



# UNITED INDEPENDENT SCHOOL DISTRICT INFORMATIONAL ITEM

**TOPIC:** Review of LEGAL Policies in TASB Update 117

**SUBMITTED BY:** Gloria S. Rendon **OF:** Deputy Superintendent for Administration

**APPROVED FOR TRANSMITTAL TO SCHOOL BOARD:** \_\_\_\_\_

**DATE ASSIGNED FOR BOARD CONSIDERATION:** June 15, 2021

## INFORMATIONAL REPORT:

Review of LEGAL Policies referenced in TASB Update 117:

AIC (LEGAL)-ACCOUNTABILITY: INTERVENTIONS AND SANCTIONS  
 BBC (LEGAL)- BOARD MEMBERS: VACANCIES AND REMOVAL FROM OFFICE  
 BJCE(LEGAL)-SUPERINTENDENT: SUSPENSION/TERMINATION DURING CONTRACT  
 C (LEGAL)- BUSINESS AND SUPPORT SERVICES  
 CBB (LEGAL)-STATE AND FEDERAL REVENUE SOURCES: FEDERAL  
 CH (LEGAL)- PURCHASING AND ACQUISITION  
 CHE (LEGAL) PURCHASING AND ACQUISITION: VENDOR DISCLOSURES AND CONTRACTS  
 CL (LEGAL)-BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT  
 CV (LEGAL) FACILITIES CONSTRUCTION  
 CVA (LEGAL)- FACILITIES CONSTRUCTION: COMPETITIVE BIDDING  
 CVB (LEGAL) FACILITIES CONSTRUCTION: COMPETITIVE SEALED PROPOSALS  
 CVC (LEGAL)- FACILITIES CONSTRUCTION: CONSTRUCTION MANAGER-AGENT  
 CVD (LEGAL)- FACILITIES CONSTRUCTION: CONSTRUCTION MANAGER-AT-RISK  
 CVE (LEGAL)- FACILITIES CONSTRUCTION: DESIGN BUILD  
 CVF (LEGAL)- FACILITIES CONSTRUCTION: JOB ORDER CONTRACTS  
 EHAA (LEGAL)-BASIC INSTRUCTIONAL PROGRAM: REQUIRED INSTRUCTIONAL (ALL LEVELS)  
 EHBA (LEGAL)-SPECIAL PROGRAMS: SPECIAL EDUCATION  
 EHBA (LEGAL)-SPECIAL EDUCATION: IDENTIFICATION, EVALUATION, AND ELIGIBILITY  
 EHBAB (LEGAL) SPECIAL EDUCATION; ARD COMMITTEE AND INDIVIDUALIZED EDUCATION PROGRAM  
 EHBAC (LEGAL)-SPECIAL EDUCATION: STUDENTS IN NONDISTRICT PLACEMENT  
 EHBAD (LEGAL)- SPECIAL EDUCATION: TRANSITION SERVICES  
 EHBC (LEGAL)- SPECIAL PROGRAMS: COMPENSATORY/ACCELERATED SERVICES  
 EIF (LEGAL)-ACADEMIC ACHIEVEMENT: GRADUATION  
 EKB (LEGAL)- TESTING PROGRAMS: STATE ASSESSMENTS  
 EL (LEGAL)-CAMPUS OR PROGRAM CHARTERS  
 FFAC (LEGAL)-WELLNESS AND HEALTH SERVICES: MEDICAL TREATMENT

# Explanatory Notes

## TASB Localized Policy Manual Update 117

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#### AIC(LEGAL)

#### ACCOUNTABILITY: INTERVENTIONS AND SANCTIONS

Administrative Code provisions amended effective January 5, 2021, address program performance regarding certain special student populations. The rules address supervision and monitoring reviews and require the commissioner to assign districts an annual determination level based on performance of the special student populations.

#### BBC(LEGAL)

#### BOARD MEMBERS: VACANCIES AND REMOVAL FROM OFFICE

We have streamlined the reference to CH(LEGAL) regarding board member removal for purchasing violations.

#### BJCE(LEGAL)

#### SUPERINTENDENT: SUSPENSION/TERMINATION DURING CONTRACT

Changes to this legally referenced policy on suspension of the superintendent without pay and termination during the contract term were prompted by Administrative Code revisions effective January 11, 2021.

