit list" means a list of people targeted to be harmed using a firearm, as defined by Penal Code 46.01(3) [see FNCG]; a knife, as defined by Penal Code 46.01(7) (any bladed hand instrument that is capable of inflicting serious bodily injury or death by cutting or stabbing a person with the instrument); or any other object to be used with intent to cause bodily harm.

- 8. Provide, as appropriate for students at each grade level, methods, including options, for:
 - a. Managing students in the classroom and on school grounds;
 - b. Disciplining students; and
 - c. Preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists.

The methods adopted must provide that a student who is enrolled in a special education program under Education Code Chapter 29, Subchapter A, may not be disciplined for bullying, harassment, or making of hit lists until an admission, review, and dismissal (ARD) committee meeting has been held to review the conduct. [See FOF]

CHANGES IN SCOC Once a Student Code of Conduct is promulgated, any change or amendment shall be approved by a board.

POSTING The Student Code of Conduct shall be posted and prominently displayed at each school campus or made available for review at the office of the campus principal.

Education Code 37.001

STUDENT DISCIPLINE

FO
(LEGAL)

NOTICE TO PARENTS	Each school year, a district shall provide parents with notice of and information regarding the Student Code of Conduct. <i>Education Code 37.001(d)</i>
NONCUSTODIAL PARENT	A noncustodial parent may request in writing that, for the remainder of the school year in which the request is received, a district provide that parent with a copy of any written notification that is generally provided to a student's parent or guardian, relating to student misconduct under Education Code 37.006 or 37.007. A district may not unreasonably deny the request. Notwithstanding this requirement, a district shall comply with any applicable court order of which the district has knowledge. <i>Education Code 37.0091(a)</i>
COPIES TO STAFF	The district shall provide each teacher and administrator with a copy of Education Code Chapter 37, Subchapter A regarding student discipline and with a copy of the related local policy. <i>Education Code 37.018</i>
NO UNSUPERVISED SETTING	Except for students who are suspended or expelled, no student may be placed in an unsupervised setting as a result of conduct for which a student may be placed in a DAEP. <i>Education Code 37.008(h)</i>
CONTINUATION OF DISCIPLINARY ACTION	<p>If a district takes disciplinary action against a student and the student subsequently enrolls in another district or school before the expiration of the period of disciplinary action, the district or school taking the disciplinary action shall provide to the district or school in which the student enrolls, at the same time other records of the student are provided, a copy of the order of disciplinary action.</p> <p>“Disciplinary action” means a suspension, expulsion, placement in an alternative education program, or other limitation in enrollment eligibility of a student.</p> <p>“District or school” includes an independent school district, a home-rule school district, a campus or campus program charter holder, or an open-enrollment charter school.</p> <p><i>Education Code 37.022</i></p>
OPPORTUNITY TO COMPLETE COURSES	If a student is placed in in-school suspension or other alternative setting other than a DAEP, a district shall offer the student the opportunity to complete, before the beginning of the next school year, each course in which the student was enrolled at the time of removal. A district may provide the opportunity by any method available, including a correspondence course, distance learning, or summer school. <i>Education Code 37.021</i> [For DAEP notice requirements, see FOCA]

SECLUSION

A district employee or volunteer or an independent contractor of a district may not place a student in seclusion. *Education Code 37.0021(c)*

“Seclusion” means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

1. Is designed solely to seclude a person; and
2. Contains less than 50 square feet of space.

Education Code 37.0021(b)(2)

This section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

1. Is employed or commissioned by a school district; or
2. Provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the district and a local law enforcement agency.

Education Code 37.0021(h)

EXCEPTIONS

This prohibition on seclusion does not apply to:

1. A peace officer, ~~while~~ performing law enforcement duties; or
2. An educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

**LAW
ENFORCEMENT
DUTIES**

“Law enforcement duties” means activities of a peace officer relating to the investigation and enforcement of state criminal laws and other duties authorized by the Code of Criminal Procedure.

Education Code 37.0021(b)(4), (g)

RESTRAINT REPORTS

A district shall report electronically to TEA, in accordance with standards provided by Commissioner rule, information relating to the use of restraint by a peace officer performing law enforcement duties [see LAW ENFORCEMENT DUTIES, above] on school property or during a school-sponsored or school-related activity. The report must be consistent with the requirements adopted by Commissioner rule for reporting the use of restraint involving students with disabilities [see FOF].
Education Code 37.0021(i)

	<p>“Restraint” means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student’s body. <i>Education Code 37.0021(b)(1)</i></p>
CORPORAL PUNISHMENT	<p>Reasonable corporal punishment is not prohibited in order to preserve an effective educational environment, free from disruption.</p>
REASONABLE AND MODERATE	<p>Corporal punishment shall be reasonable and moderate and may not be administered maliciously or for the purpose of revenge. Such factors as the size, age, and condition of the student, the type of instrument to be used, the amount of force to be used, and the part of the body to be struck shall be considered before administering any corporal punishment.</p>
	<p><i>Baker v. Owen</i>, 395 F. Supp. 294 (M.D.N.C. 1975), <i>aff’d</i>, 423 U.S. 907 (1975); <i>Ingraham v. Wright</i>, 430 U.S. 651 (1977)</p>
	<p>If the board adopts a policy under Education Code 37.001(a)(8) under which corporal punishment is permitted as a method of student discipline, a district educator may use corporal punishment to discipline a student unless the student’s parent or guardian or other person having lawful control over the student has previously provided a written, signed statement prohibiting the use of corporal punishment as a method of student discipline. <i>Education Code 37.0011(b)</i></p>
PARENT STATEMENT	<p>To prohibit the use of corporal punishment as a method of student discipline, each school year a student’s parent or guardian or other person having lawful control over the student must provide a separate written, signed statement to the board in the manner established by the board. The student’s parent or guardian or other person having lawful control over the student may revoke the statement provided to the board at any time during the school year by submitting a written, signed revocation to the board in the manner established by the board. <i>Education Code 37.0011(c)–(d)</i></p>
DEFINITION	<p>“Corporal punishment” means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline. The term does not include physical pain caused by reasonable physical activities associated with athletic training, competition, or physical education or the use of restraint as authorized under Education Code 37.0021 [see FOF]. <i>Education Code 37.0011(a)</i></p>
USE OF FORCE TO MAINTAIN DISCIPLINE	<p>The use of force, but not deadly force, against a student is justified if the teacher or administrator is entrusted with the care, supervision, or administration of the student when, and to the degree the</p>

teacher or administrator reasonably believes the force is necessary, to further the purpose of education or to maintain discipline in a group. *Penal Code 9.62*

VIDEOTAPES AND RECORDINGS

A district employee may, without consent of a child's parent, make a videotape or recording of the child if the videotape or recording is to be used only for purposes of safety, including the maintenance of order and discipline in common areas of the school or on school buses. *Education Code 26.009(b)(1)* [See FNG]

REPORTS

A district shall annually report to the Commissioner:

DISCIPLINARY
ALTERNATIVE
EDUCATION
PROGRAMS
(DAEPS)

1. For each placement in a DAEP:
 - a. Information identifying the student, including the student's race, sex, and date of birth, that will enable TEA to compare placement data with information collected through other reports;
 - b. Information indicating whether the placement was based on:
 - (1) Conduct violating the Student Code of Conduct;
 - (2) Conduct for which a student may be removed from class by a teacher [see FOA and the Student Code of Conduct];
 - (3) Conduct for which placement in a DAEP is required [see FOC and the Student Code of Conduct]; or
 - (4) Conduct occurring while a student was enrolled in another district and for which placement in a DAEP is permitted by Education Code 37.008(j);
 - c. The number of full or partial days the student was assigned to the program and the number of full or partial days the student attended the program; and
 - d. The number of placements that were inconsistent with the guidelines on length of placement in the Student Code of Conduct.

EXPULSIONS

2. For each expulsion:
 - a. Information identifying the student, including the student's race, sex, and date of birth, that will enable TEA to compare placement data with information collected through other reports;
 - b. Information indicating whether the expulsion was based on:

- (1) Conduct for which expulsion is required, including information specifically indicating whether a student was expelled for bringing a firearm to school; or
- (2) Conduct for which expulsion is permitted;
- c. The number of full or partial days the student was expelled;
- d. Information indicating whether:
 - (1) The student was placed in a juvenile justice alternative education program (JJAEP);
 - (2) The student was placed in a DAEP; or
 - (3) The student was not placed in a JJAEP or other alternative education program; and
- e. The number of expulsions that were inconsistent with the guidelines on length of expulsion in the Student Code of Conduct.

Education Code 37.020

STUDENT DISCIPLINE
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC
(LEGAL)

REMOVAL UNDER
STUDENT CODE OF
CONDUCT

The Student Code of Conduct must specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program (DAEP). *Education Code 37.001(a)(2)*

MANDATORY
PLACEMENT IN DAEP

A student shall be removed from class and placed in a DAEP if the student engages in conduct described in Education Code 37.006 that requires placement. *Education Code 37.006*

SCHOOL-RELATED
MISCONDUCT

A student shall be removed from class and placed in a DAEP if the student engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Penal Code 42.06, or terroristic threat under Penal Code 22.07.

A student shall also be removed from class and placed in a DAEP if the student commits the following on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

1. Engages in conduct punishable as a felony.
2. Engages in conduct that contains the elements of assault, under Penal Code 22.01(a)(1).
3. Sells, gives, or delivers to another person or possesses, uses, or is under the influence of:
 - a. Marijuana or a controlled substance, as defined by the Texas Controlled Substances Act, Health and Safety Code Chapter 481, or by 21 U.S.C. 801, et seq.;
 - b. A dangerous drug, as defined by the Texas Dangerous Drug Act, Health and Safety Code Chapter 483.
4. Sells, gives, or delivers to another person an alcoholic beverage, as defined by Alcoholic Beverage Code 1.04, or commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage.
5. Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Health and Safety Code 485.031 through 485.034.
6. Engages in conduct that contains the elements of the offense of public lewdness under Penal Code 21.07.
7. Engages in conduct that contains the elements of the offense of indecent exposure under Penal Code 21.08.

Education Code 37.006(a)

STUDENT DISCIPLINE
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC
(LEGAL)

EXCEPTION	Removal to a DAEP for school-related misconduct is not required if the student is expelled for the same conduct. <i>Education Code 37.006(m)</i>
RETALIATION	Except where a student engages in retaliatory acts against a district employee for which expulsion is mandatory [see FOD], a student shall be removed from class and placed in a DAEP if the student engages in conduct on or off school property containing the elements of retaliation, as defined in Penal Code 36.06, against any school employee. <i>Education Code 37.006(b)</i>
CONDUCT UNRELATED TO SCHOOL	<p>In addition to the circumstances listed above, a student shall be removed from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:</p> <ol style="list-style-type: none">1. The student receives deferred prosecution under Family Code 53.03, for conduct defined as a felony offense in Title 5, Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03;2. A court or jury finds that the student has engaged in delinquent conduct under Family Code 54.03 for conduct defined as a felony offense in Title 5, Penal Code Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03; or3. AThe superintendent or designee has a reasonable belief that the student has engaged in conduct defined as a felony offense in Title 5, Penal Code Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03. <p>[See FOC(EXHIBIT) for list of Title 5 felonies]</p> <p><i>Education Code 37.006(c)</i></p>
REASONABLE BELIEF	<p>In determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense, a superintendent or a superintendent's designee may consider all available information, including and must consider the information furnished under Code of Criminal Procedure Article 15.27-(a). <i>Education Code 37.006(e)</i>; Code of Criminal Procedure 15.27(a) [See GRAGRAA]</p>
SEXUAL ASSAULT OF ANOTHER STUDENT	<p>A student shall be removed from class and placed in a DAEP or juvenile justice alternative education program (JJAEP) if:</p> <ol style="list-style-type: none">1. The student was convicted of, received adjudication for, or was placed on probation for sexual assault of another student while the students were assigned to the same campus, re-

ardless of whether the assault occurred on or off school property;

2. The parent of the victim of the assault has requested that the student be transferred to a campus other than that to which the victim is assigned; and
3. There is only one campus in a district serving the grade level in which the student is enrolled.

Education Code 25.0341, 37.0051(a) [See FDE at SEXUAL ASSAULT TRANSFER, TRANSFER OF ASSAILANT]

A limitation imposed by Education Code Chapter 37 on the length of placement in a DAEP or a JJAEP does not apply to a placement under this provision. *Education Code 37.0051(b)*

PERMISSIVE
REMOVAL
NON-TITLE 5
FELONY

A student may be removed from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

1. ~~A~~The superintendent or designee has a reasonable belief ~~(as determined)~~[see REASONABLE BELIEF, above] that the student has engaged in conduct defined as a felony offense other than ~~these~~aggravated robbery under Penal Code 29.03, or those offenses listed in Penal Code Title 5, ~~Penal Code~~ [see FOC(EXHIBIT)]; and
2. The continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

Education Code 37.006(d), ~~(f)~~–(e)

ONE YEAR AFTER
CONDUCT

A principal or other appropriate administrator may, but is not required to, remove a student to a DAEP for off-campus conduct, for which removal would otherwise be required, if the principal or other appropriate administrator did not have knowledge of the conduct before the first anniversary of the date the conduct occurred. *Education Code 37.006(n)*

CERTAIN
ORGANIZATION AND
GANG MEMBERSHIP
AND SOLICITATION

A board or an educator shall recommend placing in DAEP any student who commits the misdemeanor offenses described in Education Code 37.121(a) and (c), regarding membership in or solicitation to join a public school fraternity, sorority, secret society, or gang [see FNCC]. *Education Code 37.121(b)*

OLDER STUDENTS

A person who is 21 years of age or older and is admitted by a district for the purpose of completing the requirements for a diploma is not eligible for placement in a DAEP if the person engages in conduct that would require or authorize such placement for a student

STUDENT DISCIPLINE
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC
(LEGAL)

	<p>under the age of 21. If the student engages in such conduct, the district shall revoke the student's admission. <i>Education Code 25.001(b-1)</i></p>
PLACEMENT OF YOUNGER STUDENTS	<p>A student who is younger than ten shall be removed from class and placed in a DAEP if the student engages in conduct for which expulsion would be required by Section 37.007. <i>Education Code 37.006(f);-37), .007(e)</i> [See FOD]</p>
STUDENTS YOUNGER THAN SIX	<p>Notwithstanding any other provision of the Education Code, a student who is younger than six years of age may not be removed from class and placed in a DAEP, except that a student younger than six years of age who has been expelled pursuant to the Gun Free Schools Act [see FOD] may be provided educational services in a DAEP. <i>Education Code 37.006(l)</i></p>
PROCESS FOR REMOVAL CONFERENCE	<p>Not later than the third class day after a student is removed by a teacher or by the school principal or other appropriate administrator, the principal or other appropriate administrator shall schedule a conference among the principal or other appropriate administrator, the student's parent or guardian, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular class pending the conference.</p>
ORDER	<p>Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the principal shall order the placement of the student for a period consistent with the Student Code of Conduct.</p>
APPEAL	<p>If district policy allows a student to appeal to the board or the board's designee a decision of the principal or other appropriate administrator, the decision of the board or the board's designee is final and may not be appealed.</p> <p><i>Education Code 37.009(a)</i> [See Student Code of Conduct]</p>
TERM OF REMOVAL	<p>A board or designee shall set a term for a student's placement in a DAEP. If the period of placement is inconsistent with the guidelines in the Student Code of Conduct, the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, a district determines that the student is a threat to the safety of other students or to district employees; or extended placement is in the best interest of the student. <i>Education Code 37.009(d)</i></p>

STUDENT DISCIPLINE
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC
(LEGAL)

BEYOND GRADING PERIOD OR 60 DAYS If placement in a DAEP is to extend beyond 60 days or the end of the next grading period, whichever is earlier, the student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before a board or designee.

NO APPEAL Any decision of a board or designee concerning placement beyond 60 days or the end of the next grading period is final and cannot be appealed.

Education Code 37.009(b)

BEYOND END OF SCHOOL YEAR Before a student may be placed in a DAEP for a period that extends beyond the end of the school year, a board or designee must determine that:

1. The student's presence in the regular classroom program or at the student's regular campus presents a danger of physical harm to the student or another individual; or
2. The student has engaged in serious or persistent misbehavior that violates the Student Code of Conduct.

Education Code 37.009(c)

ORDER OF REMOVAL A board or designee shall deliver to the student and the student's parent or guardian a copy of the order placing the student in a DAEP. *Education Code 37.009(g)*

Not later than the second business day after the date of the removal conference, a board or designee shall deliver a copy of the order placing the student in a DAEP and any information required under Family Code 52.04 to the authorized officer of the juvenile court in the county in which the juvenile resides. *Education Code 37.010(a)*

ACTIVITIES The terms of a placement under Education Code 37.006 must prohibit the student from attending or participating in school-sponsored or school-related activities. *Education Code 37.006(g)*

In addition to any notice required under Code of Criminal Procedure 15.27 [see **GRAGRAA**], a principal or designee shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in conduct for which DAEP placement must or may be ordered.

Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as provided by state or federal law. An educator's certificate may be

suspended or revoked for intentional failure to keep such information confidential.

Education Code 37.006(o)

COMPLETION OF
PROCEEDINGS UPON
WITHDRAWAL

If a student withdraws from a district before an order for placement in a DAEP is entered, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student re-enrolls in the district the same or subsequent school year, the district may enforce the order at that time except for any period of the placement that has been served by the student in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order.

Education Code 37.009(i)

ENROLLMENT IN
ANOTHER DISTRICT

If a student placed in a DAEP enrolls in another district before the expiration of the placement, a board shall provide to the district in which the student enrolls a copy of the placement order at the same time it provides other records. The district in which the student enrolls shall inform each educator who will have responsibility for, or will be under the direction and supervision of an educator who will have responsibility for, the instruction of the student of the contents of the placement order. Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as provided by state or federal law.

The district in which the student enrolls may continue the placement or allow the student to attend regular classes. [See FO] The district in which the student enrolls may take any of these actions if:

1. The student was placed in a DAEP by an open-enrollment charter school and the charter school provides the district a copy of the placement order; or
2. The student was placed in a DAEP by a district in another state and:
 - a. The out-of-state district provides a copy of the placement order; and
 - b. The grounds for placement are the same as grounds for placement in the enrolling district.

Education Code 37.008(j)

OUT-OF-STATE
PLACEMENT

If a student was placed in a DAEP in another state for more than one year and the enrolling district continues the placement under Education Code 37.008(j), the enrolling district shall reduce the pe-

riod of placement so that the aggregate period does not exceed one year unless the enrolling district determines that:

1. The student is a threat to the safety of other students or to district employees; or
2. Extended placement is in the best interest of the student.

Education Code 37.008(j-1)

COURT-ORDERED
PLACEMENT

Unless a board and the juvenile board for the county in which a district's central administrative office is located have entered into a memorandum of understanding concerning the juvenile probation department's role in supervising and providing other support services for students in DAEP programs:

EXPELLED
STUDENT

1. A court may not order a student expelled under Section 37.007 to attend a school district DAEP as a condition of probation;

MULTIPLE
REFERRALS

2. A court may not order a student to attend a DAEP without a district's consent, until the student has successfully completed any sentencing requirements, if the court has ordered the student to attend a DAEP as a condition of probation once during a school year and the student is referred to juvenile court again during that school year.

Education Code 37.010(c), ~~(f)~~-(d)

SCHOOL ACTIVITIES

Any court placement in a DAEP must prohibit the student from attending or participating in school-sponsored or school-related activities. *Education Code 37.010(d)*

PLACEMENT AFTER
COURT
DISPOSITION

After the student has successfully completed any court disposition requirements, including conditions of deferred prosecution or conditions required by the prosecutor or probation department, a district may not refuse to admit the student if the student meets the requirements for admission into the public schools. A district may place the student in the DAEP.

Notwithstanding Education Code 37.002(d) [see FOA], the student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

Education Code 37.010(f)

NOT GUILTY /
INSUFFICIENT
EVIDENCE / CHARGES
DROPPED

The office of the prosecuting attorney or the office or official designated by the juvenile board shall, within two working days, notify the school district that removed a student to a DAEP under Education Code 37.006 if:

1. Prosecution of a student was refused for lack of prosecutorial merit or insufficient evidence, and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or
2. A court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice.

On receipt of the notice, the superintendent or designee shall review the student's placement in the DAEP. The student may not be returned to the regular classroom pending the review. The superintendent or designee shall schedule a review of the student's placement with the student's parent or guardian not later than the third class day after the superintendent or designee receives notice from the office or official designated by the court.

After reviewing the notice and receiving information from the student's parent or guardian, the superintendent or designee may continue the student's placement in the DAEP if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

Education Code 37.006(h); Code of ~~Crim. Proc.~~ Criminal Procedure 15.27(g)

APPEAL AFTER
PLACEMENT
UPHELD

The student or the student's parent or guardian may appeal a superintendent's decision to the board. The student may not be returned to the regular classroom pending the appeal. A board shall, at the next scheduled meeting, review the notice provided by the office of the prosecuting attorney or the office or official designated by the juvenile board; receive information from the student, the student's parent or guardian, and the superintendent or designee; and confirm or reverse the superintendent's decision. The board shall make a record of the proceedings.

If a board confirms the decision, the board shall inform the student and the student's parent or guardian of the right to appeal to the Commissioner. The student may not be returned to the regular classroom pending the appeal to the Commissioner.

Education Code 37.006(~~i~~)-(j)

120-DAY REVIEW OF
STATUS

A student placed in a DAEP shall be provided a review of the student's status, including a review of the student's academic status, by a board's designee at intervals not to exceed 120 days. In the case of a high school student, the board's designee, with the student's parent or guardian, shall review the student's progress toward meeting high school graduation requirements and shall establish a specific graduation plan for the student. This requirement

does not, however, obligate a district to provide in the DAEP a course, except as required by Education Code 37.008(l). [See FOCA] At the review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of the teacher that removed the student without that teacher's consent. The teacher cannot be coerced to consent. *Education Code 37.009(e)*

ADDITIONAL
PROCEEDINGS

If, during the term of placement, a student engages in additional conduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted and the principal or board, as appropriate, may enter an additional order. *Education Code 37.009(j)*

REPORTING

A district may include the number of students removed to a DAEP in its annual performance report. *Education Code 39.306(e)(5)* [See AIB]

Note: See FOF for provisions concerning students with disabilities.