#### C(LEGAL)

#### BUSINESS AND SUPPORT SERVICES

The C Section table of contents has been revised to rename CHE to Vendor Disclosures and Contracts.

#### CBB(LEGAL)

#### STATE AND FEDERAL REVENUE SOURCES: FEDERAL

The federal Department of Education issued correcting amendments to the Uniform Guidance for Grants and Agreements, effective February 22, 2021, resulting in a change to the provisions on cooperative purchasing in this legally referenced policy. Citations have also been updated.

#### CH(LEGAL)

#### PURCHASING AND ACQUISITION

Update 117 includes a reorganization of the purchasing and facilities construction legally referenced policies in the CH and CV series.

As part of the reorganization, we have:

- Added cross-references to other pertinent policy codes to eliminate duplicated material;
- Added existing provisions on site-based purchasing;
- Reordered and adjusted provisions for clarity and to better match statutory wording;
- Moved to CHE(LEGAL) provisions on required vendor disclosures and contract provisions and lobbying restrictions; and
- Moved detailed provisions on competitive bidding to CVA(LEGAL).

Provisions on purchasing recycled products were added from new Administrative Code rules, effective July 2, 2020.

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superintendent for emergency contracts clarifies that the superintendent will report to the board any contracts made under the delegated authority at the next regular meeting.

Another recommended revision clarifies that the delegation *does not* permit the superintendent to act under Education Code 44.031(h) to make purchases without following normal competitive purchasing requirements; the board must take action to waive any Chapter 44 provisions in accordance with law.

These changes are recommended to replace the district's locally developed text addressing emergency purchases. The rest of the district's locally developed text throughout the policy remains unchanged.

TASB Legal Services' eSource article [Emergency Management for Texas Public Schools](#) provides additional information on purchasing in emergency situations.

The *Legal Issues in Update 117* memo describes common legal concerns and best practices specific to this policy topic.

### CHE(LEGAL) PURCHASING AND ACQUISITION: VENDOR DISCLOSURES AND CONTRACTS

This legally referenced policy has been reorganized to focus on required vendor disclosures and contract provisions. This material has been moved from CH(LEGAL).

In addition, we have:

- Included references to other pertinent codes and deleted material duplicated at other policy codes; and
- Reordered and adjusted provisions for clarity and to better match statutory wording.

### CL(LEGAL) BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT

New Administrative Code rules, effective July 2, 2020, prompted revisions to provisions on recycling programs.

Provisions on pool sanitation and safety standards have been streamlined to refer to the relevant legal guidance.

### CV(LEGAL) FACILITIES CONSTRUCTION

Update 117 includes a reorganization of the purchasing- and construction-related legally referenced policies in the CH and CV series.

As part of the reorganization, we have:

- Added cross-references to other pertinent policy codes to eliminate duplicated material; and
- Reordered and adjusted provisions for flow and to better match statutory wording.

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#### **CVA(LEGAL)                      FACILITIES CONSTRUCTION: COMPETITIVE BIDDING**

Provisions on identical, competitive bids have been moved from CH(LEGAL). In addition, a provision on making bid evaluations public has been moved to this policy from CV(LEGAL). Other revisions are to delete material duplicated at other policy codes and adjust language for clarity and to better match statutory wording.

#### **CVB(LEGAL)                      FACILITIES CONSTRUCTION: COMPETITIVE SEALED PROPOSALS**

A cross-reference has been added to procurement processes included at other policy codes, and duplicated material has been deleted. Other revisions are to adjust language for clarity and to better match statutory wording.

#### **CVC(LEGAL)                      FACILITIES CONSTRUCTION: CONSTRUCTION MANAGER-AGENT**

Additional detail has been added regarding the construction manager-agent method. A cross-reference has been added to procurement processes included at other policy codes, and duplicated material has been deleted. Other revisions are to adjust language for clarity and to better match statutory wording.

#### **CVD(LEGAL)                      FACILITIES CONSTRUCTION: CONSTRUCTION MANAGER-AT-RISK**

Additional detail has been added regarding the construction manager-at-risk method. A cross-reference has been added to procurement processes included at other policy codes, and duplicated material has been deleted. Other revisions are to adjust language for clarity and to better match statutory wording.