	<p>A disciplinary alternative education program (DAEP) is an educational and self-discipline alternative instruction program for students in elementary through high school grades who are removed from their regular classes for mandatory or discretionary disciplinary reasons and placed in a DAEP. <i>19 TAC 103.1201(a)</i></p>
JOINT / CONTRACTED DAEP	<p>A district may provide a DAEP jointly with one or more other districts, or may contract with third parties for DAEP services. A district that contracts with a third party must require and ensure compliance with district responsibilities that are transferred to the third-party provider. <i>Education Code 37.008(d); 19 TAC 103.1201(d)</i></p> <p>The DAEP may provide for a student's transfer to a different campus, a school-community guidance center, or a community-based alternative school. <i>Education Code 37.008(b)</i></p>
COMMUNITY ORGANIZATIONS	<p>A district shall cooperate with government agencies and community organizations that provide services in the district to students placed in a DAEP. <i>Education Code 37.008(e)</i></p>
FUNDING	<p>A student removed to a DAEP is counted in calculating a district's average daily attendance for the student's time in actual attendance in the program. <i>Education Code 37.008(f)</i></p> <p>A district shall allocate to a DAEP the same expenditure per student attending the DAEP as would be allocated to the student's school if the student were attending the student's regularly assigned education program, including a special education program. <i>Education Code 37.008(g)</i> [See also EHBC(LEGAL), LIMIT ON DAEP EXPENDITURES]</p>
LOCATION	<p>A DAEP shall be provided in a setting other than the student's regular classroom. It may be located on or off a regular school campus. An off-campus DAEP is not subject to a requirement imposed by the Education Code, other than a limitation on liability, a reporting requirement, or a requirement imposed by Education Code Chapter 37 or Chapter 39.</p> <p>An elementary school student may not be placed in a DAEP with a student who is not an elementary school student. The designation of elementary and secondary is determined by adopted local policy.</p> <p>Students who are assigned to the DAEP shall be separated from students who are not assigned to the program. However, summer programs provided by the district may serve students assigned to a DAEP in conjunction with other students, as determined by local policy.</p> <p>Students in the DAEP shall be separated from students in a juvenile justice alternative education program (JJAEP).</p>

Education Code 37.006(f), .008(a), (c); 19 TAC 103.1201(f)(3), (h)(1), (h)(3)

HOURS OF
OPERATION

The school day for a DAEP shall be at least seven hours but no more than ten hours in length each day, including intermissions and recesses. *Education Code 37.008(a); 19 TAC 103.1201(f)(2)*

SAFETY

A district is responsible for the safety and supervision of the students assigned to the DAEP; however, the immunity from the liability established in Education Code 22.0511 [see DG], shall not be impacted. The DAEP staff shall be prepared and trained to respond to health issues and emergencies.

Each district shall establish a board-approved policy for discipline and intervention measures to prevent and intervene against unsafe behavior and include disciplinary actions that do not jeopardize students' physical health and safety, harm emotional well-being, or discourage physical activity.

19 TAC 103.1201(h)

STAFFING

A DAEP shall employ only teachers who meet certification requirements under Education Code Chapter 21, Subchapter B. The certified teacher-to-student ratio in a DAEP shall be one teacher for each 15 students in elementary through high school grades. *Education Code 37.008(a); 19 TAC 103.1201(h)(1)*

Staff at each DAEP shall participate in training programs on education, behavior management, and safety procedures that focus on positive and proactive behavior management strategies. The training programs must also target prevention and intervention that include:

1. Training on the education and discipline of students with disabilities who receive special education services;
2. Instruction in social skills and problem-solving skills that addresses diversity, dating violence, anger management, and conflict resolution to teach students how to interact with teachers, family, peers, authority figures, and the general public; and
3. Annual training on established procedures for reporting abuse, neglect, or exploitation of students.

19 TAC 103.1201(i)

ENTRANCE
PROCEDURES

Procedures for each DAEP shall be developed and implemented for newly-entering students and their parents or guardians on the expectations of the DAEP. These procedures shall include written contracts between students, parents or guardians, and the DAEP

that formalize expectations and establish the students' individual plans for success. *19 TAC 103.1201(j)*

ACADEMICS

The academic mission of DAEPs shall be to enable students to perform at grade level. A DAEP shall focus on English language arts, mathematics, science, history, and self-discipline. *Education Code 37.008(a), (m)*

A district shall provide an academic and self-discipline program that leads to graduation and includes instruction in each student's currently enrolled foundation curriculum necessary to meet the student's individual graduation plan, including special education services. A student's four-year graduation plan (Minimum, Recommended, or Advanced/Distinguished Achievement) may not be altered when the student is assigned to a DAEP.

OPPORTUNITY TO
COMPLETE
COURSE

A district shall offer a student removed to a DAEP an opportunity to complete a foundation curriculum course in which the student was enrolled at the time of removal, before the beginning of the next school year, through any method available, including a correspondence course, distance learning, or summer school. A district may not charge the student for such course provided under this subsection. Except for this requirement, a district is not required to provide in the DAEP a course necessary to fulfill a student's high school graduation requirements.

Education Code 37.008(l); 19 TAC 103.1201(f)

A district shall provide the parents of a student removed to a DAEP with written notice of the district's obligation to provide the student with an opportunity to complete coursework required for graduation. The notice must include information regarding all methods available for completing the coursework and state that the methods are available at no cost to the student. *Education Code 37.008(l-1)*

ACCOUNTABILITY

The campus of accountability for student performance shall be the student's locally assigned campus, including when the district or shared services arrangement contracts with a third party for DAEP services. *19 TAC 103.1201(e)*

ACADEMIC
ASSESSMENTS

A district shall administer to a student placed in a DAEP program for a period of 90 school days or longer an assessment instrument:

1. Initially on placement of the student in the program; and
2. Subsequently on the date of the student's departure from the program, or as near that date as possible.

Released state assessments for reading and mathematics for the appropriate grade may be used. A district may apply for approval

of an assessment that includes the Texas Essential Knowledge and Skills (TEKS) for reading and mathematics for the student's assigned grade. The Commissioner will publish on the Texas Education Agency Web site a list of assessments approved for use in each school year.

The grade level of an assessment shall be based upon the academic grade completed prior to the student being assigned to a DAEP if placement occurs in the fall or first semester of the academic school year. If placement occurs in the spring or second semester of the academic school year, the student shall be administered an assessment based on the current grade level.

Each district shall provide an academic report to the student's locally assigned campus, which shall include the pre- and post-assessment results of the student's basic skills in reading and mathematics, within ten days of the student completing the post-assessment.

Procedures for administering the pre- and post-assessment shall be developed and implemented in accordance with local school district policy.

A student in the district's DAEP must also be assessed under the requirements of the Education Code Chapter 39. [See EKB]

Education Code 37.0082; 19 TAC 103.1203

SPECIAL
POPULATIONS

SPECIAL
EDUCATION

A DAEP serving a student with a disability who receives special education services shall provide educational services that will support the student in meeting the goals identified in the student's IEP. *19 TAC 103.1201(g)*

DRUG AND
ALCOHOL
TREATMENT

A program of educational and support services may be provided to a student and the student's parents when the offense involves drugs or alcohol as specified under Education Code 37.006 and 37.007. A DAEP that provides chemical dependency treatment services must be licensed under Health and Safety Code Chapter 464. *Education Code 37.008(k)*

TRANSITION
SERVICES

The transition services established for a student who is exiting a DAEP and returning to the student's locally assigned campus shall be implemented and updated annually as needed. The transition procedures shall include:

1. An established time line for the student's transition from the DAEP to the student's locally assigned campus; and
2. Written and oral communication from the DAEP staff to the locally assigned campus during the student's assignment to the DAEP, including the student's educational performance and tasks completed.

19 TAC 103.1201(k)

STUDENT DISCIPLINE
EXPULSION

FOD
(LEGAL)

STUDENTS YOUNGER
THAN TEN

A student younger than ten years of age shall not be expelled but shall be placed in a disciplinary alternative education program (DAEP). *Education Code 37.007(e)(2), (h)*

OVERAGE STUDENTS

A person who is 21 years of age or older and is admitted by a district for the purpose of completing the requirements for a diploma, is not eligible for placement in a JJAEP if the person engages in conduct that would require or authorize such placement for a student under the age of 21. If the student engages in such conduct, a district shall revoke the student's admission. *Education Code 25.001(b-1)*

MANDATORY
EXPULSION

SCHOOL RELATED

A student shall be expelled if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

1. Uses, possesses, or exhibits a firearm, an illegal knife, a club, or a prohibited weapon, as those terms are defined in the Penal Code, or any knife prohibited by local policy [see FNCG];
2. Engages in conduct that contains the elements of the offense of aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit murder or capital murder, indecency with a child, aggravated kidnapping, aggravated robbery, manslaughter, criminally negligent homicide, or continuous sexual abuse of a young child or children, as those offenses are defined in the Penal Code; or
3. Commits a drug- or alcohol-related offense described at Education Code 37.006(a)(2)(C) or (D), if that conduct is punishable as a felony.

Education Code 37.007(a)

EXCEPTION

A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

1. At an approved target range facility that is not located on a school campus; and
2. While participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department or a shooting sports sanctioning organization working with the department.

This section does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored

shooting sports competition or a shooting sports educational activity.

Education Code 37.007(k)

RETALIATION

A district shall expel a student who engages in conduct that contains the elements of any offense listed above against any district employee or volunteer in retaliation for or as a result of the person's employment or association with a district, without regard to whether the conduct occurs on or off school property or while attending a school-sponsored or school-related activity on or off of school property. *Education Code 37.007(d)*

FEDERAL FIREARM
PROVISION

In accordance with the Gun-Free Schools Act, a district shall expel from the student's regular program, for a period of one year, any student who is determined to have brought a firearm, as defined by federal law, to any district school. **This restriction shall not apply to a firearm that is lawfully stored inside a locked vehicle on school property.** A superintendent may modify the term of expulsion for a student or assess another comparable penalty that results in the student's exclusion from the regular school program, on a case-by-case basis. A district or other local educational agency shall provide educational services to an expelled student in a DAEP if the student is younger than ten years of age. A district or other local educational agency may provide educational services to an expelled student who is ten years of age or older in a DAEP. *20 U.S.C. 7151; Education Code 37.007(e)* [See also GRA]

For the purposes of this provision, "firearm" means:

1. Any weapon (including a starter gun), which will or is designed to or which may readily be converted to expel a projectile by the action of an explosive;
2. The frame or receiver of any such weapon;
3. Any firearm muffler or firearm silencer; or
4. Any destructive device. "Destructive device" means any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or device similar to any of the preceding described devices. It also means any type of weapon (other than a shotgun shell or a shotgun that is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and any combination of parts either

designed or intended for use in converting any device into a destructive device as described in this item, and from which a destructive device may be readily assembled.

18 U.S.C. 921

DISCRETIONARY
EXPULSION

THREATS

A student may be expelled if the student engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Penal Code 42.06, or terroristic threat under Penal Code 22.07.

SCHOOL- RELATED
CONDUCT

A student may be expelled if the student, while on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

ALCOHOL OR
DRUGS

1. Sells, gives, or delivers to another person, or possesses, uses, or is under the influence of any amount of:
 - a. Marijuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. section 801 et seq.; or
 - b. A dangerous drug, as defined by Chapter 483, Health and Safety Code; or
 - c. An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

VOLATILE
CHEMICALS

2. Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Health and Safety Code 485.031–485.034.

ASSAULT ON AN
EMPLOYEE OR
VOLUNTEER

3. Engages in conduct that contains the elements of an offense under Penal Code 22.01(a)(1) against a school district employee, or a volunteer as defined by Education Code 22.053. [See FOC(EXHIBIT)]

DEADLY
CONDUCT

4. Engages in conduct that contains the elements of the offense of deadly conduct under Penal Code 22.05.

Education Code 37.007(b)(1)–(2)

CONDUCT WITHIN
300 FEET OF
SCHOOL

Subject to the mandatory expulsion requirement for retaliation, a student may be expelled if the student, while within 300 feet of school property, as measured from any point on the school's real property boundary line, engages in the following conduct:

1. Any conduct for which expulsion would have been mandatory under Education Code 37.007(a) [see MANDATORY EXPULSION — SCHOOL RELATED, above]; or
2. Possession of a firearm, as defined by 18 U.S.C. sec. 921 [see FEDERAL FIREARM PROVISION, above].

Education Code 37.007(b)(3)

RETALIATION
AGAINST SCHOOL
EMPLOYEE OR
VOLUNTEER

A student may be expelled if the student engages in an assault, under Penal Code 22.01(a)(1), on an employee or volunteer in retaliation for or as a result of the person's employment or association with a district, without regard to whether the conduct occurs on or off school property or while attending a school-sponsored or school-related activity on or off school property. *Education Code 37.007(d)*

CONDUCT AGAINST
ANOTHER STUDENT

A student may be expelled if the student engages in conduct against another student that contains the elements of the offenses of aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit capital murder, or aggravated robbery, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property. *Education Code 37.007(b)(4)*

CRIMINAL MISCHIEF

A district may use its discretion to expel a student who has engaged in conduct that contains the elements of criminal mischief, as defined in the Penal Code, if the conduct is punishable as a felony. Regardless of whether the student is expelled, a district shall refer the student to the authorized officer of the juvenile court. *Education Code 37.007(f)*

**BREACH OF
COMPUTER
SECURITY**

A student may be expelled if the student engages in conduct that contains the elements of the offense of breach of computer security under Penal Code 33.02 if:

- 1. The conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of a school district; and**
- 2. The student knowingly alters, damages, or deletes school district property or information; or commits a breach of any other computer, computer network, or computer system.**

Education Code 37.007(b)(5)

PERSISTENT
MISBEHAVIOR IN
DAEP

A student who continues to engage in serious or persistent misbehavior that violates a district's Student Code of Conduct while placed in a DAEP may be removed from class and expelled.

If the student is expelled, a board or its designee shall refer the student to the authorized officer of the juvenile court for appropriate proceedings under Family Code Title 3 (Juvenile Justice Code).

Education Code 37.007(c), ~~37.010(b)~~

STUDENT DISCIPLINE
EXPULSION

FOD
(LEGAL)

PROPERTY OR
ACTIVITIES OF
ANOTHER DISTRICT

A district may expel a student who attends school in the district if:

1. The student engages in conduct for which expulsion would have been mandatory if the conduct had occurred on district property or while attending a district-sponsored or district-related activity; and
2. The student engages in that conduct on the property of another district or while attending a school-sponsored or school-related activity of another district in this state.

Education Code 37.007(i)

EXPULSION
PROCEEDINGS
DUE PROCESS

Before a student may be expelled, a board or its designee shall provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution. *Education Code 37.009(f)*

The minimum procedural requirements necessary to satisfy due process depend upon the circumstances and the interests of the parties involved. Federal due process requires notice and some opportunity for hearing.

NOTICE

The notice should contain a statement of the specific charges and grounds that, if proven, would justify expulsion. In some cases, the student should be given the names of the witnesses against him or her and an oral or written report on the facts to which each witness testifies.

HEARING

The rights of the student may properly be determined upon the hearsay evidence of school administrators who investigate disciplinary infractions.

[See also *Brewer v. Austin Indep. Sch. Dist.*, 779 F.2d 260 (5th Cir. 1985); *Keough v. Tate County Bd. of Educ.*, 748 F.2d 1077 (5th Cir. 1984); *McClain v. Lafayette County Sch. Bd. of Educ.*, 673 F.2d 106 (5th Cir. 1982); *Tasby v. Estes*, 643 F.2d 1103 (5th Cir. 1981); *Boykins v. Fairfield Bd. of Educ.*, 492 F.2d 697 (5th Cir. 1974), cert. denied, 420 US 962 (1975); *Dixon v. Alabama State Bd. of Educ.*, 294 F.2d 150 (5th Cir. 1961), cert. denied, 368 U.S. 930 (1961)]

REPRESENTATIVE

At the hearing, the student is entitled to be represented by the student's parent, guardian, or another adult who can provide guidance to the student and who is not an employee of the district. If a district makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing, the district may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends.

STUDENT DISCIPLINE
EXPULSION

FOD
(LEGAL)

TERM OF EXPULSION If the period of expulsion is inconsistent with the guidelines on length of expulsion in the Student Code of Conduct, the order must give notice of the inconsistency.

EXPULSION
BEYOND ONE YEAR The period of expulsion may not exceed one year unless a district determines that:

1. The student is a threat to the safety of other students or to district employees; or
2. Extended placement is in the best interest of the student.

Education Code 37.009(h)

NOTICE OF
EXPULSION ORDER
TO PARENT OR
GUARDIAN A board or its designee shall deliver a copy of the order expelling the student to the student and the student's parent or guardian. After such notification, the parent or guardian shall provide adequate supervision for the student during the period of expulsion.
Education Code 37.009(g), ~~(f)~~-(h)

TO COURT Not later than the second business day after the date an expulsion hearing is held, a board or its designee shall deliver a copy of the expulsion order and any information required under Family Code 52.04 to the authorized officer of the juvenile court in the county in which the student resides.

Family Code 52.04 requires the following information from a referring entity that is not a law enforcement agency or has not taken the child into custody:

1. All information in a district's possession pertaining to the identity of the child and the child's address; the name and address of the child's parent, guardian, or custodian; the names and addresses of any witnesses; and the child's present whereabouts; and
2. A complete statement of the circumstances of the alleged delinquent conduct or conduct indicating a need for supervision.

Education Code 37.010(a); Family Code 52.04(a), ~~52.041(a), (f)~~-(b)

TO JUVENILE
BOARD In a county that operates a juvenile justice alternative education program (JJAEP) [see FODA], no student shall be expelled without written notification by a board or its designee to the juvenile board's designated representative. The notification shall be made not later than two business days following a board's determination that the student is to be expelled. Failure to timely notify the designated representative shall result in the child's duty to continue attending a district's educational program, which shall be provided to that child until such time as the notification to the designated representative is properly made. *Family Code 52.041*

STUDENT DISCIPLINE
EXPULSION

FOD
(LEGAL)

TO STAFF

In addition to providing any notice required under Code of Criminal Procedure 15.27 [see GRA], a district shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in expellable conduct.

Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as provided by state or federal law. An educator's certificate may be suspended or revoked for intentional failure to keep such information confidential.

Education Code 37.007(g)

COMPLETION OF
PROCEEDING UPON
WITHDRAWAL

If a student withdraws from a district before an order for expulsion is entered, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student subsequently enrolls in the district during the same or subsequent school year, the district may enforce the order at that time except for any period of the expulsion that has been served by the student in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order.

Education Code 37.009(i)

ADDITIONAL
PROCEEDINGS

If, during the term of expulsion, a student engages in additional conduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted and the principal or board, as appropriate, may enter an additional order. *Education Code 37.009(j)*

APPEALS

A decision by a board's designee to expel a student may be appealed to the board. If the hearing is not before the board directly, the results and findings of the hearing should be presented in a report open to the student's inspection. *Education Code 37.009(f); Dixon v. Alabama State Bd. of Educ., 294 F.2d 150 (5th Cir. 1961), cert. denied, 368 U.S. 930 (1961)*

RESTRICTIONS ON
COURT ORDERS

A court may not order an expelled student to attend a regular classroom, a regular campus, or a district DAEP as a condition of probation.

EXCEPTION

A court may order a student to attend a regular classroom, a regular campus, or a district DAEP if the district has entered into a memorandum of understanding (MOU) with the juvenile board for the county in which the district's central administrative office is located, concerning the juvenile probation department's role in supervising and providing other support services for students in DAEPs.

Education Code 37.010(c)

DISTRICT
RESPONSIBILITY FOR
EXPULSED STUDENT

In a county that operates a JJAEP, a district is responsible for providing an immediate educational program to a student who engages in behavior for which expulsion is permitted but not required under Education Code 37.007, but who is not eligible for admission into the JJAEP in accordance with an MOU. [See FODA]

**STUDENTS NOT
ELIGIBLE FOR
EXISTING JJAEP**

CONTRACTING
FOR SERVICES

A district may provide the program or the district may contract with a county juvenile board, a private provider, or one or more other school districts to provide the program.

Education Code 37.011(l)

CERTAIN DISTRICTS

This provision applies to a district located in a county considered to be a county with a population of 125,000 or less because it has a population of more than 200,000 and less than 220,000; has five or more school districts located wholly within the county's boundaries; and has located in the county a JJAEP that, on May 1, 2011, served fewer than 15 students. A qualifying district shall provide educational services to a student who is expelled from school. The district is entitled to count the student in the district's average daily attendance for purposes of receipt of state funds under the Foundation School Program. An educational placement under this section may include:

- 1. The district's DAEP.**
- 2. A contracted placement with another school district, an open-enrollment charter school, an institution of higher education, an adult literacy council, or a community organization that can provide an educational program that allows the student to complete the credits required for high school graduation.**

An educational placement other than a district's DAEP is subject to the educational and certification requirements applicable to an open-enrollment charter school under Education Code Chapter 12, Subchapter D.

Education Code 37.011(a-3)–(a-5)

RETURN TO CLASS

EARLY /
PERMISSIVE

On the recommendation of the placement review committee, or on its own initiative, a district may readmit an expelled student while the student is completing any court disposition requirements.

REQUIRED

After an expelled student has successfully completed any court disposition requirements, including conditions of a deferred prosecution, or conditions required by the prosecutor or probation de-

partment, a district may not refuse to admit the student if the student meets the requirements for admission. [See FD] A district may place the student in a DAEP.

The student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

Education Code 37.010(f)

EXPULSION FROM
ANOTHER DISTRICT

If a student has been expelled from another school district, the expelling district shall provide to a district in which the student enrolls a copy of the expulsion order and the referral to the authorized officer of the juvenile court. A district in which the student enrolls may continue the expulsion under the terms of the order, may place the student in a DAEP for the period specified by the expulsion order, or may allow the student to attend regular classes without completing the period of expulsion.

OUT-OF-STATE
EXPULSION

A district may take any of the above actions if the student was expelled by a district in another state if:

1. The out-of-state district provides a copy of the expulsion order; and
2. The grounds for the expulsion are also grounds for expulsion in the district in which the student is enrolling.

Education Code 37.010(g)

If the student was expelled for more than one year and the enrolling district continues the expulsion or places the student in a DAEP, the aggregate period of expulsion or placement may not exceed one year unless the district determines that:

1. The student is a threat to the safety of other students or to district employees; or
2. Extended placement is in the best interest of the student.

Education Code 37.010(g-1)

Note: See FOF for provisions concerning expulsion of students with disabilities.

MEETINGS WITH
JUVENILE BOARD

A board or designee shall regularly meet with either:

1. The juvenile board for the county in which a district's central administrative office is located; or
2. The juvenile board's designee.

The meeting shall be called by the board president and shall address supervision and rehabilitative services appropriate for expelled students and students assigned to disciplinary alternative education programs (DAEPs).

Matters for discussion shall include:

1. Service by probation officers at the DAEP site;
2. Recruitment of volunteers to serve as mentors and provide tutoring services; and
3. Coordination with other social service agencies.

Education Code 37.013

JUVENILE JUSTICE
ALTERNATIVE
EDUCATION
PROGRAM

For the purposes of the following provisions, only a DAEP operated under the authority of a juvenile board of a county is considered a juvenile justice alternative education program (JJAEP).

MANDATORY JJAEP

The juvenile board of a county with a population greater than 125,000 shall develop a JJAEP, subject to the approval of the Texas Juvenile ~~Probation Commission~~ **Justice Department (TJJD)**.

VOLUNTARY JJAEP

The juvenile board of a county with a population of 125,000 or less may develop a JJAEP. Such a JJAEP is not required to be approved by the ~~Texas Juvenile Probation Commission~~ **TJJD**. Further, it is not subject to Education Code 37.011(c), (d), (f), (g), (k) or (m).

Education Code 37.011(a), (k), (m)

COUNTY
POPULATION

A county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if:

- ~~1.~~ The county had a population of 125,000 or less according to the 2000 federal census; and
- ~~2.1.~~ **The** the juvenile board of the county enters into, with the approval of the ~~Texas Juvenile Probation Commission~~ **TJJD**, a memorandum of understanding with each school district within the county that:

- a. Outlines the responsibilities of the board and school districts in minimizing the number of students expelled without receiving alternative educational services; and
 - b. Includes the coordination procedures required by Education Code 37.013, above.
2. **Has a population of 180,000 or less; is adjacent to two counties, each of which has a population of more than 1.7 million; and has seven or more school districts located wholly within the county's boundaries.**
 3. **Has a population of more than 200,000 and less than 220,000; has five or more school districts located wholly within the county's boundaries; and has located in the county a JJAEP that, on May 1, 2011, served fewer than 15 students.**

Education Code 37.011(a), ~~(-1)~~-(a-1), (k), (m3)

Note: The following **provisions** apply to all districts that operate JJAEPs, whether voluntary or mandatory.

PLACEMENT OF
STUDENTS IN JJAEP
— EXPELLED
STUDENTS

An expelled student shall, to the extent provided by law or by the memorandum of understanding (MOU), immediately attend the educational program from the date of expulsion. *Education Code 37.010(a)*

COURT-ORDERED
PLACEMENT

If a student admitted under Education Code 25.001(b) is expelled for conduct for which expulsion is required under Education Code 37.007, the juvenile court, juvenile board, or juvenile board's designee, as appropriate, shall:

1. If the student is placed on probation under Family Code 54.04, order the student to attend the JJAEP in the county in which the student resides from the date of disposition as a condition of probation, unless the child is placed in a post-adjudication treatment facility;
2. If the student is placed on deferred prosecution under Family Code 53.03 by the court, prosecutor, or probation department, require the student to immediately attend the JJAEP in the county in which the student resides for a period not to exceed six months as a condition of the deferred prosecution;
3. In determining the condition of the deferred prosecution or court-ordered probation, consider the length of a district's expulsion order for the student; and

4. Provide timely educational services to the student in the JJAEP in the county in which the student resides, regardless of the student's age or whether the juvenile court has jurisdiction over the student. This provision does not require that educational services be provided to a student who is not entitled to admission under Education Code 25.001(b).

Education Code 37.011(b), (c)-(b-1)

A student transferred to a JJAEP must participate in the program for the full period ordered by the juvenile court, unless a district agrees to accept the student before the date ordered by the juvenile court. *Education Code 37.011(i)*

STUDENTS WHO
MOVE

If a student who is ordered to attend a JJAEP moves from one county to another, the juvenile court may request the JJAEP in the county to which the student moves to provide educational services to the student in accordance with the local MOU between the district and the juvenile board in the receiving county. *Education Code 37.011(n)*

FUNDING FOR JJAEPS
MANDATORY
EXPULSIONS

Except as determined by the Commissioner, a student served by a JJAEP on the basis of conduct for which expulsion is required under Education Code 37.007 is not eligible for Foundation School Program funding if the JJAEP receives funding from the ~~Texas Juvenile Probation Commission~~. **TJJD**. *Education Code 37.011(h)*

COURT-ASSIGNED
STUDENTS

A district is not required to provide funding to a juvenile board for a student who is assigned by a court to a JJAEP but who has not been expelled. *Education Code 37.012*

TITLE 5 FELONY
PLACEMENTS

A district shall reimburse a JJAEP in which a student is placed under Education Code 37.0081 [see FOE] for the actual cost incurred each day the student is enrolled in the program. For purposes of this subsection:

1. The actual cost incurred each day for the student is determined by the juvenile board of the county operating the program; and
2. The juvenile board shall determine the actual cost each day of the program based on the board's annual audit.

Education Code 37.0081(g)

FUNDING FOR
DISCRETIONARY
EXPULSIONS

Subject to Education Code 37.011(n) [see STUDENTS WHO MOVE, above], the district in which a student is enrolled on the date the student is expelled for conduct for which expulsion is permitted but not required under Education Code 37.007 shall, if the student is served by the JJAEP, provide funding to the juvenile

board in an amount determined by the MOU under Education Code 37.011(k).

The amount of the funds transferred is determined by the portion of the school year for which the JJAEP provides educational services to a district.

Education Code 37.012(a)

ARBITRATION OF
DISPUTES

If a district elects to contract with the juvenile board for the placement of students who are expelled for conduct for which expulsion is permitted but not required under Education Code 37.007, and the juvenile board and the district are unable to reach an agreement in the MOU, either party may request that the issues of dispute be referred to a binding arbitration process that uses a qualified alternative dispute resolution arbitrator.

Each party shall pay its pro rata share of the arbitration costs and shall submit its final proposal to the arbitrator. If the parties cannot agree on an arbitrator, the juvenile board shall select an arbitrator, the district shall select an arbitrator, and those two arbitrators shall select an arbitrator who shall decide the issues in dispute.

DECISION OF
ARBITRATOR

The arbitration decision is enforceable in a court in the county in which the JJAEP is located. Any decision by an arbitrator concerning the amount of the funding for a student who is expelled and attending a JJAEP must provide an amount sufficient based on operation of the JJAEP. In determining the amount to be paid by a district for an expelled student enrolled in a JJAEP, the arbitrator shall consider the relevant factors, including evidence of:

1. The actual average total per student expenditure in the district's DAEP;
2. The expected per student cost in the JJAEP as described and agreed on in the MOU and in compliance with Education Code Chapter 37; and
3. The costs necessary to achieve the accountability goals under Education Code Chapter 37.

Education Code 37.011(p)

LOCATION AND
STAFFING

A JJAEP may be provided in a facility owned by a district. A district may provide personnel and services for a JJAEP under a contract with the juvenile board. *Education Code 37.011(e)*

ACADEMIC MISSION
OF JJAEP

Academically, the mission of the JJAEP shall be to enable students to perform at grade level.

ACCOUNTABILITY

For purposes of accountability under Education Code Chapter 39, a student enrolled in a JJAEP is reported as if the student were enrolled at the student's assigned campus in the student's regularly assigned education program, including a special education program.

Education Code 37.011(h)

FEES

Except as otherwise authorized by law [see FP], a JJAEP may not require a student, or the parent or guardian, to pay any fee, including an entrance or supply fee, for participating in the program.

Education Code 37.012(e)

Note: The following provisions apply only to districts located in counties with a population greater than 125,000 that are not exempt from the application of the provisions as detailed in Education Code 37.011(a-1), (a-2), or (a-3) [see COUNTY POPULATION, above].

MEMORANDUM OF
UNDERSTANDING

A district and the county juvenile board shall, no later than September 1 of each school year, enter into a joint memorandum of understanding (MOU) that:

1. Outlines the responsibilities of the juvenile board concerning the establishment and operation of a JJAEP;
2. Defines the amount and conditions on payments from the district to the juvenile board for students who are served in the JJAEP whose placement was not made on the basis of expulsion required under Section 37.007(a), (d), or (e);
3. Identifies those categories of conduct that the district has defined in its Student Code of Conduct as constituting serious or persistent misbehavior for which a student may be placed in the JJAEP;
4. Identifies and requires a timely placement and specifies a term of placement for expelled students for whom the district has received a notice under Family Code 52.041(d);
5. Establishes services for the transitioning of expelled students to the district before the completion of the student's placement in the JJAEP;
6. Establishes a plan that provides transportation services for students placed in the JJAEP;
7. Establishes the circumstances and conditions under which a juvenile may be allowed to remain in the JJAEP setting once the juvenile is no longer under juvenile court jurisdiction; and

	<p>8. Establishes a plan to address special education services required by law.</p> <p><i>Education Code 37.011(k), (l), (m)</i></p>
PLACEMENT IN JJAEP	<p>Every expelled student who is not detained or receiving treatment under an order of the juvenile court must be enrolled in an educational program. <i>Education Code 37.010(a)</i></p>
OPERATING REQUIREMENTS	<p>The JJAEP shall be subject to a written operating policy developed by the local juvenile justice board and submitted to the Texas Juvenile Probation Commission TJJJ for review and comment. The JJAEP is not subject to a requirement imposed by Education Code Title II, other than a reporting requirement or a requirement imposed by Education Code Chapters 37 and 39. <i>Education Code 37.011(g)</i></p>
STUDENT CODE OF CONDUCT	<p>The JJAEP shall adopt a Student Code of Conduct in accordance with Education Code 37.001. <i>Education Code 37.011(c)</i></p>
EDUCATIONAL PROGRAM	<p>The JJAEP shall focus on English language arts, mathematics, science, social studies, and self-discipline.</p>
ASSESSMENT	<p>The JJAEP shall administer assessment instruments under Education Code Chapter 39, Subchapter B.</p>
EQUIVALENCY	<p>The JJAEP shall offer a high school equivalency program.</p>
REVIEW OF PROGRESS	<p>The juvenile board or the board's designee, with the parent or guardian of each student, shall regularly review the student's academic progress. In the case of a high school student, the board or the board's designee, with the student's parent or guardian, shall review the student's progress toward meeting high school graduation requirements and shall establish a specific graduation plan for the student. The program is not required to provide a course necessary to fulfill a student's high school graduation requirements other than a course specified above.</p> <p><i>Education Code 37.011(d)</i></p>
DAYS AND HOURS	<p>The JJAEP must operate at least seven hours per day and 180 days per year, except that a JJAEP may apply to the Juvenile Probation Commission TJJJ for a waiver of the 180-day requirement. The commission may not grant a waiver to a JJAEP for a number of days that exceeds the highest number of instructional days waived by the Commissioner during the same school year for a district served by the program. <i>Education Code 37.011(f)</i></p>

STUDENT DISCIPLINE
EMERGENCY AND ALTERNATIVE PLACEMENT

FOE
(LEGAL)

EMERGENCY PLACEMENTS DAEP	The principal or the principal's designee is not prohibited from ordering the immediate placement of a student in a disciplinary alternative education program (DAEP) if the principal or designee reasonably believes that the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with a teacher's ability to communicate effectively with students in class, with the ability of students to learn, or with the operation of school or a school-sponsored activity.
EXPULSION	A principal or designee may order the immediate expulsion of a student if the principal or designee reasonably believes that such action is necessary to protect persons or property from imminent harm.
PROCEDURE	At the time of an emergency placement or an emergency expulsion, the student shall be given oral notice of the reason for the action. The reason must be a reason for which placement in a DAEP or expulsion may be made on a nonemergency basis. Within a reasonable time, but not later than the tenth day after the placement or expulsion, the student shall be accorded the appropriate due process required for a removal or an expulsion. [See FOA, FOC, and FOD]
STUDENTS WITH DISABILITIES	If the student is a student with disabilities who receives special education services, the emergency placement is subject to federal law and regulations and must be consistent with the consequences that would apply under Education Code Chapter 37, Subchapter A, to a student without a disability. [See FOF]
IMMUNITY	A principal or designee is not liable in civil damages for an emergency placement. <i>Education Code 37.019</i>
TITLE 5 FELONY OR AGGRAVATED ROBBERY	A board or designee, after an opportunity for a hearing may expel a student and elect to place the student in an alternative setting as provided below if: <ol style="list-style-type: none">1. The student has been arrested for, charged with, referred to a juvenile court for, received deferred prosecution for, received probation for, received deferred adjudication for, found by a court or jury to have engaged in, or been convicted of, conduct defined as a felony offense in Penal Code, Title 5 [see FOC(EXHIBIT7);] or the felony offense of aggravated robbery under Penal Code 29.03; and2. The board or the board's designee determines that the student's presence in the regular classroom:<ol style="list-style-type: none">a. Threatens the safety of other students or teachers;

- b. Will be detrimental to the educational process; or
- c. Is not in the best interests of the district's students.

A board or designee may expel the student and order the placement regardless of:

- 1. The date the conduct occurred;
- 2. The location of the conduct;
- 3. Whether the conduct occurred while the student was enrolled in the district; -or
- 4. Whether the student has successfully completed any court disposition requirements imposed in connection with the conduct.

ALTERNATIVE
SETTING

The student must be placed in:

- 1. A juvenile justice alternative education program (JJAEP), if a district is located in a county that operates a JJAEP or the district contracts with the juvenile board of another county for the provision of a JJAEP; or
- 2. A DAEP.

DURATION OF
PLACEMENT

Notwithstanding Education Code Section 37.009(c) or (d) (placements beyond one year) or any other provision of Education Code Chapter 37, Subchapter C, the student is subject to the placement until:

- 1. The student graduates from high school;
- 2. The charges are dismissed or reduced to a misdemeanor offense; or
- 3. The student completes the term of the placement or is assigned to another program

These provisions continue to apply if the student transfers to another district in the state.

The student is entitled to periodic review [see FOC at 120-DAY REVIEW OF STATUS].

Any decision of a board or designee under the above provisions is final and may not be appealed.

The above provisions apply notwithstanding any other provision of Education Code Chapter 37, Subchapter A, except that Section 37.007 (expulsion) prevails to the extent of a conflict.

Education Code 37.0081

STUDENT DISCIPLINE
EMERGENCY AND ALTERNATIVE PLACEMENT

FOE
(LEGAL)

REGISTERED SEX OFFENDERS
APPLICABILITY

The following provisions apply to a student who is required to register as a sex offender under Code of Criminal Procedure, Chapter 62 (Chapter 62), but not to a student who is no longer required to register as a sex offender, including a student who receives an exemption from registration or a student who receives an early termination of the obligation to register.

REMOVAL FROM REGULAR CLASSROOM

Notwithstanding any provision of Education Code Chapter 37, Subchapter A, on receiving notice under Code of Criminal Procedure article 15.27 or Chapter 62 that a student is required to register as a sex offender, a district shall remove the student from the regular classroom and determine the appropriate placement.

Education Code 37.302, ~~37.~~.303

STUDENT UNDER COURT SUPERVISION

A district shall place a student who is a registered sex offender and who is under any form of court supervision, including probation, community supervision, or parole, in the appropriate alternative education program for at least one semester.

If a student transfers to another district during the placement, the district to which the student transfers may:

1. Require the student to complete an additional semester in the appropriate alternative education program without conducting a review of the student's placement for that semester; or
2. Count any time spent by the student in an alternative education program in the district from which the student transfers toward the mandatory placement requirement.

Education Code 37.304

STUDENT NOT UNDER COURT SUPERVISION

A district may place a student who is a registered sex offender and who is not under any form of court supervision in the appropriate alternative education program for one semester or in the regular classroom. A district may not place the student in the regular classroom if the board or designee determines that the student's presence in the regular classroom:

1. Threatens the safety of other students or teachers;
2. Will be detrimental to the educational process; or
3. Is not in the best interests of the district's students.

Education Code 37.305

APPROPRIATE PROGRAM

Except as provided below, a district shall place a student who is required by the board or designee to attend an alternative education program in a DAEP. *Education Code 37.309*

EXCEPTION	<p>A district shall place the student in a JJAEP if:</p> <ol style="list-style-type: none">1. The memorandum of understanding between the district and juvenile board provides for the placement of students who are registered sex offenders in JJAEP; or2. A court orders the placement of the student in a JJAEP. <p>A JJAEP is entitled to funding for the student in the same manner as for students who are subject to discretionary expulsion.</p> <p><i>Education Code 37.309, 37..310</i></p>
REVIEW	<p>At the end of the first semester of a student's placement, a board or designee shall convene a committee to review the placement.</p>
REVIEW COMMITTEE	<p>The committee must be composed of:</p> <ol style="list-style-type: none">1. A classroom teacher from the campus to which the student would be assigned were the student not placed in an alternative education program;2. The student's parole or probation officer or, in the case of a student who does not have a parole or probation officer, a representative of the local juvenile probation department;3. An instructor from the alternative education program to which the student is assigned;4. A district designee selected by the board or designee; and5. A counselor employed by the district.
RECOMMENDATION	<p>The committee by majority vote shall determine and recommend to the board or designee whether the student should be returned to the regular classroom or remain in the alternative education program.</p> <p>If the committee recommends that the student be returned to the regular classroom, a board or designee shall return the student to the regular classroom unless the board or designee determines that the student's presence in the regular classroom:</p> <ol style="list-style-type: none">1. Threatens the safety of other students or teachers;2. Will be detrimental to the educational process; or3. Is not in the best interests of the district's students. <p>If the committee recommends that the student remain in the alternative education program, a board or designee shall continue the student's placement in the alternative education program unless</p>

the board or designee determines that the student's presence in the regular classroom:

1. Does not threaten the safety of other students or teachers;
2. Will not be detrimental to the educational process; and
3. Is not contrary to the best interests of the district's students.

If a board or designee determines that the student should remain in an alternative education program, the board or designee shall reconvene the committee before the beginning of each school year to review the student's placement in an alternative education program.

Education Code 37.306

APPEAL

A student or the student's parent or guardian may appeal a decision by a board or designee to place the student in an alternative education program by requesting a conference among the board or designee, the student's parent or guardian, and the student. The conference is limited to the factual question of whether the student is required to register as a sex offender under Chapter 62.

If a board or designee determines at the conclusion of the conference that the student is required to register as a sex offender, the student is subject to placement in an alternative education program.

The decision of a board or designee is final and may not be appealed.

Education Code 37.311

LIABILITY

The above provisions regarding placement of a student who is a registered sex offender do not:

1. Waive any liability or immunity of a governmental entity or its officers or employees; or
2. Create any liability for or a cause of action against a governmental entity or its officers or employees.

Education Code 37.312

SPECIAL
EDUCATION
STUDENT

The placement of a student with a disability who receives special education services must be made in compliance with the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

The review of the student's placement may be made only by a duly constituted ARD committee [see EHBAB]. The ARD committee

may request that a board or designee convene a review committee to assist in conducting the review.

Education Code 37.~~306~~307

TRANSFER
STUDENTS

Except where a student under court supervision transfers during a mandatory placement, a district shall determine whether to place a transfer student who is a registered sex offender in the appropriate alternative education program or in a regular classroom. A district shall follow the procedures at REVIEW, above, in making the determination. *Education Code 37.308*

STUDENT DISCIPLINE
STUDENTS WITH DISABILITIES

FOF
(LEGAL)

STUDENTS WITH
DISABILITIES UNDER
SECTION 504

A district shall conduct an evaluation in accordance with 34 CFR 104.35(b) before taking any action with respect to any significant change in placement of a student with a disability who needs or is believed to need special education and related services. *34 CFR 104.35(a)*

A district may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student with a disability who is currently engaging in the illegal use of drugs or in the use of alcohol to the same extent that the district would take disciplinary action against nondisabled students. The due process procedures afforded under Section 504 do not apply to such disciplinary action. *29 U.S.C. 705(20)(C)(iv)*

Note: The provisions below apply only to students eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA).

SPECIAL EDUCATION
STUDENTS

Except as set forth below, the placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal (ARD) committee. Any disciplinary action regarding the student shall be determined in accordance with federal law and regulations. *Education Code 37.004*

The methods adopted in the Student Code of Conduct [see FO] for discipline management and for preventing and intervening in student discipline problems must provide that a student who is enrolled in the special education program may not be disciplined for bullying, harassment, or making hit lists until an ARD committee meeting has been held to review the conduct. *Education Code 37.001(b-1)*

DAEP PLACEMENT
NOT SOLELY FOR
EDUCATIONAL
PURPOSES

A student with a disability who receives special education services may not be placed in a disciplinary alternative education program (DAEP) solely for educational purposes. A teacher in a DAEP who has a special education assignment must hold an appropriate certificate or permit for that assignment. *Education Code 37.004(c)~~f~~*
~~f~~-(d)

REMOVAL FOR TEN
DAYS OR LESS

School personnel may remove a student with a disability who violates a student code of conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten consecutive school days, to the extent those alternatives are applied to children without disabilities. *20 U.S.C. 1415(k)(1)(B); 34 CFR 300.530(b)(1)*

STUDENT DISCIPLINE
STUDENTS WITH DISABILITIES

FOF
(LEGAL)

SERVICES DURING REMOVAL	A district is required to provide services during the period of removal if the district provides services to a child without disabilities who is similarly removed. 34 CFR 300.530(d)(3)
SUBSEQUENT REMOVALS OF TEN DAYS OR LESS	School personnel may remove the student for additional removals of not more than ten consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change in placement (see below). <i>34 CFR 300.530(b)(1)</i>
SERVICES DURING REMOVAL	After a student has been removed from his or her current placement for ten school days in the same school year, during any subsequent removal of ten consecutive school days or less, school personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are needed so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP. <i>20 U.S.C. 1415(k)(1)(D); 34 CFR 300.530(d)(4)</i>
NOTICE OF PROCEDURAL SAFEGUARDS	Not later than the date on which the decision to take the disciplinary action is made, a district shall notify the student's parents of the decision and of all procedural safeguards [see EHBAE]. <i>20 U.S.C. 1415(k)(1)(H)</i>
REMOVALS THAT ARE A CHANGE IN PLACEMENT	Any disciplinary action that would constitute a change in placement may be taken only after the student's ARD committee conducts a manifestation determination review (see MANIFESTATION DETERMINATION, below). <i>Education Code 37.004</i>
'CHANGE IN PLACEMENT'	For purposes of disciplinary removal of a student with a disability, a change in placement occurs if a student is: <ol style="list-style-type: none">1. Removed from the student's current educational placement for more than ten consecutive school days; or2. Subjected to a series of removals that constitute a pattern because:<ol style="list-style-type: none">a. The series of removals total more than ten school days in a school year;b. The student's behavior is substantially similar to the student's behavior in the previous incidents that resulted in the series of removals; andc. Additional factors exist, such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

The district determines, on a case-by-case basis, whether a pattern of removals constitutes a change in placement. The district's determination is subject to review through due process and judicial proceedings.