#### **CVE(LEGAL)                      FACILITIES CONSTRUCTION: DESIGN-BUILD**

A cross-reference has been added to procurement processes included at other policy codes, duplicated material has been deleted, and provisions have been reordered for flow. Other revisions are to adjust language for clarity and to better match statutory wording.

#### **CVF(LEGAL)                      FACILITIES CONSTRUCTION: JOB ORDER CONTRACTS**

A cross-reference has been added to procurement processes included at other policy codes, duplicated material has been deleted, and provisions have been reordered for flow. Other revisions are to adjust language for clarity and to better match statutory wording.

#### **EHAA(LEGAL)                      BASIC INSTRUCTIONAL PROGRAM: REQUIRED INSTRUCTION (ALL LEVELS)**

New Administrative Code rules address the requirement for districts to provide instruction in positive character traits, which can be met through a stand-alone course or by integrating the TEKS into other courses. The rules address the frequency of instruction by grade bands and are effective for the 2021–22 school year.

#### **EHBA(LEGAL)                      SPECIAL PROGRAMS: SPECIAL EDUCATION**

Revised Administrative Code rules, effective March 14, 2021, address various special education provisions and:

- Provide more detail on instructional arrangements;
- Include a definition of *regular school day* for the purpose of determining the instructional arrangement; and
- Update citations to funding statutes.

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#### EHBAA(LEGAL)

#### SPECIAL EDUCATION: IDENTIFICATION, EVALUATION, AND ELIGIBILITY

Provisions on a district's obligation to refer for evaluation and the definition of a *child with a disability* have been updated based on revised Administrative Code rules, effective March 14, 2021. Other changes are to better reflect statute.

#### EHBAB(LEGAL)

#### SPECIAL EDUCATION: ARD COMMITTEE AND INDIVIDUALIZED EDUCATION PROGRAM

As a result of revised Administrative Code rules effective March 14, 2021, we have updated text regarding establishment of the admission, review, and dismissal (ARD) committee and added a provision addressing a district's overall responsibility for all of the functions of the IEP team and ARD committee. Citations have also been updated.

#### EHBAC(LEGAL)

#### SPECIAL EDUCATION: STUDENTS IN NONDISTRICT PLACEMENT

From revised Administrative Code rules effective March 14, 2021, we have added a provision requiring the district to notify TEA within 30 calendar days of an ARD committee's decision to place a student in a residential education program.

#### EHBAD(LEGAL)

#### SPECIAL EDUCATION: TRANSITION SERVICES

Revised Administrative Code rules, effective March 14, 2021, prompted a revision to the graduation provisions and updates to cites throughout this legally referenced policy.

#### EHBC(LEGAL)

#### SPECIAL PROGRAMS: COMPENSATORY/ACCELERATED SERVICES

Revisions regarding approval of an optional flexible school day program are from revised Administrative Code rules, effective December 6, 2020.

#### EIF(LEGAL)

#### ACADEMIC ACHIEVEMENT: GRADUATION

Details have been added on the graduation of students receiving special education services who entered grade nine after the 2014–15 school year. The changes come from revised Administrative Code rules effective March 14, 2021.

In addition, we have replaced detailed provisions on graduation of students receiving special education services who entered grade nine before the 2014–15 school year with a reference to the relevant Administrative Code provision. Citations have been updated throughout.

#### EKB(LEGAL)

#### TESTING PROGRAMS: STATE ASSESSMENT

In accordance with House Bill 3906 (86th Legislative Session) and effective September 1, 2021, the reference to the separate writing assessment in grades 4 and 7 has been removed.

#### EL(LEGAL)

#### CAMPUS OR PROGRAM CHARTERS

We have added provisions that a district is entitled to additional state aid if the district was under contract during the 2017–18 school year or is under renewal of such a contract to jointly operate a campus or campus program under Education Code 11.157 (Contracts for Educational Services). Details may be found in revised Administrative Code rules, effective March 30, 2021.

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#### FFAC(LEGAL)

#### WELLNESS AND HEALTH SERVICES: MEDICAL TREATMENT

New Administrative Code rules, effective February 18, 2021, address maintenance and administration of unassigned asthma medication for districts that choose to implement such a program. Contact your policy consultant if your district has a program but lacks local policy provisions.

See FFAC in the *TASB Regulations Resource Manual*.