34 CFR 300.526536

School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a student who violates a code of student conduct.

20 U.S.C. 1415(k)(1)(A)

MANIFESTATION
DETERMINATION

Within ten school days of any decision to change the placement of a student because of a violation of a code of student conduct, a district, parents, and relevant members of the ARD committee (as determined by the parent and the district) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine whether the conduct in question was:

1. Caused by, or had a direct and substantial relationship to, the student's disability; or
2. The direct result of the district's failure to implement the IEP.

If the district, the parent, and relevant members of the ARD committee determine that either of the above is applicable, the conduct shall be determined to be a manifestation of the student's disability.

20 U.S.C. 1415(k)(1)(E); 34 CFR 300.530(e)

NOT A
MANIFESTATION

If the determination is that the student's behavior was not a manifestation of the student's disability, school personnel may apply the relevant disciplinary procedures to the student in the same manner and for the same duration as for students without disabilities. The ARD committee shall determine the interim alternative educational setting. 20 U.S.C. 1415(k)(1)(C), 1415(k)(2); 34 CFR 300.530(c)

SERVICES
DURING
REMOVAL

The student must:

1. Continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP.
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

These services may be provided in an interim alternative educational setting.

34 CFR 300.530(d)(1)–(2)

MANIFESTATION

If the district, the parents, and relevant members of the ARD committee determine that the conduct was a manifestation of the student's disability, the ARD committee shall:

- ~~3~~.1. Conduct a functional behavioral assessment (FBA), unless the district had conducted an FBA before the behavior that resulted in the change in placement occurred, and implement a behavioral intervention plan (BIP) for the student; or
- ~~4~~.2. If a BIP has already been developed, review the BIP and modify it, as necessary, to address the behavior.

Except as provided at SPECIAL CIRCUMSTANCES, below, the ARD committee shall return the student to the placement from which the student was removed, unless the parent and the district agree to a change in placement as part of the modification of the BIP.

20 U.S.C. 1415(k)(1)(F); 34 CFR 300.530(f)

SPECIAL
CIRCUMSTANCES

School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:

- ~~5~~.1. Carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of TEA or a school district; ~~or~~
- ~~6~~.2. Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of TEA or a school district; ~~or~~
- ~~7~~.3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of TEA or the district.

20 U.S.C. 1415(k)(1)(G); 34 CFR 300.530(g)

The ARD committee shall determine the interim alternative education setting. *20 U.S.C. 1415(k)(2)*

SERVICES DURING
REMOVAL

The student must:

1. Continue to receive educational services so as to enable the student to continue to participate in the general education cur-

riculum, although in another setting, and to progress toward meeting the goals in the student's IEP.

2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

These services may be provided in an interim alternative educational setting.

34 CFR 300.530(d)(1)

APPEALS

A parent who disagrees with a placement decision or the manifestation determination may request a hearing. A district that believes that maintaining a current placement of a student is substantially likely to result in injury to the student or others may request a hearing. *20 U.S.C. 1415(k)(3)(A); 34 CFR 300.532(a); 19 TAC 89.1151*

PLACEMENT
DURING APPEALS

When an appeal has been requested by a parent or a district, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the student's assignment to the alternative setting, whichever occurs first, unless the parent and district agree otherwise. *20 U.S.C. 1415(k)(4); 34 CFR 300.533*

REPORTING CRIMES

Federal law does not prohibit a district from reporting a crime committed by a student with a disability to appropriate authorities. If a district reports a crime, the district shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom the district reported the crime. A district may transmit records only to the extent permitted by the Family Educational Rights and Privacy Act (FERPA). *20 U.S.C. 1415(k)(6); 34 CFR 300.535 [See FL]*

STUDENTS NOT YET
IDENTIFIED

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated a code of student conduct may assert any of the protections provided for in the IDEA if a district had knowledge that the student had a disability before the behavior that precipitated that disciplinary action occurred. *20 U.S.C. 1415(k)(5)(A); 34 CFR 300.534(a)*

DISTRICT
KNOWLEDGE

A district shall be deemed to have knowledge that a student has a disability if, before the behavior that precipitated the disciplinary action occurred:

- ~~3~~.1. The parent of the student expressed concern in writing to supervisory or administrative personnel of the district, or to the teacher of the student, that the student was in need of special education and related services;
- ~~4~~.2. The parent requested an evaluation of the student for special education and related services; or
- ~~5~~.3. The student's teacher, or other district personnel, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the special education director or to other supervisory personnel of the district.

20 U.S.C. 1415(k)(5)(B); 34 CFR 300.534(b)

EXCEPTION

A district shall not be deemed to have knowledge that the student had a disability if:

1. The parent has not allowed an evaluation of the student;
2. The parent has refused services; or
3. The student has been evaluated and it was determined that the student did not have a disability.

20 U.S.C. 1415(k)(5)(C); 34 CFR 300.534(c)

If a district does not have knowledge (as described above), before taking disciplinary measures, that a student has a disability, the student may be subjected to the same disciplinary measures applied to students without disabilities who engaged in comparable behaviors.

However, if a request is made for an evaluation during the time period in which the student is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

20 U.S.C. 1415(k)(5)(D); 34 CFR 300.534(d)

BEHAVIOR
MANAGEMENT
TECHNIQUES

It is the policy of the state to treat all students with dignity and respect, including students with disabilities who receive special education services. Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities. *Education Code 37.0021(a); 19 TAC 89.1053(j)*

This section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

- 1. Is employed or commissioned by a school district; or**
- 2. Provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the district and a local law enforcement agency.**

Education Code 37.0021(h)

EXCEPTIONS

Education Code 37.0021 (regarding use of confinement, seclusion, restraint, and time-out) does not apply to:

- ~~4.1.~~ A peace officer, while performing law enforcement duties, **except as provided by Education Code 37.0021(i) [see RESTRAINT—DOCUMENTATION, below]; or**
- ~~5.2.~~ An educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

**LAW
ENFORCEMENT
DUTIES**

“Law enforcement duties” means activities of a peace officer relating to the investigation and enforcement of state criminal laws and other duties authorized by the Code of Criminal Procedure.

Education Code 37.0021(b)(4), (g); 19 TAC 89.1053(l)

Further, Education Code 37.0021 does not prevent a student’s locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:

1. The student possesses a weapon; and
2. The confinement is necessary to prevent the student from causing bodily harm to the student or another person.

For these purposes, “weapon” includes any weapon described under Education Code 37.007(a)(1). [See FNCG]

Education Code 37.0021(f)

CONFINEMENT

A student with a disability who receives special education services may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique. *Education Code 37.0021(a)*

SECLUSION

A district employee or volunteer or an independent contractor of a district may not place a student in seclusion. *Education Code 37.0021(c)*

“Seclusion” means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

1. Is designed solely to seclude a person; and
2. Contains less than 50 square feet of space.

Education Code 37.0021(b)(2)

RESTRAINT

A school employee, volunteer, or independent contractor may use restraint only in an emergency and with the following limitations:

1. Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency.
2. Restraint shall be discontinued at the point at which the emergency no longer exists.
3. Restraint shall be implemented in such a way as to protect the health and safety of the student and others.
4. Restraint shall not deprive the student of basic human necessities.

19 TAC 89.1053(c)

“Restraint” means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student’s body.

“Emergency” means a situation in which a student’s behavior poses a threat of:

1. Imminent, serious physical harm to the student or others; or
2. Imminent, serious property destruction.

19 TAC 89.1053(b)(1), (b)(2)

TRAINING

Training for school employees, volunteers, or independent contractors regarding the use of restraint shall be provided according to the requirements set forth at 19 ~~TAC~~ **Administrative Code** 89.1053(d).

DOCUMENTATION

In a case in which restraint is used, school employees, volunteers, or independent contractors shall implement the documentation requirements set forth at 19 ~~TAC~~ **Administrative Code** 89.1053(e).

A district shall report electronically to TEA, in accordance with standards provided by Commissioner rule, information relating to the use of restraint by a peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity. The report must be consistent with the requirements adopted by Commissioner rule for reporting the use of restraint involving students with disabilities. *Education Code 37.0021(i)*

TIME-OUT

A school employee, volunteer, or independent contractor may use time-out with the following limitations:

1. Physical force or threat of physical force shall not be used to place a student in time-out.
2. Time-out may only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student's IEP and/or BIP if it is utilized on a recurrent basis to increase or decrease targeted behavior.
3. Use of time-out shall not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

19 TAC 89.1053(g)

“Time-out” means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

1. That is not locked; and
2. From which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

19 TAC 89.1053(b)(3)

TRAINING

Training for school employees, volunteers, or independent contractors regarding the use of time-out shall be provided according to the requirements set forth at 19 ~~TAC~~ **Administrative Code** 89.1053(h).

DOCUMENTATION

Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. The ARD committee must use any collected data to judge the effectiveness

of the intervention and provide a basis for making determinations regarding its continued use.

19 TAC 89.1053~~(h)~~(i)

AUTHORIZED FEES

A board may require payment of:

1. Fees for materials used in any program in which the resultant product is in excess of minimum requirements and, at the student's option, becomes the personal property of the student. Fees may not exceed the cost of materials.
2. Membership dues in student organizations or clubs, and admission fees or charges for attending extracurricular activities when membership or attendance is voluntary.
3. Security deposits for the return of materials, supplies, or equipment.
4. Fees for personal physical education and athletic equipment and apparel. However, any student may provide his or her own equipment or apparel if it meets reasonable requirements and standards relating to health and safety established by the board.
5. Fees for items of personal use or products that a student may purchase at the student's option, such as student publications, class rings, annuals, and graduation announcements.
6. Fees specifically permitted by any other statute.
7. Fees for an authorized, voluntary student health and accident benefit plan.
8. A reasonable fee, not to exceed the actual annual maintenance cost, for the use of musical instruments and uniforms owned or rented by a district.
9. Fees for personal apparel that become the property of the student and that are used in extracurricular activities.
10. Parking fees [see CLC] and fees for identification cards.
11. Fees for driver training courses, provided that such fees shall not exceed the actual district cost per student in such programs for the current school year.
12. Fees for courses offered for credit that require the use of facilities not available on the school premises or the employment of an educator who is not part of the school's regular staff, if participation in the course is at the student's option. Payment may not be required if the course is one requested by parents according to Education Code 28.003 [see EHA].
13. Fees for courses offered during summer school, except that the board may not charge a fee for a course required for

graduation unless the course is also offered without a fee during the regular school term.

14. A reasonable fee for transportation of a student who lives within two miles of the school the student attends to and from that school, except that the board may not charge a fee for transportation for which the district receives funds under Education Code 42.155(d).
15. A reasonable fee, not to exceed \$50, for costs associated with an educational program offered outside of regular school hours through which a student who was absent from class receives instruction voluntarily for the purpose of making up the missed instruction and meeting the level of attendance required under Education Code 25.092. [See FEC] A district shall provide a written form to be signed by the student's legal guardian stating that this fee would not create a financial hardship or discourage the student from attending the program. A district may assess the fee only if the student returns the signed form.
16. **If the district does not receive any funds under Education Code 42.155 and does not participate in a county transportation system for which an allotment is provided under Education Code 42.155(i), a reasonable fee for the transportation of a student to and from the school the student attends.**

Education Code 11.158(a), (d), (h)

- ~~16.~~ 17. A fee for enrollment in an electronic course provided through the Texas virtual school network (TxVSN) in accordance with Education Code 30A.155. *Education Code 30A.155* [See EHDE]

PROHIBITED FEES

A board may not charge fees for:

1. ~~Textbooks~~ **Instructional materials**, workbooks, laboratory supplies, or other supplies necessary for participation in any instructional course, except as authorized under this code.
2. Field trips required as part of a basic educational program or course.
3. Any specific form of dress necessary for any required educational program or diplomas.
4. Instructional costs for necessary school personnel employed in any course or educational program required for graduation.

5. Library ~~books~~materials required to be used for any educational course or program. However, fines may be assessed for lost, damaged, or overdue ~~books~~materials.
6. Admission to any activity the student is required to attend as a prerequisite to graduation.
7. Admission or examination in any required educational course or program.
8. Lockers.

PERSONAL SUPPLIES Students may be required to furnish personal or consumable items, including pencils, paper, pens, erasers, and notebooks. Students may be required to furnish school uniforms, subject to the provisions of Education Code 11.162 regarding educationally disadvantaged students. [See FNCA]

SCHOOL STORE A district may operate a school store where students may purchase school supplies and materials.

WAIVER OF FEES A district shall adopt reasonable procedures for waiving a deposit or fee if a student or the student's parent or guardian is unable to pay it. This policy shall be posted in a central location in each school facility, in the school policy manual, and in the student handbook.

POSTSECONDARY INSTRUCTIONAL PROGRAMS A board may charge reasonable fees for goods and services provided in connection with any postsecondary instructional program, including career and technology, adult, veterans, or continuing education, community service, evening school, and high school equivalency programs.

Education Code 11.158(b)–(c), (e)–(g)

Please Note: This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

SECTION G: COMMUNITY AND GOVERNMENTAL RELATIONS

GA ACCESS TO PROGRAMS, SERVICES, AND ACTIVITIES

GB PUBLIC INFORMATION PROGRAM

GBA Information Access

GBAA Requests for Information

GBB School Communications Program

GBBA News Media Relations

GE RELATIONS WITH PARENT ORGANIZATIONS

GF PUBLIC COMPLAINTS

GK COMMUNITY RELATIONS

GKA Conduct on School Premises

GKB Advertising and Fund Raising in the Schools

GKC Visitors to the Schools

GKD Nonschool Use of School Facilities

GKDA Distribution of Nonschool Literature

GKE Business, Civic, and Youth Groups

GKF Cultural Institutions

GKG School Volunteer Program

GN RELATIONS WITH EDUCATIONAL ENTITIES

GNA Other Schools and Districts

GNB Regional Education Service Centers

GNC Colleges and Universities

GND State Education Agency

GNE Education Accreditation Agencies

GR RELATIONS WITH GOVERNMENTAL ENTITIES

GRA **State and** Local Governmental Authorities

GRAA Law Enforcement Agencies

GRAC Juvenile Service Providers

GRB Interlocal Cooperation Contracts

GRC Emergency Management

PUBLIC INFORMATION	“Public information” means information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a board or for a board and to which a board has a right of access. <i>Gov’t Code 552.002(a)</i>
AVAILABILITY	Public information is available, at a minimum, to the public during a district’s normal business hours. <i>Gov’t Code 552.021</i>
INFORMATION THAT MUST BE DISCLOSED	<p>Unless they are expressly confidential under other law, The following categories of information are public information that are and not excepted from required disclosure under this policy include: unless made confidential under Government Code Chapter 522 or other law:</p> <ol style="list-style-type: none">1. A completed report, audit, evaluation, or investigation made of, for, or by a board, except as provided in Government Code 552.108.2. The name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a district.3. Information in an account, voucher, or contract relating to the receipt or expenditure of public funds.4. The name of each official and the final record of voting on all proceedings of a board.5. All working papers, research material, and information used to estimate the need or expenditure of public funds or taxes by a board, on completion of the estimate.6. A description of a district’s organization and where, from whom, and how the public may obtain information, submit information or requests, and obtain decisions.7. A statement of the general course and method by which a district’s functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures.8. A rule of procedure, description of forms available or the places where forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations.9. A substantive rule of general applicability adopted or issued by a board and a statement of general policy or interpretation of general applicability formulated and adopted by the board.10. Any amendment, revision, or repeal of the information described in items 6–9.11. Final opinions and orders issued in adjudication of cases.

12. A policy statement or interpretation adopted or issued by a board.
13. Administrative manuals and instructions to staff that affect a member of the public.
14. Information regarded as open to the public under a district's policies.
15. Information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege or confidential under other law.
16. Information that is also contained in a public court record.
17. A settlement agreement to which a board is a party.

~~A court in this state may not order a board or a district's officer for public information to withhold from public inspection any category of public information described above or to not produce the information for inspection or duplication, unless the information is expressly made confidential under other law.~~

Gov't Code 552.022

INVESTMENT
INFORMATION

Certain district investment information, as specified by Government Code ~~551~~**552**.0225, is public information and not excepted from disclosure. *Gov't Code 552.0225*

PERSONAL
INFORMATION

EMPLOYEE / BOARD
MEMBER

Each district employee, other than a peace officer or security officer, and board member and each former employee and board member shall choose whether to allow public access to district-held information relating to the person's home address, **home** telephone number, **emergency contact information**, or social security number, or any other information that reveals whether the person has family members.

Employees and board members shall state their choice to a district's main personnel officer in a signed writing not later than the 14th day after employment begins, election or appointment to the board occurs, or service with the district ends. If an employee or board member fails to state his or her choice within 14 days, the information is available to the public. However, an employee or board member may make a written request at any time to the personnel officer to open or close the information ~~relating to the person's home address, telephone number, social security number, or any other information that reveals whether the person has family members.~~ A written request made after the 14 days does not apply to an open records request made before the option was exercised.

Gov't Code 552.024; Tex. Att'y Gen. ORD-530 (1989)

PEACE OFFICERS /
SECURITY
OFFICERS
EMPLOYED BY
THE DISTRICT

District-held information relating to the home address, home telephone number, **emergency contact information**, or social security number of employees who are peace officers, or security officers commissioned by the Board of Private Investigators and Private Security Agencies, or any information that reveals whether the officer has family members, is excepted from disclosure regardless of whether the officer chooses to restrict public access to the information under Government Code 552.024. *Gov't Code 552.117*

ALL OFFICERS

District-held information relating to the home address, home telephone number, **emergency contact information**, social security number, or any information that reveals whether an officer has family members, of any peace officer, security officer, or other person listed at Government Code 552.1175 is confidential by law if the officer chooses to restrict public access and notifies the district on a form provided by the district, accompanied by evidence of the officer's status. *Gov't Code 552.1175*

NOTICE TO
REQUESTOR

If an employee or board member has opted to restrict public access to his or her personal information, the district may redact the personal information from any information the district discloses without the necessity of requesting a decision from the attorney general. A district may also redact information that must be withheld under Government Code 552.1175 without requesting an attorney general decision. ***Gov't Code 552.024(c), (f)***

If a district redacts information under either of these provisions, the district shall provide the ~~following~~ information **required by Government Code 552.024(c-2) and 552.1175(h)** to the requestor on a form prescribed by the attorney general:

- ~~1. A description of the redacted or withheld information;~~
- ~~2. A citation. The requestor is entitled to Government Code 552.024 or 552.1175, as applicable; and~~
- ~~3. Instructions regarding how to request seek a decision from the attorney general regarding whether the redacted information is excepted from required disclosure.~~

about the matter. *Gov't Code 552.024(c-2), 552.1175(h)*

EVALUATIONS

A document evaluating the performance of a teacher or administrator is confidential. *Education Code 21.355*

EDUCATOR
CERTIFICATION EXAM

The results of an educator certification examination are confidential and are not subject to disclosure, unless:

1. The disclosure is regarding notification to a parent of the assignment of an uncertified teacher to a classroom as required by Education Code 21.057; or
2. The educator has failed the examination more than five times.

Education Code 21.048(c-1)

CREDIT CARD, DEBIT
CARD, CHARGE CARD,
AND ACCESS DEVICE
NUMBERS

A credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a district is confidential.

“Access device” means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another device may be used to:

1. Obtain money, goods, services, or another thing of value; or
2. Initiate a transfer of funds other than a transfer originated solely by paper instrument.

A district may redact credit card, debit card, charge card, or access device numbers from any information the district discloses without the necessity of requesting a decision from the attorney general. The district shall provide the information required by Government Code 552.136 to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter.

Gov't Code 552.136

E-MAIL ADDRESSES
CONFIDENTIAL

An e-mail address of a member of the public that is provided for the purpose of communicating electronically with a district is confidential and not subject to disclosure unless the member of the public affirmatively consents to its release.

EXCEPTIONS

This confidentiality does not apply to an e-mail address:

1. Provided to a district by a person who has a contractual relationship with the district or by the contractor's agent;
2. Provided to a district by a vendor who seeks to contract with the district or by the vendor's agent;
3. Contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to a district in the course of negotiating the terms of a contract or potential contract;

4. Provided to a district on a letterhead, coversheet, printed document, or other document made available to the public; or
5. Provided to a district for the purpose of receiving orders or decisions from the district, or for the purpose of providing public comment on or receiving notices related to an application for a license. A "license" under this section includes a state agency permit, certificate, approval, registration, or similar form of permission required by law.

A district may also disclose an e-mail address for any reason to another governmental body or to a federal agency.

Gov't Code 552.137, 2001.003(2)

VICTIM OF ABUSE OR
IMPROPER
RELATIONSHIP

The name of a person who is enrolled in a public or private primary or secondary school and involved in an improper relationship with an educator as provided by Penal Code 21.12(a) may not be released to the public and is not public information subject to disclosure. *Penal Code 21.12(d)*

The name of a student or minor who is the victim of abuse or unlawful conduct by an educator is not public information subject to disclosure. *Education Code 21.006(h)*

PARTICIPANT IN
ADDRESS
CONFIDENTIALITY
PROGRAM

Information relating to a participant in the Address Confidentiality Program for Victims of Family Violence, Sexual Assault, and Stalking under Code of Criminal Procedure Chapter 56, Subchapter C is confidential, except as provided by Code of Criminal Procedure 56.90, and may not be disclosed. *Code of Criminal Procedure 56.88*

VICTIMS OF CERTAIN
CRIMES

A district employee who is also a victim under Code of Criminal Procedure Chapter 56, Subchapter B may elect whether to allow public access to information held by the district that would identify or tend to identify the victim, including a photograph or other visual representation of the victim. An election under this subsection must be made in writing on a form developed by the district, be signed by the employee, and be filed with the district before the third anniversary of the latest to occur of one of the following:

1. The date the crime was committed;
2. The date employment begins; or
3. The date the governmental body develops the form and provides it to employees.

If the employee fails to make an election, the identifying information is excepted from disclosure until the third anniversary of the date the crime was committed. In case of disability, impairment, or

other incapacity of the employee, the election may be made by the guardian of the employee or former employee.

Gov't Code 552.132

INFORMATION
EXCEPTED FROM
PUBLIC DISCLOSURE

A board or the officer for public information voluntarily may make part or all of its records available to the public, unless the disclosure is expressly prohibited by law or the records are confidential by law. *Gov't Code 552.007*

Except for social security numbers or as otherwise provided by law, information that is not confidential, but is excepted from required disclosure under Government Code sections 552.101–.151, is public information and is available to the public on or after the 75th anniversary of the date the information was originally created or received by a district. This paragraph does not limit the authority of a district to establish retention periods for records under applicable law. *Gov't Code 552.0215*

Categories of information that are excepted from disclosure to the public include:

1. Information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *Gov't Code 552.101*
2. Information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and transcripts from institutions of higher education maintained in files of professional employees; however, the degree obtained and the curriculum on the transcripts shall be subject to disclosure. *Gov't Code 552.102*
3. Information in the custody of the district that relates to an employee or officer of the district if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm. *Gov't Code 552.151*
4. Information relating to litigation of a civil or criminal nature to which a district is, or may be, a party or to which an officer or employee of the district, as a consequence of the office or employment, is or may be a party, but only if the litigation is pending or reasonably anticipated at the time the district's public information officer receives the request. *Gov't Code 552.103*
5. Information that, if released, would give advantage to competitors or bidders. The requirement of Government Code 552.022 that a category of information listed under 552.022(a)

is public information and not excepted from required disclosure unless expressly confidential under law does not apply to information that is excepted from required disclosure under this paragraph. *Gov't Code 552.104*

6. Information pertaining to the location of real or personal property for a public purpose prior to public announcement of the project, or information pertaining to appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property. *Gov't Code 552.105*
7. Drafts and working papers involved in the preparation of proposed legislation. *Gov't Code 552.106*
8. Information a district's attorney is prohibited from disclosing because of a duty to the district under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct or information that a court order has prohibited from disclosure. *Gov't Code 552.107*
9. Information collected to comply with Education Code Chapter 22, Subchapter C (criminal records), including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records. *Education Code 22.08391*
10. Criminal history record information obtained by the district from the Texas Department of Public Safety. *Gov't Code 411.097(d)(2)* [See CJA, DBAA]
11. Under certain circumstances, information (except basic information about an arrested person, an arrest, or a crime) held by a law enforcement agency or prosecutor, including:
 - a. Information that deals with detection, investigation, or prosecution of crime; and
 - b. An internal record or notation that is maintained for internal use in matters relating to law enforcement or prosecution.

Gov't Code 552.108
12. Private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy. *Gov't Code 552.109*
13. A trade secret obtained from a person and privileged or confidential by statute or judicial decision. *Gov't Code 552.110(a)*

14. Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained. *Gov't Code 552.110(b)*
15. Interagency or intra-agency memoranda or letters that would not be available by law to a party in litigation with a district. *Gov't Code 552.111; City of Garland v. Dallas Morning News, 22 S.W.3d 351 (Tex. 2000) (concluding that the deliberative process privilege, incorporated into the exception found at Government Code 552.111, exempts communications related to a governmental agency's policymaking)*
16. An audit working paper of an audit of the district auditor, including any audit relating to the criminal history background check of a public school employee. If information in an audit working paper is also maintained in another record, that other record is not excepted. *Gov't Code 552.116*
17. Student records, except to district personnel, the student, or the student's parents, guardian, or spouse. A district is not required to release student records, except in conformity with FERPA. *Gov't Code 552.114, 552.026* [See FL]
18. Information that relates to the home address, home telephone number, **emergency contact information**, or social security number of the following persons, or that reveals whether the person has family members:
 - a. A current or former district employee or board member, except as provided by Section 552.024; or
 - b. A peace officer or a security officer commissioned by the Board of Private Investigators and Private Security Agencies, regardless of whether the officer complies with Section 552.1175.

Gov't Code 552.117
19. A photograph that depicts a peace officer, the release of which would endanger the life or physical safety of the officer, unless:
 - a. The officer is under indictment or charged with an offense by information;
 - b. The officer is a party in a fire or police civil service hearing or a case in arbitration; or
 - c. The photograph is introduced as evidence in a judicial proceeding.

If a photograph is exempt from public disclosure as described above, it may be made public only if the officer gives written consent.

Gov't Code 552.119

20. Test items developed by a state-funded educational institution. *Gov't Code 552.122*
21. The certified agenda or tape recording of a closed meeting, unless a court order makes it available for public inspection and copying. *Gov't Code 551.104(c)*
22. Records of a school library or library system that identify or serve to identify a person who requested, obtained, or used a library material or service, unless the records are disclosed:
 - a. Because the library determines that disclosure is reasonably necessary for the operation of the library and the records are not confidential under other state or federal law;
 - b. To a person with a special right of access under Government Code 552.023; or
 - c. To a law enforcement agency or prosecutor under a court order or subpoena.

Gov't Code 552.124

23. The name of an applicant for superintendent, except a board must give public notice of the name or names of the finalists being considered for that position at least 21 days before the date of the meeting at which final action or a vote is to be taken on the applicant's employment. *Gov't Code 552.126*
24. Motor vehicle record information that relates to:
 - a. A motor vehicle operator's or driver's license or permit issued by an agency of this state **or another state or country**;
 - b. A motor vehicle title or registration issued by an agency of this state; **or another state or country; or**
 - c. A personal identification document issued by an agency of this state, **another state or country**, or a local agency authorized to issue an identification document.

The motor vehicle record information described above may be released only in accordance with Transportation Code Chapter 730.

Subject to Transportation Code Chapter 730 (the Motor Vehicle Records Disclosure Act), a district may redact motor vehicle or driver license information under this provision from any information the district discloses without the necessity of requesting a decision from the attorney general. The district shall provide the information specified at Government Code 552.130 to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter.

Gov't Code 552.130

25. An informer's name or information that would substantially reveal the identity of an informer, unless:
- The informer consents. If the informer is a student or former student, consent may also be given by the informer's legal guardian or spouse; or
 - The informer planned, initiated, or participated in the possible violation.

"Informer" means a student or former student or an employee or former employee of a district who has furnished a report of another person's possible violation of criminal, civil, or regulatory law to the district or the proper regulatory enforcement authority.

The informer's name may be made available to a law enforcement agency or prosecutor for official purposes upon proper request, made in compliance with applicable law and procedure. However, this exception does not impair the confidentiality of information considered to be confidential by law.

Gov't Code 552.135

26. Information in a commercial book or publication purchased or acquired by a district for research purposes, if the book or publication is commercially available to the public. A district is not required to make copies of commercially available information, but the district shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of the district. *Gov't Code 552.027*
27. Information that relates to economic development negotiations involving a board and a business prospect that the board seeks to have locate, stay, or expand in or near a district, if that information relates to:

- a. A trade secret of the business prospect; or
- b. Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.

Gov't Code 552.131(a)

28. Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to a business prospect by a board or by another person.

After an agreement is made, information about a financial or other incentive being offered is no longer exempted from public disclosure if the information is about a financial or other incentive being offered to the business prospect:

- a. By a board; or
- b. By another person, if the financial or other incentive may directly or indirectly result in the expenditure of public funds by a district or a reduction in revenue received by the district from any source.

Gov't Code 552.131(b), (c)

29. Information that relates to computer network security, to network security information that is restricted under Gov't Code 2059.055, or to the design, operation, or defense of a computer network. The following information is confidential:

- a. A computer network vulnerability report; ~~and~~
- b. Any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a district or of a contractor of a district is vulnerable to unauthorized access or harm, including an assessment of the extent to which a district's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use; ~~and~~
- c. **A photocopy or other copy of an identification badge issued to an official or employee of a district.**

A district may disclose the information to a bidder if the district determines that providing the information is necessary for the bidder to provide an accurate bid. Such a disclosure is not a

voluntary disclosure for purposes of Government Code 552.007 (requiring disclosure to any person).

Gov't Code 552.139

MILITARY DISCHARGE
RECORDS

30. A military veteran's Department of Defense Form DD-214 or other military discharge record that first comes into the possession of a district on or after September 1, 2003. The record is confidential for the 75 years following the date it comes into the possession of a district in accordance with Government Code Section 552.140. A district that obtains information from the record shall limit the use and disclosure of the information to the purpose for which the information was obtained. *Gov't Code 552.140*

SOCIAL SECURITY
NUMBERS

31. The social security number of a living person. The social security number is not confidential, however. A district may redact the social security number of a living person from any information the district discloses to the public without the necessity of requesting a decision from the attorney general. *Gov't Code 552.147*

~~INVESTMENT
INFORMATION~~

~~Certain district investment information, as specified by Government Code 552.143, is not public information and is excepted from disclosure. *Gov't Code 552.143*~~

TRS INFORMATION

32. **Records, including any identifying information, of individual members, annuitants, retirees, beneficiaries, alternate payees, program participants, or persons eligible for benefits from TRS or another retirement system. This provision applies to records that are in the custody of the district acting in cooperation with or on behalf of the retirement system. *Gov't Code 552.0038***

This introductory page outlines the contents of the public information policy. See the following sections for statutory provisions on:

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**SECTION I: OFFICER FOR PUBLIC INFORMATION AND
REQUIRED NOTICES**

OFFICER FOR PUBLIC
INFORMATION

A superintendent shall be a district's officer for public information. Each department head shall be an agent of the officer for purposes of complying with the public information laws.

DUTIES

The officer is responsible for the release of public information as required by the Public Information Act (PIA), Government Code Chapter 552. The officer for public information shall:

1. Make public information available for public inspection and copying.
2. Carefully protect public information from deterioration, alteration, mutilation, loss, or unlawful removal.
3. Repair, renovate, or rebind public information when necessary to maintain it properly.

The officer is not responsible for the use made of the information by the requestor or the release of the information after it is removed from a record as a result of an update, correction, or change of status of the person to whom the information pertains.

Gov't Code 552.201(a)–.204

PUBLIC
INFORMATION
COORDINATOR

Within 90 days after assuming office, a public information coordinator shall complete a course of training regarding the responsibilities of a district and district officers and employees under Chapter 552 of the Texas Government Code (Public Information Act).

The training shall be not less than one nor more than two hours. The attorney general may provide the training and may also approve other acceptable sources of training.

A district shall maintain and make available for public inspection the record of a public information coordinator's completion of the training.

Gov't Code 552.012

SIGN

The officer for public information shall prominently display a sign in the form prescribed by the attorney general that contains basic information about the rights of a requestor, the responsibilities of a district, and the procedures for inspecting or obtaining a copy of public information under the PIA. The officer shall display the sign at one or more places in the district's administrative offices where it is plainly visible to:

1. Members of the public who request public information in person; and

2. Employees of the district whose duties include receiving or responding to public information requests.

Gov't Code 552.205

SECTION II: ACCESS TO PUBLIC INFORMATION

ACCESS TO PUBLIC INFORMATION

PROCEDURAL RULES

A district may promulgate reasonable rules of procedure by which public information may be inspected and copied efficiently, safely, and without delay. These rules may not be inconsistent with any provision of the PIA. *Gov't Code 552.230*

It shall be the policy of a district to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested. *Gov't Code 552.228*

TREATMENT OF REQUESTS

The officer for public information and agent shall not make an inquiry of a requestor, except to establish proper identification or to ask the requestor to narrow or clarify the request. The officer for public information or agent shall treat all requests for information uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media. The officer for public information or agent shall give the requestor all reasonable comfort and facility for the full exercise of the right granted by the PIA. *Gov't Code 552.222(a)-(b), .223-.224*

LOCATION OF ACCESS

An officer for public information complies with a request for public information by:

1. Providing the information for inspection or duplication in a district's offices (see TIME FOR EXAMINATION, below); or
2. Sending copies of the information by first class mail, if the requestor requests that copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Subchapter F of the PIA (see COSTS AND CHARGES, below).

The PIA does not authorize a requestor to remove an original copy of a public record from the office of a district.

Gov't Code 552.221(b), .226

TIME FOR RESPONSE

An officer for public information shall promptly produce public information for inspection, duplication, or both, on application by any person. "Promptly" means as soon as possible under the circumstances, that is, within a reasonable time, without delay. A district may not automatically withhold for ten business days public information not excepted from disclosure.

If an officer for public information cannot produce the public information for inspection or duplication within ten business days after the date the information is requested, the officer shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

If the requested information is unavailable because it is in storage or active use, an officer for public information shall certify this fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

Gov't Code 552.221; Tex. Atty. Gen. ORD-664 (2000)

REQUESTS TO
NARROW OR CLARIFY

If a large amount of information has been requested, the district may discuss with the requestor how the scope of the request might be narrowed, but the district may not inquire into the purpose for which the information will be used. If what information is requested is unclear to the district, the district may ask the requestor to clarify the request.

If the request included the requestor's physical or mailing address, the district must send the request for discussion or clarification to that address by certified mail. The written request for discussion or clarification must include a statement as to the consequences of failure by the requestor to timely respond. If the district does not receive a written response by the 61st day after the district sends the written request, the underlying request for public information is considered to have been withdrawn by the requestor.

Gov't Code 552.222(b), (d)–(f)

TIME FOR
EXAMINATION

A requestor shall complete the examination of the information not later than the tenth business day after the date the custodian of the information makes it available. If the requestor does not complete the examination within ten business days and does not file a request for additional time, the requestor is considered to have withdrawn the request.

The officer shall extend the initial examination period by an additional ten business days if, within the initial period, the requestor files with the officer a written request for additional time. The officer shall extend an additional examination period by another ten business days if, within the first additional period, the requestor files with the officer a written request for more additional time.

The time during which a person may examine information may be interrupted by the officer if the information is needed for use by the

district. The period of interruption is not considered to be a part of the time during which the person may examine the information.

Gov't Code 552.225

ELECTRONIC DATA

If public information exists in an electronic or magnetic medium, the requestor may request a copy in an electronic medium, such as on diskette or on magnetic tape. A district shall provide a copy in the requested medium:

1. If the district has the technological ability to produce the information in the requested medium;
2. If the district is not required to purchase any software or hardware to accommodate the request; and
3. Providing the copy will not violate any copyright agreement between the district and a third party.

If a district is unable to comply with a request to produce a copy of information in a requested medium for any of these reasons, the district shall provide a copy in another medium that is acceptable to the requestor. A district is not required to copy information onto a diskette or other material provided by the requestor but may use district supplies.

Gov't Code 552.228

REQUESTS
REQUIRING
PROGRAMMING OR
MANIPULATION

A district shall provide the requestor a written statement, described below, if the district determines:

1. That responding to a request for information will require programming or manipulation of data; and
2. That:
 - a. Compliance with the request is not feasible or will result in substantial interference with operations; or
 - b. The information could be made available in the requested form only at a cost that covers the programming and manipulation of data.

The written statement shall include:

1. A statement that the information is not available in the requested form;
2. A description of the form in which the information is available;
3. A description of any contract or services that would be required to provide the information in the requested form;

4. A statement of the estimated cost of providing the information in the requested form, as determined in accordance with the rules established by the attorney general [see GBAA(EXHIBIT)]; and
5. A statement of the anticipated time required to provide the information in the requested form.

RESPONSE TIME
WHEN
PROGRAMMING OR
MANIPULATION IS
REQUIRED

A district shall provide the written statement to the requestor within 20 days after the date the district receives the request. The district has an additional ten days to provide the statement if the district gives written notice to the requestor, within 20 days after receiving the request, that additional time is needed.

FURTHER ACTION

After providing the written statement described above, the district has no further obligation to provide the information in the requested form or in the form in which it is available, unless within 30 days the requestor states in writing that the requestor:

1. Wants the information in the requested form according to the time and cost parameters set out in the written statement, or according to other terms to which the requestor and the district agree; or
2. Wants the information in the form in which it is available.

If a requestor does not make a timely written statement, the requestor is considered to have withdrawn the request for information.

PROCESSING OF
REQUESTS

The officer for public information shall establish policies that assure the expeditious and accurate processing of requests for information that require programming or manipulation of data. A district shall maintain a readily accessible file containing all written statements issued concerning requests for information that require programming or manipulation of data.

Gov't Code 552.231

REPETITIOUS OR
REDUNDANT
REQUESTS

If a district determines that a requestor has made a request for information for which the district has previously furnished or made copies available to the requestor, the district may:

1. Respond to the request for information as set forth below, at PROCEDURES; or
2. Furnish the information or make the information available to the requestor again in accordance with the request. If the district selects this option, the district is not required to comply with the procedures described below.

Gov't Code 552.232(a)

These provisions do not apply to information not previously furnished to a requestor. A district shall treat a request for information for which copies have not been previously furnished or made available to the requestor, including information that was not furnished or made available because the information was redacted or because the information did not exist at the time of an earlier request, in the same manner as any other request for public information. *Gov't Code 552.232(d)*

PROCEDURES

A district shall, free of charge, certify to the requestor that copies of all or part of the requested information were previously furnished or made available to the requestor. The certification must include:

1. A description of the information for which copies have been previously furnished or made available to the requestor;
2. The date the district received the requestor's original request for that information;
3. The date the district previously furnished copies or made available copies of the information to the requestor;
4. A certification that no subsequent additions, deletions, or corrections have been made to that information; and
5. The name, title, and signature of the officer for public information or agent making the certification.

Gov't Code 552.232

SECTION III: ATTORNEY GENERAL DECISIONS

ATTORNEY GENERAL
DECISIONS

If a district receives a written request for information that the district considers to be within one of the exceptions to required disclosure and that the district wishes to withhold from public disclosure, the district shall request a decision from the attorney general about whether the information is within the exception (see SUBMISSION TO ATTORNEY GENERAL, below). For these purposes, the term "written request" includes a request sent by electronic mail or facsimile transmission to the officer or designee.

TIME FOR REQUEST

A district must submit the request to the attorney general not later than the tenth business day after receiving the written request. If a district does not timely request a decision from the attorney general and comply with the requirements at STATEMENT TO REQUESTOR, below, the information is presumed to be subject to public disclosure and must be released unless there is a compelling reason to withhold it.

Gov't Code 552.301(a)-(c), .302

A district may only request an attorney general decision if the district reasonably believes that the requested information is excepted from required disclosure. *Tex. Atty. Gen. ORD-665 (2000)*

**CALCULATING
TIMELINES**

For the purposes of Government Code sections 552.301–.308, if a district receives a written request by United States mail and cannot adequately establish the actual date of receipt, the request is considered to have been received by the district on the third business day after the date of the postmark on a properly addressed request. *Gov't Code 552.301(a-1)*

When Government Code sections 552.301–.308 require a request, notice, or other document to be submitted or otherwise given to the attorney general within a specified period, the requirement is met in a timely fashion if the district submits the document through the attorney general's designated electronic filing system within that period. This provision does not affect the right of a district to submit information to the attorney general by mail under Government Code 552.308.

When the attorney general is required to deliver a notice, decision, or other document within a specified period, the requirement is met in a timely fashion if the attorney general electronically transmits the document within that period.

Gov't Code 552.309

**PREVIOUS
DETERMINATIONS
SAME
INFORMATION**

Except as set forth at Government Code section 552.301(g), a district may not request an attorney general decision if the district has previously requested and received a determination from the attorney general concerning the precise information at issue in a pending request and the attorney general or a court determined that the information is not within one of the exceptions. This exception applies to specific information that is again requested from a district after the attorney general has previously issued a decision regarding the precise information or records at issue. *Gov't Code 552.301(f); Tex. Att'y Gen. ORD-673 (2001)*

**CATEGORIES OF
INFORMATION**

A district may rely on a previous determination by the attorney general regarding a specific, clearly delineated category of information if:

1. The previous decision is applicable to a school district;
2. The previous decision concludes that the category of information is or is not excepted from public disclosure;
3. The elements of law, fact, and circumstances are met to support the previous decision's conclusion that the requested

records and information at issue are or are not excepted from public disclosure; and

4. The previous decision explicitly provides that the governmental body or bodies to which the decision applies may withhold the information without the necessity of seeking a decision from the attorney general.

Tex. Att'y Gen. ORD-673 (2001)

A district that relies on any previous determination to withhold information from disclosure should notify the requestor in writing of the decision or ruling upon which it is relying.

A district may withhold from public disclosure the categories of personnel records listed at Texas Attorney General Open Records Decision 684 (2010).

Tex. Att'y Gen. ORD-684 (2010)

A district may withhold from public disclosure personally identifiable, non-directory information in "education records" as defined in the Family Education Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. 1232g [see FL]. *Tex. Att'y Gen. ORD-634 (1995)*

STATEMENT TO
REQUESTOR

If a district requests an attorney general decision, it shall provide to the requestor within a reasonable time but not later than the tenth business day after the date of receiving the requestor's written request:

1. A written statement that the district wishes to withhold the requested information and has asked for a decision from the attorney general about whether the information is within an exception to public disclosure; and
2. A copy of the district's written communication to the attorney general asking for the decision. If a district's written communication to the attorney general discloses the requested information, the district shall provide a redacted copy of that written communication.

Gov't Code 552.301(d)

SUBMISSION TO
ATTORNEY
GENERAL

When a district requests an attorney general decision, it shall, within a reasonable time but not later than the 15th business day after receiving the request for information, submit to the attorney general all of the following:

1. Written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld;
2. A copy of the written request for information;

3. A signed statement as to the date on which the written request for information was received by the district or evidence sufficient to establish that date; and
4. A copy of the specific information requested, or representative samples of the information if a voluminous amount of information was requested. The district shall label the copies or representative samples to indicate which exceptions apply to which parts of the copy.

The district shall send a copy of the comments to the requestor not later than the 15th business day after the district receives the written request. If the written comments disclose or contain the substance of the information requested, the copy of the comments provided to the requestor shall be redacted.

Gov't Code 552.301(e), (e-1)

Unless the information is confidential by law, the district may disclose the requested information to the public or the requestor before a final determination that the information is public has been made by the attorney general or a court with jurisdiction. *Gov't Code 552.303(a)*

ADDITIONAL
INFORMATION

If the attorney general determines that additional information is necessary to render a decision, the attorney general shall give the district and the requestor written notice of that fact. The district shall submit the necessary additional information to the attorney general not later than the seventh calendar day after the date the notice is received. If the district does not comply with the attorney general's request, the information is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information. *Gov't Code 552.303(c)-(e)*

PRIVACY OR
PROPERTY
INTERESTS

If information is requested and a person's privacy or property interests may be involved, including a case under Government Code 552.101 (information confidential by law), 552.104 (information related to competitive bidding), 552.110 (trade secrets), and 552.114 (student records), a district may decline to release the information for the purpose of requesting a decision from the attorney general. A person whose interests may be involved, or any other person, may submit in writing to the attorney general the person's reasons why the information should be withheld or released. A district may, but is not required to, submit its reasons why the information should be withheld or released. *Gov't Code 552.305(a)-(c)*

NOTICE TO
OWNER OF
PROPRIETARY
INFORMATION

If release of a person's proprietary information may be subject to exception under Government Code 552.101 (information confidential by law), 552.110 (trade secrets), 552.113 (geological or geophysical information), or 552.131 (economic development information), a district that requests an attorney general decision shall make a good faith attempt to provide written notice to that person of its request. The notice must:

1. Be sent within a reasonable time not later than the tenth business day after the district receives the request for information; and
2. Include:
 - a. A copy of any written request a district received for the information; and
 - b. A statement, in the form prescribed by the attorney general, that the person is entitled to submit to the attorney general, not later than the tenth business day after the person receives the notice, a written statement of the reason(s) why the information should be withheld and a letter, memorandum, or brief supporting the reason(s).

Gov't Code 552.305(d)

SECTION IV: CHARGES REGARDING PUBLIC INFORMATION REQUESTS

COSTS AND CHARGES

The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the information, including costs of materials, labor, and overhead. The charges shall not be excessive and shall not exceed the actual cost of producing the information or for making public information that exists in a paper record available.

Charges for providing a copy of public information are considered to accrue at the time the district advises the requestor that the copy is available on payment of the applicable charges.

50 PAGES OR LESS

If a request is for 50 or fewer pages of paper records, the charge for providing the copy of the information shall be limited to the charge for each page of the paper record that is photocopied, unless the pages to be photocopied are located in two or more separate buildings that are not physically connected with each other or a remote storage facility. The charge for providing a copy may not include costs of materials, labor, or overhead.

STATEMENT OF
LABOR COSTS

If the charge for providing a copy of public information includes costs of labor, the requestor may require the officer for public in-

formation or agent to provide the requestor with a written statement as to the amount of time that was required to produce and provide the copy. The statement must be signed by the officer or agent, and the officer or agent's name must be typed or legibly printed below the signature. A charge may not be imposed for providing the written statement to the requestor.

Gov't Code 552.261, .262(a)

ATTORNEY
GENERAL'S RULES

A district shall use the attorney general's rules to determine the charges for providing copies of public information and to determine the charge, deposit, or bond required for making public information that exists in a paper record available for inspection, except to the extent that other law provides for charges for specific kinds of public information. [See GBAA(EXHIBIT)]

A district may determine its own charges for providing copies of public information and its own charge, deposit, or bond for making public information that exists in a paper record available for inspection. However, a district may not charge an amount that is greater than 25 percent more than the amount established by the attorney general, unless the district requests an exemption. *Gov't Code 552.262(a); 1 TAC 70.1(b)*

EXEMPTIONS

A district may request that it be exempt from part or all of the rules adopted by the attorney general for determining charges. The request must be made in writing to the attorney general and must state the reason for the exemption. If a district receives notice from the attorney general that an exemption has been granted, the district may amend its charges according to the attorney general's determination. *Gov't Code 552.262(c)*

COPIES FOR
PARENTS

A district may charge a reasonable fee in accordance with the above requirements for copies of materials provided to parents pursuant to Education Code Chapter 26. *Education Code 26.012*

STATEMENT OF
ESTIMATED
CHARGES

If a request for a copy of public information will result in the imposition of a charge that exceeds \$40, a district shall provide the requestor with a written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If an alternative less costly method of viewing the records is available, the statement must include a notice that the requestor may contact the district regarding the alternative method. A district must inform the requestor of the responsibilities imposed on the requestor by Government Code 552.2615 and the rights granted by that section and give the requestor the information needed to respond as detailed in Government Code 552.2615(a).

If, after a district provides the requestor the itemized statement but before it makes the copy or the paper record available, the district determines that the estimated charges will exceed the charges detailed in the original itemized statement by 20 percent or more, the district shall send to the requestor an updated written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs.

REQUESTOR'S
RESPONSE

A request for which a district is required to produce an (original or updated) itemized statement of estimated charges is considered to have been withdrawn if the requestor does not respond in writing to the itemized statement by informing the district within ten business days after the date the statement is sent to the requestor that:

1. The requestor will accept the estimated charges;
2. The requestor is modifying the request in response to the itemized statement; or
3. The requestor has sent to the attorney general a complaint alleging that the requestor has been overcharged for being provided with a copy of the public information.

ACTUAL
CHARGES

If the actual charges exceed \$40, the charges may not exceed:

1. The amount estimated in the updated itemized statement; or
2. If an updated itemized statement is not sent to the requestor, an amount that exceeds by 20 percent or more the amount estimated in the original itemized statement.

TIMING OF
DEADLINES

An original or updated itemized statement is considered to have been sent by a district, and a requestor is considered to have responded to the statement, on the date that the statement or response is:

1. Delivered in person;
2. Deposited, properly addressed, in the U.S. mail; or
3. Transmitted by electronic mail or facsimile, provided the requestor agrees to receive the statement by those means.

The time deadlines for providing or responding to the required statement of estimated charges do not affect the application of a time deadline imposed on a district for requesting a decision by the attorney general under Government Code 552, Subchapter G.

Gov't Code 552.2615

- DEPOSIT OR BOND The officer for public information or agent may require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information if:
1. The officer or agent has provided the requestor with the written itemized statement required by Government Code 552.2615 (see STATEMENT OF ESTIMATED CHARGES, above); and
 2. The charge for providing the copy is estimated by the district to exceed \$100, if the district has more than 15 full-time employees, or \$50, if the district has fewer than 16 full-time employees.

The officer or agent may not require a deposit or bond as a down payment for copies of public information that the requestor may request in the future.

Gov't Code 552.263(a), (b)

For the purposes of charging for providing copies of public information or for requesting an attorney general's opinion, a request for a copy of public information is considered to have been received by the district on the date the district receives the deposit or bond.

Gov't Code 552.263(e)

A requestor who fails to make such a deposit or post such a bond before the tenth business day after the date the deposit or bond is required is considered to have withdrawn the request. *Gov't Code 552.263(f)*

**MODIFIED
REQUEST**

If a requestor modifies a request in response to the requirement of a deposit or bond, the modified request is considered a separate request and is considered received on the date the district receives the written modified request. *Gov't Code 552.263(e-1)*

UNPAID AMOUNTS

The officer for public information or agent may require a deposit or bond for payment of unpaid amounts the requestor owes a district in relation to previous public information requests before preparing a copy of public information in response to a new request, if those unpaid amounts exceed \$100. The officer for public information or agent may not seek payment of those unpaid amounts through any other means. *Gov't Code 552.263(c)*

A district that receives a request from a requestor who, within the preceding 180 days, has accepted but failed to pay written itemized statements of estimated charges from the district as provided under Government Code 552.261(b) may require the

requestor to pay the estimated charges for the request before the request is fulfilled. *Gov't Code 552.2661*

DOCUMENTATION
OF UNPAID
AMOUNTS

A district must fully document the existence and amount of those unpaid amounts or the amount of any anticipated costs before requiring a deposit or bond. The documentation is subject to required public disclosure. *Gov't Code 552.263(d)*

WAIVERS

A district shall provide a copy of public information without charge or at a reduced charge if the district determines that waiver or reduction of the charge is in the public interest because providing the information primarily benefits the public.

If the cost to a district of processing the collection of a charge for providing a copy of public information will exceed the amount of the charge, the district may waive the charge.

Gov't Code 552.267

GOVERNMENT
PUBLICATION

The cost provisions described above do not apply to a publication that is compiled and printed by or for a district for public dissemination. If the cost of the publication is not determined by state law, a district may determine the charge for providing the publication, or the district may provide the publication free of charge, if state law does not require a certain charge. *Gov't Code 552.270*

SECTION V: INSPECTION OF PUBLIC INFORMATION

INSPECTION OF
PUBLIC INFORMATION

If the requestor does not request a copy of public information, a district may not impose a charge for making available for inspection any public information that exists in a paper record, except as set forth below. *Gov't Code 552.271(a)*

CONFIDENTIAL
INFORMATION

If a page contains confidential information that must be edited from the record before the information can be made available for inspection, a district may charge for the cost of making a photocopy of the page from which the confidential information must be edited. No charge other than the cost of the photocopy may be imposed. *Gov't Code 552.271(b)*

PAYMENT, DEPOSIT,
OR BOND

The officer for public information or agent may require a requestor to pay, or to make a deposit or post a bond for the payment of, anticipated personnel costs for making available for inspection public information that exists in paper records if:

1. The information specifically requested by the requestor is older than five years or completely fills, or when assembled will completely fill, six or more archival boxes; and

2. The officer for public information or agent estimates that more than five hours will be required to make the information available for inspection.

Gov't Code 552.271(c)

CERTAIN SMALL
DISTRICTS

If a district has fewer than 16 full-time employees, the payment, deposit, or bond may be required only if:

1. The information specifically requested by the requestor is older than three years or completely fills, or when assembled will completely fill, three or more archival boxes; and
2. The officer for public information or agent estimates that more than two hours will be required to make the information available for inspection.

Gov't Code 552.271(d)

ELECTRONIC
RECORDS

If a district receives a request to inspect information that exists in an electronic medium and that is not available directly online to the requestor, the district may not impose a charge for access to the information unless complying with the request will require programming or manipulation of data. If programming or manipulation of data is required, a district shall notify the requestor before assembling the information and provide the requestor with an estimate of charges that will be imposed.

If public information exists in an electronic form on a computer owned or leased by a district, and the public has direct access to that computer through a computer network or other means, the electronic form of the information may be electronically copied from that computer without charge if accessing the information does not require processing, programming, or manipulation on the district's computer before the information is copied. If such information does require processing, programming, or manipulation before it can be copied, a district may impose charges.

If a district creates or keeps information in an electronic form, the district is encouraged to explore options to separate confidential information from public information and make the public information available to the public through electronic access through a computer network or other means.

Gov't Code 552.272

SECTION VI: MISCELLANEOUS PROVISIONS

LARGE OR FREQUENT
REQUESTS
PERSONNEL TIME

A district may establish a reasonable limit on the amount of time that district employees are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its

costs attributable to that personnel time. The time limit may not be less than 36 hours for a requestor during the 12-month period that corresponds to a district's fiscal year.

REQUEST BY
MINOR

Any time spent complying with a request submitted in the name of a minor, as defined by Family Code 101.003(a), is to be included in the calculation of the cumulative amount of time spent complying with a request for public information by a parent, guardian, or other person who has control of the minor under a court order and with whom the minor resides, unless that parent, guardian, or other person establishes that another person submitted that request in the name of the minor.

EXCEPTION

This section does not apply if the requestor is an individual who, for a substantial portion of the individual's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information for and is seeking the information for:

1. A radio or television broadcast station that holds a broadcast license for an assigned frequency issued by the Federal Communications Commission;
2. A newspaper that is qualified under Government Code 2051.044 to publish legal notices or is a free newspaper of general circulation and that is published at least once a week and available and of interest to the general public in connection with the dissemination of news;
3. A newspaper of general circulation that is published on the Internet by a news medium engaged in the business of disseminating news or information to the general public; or
4. A magazine that is published at least once a week or on the Internet by a news medium engaged in the business of disseminating news or information to the general public.

This section also does not apply if the requestor is an elected official of the United States, this state, or a political subdivision of this state or a representative of a publicly funded legal services organization that is a federal tax exempt entity under Section 501(c)(3), Internal Revenue Code of 1986.

WRITTEN
STATEMENT OF
PERSONNEL TIME

If a district establishes a time limit, each time the district complies with a request for public information, the district shall provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable 12-month period. The amount of

time spent preparing the written statement may not be included in the amount of time in the statement.

WRITTEN ESTIMATE
OF CHARGES

If the cumulative amount of personnel time spent complying with requests for public information from the same requestor equals or exceeds the established time limit, a district shall provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. The district shall provide the written estimate on or before the tenth day after the date on which the request was made. The amount of this charge relating to the cost of locating, compiling, and producing the public information shall be established by rules prescribed by the attorney general.

ADDITIONAL TIME

If a district provides the requestor with written notice that additional time is required to prepare the written estimate, the district must provide the written estimate as soon as practicable, but on or before the tenth day after the date the district provided the notice that additional time was required.

ACCEPTANCE OF
CHARGES

A district is not required to produce public information for inspection or duplication or to provide copies of public information in response to the requestor's request unless on or before the tenth day after the date the district provided the written estimate, the requestor submits a written statement to the district in which the requestor commits to pay the lesser of:

1. The actual costs incurred in complying with the request, including the cost of materials, personnel time, and overhead; or
2. The amount stated in the written estimate.

If the requestor fails or refuses to submit a written statement, the requestor is considered to have withdrawn the request.

WAIVED OR
REDUCED
CHARGES

This section does not prohibit a district from providing a copy of public information without charge or at a reduced rate, or from waiving a charge for providing a copy of public information, under Government Code 552.267 [see WAIVERS, above].

Gov't Code 552.275

FILING SUIT TO
WITHHOLD
INFORMATION

A district may file suit seeking to withhold information if the district receives a determination from the attorney general that information must be disclosed to a requestor. The suit must be filed in Travis County district court against the attorney general and must seek declaratory relief from compliance with the attorney general's decision.

The district must bring the suit not later than the 30th calendar day after the district receives the attorney general's decision. If the district wishes to preserve an affirmative defense for its officer for public information, as provided by Government Code 552.353(b)(3), the district must file suit not later than the tenth calendar day after receipt of the attorney general's decision.

Gov't Code 552.324, .353(b)(3)

PARENT'S REQUEST
FOR INFORMATION

A district that receives a request from a parent for public information relating to the parent's child shall comply with the PIA.

A district that seeks to withhold information from a parent who has requested public information relating to the parent's child under the PIA, and that files suit to challenge a decision by the attorney general, must bring the suit not later than the 30th calendar day after the date the district receives the decision of the attorney general, unless an earlier deadline is established by the PIA.

A court shall grant such a suit precedence over other pending matters to ensure prompt resolution. Notwithstanding any other law, a district may not appeal the decision of the court. This prohibition does not affect the right of a parent to appeal the decision. If a district does not bring suit within the period established, the district shall comply with the decision of the attorney general.

Education Code 26.0085

TRESPASSING A board or its authorized representative may refuse to allow persons having no legitimate business to enter on property under the board's control and may eject any undesirable person from the property on his or her refusal to leave peaceably on request. Identification may be required of any person on the property. *Education Code 37.105, 37.107*

DISRUPTION OF
LAWFUL ASSEMBLY A person commits a Class B misdemeanor if the person, alone or in concert with others, intentionally engages in disruptive activity on the campus or property of any school in a district.

DEFINITION Disruptive activity means:

1. Obstructing or restraining the passage of persons in an exit, entrance, or hallway of any building without the authorization of the administration of the school.
2. Seizing control of any building or portion of a building to interfere with any administrative, educational, research, or other authorized activity.
3. Preventing or attempting to prevent by force or violence or the threat of violence any lawful assembly authorized by the school administration so that a person attempting to participate in the assembly is unable to participate due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur.
4. Disrupting by force or violence or the threat of force or violence a lawful assembly in progress.
5. Obstructing or restraining the passage of any person at an exit or entrance to the campus or property or preventing or attempting to prevent by force or violence or by threats thereof the ingress or egress of any person to or from the property or campus without the authorization of the administration of the school.

FREE SPEECH This provision shall not be construed to infringe upon any right of free speech or expression guaranteed by the constitutions of the United States or the state of Texas.

Education Code 37.123

DISRUPTION OF
CLASSES A person commits a Class C misdemeanor if the person, on school property or on public property within 500 feet of school property, alone or in concert with others, intentionally disrupts the conduct of classes or other school activities. **It is an exception to the application of the offense that, at the time the person engaged in**

	<p>the prohibited conduct, the person was a student in the sixth grade or a lower grade level.</p>
DEFINITIONS	<p>Disrupting the conduct of classes or other school activities includes:</p> <ol style="list-style-type: none">1. Emitting noise of an intensity that prevents or hinders classroom instruction.2. Enticing or attempting to entice a student away from a class or other school activity that the student is required to attend.3. Preventing or attempting to prevent a student from attending a class or other school activity that the student is required to attend.4. Entering a classroom without the consent of either the principal or the teacher and, either through either acts of misconduct or use of loud or profane language, disrupting class activities. <p>For purposes of this provision, "school" School property" shall include the includes a public school campuses campus or school grounds upon on which any a public school is located, and any grounds or buildings used by district schools a school for assemblies an assembly or other school-sponsored activities activity.</p> <p>For purposes of this provision, "public" Public property" shall include any includes a street, highway, alley, public park, or sidewalk.</p> <p><i>Education Code 37.124</i></p>
TOBACCO	<p>A board shall prohibit smoking or using tobacco products at a school-related or school-sanctioned activity on or off school property. Students are prohibited from possessing tobacco products at a school-related or school-sanctioned activity on or off school property. School personnel shall enforce these policies on school property. <i>Education Code 38.006</i></p>
SMOKING IN BUILDINGS	<p>A district shall not permit smoking within any indoor facility used for provision of routine or regular kindergarten, elementary, or secondary education or library services to children; or regular or routine health care or day care or early childhood development (Head Start) services to children or for the use of employees who provide such services. <i>20 U.S.C. 6083; 20 U.S.C. 7183</i></p>
CRIMINAL PENALTY	<p>A person commits an offense if he or she is in possession of a burning tobacco product or smokes tobacco in a facility of a public school or an elevator.</p>

DEFENSE	It is a defense to prosecution that a district does not have prominently displayed a reasonably sized notice that smoking is prohibited by state law in such place and that an offense is punishable by a fine not to exceed \$500.
FACILITIES FOR EXTINGUISHMENT	A district shall be equipped with facilities for extinguishment of smoking materials. <i>Penal Code 48.01(a)–(c)</i>
ALCOHOL	A board shall prohibit the use of alcoholic beverages at school-related or school-sanctioned activities on or off school property. <i>Education Code 38.007(a)</i> [See FNCF]
INTOXICANTS	The possession of any intoxicating beverage for consumption, sale, or distribution while on the grounds or in a building of any school in a district or while entering or inside any enclosure, field, or stadium where any athletic event sponsored or participated in by a school in a district is being held constitutes a Class C misdemeanor. <i>Education Code 37.122</i>
FIREARMS / WEAPONS	<p>A person commits an offense if the person knowingly, intentionally, or recklessly possesses or goes with a firearm, illegal knife, or prohibited weapon listed in Penal Code 46.05(a) onto the physical premises of a school or educational institution or any grounds or building in which an activity sponsored by a school or educational institution is being conducted, or a passenger transportation vehicle of a school or educational institution, unless pursuant to written regulations or written authorization of a district. <i>Penal Code 46.03</i> [See also FNCG]</p> <p>“Premises,” for purposes of this policy, means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area. <i>Penal Code 46.035(f)(3)</i></p> <p>A person commits a third degree felony if, in a manner intended to cause alarm or personal injury to another person or to damage school property, the person intentionally exhibits, uses or threatens to exhibit or use a firearm:</p> <ol style="list-style-type: none">1. In or on any property, including a parking lot, parking garage, or other parking area, that is owned by a private or public school; or2. On a school bus being used to transport children to and from school-sponsored activities. <p><i>Education Code 37.125</i></p>

CONCEALED
HANDGUN LICENSE
HOLDER

A concealed handgun license holder commits an offense if the license holder carries a handgun on the property of another without effective consent and received notice that entry on the property by a license holder with a concealed handgun was forbidden or that remaining on the property with a concealed handgun was forbidden and failed to depart.

For purposes of this section, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

“Written communication” means:

1. A card or other document on which is written language identical to the following: “Pursuant to Section 30.06, Penal Code (trespass by holder of license to carry a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (concealed handgun law), may not enter this property with a concealed handgun”; or
2. A sign posted on the property that includes the language described above in both English and Spanish, appears in contrasting colors with block letters at least one inch in height; and is displayed in a conspicuous manner clearly visible to the public.

An offense under this section is a Class A misdemeanor.

PREMISES
EXCEPTION

It is an exception to the application of this law that the property on which the license holder carries a handgun is owned or leased by a district and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035.

Penal Code 30.06 [See also FNCG]

INTERSCHOLASTIC
EVENTS

A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed, on or about the license holder’s person on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the license holder is a participant in the event and a handgun is used in the event. *Penal Code 46.035(b)(2)*

BOARD MEETINGS

A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Government Code Chapter 411, Subchapter H, regardless of whether the handgun is concealed, at any meeting of a school

board, if the license holder was given effective notice under Penal Code 30.06. *Penal Code 46.035(c), (i)*

DEFENSE TO
PROSECUTION

It is a defense to prosecution under Penal Code 46.035(b) and (c) [see INTERSCHOLASTIC EVENTS and BOARD MEETINGS, above] that the actor, at the time of the commission of the offense, was:

1. A judge or justice of a federal court;
2. An active judicial officer, as defined by Section 411.201, Government Code;
3. A district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney; or
4. A bailiff designated by the active judicial officer and engaged in escorting the officer.

Penal Code 46.035(h-1)

FIREWORKS

A person may not explode or ignite fireworks within 600 feet of any school unless the person receives authorization in writing from the school. *Occupations Code 2154.251(a)(1)*

PROGRAM
REQUIREMENTS AND
GUIDELINES

A district shall develop a volunteer program. In developing the program, a district shall consider volunteers a resource that requires advance planning and preparation for effective use. If practicable, a district shall include volunteers in addition to paid staff in planning the implementation of the program. *Gov't Code 2109.003*

A volunteer program shall include:

1. An effective training program for paid staff and prospective volunteers.
2. The use of paid staff to plan and implement the volunteer program.
3. An evaluation mechanism to assess the performance of volunteers, the cooperation of paid staff with the volunteers, and the overall volunteer program.
4. Follow-up studies to ensure the effectiveness of the program.

Gov't Code 2109.004(a)

A volunteer program may:

1. Establish a program to reimburse volunteers for actual and necessary expenses incurred in the performance of volunteer services.
2. Establish an insurance program to protect volunteers in the performance of volunteer services.
3. Cooperate with private organizations that provide services similar to those provided by a district.
4. Purchase engraved certificates, plaques, pins, and/or other awards of a similar nature that do not exceed \$75 per person in value to recognize special achievement and outstanding service of volunteers.

Gov't Code 2109.004(b)

CRIMINAL HISTORY
RECORD

APPLICABILITY

This section applies to a volunteer or person who has indicated, in writing, an intention to serve as a volunteer with a district or shared services arrangement. [See DBAA for definitions and provisions regarding confidentiality, consumer credit reports, records retention, and criminal history record checks of employees]

EXCEPTION

This section does not apply to a person who volunteers or is applying to volunteer with a district or shared services arrangement if the person:

1. Is the parent, guardian, or grandparent of a child who is enrolled in the district or school for which the person volunteers or is applying to volunteer;

2. Will be accompanied by a school district employee while on a school campus; or
3. Is volunteering for a single event on the school campus.

A district may obtain all criminal history record information that relates to an individual listed in this subsection, however.

CRIMINAL HISTORY

A volunteer may not perform any volunteer duties until:

1. The volunteer has provided to a district a driver's license or another form of identification containing the person's photograph issued by an entity of the United States government; and
2. The district has obtained from the Texas Department of Public Safety (DPS) and may obtain from any other law enforcement agency, criminal justice agency, or private consumer reporting agency all criminal history record information that relates to a volunteer.

COSTS

A district may require a volunteer or volunteer applicant to pay any costs related to obtaining criminal history record information under this section.

Education Code 22.0835

[See DBAA(LEGAL) for confidentiality of criminal history record information obtained from DPS-:]

VOLUNTEER
IMMUNITY

GENERALLY

A volunteer who is serving as a direct service volunteer in a district is immune from civil liability to the same extent as a district employee under Education Code 22.0511. However, this section of law does not limit the liability of a person for intentional misconduct or gross negligence.

A "volunteer" is a person rendering services for or on behalf of a district on district premises or at a school-sponsored or school-related activity on or off school property who does not receive compensation in excess of reimbursement for expenses.

Education Code 22.053

EXTRACURRICULAR
ACTIVITIES

A person who volunteers to assist with an extracurricular activity is not liable for civil damages arising out of an act or omission relating to the requirements under Education Code 33.205 regarding safety precautions [see FM(LEGAL)] unless the act or omission is willfully or wantonly negligent. *Education Code 33.211*

PHYSICAL
EXAMINATIONS

Subject to Civil Practices and Remedies Code 91.003 (liability insurance requirements), a health-care practitioner who, without compensation or expectation of compensation, conducts a physical examination or medical screening for the purpose of determining the physical health and fitness of the patient to

participate in a school-sponsored extracurricular or sporting activity is immune from civil liability for any act or omission resulting in the death of or injury to the patient if:

1. The health care practitioner was acting in good faith and in the course and scope of the health-care practitioner's duties;
2. The health-care practitioner commits the act or omission in the course of conducting the physical examination or medical screening of the patient;
3. The services provided to the patient are within the scope of the license of the health-care practitioner; and
4. Before the health-care practitioner conducts the physical examination or medical screening, the patient signs a written statement that acknowledges:
 - a. That the health-care practitioner is conducting a physical examination or medical screening that is not administered for or in expectation of compensation; and
 - b. The limitations on the recovery of damages from the health-care practitioner in connection with the physical examination or medical screening being performed.

If the patient is a minor or is otherwise legally incompetent, the patient's parent, managing conservator, legal guardian, or other person with legal responsibility for the care of the patient must sign the written statement.

Civil Practice & Remedies Code 91.002

IMMUNITY FOR
SHELTER
WORKERS

A district volunteer is not civilly liable for an act performed in the discharge of duty if the person is performing an activity related to sheltering or housing individuals in connection with the evacuation of an area stricken or threatened by disaster. *Gov't Code 418.006, 431.085*

VOLUNTEER
TRAINING –
CONCUSSION
OVERSIGHT TEAM

A licensed health care professional who serves on a volunteer basis on a district's concussion oversight team [see FM] must have had training in the evaluation, treatment, and oversight of concussions at the time of appointment or approval as a member of the team. In addition, the professional shall, at least once every two years, take a course in the subject matter of concussions approved by the University Interscholastic League (UIL), the Texas Department of State Health Services

Advisory Board of Athletic Trainers, or the appropriate licensing authority for the profession.

The professional must submit proof of timely completion of an approved course to the superintendent or designee. A licensed health-care professional who is not in compliance with these training requirements may not serve on a concussion oversight team in any capacity.

Education Code 38.154, .158

~~REPORTS TO LOCAL
LAW ENFORCEMENT~~

~~The principal, or a school employee under his or her supervision who is designated by the principal, shall notify the district police department (if one exists) and the police department of the municipality in which the school is located, or, if the school is not in a municipality, the sheriff of the county in which the school is located, if the principal has reasonable grounds to believe that any of the following activities occur in school, on school property, or at a school-sponsored or school-related activity on or off school property, without regard to whether the activity is investigated by school security officers:~~

- ~~1. Conduct that may constitute an offense listed in Government Code 508.149; deadly conduct, as described by Penal Code 22.05; or a terroristic threat, as described by Penal Code 22.07. [See GRA(EXHIBIT)]~~
- ~~2. The use, sale, or possession of a controlled substance, drug paraphernalia, or marijuana, as defined by Health and Safety Code 481.~~
- ~~3. The possession of any of the weapons or devices listed in Penal Code 46.01(1) (14) or (16). [See FNCG]~~
- ~~4. The possession of a weapon as defined by 18 U.S.C. Section 921, in accordance with the Gun-Free Schools Act. [See FOD]~~
- ~~5. Conduct that may constitute a criminal offense under Penal Code 71.02, Engaging in Organized Criminal Activity. [See GRA(EXHIBIT)]~~
- ~~6. Conduct that may constitute a criminal offense for which a student may be expelled under Education Code 37.007(a), (d), or (e).~~

~~The report shall include the name and address of each student the person believes may have participated in the activity, but is not required if the person reasonably believes that the activity does not constitute a criminal offense.~~

~~Education Code 37.015, .007(e)~~

~~REPORTS TO
JUVENILE JUSTICE
AGENCY~~

~~A superintendent or designee may disclose information contained in a student's educational records to a juvenile justice agency if the disclosure is under an interagency agreement authorized by Family Code 58.0051.~~

~~A district is not required or authorized to release student-level information except in conformity with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g). [See FL]~~

~~Education Code 37.084~~

~~STUDENTS TAKEN
INTO CUSTODY~~

~~A district shall permit a student to be taken into custody:~~

- ~~1. Pursuant to an order of the juvenile court.~~
- ~~2. Pursuant to the laws of arrest.~~
- ~~3. By a law enforcement officer if there is probable cause to believe the student has engaged in delinquent conduct or conduct in need of supervision.~~
- ~~4. By a probation officer if there is probable cause to believe the student has violated a condition of probation imposed by the juvenile court.~~
- ~~5. Pursuant to a properly issued directive to apprehend.~~
- ~~6. By an authorized representative of Child Protective Services (CPS), Texas Department of Family and Protective Services (DFPS), a law enforcement officer, or a juvenile probation officer, without a court order, under the conditions set out in Family Code 262.104 relating to the student's physical health or safety.~~

~~Family Code 52.01, 262.104~~

~~STUDENTS IN
CUSTODY~~

~~A person taking a child into custody, without unnecessary delay and without first taking the child to any place other than a juvenile processing office designated under Family Code 52.025, may, if school is in session, bring the child to the school campus to which the child is assigned if the principal, the principal's designee, or a peace officer assigned to the campus agrees to assume responsibility for the child for the remainder of the school day. Family Code 52.02(a)(7)~~

~~NOTICE FROM LAW
ENFORCEMENT~~

~~ARREST OF
STUDENT~~

~~A law enforcement agency that arrests any person or refers a child to the office or official designated by the juvenile board who the agency knows or believes is enrolled as a student in a public primary or secondary school shall orally notify the superintendent or designee in the district in which the student is enrolled or believed to be enrolled of that arrest or referral within 24 hours after the arrest or referral is made, or on the next school day. Within seven days after oral notice is given, the law enforcement agency shall mail written notice. Both the oral and written notice shall contain sufficient details of the arrest or referral and the acts allegedly committed by the student to enable a superintendent or a superintendent's designee to determine whether there is a reasonable belief that the student has engaged in conduct defined as a felony offense by the Penal Code. The information contained in the notice may be considered by a superintendent or designee in making such a determination. This notice shall be made only if the student~~

NOTICE OF
DISPOSITION OF
CHARGES

~~has been arrested or referred for committing an offense specified at REPORTABLE OFFENSES. Code of Criminal Procedure 15.27(a)~~

~~On conviction, deferred prosecution, deferred adjudication, or adjudication of delinquent conduct of a student, for an offense or for any conduct specified at REPORTABLE OFFENSES, the office of the prosecuting attorney shall orally and in writing notify a superintendent or designee of the conviction, deferred prosecution, deferred adjudication, or adjudication and whether the student is required to register as a sex offender. Code of Criminal Procedure 15.27(b)~~

~~The office of the prosecuting attorney or the office or official designated by the juvenile board shall, within two working days, notify the district that removed a student to a disciplinary alternative education program, if:~~

- ~~1. Prosecution of the student's case was refused for lack of prosecutorial merit or insufficient evidence and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or~~
- ~~2. The court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice.~~

~~Code of Criminal Procedure 15.27(g)~~

SEX OFFENDER

~~The local law enforcement authority shall immediately provide notice to the superintendent of the district in which the person subject to registration under the Sex Offender Registration Program intends to reside, by mail to the office of the superintendent, as set out below.~~

~~A local law enforcement authority shall provide notice to a superintendent regarding a registered sex offender only if:~~

- ~~1. The victim was at the time of the offense a child younger than 17 years of age or a student enrolled in a public or private secondary school;~~
- ~~2. The person subject to registration is a student enrolled in a public or private secondary school; or~~
- ~~3. The basis on which the person is subject to registration is a conviction, a deferred adjudication, or an adjudication of delinquent conduct for an offense under Penal Code 43.25 (Sexual Performance by a Child) or 43.26 (Possession or~~

	<p>Promotion of Child Pornography), or a substantially similar offense</p> <p>A local law enforcement authority may not provide notice to a superintendent if the basis for the notice is a conviction, a deferred adjudication, or an adjudication of delinquent conduct for an offense under Section 25.02, Penal Code (Prohibited Sexual Conduct, relating to incest), or a substantially similar offense.</p> <p>Code of Criminal Procedure 62.054</p>
<p>NOTICE TO PERSONNEL</p> <p>ARREST OF STUDENT</p>	<p>A superintendent shall promptly notify all instructional and support personnel who have responsibility for supervising a student who has been arrested or taken into custody as provided by a law enforcement agency. All personnel shall keep the information received confidential.</p> <p>A superintendent or designee may send to an employee having direct supervisory responsibility over the student the information contained in the confidential notice of the student's arrest or referral as provided by the law enforcement agency if the superintendent or designee determines that the employee needs the information for educational purposes or for the protection of the person informed or others.</p> <p>Code of Criminal Procedure 15.27(a), (a-1)</p>
<p>CONVICTION OR ADJUDICATION OF STUDENT</p>	<p>When a superintendent or designee receives information from a prosecuting attorney of a student's conviction, deferred prosecution, deferred adjudication, or adjudication of delinquent conduct for an offense specified at REPORTABLE OFFENSES, the superintendent or designee shall, within 24 hours of receiving notification from the office of the prosecuting attorney, notify all instructional and support personnel who have regular contact with the student.</p> <p>Code of Criminal Procedure 15.27(b)</p>
<p>SEX OFFENDER</p>	<p>On receipt of the notice from law enforcement regarding a registered sex offender, a superintendent shall release the information contained in the notice to appropriate district personnel, including peace officers and security personnel, principals, nurses, and counselors. Code of Criminal Procedure 62.053(e), .055(f)</p>
<p>REPORTABLE OFFENSES</p>	<p>The following are reportable offenses for purposes of this policy:</p> <ol style="list-style-type: none">1.— Any felony offense; and2.— The following misdemeanors:<ol style="list-style-type: none">a.— An offense under Penal Code 20.02 (Unlawful Restraint), 21.08 (Indecent Exposure), 22.01 (Assault);

~~22.05 (Deadly Conduct), 22.07 (Terroristic Threat), or 71.02 (Engaging in Organized Criminal Activity);~~

~~b. The unlawful use, sale, or possession of a controlled substance, drug paraphernalia, or marijuana, as defined by Health and Safety Code Chapter 481; and~~

~~c. The unlawful possession of any of the weapons or devices listed in Penal Code 46.01(1)–(14) or (16), or a weapon listed as a prohibited weapon under Penal Code 46.05.~~

~~Code of Criminal Procedure 15.27(h)~~

JUVENILE JUSTICE
INFORMATION
SYSTEM

~~Juvenile justice agencies in a county or region of Texas may jointly create and maintain a local juvenile justice information system in accordance with Family Code Chapter 58, Subchapter D. A local juvenile justice information system shall include each public school district in the county. Family Code 58.303, .305~~

~~Districts that are served by a local juvenile justice information system shall have Level 1 Access. Level 1 Access is information that relates to a child:~~

~~1. Who:~~

~~a. A school official has reasonable grounds to believe has committed an offense for which a report is required under Education Code 37.015; or~~

~~b. Has been expelled, the expulsion of which is required to be reported under Family Code 52.041; and~~

~~2. Who has not been charged with a fineable only offense, a status offense, or delinquent conduct.~~

~~Family Code 58.306~~

~~Information that is part of a local juvenile justice information system is not public information and may not be released, except as authorized by law. Family Code 58.307~~

CPS INVESTIGATIONS
AT SCHOOL

A school official may not refuse to permit a **Child Protective Services (CPS)** investigator to interview at school a student who is alleged to be a victim of abuse or neglect under Family Code 261. A school official may not require the CPS investigator to permit district personnel to be present at a student interview conducted at school. *Family Code 261.302(b), .303(a); Atty. Gen. Op. DM-476 (1998)*

A person that has confidential locating or identifying information regarding a family that is the subject of a CPS investigation shall

	<p>release that information to DFPSthe Texas Department of Family and Protective Services (DFPS) on request. The release of information to DFPS as required by this subsection by a person is not subject to Government Code 552.352 or any other law providing liability for the release of confidential information. <i>Family Code 261.303(e)</i></p>
CPS INVESTIGATIONS OF SCHOOLS	<p>On receipt of a report of alleged or suspected child abuse or neglect in a public school, DFPS shall perform an investigation as provided by Family Code 261. Investigations of school personnel or volunteers for child abuse or neglect shall be conducted by CPS in accordance with the procedures adopted in DFPS rule. <i>Family Code 261.406; 40 TAC 700.401–.412</i></p>
NOTIFICATION NOTICE TO PRINCIPAL	<p>Prior to conducting an investigation of school personnel or volunteers, CPS shall notify the school principal (or the principal's supervisor if the school principal is an alleged perpetrator) of the fact that a report has been assigned for investigation, the nature of the allegations contained in the report, and the date and time when the investigator plans to visit the school campus to begin the investigation.</p> <p>The CPS investigator must request that the school principal (or the principal's supervisor) not alert the alleged perpetrator or others regarding the report until the investigator has first had an opportunity to interview the alleged perpetrator.</p> <p><i>40 TAC 700.407</i></p>
CONDUCTING INTERVIEWS	<p>School officials or other persons related to the school setting may not interfere with an investigation of a report of child abuse or neglect conducted by DFPS. Interviews and examinations in a school investigation may take place on or off the school premises, as deemed appropriate by the CPS investigator, provided the investigator notifies the school principal (or that individual's supervisor in the event that the principal is the alleged perpetrator) prior to conducting an interview or examination on school premises.</p>
PARTICIPANTS	<p>CPS may request that school personnel or volunteers not be present during the interview or examination of an alleged victim, an alleged perpetrator, an adult or child witness, or any other person who may have information relevant to the investigation if the investigator determines that:</p> <ol style="list-style-type: none">1. The presence of school personnel or volunteers would compromise the integrity of the investigation; or2. A better interview or examination of the child would result without school personnel or volunteers being present.

REPORT OF
FINDINGS

Family Code 261.303; 40 TAC 700.409(a)

After DFPS has closed the school investigation, CPS shall provide a report of the investigation to TEA, SBEC, the board president, and the school principal, unless the principal is the alleged perpetrator.

CPS need not provide a report of the investigation if a report of abuse or neglect is closed administratively prior to notification to any school official that a report was received by DFPS.

40 TAC 700.411(a), (d)

STUDENTS TAKEN
INTO CUSTODY

A child may be taken into custody under Family Code Title 3 (Juvenile Justice Code):

~~3.1.~~ Pursuant to an order of the juvenile court.

~~4.2.~~ Pursuant to the laws of arrest.

~~VISITING SCHOOL
RESOURCE OFFICER~~

~~3.~~ **“School resource officer” means a, including a school district peace officer who, if there is licensed under Occupations probable cause to believe the student has engaged in a criminal violation, delinquent conduct, conduct indicating a need for supervision, or conduct that violates a condition of probation.**

4. By a probation officer, if there is probable cause to believe the student has violated a condition of probation or a condition of release.

5. Pursuant to a directive to apprehend issued by a juvenile court.

6. By a law enforcement officer, to take the child’s fingerprints or photograph, as set forth at Family Code 58.021.

Family Code 52.01(a), 58.021

In addition, a child may be taken into custody without a court order:

1. By an authorized representative of the DFPS, a law enforcement officer, or a juvenile probation officer under the conditions set out in Family Code 262.104, relating to the student’s physical health or safety; or

2. As otherwise provided by Family Code Chapter ~~1704~~262 (Suit by Governmental Entity to Protect Health and Safety of Child).

Family Code Chapter 262

**STUDENTS IN
CUSTODY**

A person taking a child into custody may, if school is in session and the child is a student, bring the child to the campus to which the child is assigned ~~by the officer's employing political subdivision to provide:~~

- ~~1. A police presence at a public school;~~
- ~~2. Safety or drug education to students; or~~
- ~~3. Other similar services.~~

~~Occupations Code 1701.601, .602~~ if the principal, the principal's designee, or a peace officer assigned to the campus agrees to assume responsibility for the child for the remainder of the school day. *Family Code 52.02(a)(7)*

Education Code 37.015 requires principals to make reports to local law enforcement authorities of certain classes of offenses, four of which are referenced entirely by citation. The offenses referenced only by citation are further defined below.

1. "Conduct that may constitute an offense listed under Section 508.149, Government Code":
 - a. An offense for which the judgment contains an affirmative finding under Section 3g(a)(2), Article 42.12, Code of Criminal Procedure (use or exhibition of a prohibited weapon during commission of or flight from a felony offense).
 - b. A first or second degree felony under Penal Code 19.02 (murder).
 - c. A capital felony under Penal Code 19.03 (capital murder).
 - d. A first or second degree felony under Penal Code 20.04 (aggravated kidnapping).
 - e. An offense under Penal Code 21.11 (indecenty with a child).
 - f. A felony under Penal Code 22.011 (sexual assault).
 - g. A first or second degree felony under Penal Code 22.02 (aggravated assault).
 - h. A first degree felony under Penal Code 22.021 (aggravated sexual assault).
 - i. A first degree felony under Penal Code 22.04 (injury to a child, elderly individual, or disabled individual).
 - j. A first degree felony under Penal Code 28.02 (arson).
 - k. A second degree felony under Penal Code 29.02 (robbery).
 - l. A first degree felony under Penal Code 29.03 (aggravated robbery).
 - m. A first degree felony under Penal Code 30.02 (burglary).
 - n. A felony for which punishment is increased under Health and Safety Code 481.134 (drug-free zones) or 481.140 (use of child in commission of offense).
 - o. An offense under Penal Code 43.25 (sexual performance by a child).
 - p. An offense under Penal Code 21.02 (continuous sexual abuse of young child or children).
2. "Deadly conduct under Section 22.05, Penal Code":
 - a. A person commits an offense if he or she recklessly engages in conduct that places another in imminent danger of serious bodily injury.
 - b. A person commits an offense if he or she knowingly discharges a firearm at or in the direction of one or more individuals or a habitation, building, or vehicle and is reckless as to whether the habitation, building, or vehicle is occupied.

- c. Recklessness and danger are presumed if the actor knowingly pointed a firearm at or in the direction of another whether or not the actor believed the firearm to be loaded.

3. "Terroristic threat under Section 22.07, Penal Code":

A person commits an offense if he or she threatens to commit any offense involving violence to any person or property with intent to:

- a. Cause a reaction of any type to the threat by an official or volunteer agency organized to deal with emergencies;
- b. Place any person in fear of imminent serious bodily injury;
- c. Prevent or interrupt the occupation or use of a building; room; place of assembly; place to which the public has access; place of employment or occupation; aircraft, automobile, or other form of conveyance; or other public place;
- d. Cause impairment or interruption of public communications; public transportation; public water, gas, or power supply; or other public service;
- e. Place the public or a substantial group of the public in fear of serious bodily injury; or
- f. Influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision of the state.

4. "Conduct that may constitute a criminal offense under Section 71.02, Penal Code" (Engaging in Organized Criminal Activity):

A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, he or she commits or conspires to commit one or more of the following:

- a. Murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;
- b. Any gambling offense punishable as a Class A misdemeanor;
- c. Promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;
- d. Unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;
- e. Unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;
- f. Any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;

- g. Any offense under Penal Code Chapter 43, Subchapter B depicting or involving conduct by or directed toward a child younger than 18 years of age (Chapter 42, Subchapter B prohibits obscenity including: sale, distribution, or display of material harmful to minor; sexual performance by a child; employment of a child in a sexually oriented activity or a place where the child works nude or topless; and possession or promotion of child pornography);
- h. Any felony offense under Penal Code Chapter 32 (fraud);
- i. Any offense under Penal Code Chapter 34 (money laundering) or Chapter 35 (insurance fraud);
- j. Any offense under Penal Code Chapter 36 (bribery and corrupt influence);
- k. Any offense under Penal Code 37.11(a) (impersonating a public servant);
- l. Any offense under Penal Code Chapter 20A (trafficking of persons);
- m. Any offense under Penal Code 37.10 (tampering with government record);
- n. Any offense under Penal Code 38.06 (escape), 38.07 (permitting or facilitating escape), 38.09 (providing a person in custody or an inmate with an implement for escape), or 38.11 (providing prohibited or controlled substances or items to person in custody or an inmate).

DELETED

NOTICES TO LAW
ENFORCEMENT
AGENCIES

A principal or designee shall notify local law enforcement if the principal has reasonable grounds to believe that any of the following activities occurred in school, on school property, or at a school-sponsored or school-related activity on or off school property, without regard to whether the activity is investigated by school security officers:

1. Conduct that may constitute an offense listed in Government Code 508.149; deadly conduct, as described by Penal Code 22.05; or a terroristic threat, as described by Penal Code 22.07. [See GRAA(EXHIBIT)]
2. The use, sale, or possession of a controlled substance, drug paraphernalia, or marijuana, as defined by Health and Safety Code 481.
3. The possession of any of the weapons or devices listed in Penal Code 46.01(1)–(14) or (16). [See FNCG]
4. The possession of a weapon as defined by 18 U.S.C. Section 921, in accordance with the Gun-Free Schools Act. [See FOD]
5. Conduct that may constitute a criminal offense under Penal Code 71.02, Engaging in Organized Criminal Activity. [See GRAA(EXHIBIT)]
6. Conduct that may constitute a criminal offense for which a student may be expelled under Education Code 37.007(a), (d), or (e).

Notice is not required if the principal reasonably believes that the activity does not constitute a criminal offense.

The principal or designee shall provide the notice to the district police department (if one exists) and the police department of the municipality in which the school is located. If the school is not in a municipality, the principal or designee shall provide the notice to the sheriff of the county in which the school is located. The report shall include the name and address of each student the person believes may have participated in the activity.

NOTICE TO
EMPLOYEES

The principal or designee shall also notify each instructional or support employee of the school who has regular contact with a student whose conduct is the subject of the notice.

Education Code 37.015, .007(e)

NOTICES FROM LAW
ENFORCEMENT
AGENCIES

As described below, representatives of the juvenile justice system shall provide notice to a district when:

1. A student is arrested or referred to the juvenile board [see ARREST, below];
2. A student is convicted, or receives deferred prosecution or deferred adjudication [see CONVICTION OR ADJUDICATION, below];
3. A student was removed to a disciplinary alternative education program (DAEP) and the criminal case against the student is refused or the student is found not guilty [see NOT GUILTY/CHARGES DROPPED, below]; or
4. A student on parole, probation, or community supervision transfers into or reenrolls in a district [see TRANSFER STUDENTS, below].

Code of Criminal Procedure 15.27

Local law enforcement shall provide notice to the superintendent if a registered sex offender intends to reside in the district, as set out below. *Code of Criminal Procedure 62.053(e), .053(f)* [See REGISTERED SEX OFFENDERS, below]

REPORTABLE
OFFENSES

Code of Criminal Procedure 15.27 applies to the following offenses:

1. Any felony offense; and
2. The following misdemeanors:
 - a. An offense under Penal Code 20.02 (Unlawful Restraint), 21.08 (Indecent Exposure), 22.01 (Assault), 22.05 (Deadly Conduct), 22.07 (Terroristic Threat), or 71.02 (Engaging in Organized Criminal Activity);
 - b. The unlawful use, sale, or possession of a controlled substance, drug paraphernalia, or marijuana, as defined by Health and Safety Code Chapter 481; and
 - c. The unlawful possession of any of the weapons or devices listed in Penal Code 46.01(1)–(14) or (16), or a weapon listed as a prohibited weapon under Penal Code 46.05.

Code of Criminal Procedure 15.27(h)

CONTENTS OF
NOTICE

Oral or written notice under Code of Criminal Procedure 15.27 must include all pertinent details of the offense or conduct, including details of any:

1. Assaultive behavior or other violence;

2. Weapons used in the commission of the offense or conduct;
or
3. Weapons possessed during the commission of the offense or
conduct.

Code of Criminal Procedure 15.27(k)

ELECTRONIC
NOTICE

A person may substitute electronic notice for oral notice where oral notice is required by Code of Criminal Procedure 15.27. If electronic notice is used, any written notice required by article 15.27 is not required. *Code of Criminal Procedure 15.27(i)*

ARREST
ORAL NOTICE

If a law enforcement agency arrests a person or refers a child to the juvenile board for an offense specified at REPORTABLE OFFENSES, and the agency believes the person is enrolled as a student in a public school, the head of the agency or designee shall orally notify the superintendent or designee in the district in which the student is enrolled, or believed to be enrolled, of the arrest or referral. The notice shall be provided within 24 hours after the arrest or referral is made or before the next school day, whichever is earlier.

WRITTEN NOTICE

Within seven days after oral notice is given, the head of the law enforcement agency or designee shall mail written notice to the superintendent or designee. The written notice shall include the facts in the oral notice, the name of the person who was orally notified, and the date and time of the oral notice.

Both the oral and written notice shall contain sufficient details of the arrest or referral and the acts allegedly committed by the student to enable a superintendent or designee to determine whether there is a reasonable belief that the student has engaged in conduct defined as a felony offense by the Penal Code. The information in the notice shall be considered by a superintendent or designee in making such a determination.

Code of Criminal Procedure 15.27(a)

FAILURE TO
PROVIDE NOTICE
TO DISTRICT

If the superintendent of a district in which a student is enrolled learns of a failure of the head of a law enforcement agency or designee to provide a notice under Code of Criminal Procedure 15.27(a), the superintendent or principal shall report the failure to the Commission on Law Enforcement Officer Standards and Education. *Code of Criminal Procedure 15.27(m)*

NOTICE TO
EMPLOYEES

A superintendent or designee shall immediately notify all instructional and support personnel who have responsibility for supervision of a student who has been arrested or taken into custody. All personnel shall keep the information received confidential.

	<p>A superintendent or designee shall send to an employee having direct supervisory responsibility over the student the information in the confidential notice provided by the law enforcement agency.</p>
<p>FAILURE TO PROVIDE NOTICE TO EMPLOYEES</p>	<p>If a board learns of a failure by the superintendent or a principal to provide a notice required under Code of Criminal Procedure 15.27(a) or (a-1), the board shall report the failure to the State Board for Educator Certification (SBEC).</p> <p><i>Code of Criminal Procedure 15.27(a), (a-1), (l)</i></p>
<p>CONVICTION OR ADJUDICATION ORAL NOTICE</p>	<p>On conviction, deferred prosecution, deferred adjudication, or adjudication of delinquent conduct of a student for an offense or for any conduct specified at REPORTABLE OFFENSES, the office of the prosecuting attorney shall orally notify a superintendent or designee of the conviction or adjudication and whether the student is required to register as a sex offender. Oral notice must be given within 24 hours of the time of the order or before the next school day, whichever is earlier.</p>
<p>WRITTEN NOTICE</p>	<p>Within seven days after the date the oral notice is given, the office of the prosecuting attorney shall mail written notice, which must contain a statement of the offense of which the individual is convicted or on which the adjudication, deferred adjudication, or deferred prosecution is grounded and a statement of whether the student is required to register as a sex offender.</p>
<p>NOTICE TO EMPLOYEES</p>	<p>A superintendent or designee shall, within 24 hours of receiving notice from the office of the prosecuting attorney, or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student.</p>
<p>FAILURE TO PROVIDE NOTICE TO EMPLOYEES</p>	<p>If a board learns of a failure by the superintendent or a principal to provide a notice required under Code of Criminal Procedure 15.27(b), the board shall report the failure to the SBEC.</p> <p><i>Code of Criminal Procedure 15.27(b), (l)</i></p>
<p>NOT GUILTY/ CHARGES DROPPED</p>	<p>The office of the prosecuting attorney or the office or official designated by the juvenile board shall notify the district that removed a student to a (DAEP) if:</p> <ol style="list-style-type: none">1. Prosecution of the student's case was refused for lack of prosecutorial merit or insufficient evidence and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or2. The court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct

indicating a need for supervision and the case was dismissed with prejudice.

Notice shall be provided to the district within two working days.

REVIEW OF
PLACEMENT

On receipt of the notice, the superintendent or designee shall review the student's placement in the DAEP [see FOC].

Code of Criminal Procedure 15.27(g); Education Code 37.006(h)

TRANSFER
STUDENTS

If a juvenile justice agency has jurisdiction over a student who is arrested, referred, convicted, or adjudicated for a reportable offense and the student transfers from a school or is subsequently removed from a school and later returned to a school or district other than the one the student was enrolled in when the arrest, referral, conviction, or adjudication occurred, the juvenile justice agency shall notify the superintendent or designee of the district to which the student transfers or is returned.

The juvenile justice agency shall provide notice of an arrest or referral in a manner similar to that provided above, at ARREST. The juvenile justice agency shall provide notice of a conviction or delinquent adjudication in a manner similar to that provided above at CONVICTION OR ADJUDICATION. In either case, notice shall be provided within 24 hours of learning of the student's transfer or reenrollment, or before the next school day, whichever is earlier.

NOTICE TO
EMPLOYEES

The superintendent of the district to which the student transfers or is returned shall, within 24 hours of receiving notice or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student.

Code of Criminal Procedure 15.27(c)

REGISTERED SEX
OFFENDERS

The local law enforcement authority shall immediately provide notice to the superintendent of the district in which a person subject to registration as a sex offender intends to reside, by mail to the office of the superintendent, as set out below. *Code of Criminal Procedure 62.053(e), .053(f)*

A local law enforcement authority shall provide notice to a superintendent regarding a registered sex offender only if:

1. The victim was at the time of the offense a child younger than 17 years of age or a student enrolled in a public or private secondary school;
2. The person subject to registration is a student enrolled in a public or private secondary school; or

3. The basis on which the person is subject to registration is a conviction, deferred adjudication, or adjudication of delinquent conduct for an offense under Penal Code 43.25 (Sexual Performance by a Child) or 43.26 (Possession or Promotion of Child Pornography), or a substantially similar offense

A local law enforcement authority may not provide notice to a superintendent if the basis for the notice is a conviction, deferred adjudication, or adjudication of delinquent conduct for an offense under Section 25.02, Penal Code (Prohibited Sexual Conduct, relating to incest), or a substantially similar offense.

Code of Criminal Procedure 62.054

NOTICE TO
EMPLOYEES

On receipt of the notice from law enforcement regarding a registered sex offender, a superintendent shall release the information in the notice to appropriate district personnel, including peace officers and security personnel, principals, nurses, and counselors.
Code of Criminal Procedure 62.053(e), .055(f)

NEW

Education Code 37.015 requires principals to make reports to local law enforcement authorities of certain classes of offenses, four of which are referenced entirely by citation. The offenses referenced only by citation are further defined below.

1. "Conduct that may constitute an offense listed under Section 508.149, Government Code":
 - a. An offense for which the judgment contains an affirmative finding under Section 3g(a)(2), Article 42.12, Code of Criminal Procedure (use or exhibition of a prohibited weapon during commission of or flight from a felony offense).
 - b. A first or second degree felony under Penal Code 19.02 (murder).
 - c. A capital felony under Penal Code 19.03 (capital murder).
 - d. A first or second degree felony under Penal Code 20.04 (aggravated kidnapping).
 - e. An offense under Penal Code 21.11 (indecenty with a child).
 - f. A felony under Penal Code 22.011 (sexual assault).
 - g. A first or second degree felony under Penal Code 22.02 (aggravated assault).
 - h. A first degree felony under Penal Code 22.021 (aggravated sexual assault).
 - i. A first degree felony under Penal Code 22.04 (injury to a child, elderly individual, or disabled individual).
 - j. A first degree felony under Penal Code 28.02 (arson).
 - k. A second degree felony under Penal Code 29.02 (robbery).
 - l. A first degree felony under Penal Code 29.03 (aggravated robbery).
 - m. A first degree felony under Penal Code 30.02 (burglary).
 - n. A felony for which punishment is increased under Health and Safety Code 481.134 (drug-free zones) or 481.140 (use of child in commission of offense).
 - o. An offense under Penal Code 43.25 (sexual performance by a child).
 - p. An offense under Penal Code 21.02 (continuous sexual abuse of young child or children).
2. "Deadly conduct under Section 22.05, Penal Code":
 - a. A person commits an offense if he or she recklessly engages in conduct that places another in imminent danger of serious bodily injury.
 - b. A person commits an offense if he or she knowingly discharges a firearm at or in the direction of one or more individuals or a habitation, building, or vehicle and is reckless as to whether the habitation, building, or vehicle is occupied.

- c. Recklessness and danger are presumed if the actor knowingly pointed a firearm at or in the direction of another whether or not the actor believed the firearm to be loaded.

3. "Terroristic threat under Section 22.07, Penal Code":

A person commits an offense if he or she threatens to commit any offense involving violence to any person or property with intent to:

- a. Cause a reaction of any type to the threat by an official or volunteer agency organized to deal with emergencies;
- b. Place any person in fear of imminent serious bodily injury;
- c. Prevent or interrupt the occupation or use of a building; room; place of assembly; place to which the public has access; place of employment or occupation; aircraft, automobile, or other form of conveyance; or other public place;
- d. Cause impairment or interruption of public communications; public transportation; public water, gas, or power supply; or other public service;
- e. Place the public or a substantial group of the public in fear of serious bodily injury; or
- f. Influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision of the state.

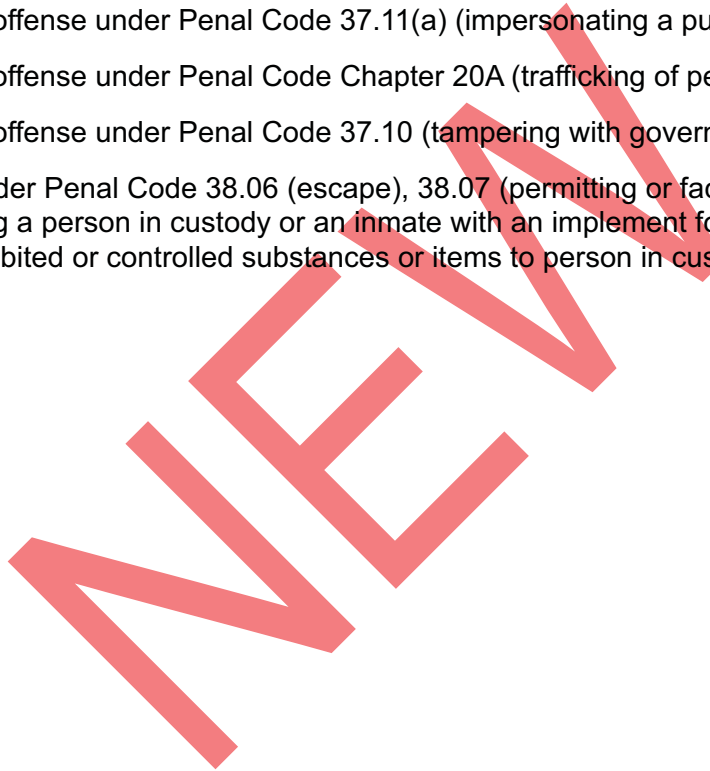
4. "Conduct that may constitute a criminal offense under Section 71.02, Penal Code" (Engaging in Organized Criminal Activity):

A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, he or she commits or conspires to commit one or more of the following:

- a. Murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;
- b. Any gambling offense punishable as a Class A misdemeanor;
- c. Promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;
- d. Unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;
- e. Unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;
- f. Any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;

- g. Any offense under Penal Code Chapter 43, Subchapter B depicting or involving conduct by or directed toward a child younger than 18 years of age (Chapter 42, Subchapter B prohibits obscenity including: sale, distribution, or display of material harmful to minor; sexual performance by a child; employment of a child in a sexually oriented activity or a place where the child works nude or topless; and possession or promotion of child pornography);
- h. Any felony offense under Penal Code Chapter 32 (fraud);
- i. Any offense under Penal Code Chapter 34 (money laundering) or Chapter 35 (insurance fraud);
- j. Any offense under Penal Code Chapter 36 (bribery and corrupt influence);
- k. Any offense under Penal Code 37.11(a) (impersonating a public servant);
- l. Any offense under Penal Code Chapter 20A (trafficking of persons);
- m. Any offense under Penal Code 37.10 (tampering with government record);

Any offense under Penal Code 38.06 (escape), 38.07 (permitting or facilitating escape), 38.09 (providing a person in custody or an inmate with an implement for escape), or 38.11 (providing prohibited or controlled substances or items to person in custody or an inmate).



FERPA PROVISIONS

A district may disclose personally identifiable information from an education record of a student without the consent required by the Family Educational Rights and Privacy Act of 1974 (FERPA) (20 U.S.C. 1232g) [see FL] if:

1. The disclosure is to state and local officials or authorities to whom this information is specifically allowed to be reported or disclosed, pursuant to state statute adopted after November 19, 1974; and
2. The state statute concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records are released.

The officials and authorities to whom the records are disclosed must certify in writing to the district that the information will not be disclosed to any other party, except as provided under state law, without the prior written consent of the parent of the student.

34 CFR 99.31(a)(5) , 99.38

JUVENILE SERVICE PROVIDER

A superintendent or designee shall disclose information in a student's educational records to a juvenile service provider as required by Family Code 58.0051.

A district is not required or authorized to release student-level information except in conformity with FERPA. [See FL]

Education Code 37.084

DEFINITIONS

For purposes of the following provisions, "educational records" means records in the possession of a district that contain information relating to a student, including information relating to the student's identity, special needs, educational accommodations, assessment or diagnostic test results, attendance records, disciplinary records, medical records, and psychological diagnoses.

"Juvenile service provider" means a governmental entity that provides juvenile justice or prevention, medical, educational, or other support services to a juvenile. The term includes:

1. A state or local juvenile justice agency as defined by Family Code 58.101;
2. Health and human services agencies, as defined by Government Code 531.001 and the Health and Human Services Commission;
3. The Department of Public Safety;
4. The Texas Education Agency;

5. An independent school district;
6. A juvenile justice alternative education program;
7. A charter school;
8. A local mental health or mental retardation authority;
9. A court with jurisdiction over juveniles;
10. A district attorney's office;
11. A county attorney's office; and
12. A children's advocacy center established under Family Code 264.402.

"Student" means a person who is registered or in attendance at a primary or secondary educational institution and is younger than 18 years of age.

Family Code 58.0051(a)

DISCLOSURE OF
EDUCATIONAL
RECORDS

At the request of a juvenile service provider, a district shall disclose to the service provider confidential information in a student's educational records if the student has been taken into custody under Family Code 52.01 [see GRA] or referred to a juvenile court for allegedly engaging in delinquent conduct or conduct indicating a need for supervision. The district shall comply with the request regardless of whether other state law makes the information confidential.

If a district discloses confidential information to a juvenile service provider, the district may not destroy a record of the disclosed information before the seventh anniversary of the date the information is disclosed.

Family Code 58.0051(b)-(d)

CERTIFICATION
FROM REQUESTOR

The juvenile service provider that receives the confidential information from the district shall certify in writing that the provider has agreed not to disclose the information to a third party, other than another juvenile service provider. The provider shall use the confidential information only to verify the identity of a student involved in the juvenile justice system and to provide delinquency prevention or treatment services to the student. *Family Code 58.0051(e)*

INTERNAL
PROTOCOL AND
MEMORANDUM OF
UNDERSTANDING

A district may establish an internal protocol for sharing information with other juvenile service providers as necessary to efficiently and promptly disclose and accept the information. The protocol may specify the types of information that may be shared under Family

Code 58.0051 without violating federal law, including any federal funding requirements.

A district may enter into a memorandum of understanding with another juvenile service provider to share information according to the district's protocols. A district shall comply with Family Code 58.0051 regardless of whether the district establishes an internal protocol or enters into a memorandum of understanding, unless compliance would violate federal law.

Family Code 58.0051(f)

CONFIDENTIALITY
OF INFORMATION

Family Code 58.0051 does not affect the confidential status of the information being shared. The information may be released to a third party only as directed by a court order or as otherwise authorized by law. Personally identifiable information disclosed to a juvenile service provider under this section is not subject to disclosure to a third party under Government Code Chapter 552. *Family Code 58.0051(g)*

FEE

A juvenile service provider that requests information under this section shall pay a fee to the district in the same amounts charged for the provision of public information under Government Code Chapter 552 [Public Information Act, see GBAA], unless:

1. The provider and the district have entered into a memorandum of understanding that prohibits the payment of a fee, provides for the waiver of a fee; or provides an alternate method of assessing a fee;
2. The district waives the payment of the fee; or
3. Disclosure of the information is required by other law.

Family Code 58.0051(g)

JUVENILE JUSTICE
INFORMATION
SYSTEM

Juvenile justice agencies in a county or region of Texas may jointly create and maintain a local juvenile justice information system in accordance with Family Code Chapter 58, Subchapter D. A local juvenile justice information system shall include each public school district in the county. *Family Code 58.303, .305*

Districts that are served by a local juvenile justice information system shall have Level 1 Access. Level 1 Access is information that relates to a child:

1. Who:
 - a. A school official has reasonable grounds to believe has committed an offense for which a report is required under Education Code 37.015; or

- b. Has been expelled, the expulsion of which is required to be reported under Family Code 52.041; and
2. Who has not been charged with a fineable only offense, a status offense, or delinquent conduct.

Family Code 58.306

Information that is part of a local juvenile justice information system is not public information and may not be released, except as authorized by law. *Family Code 58.307*

NEW