

Localized Policy Manual

Update 86

West Orange-Cove CISD

Update 86 represents the first of two post-legislative updates and encompasses changes in law from the 81st Legislative Session that have an immediate effect on the governance and management of the district. Update 87 will be issued in early 2010 and will address any remaining legislative changes from the session.

Update 86 addresses a variety of topics, including election procedures, content of the district improvement plan, activity funds management, purchasing, energy conservation, integrated pest management, electronic textbooks, transportation safety, criminal history checks, incentive and mentor teacher programs, assault leave, employee grievances, the Public Information Act, physical education, graduation requirements, military dependents, grading, the Student Success Initiative, student absences, and student discipline.

Please bear in mind that the (LEGAL) policies reflect the ever-changing legal context for governance and management of the district. They should NOT be adopted but, rather, should inform local decision making. The (LOCAL) policy recommendations in this update will need close attention by both the administration and the board to ensure that they reflect the practices of the district and the intentions of the board. Board action is needed to adopt, revise, or repeal (LOCAL) policy.

In addition to the updated policies, your Localized Update 86 packet contains:

- **INSTRUCTIONS** . . . providing specific, policy-by-policy directions on how this update, if accepted as prepared, should be incorporated into your Localized Policy Manual.
- **EXPLANATORY NOTES** . . . summarizing changes to the policies in each code. Please note that, where appropriate, the Explanatory Notes ask you to **verify that a particular policy reflects your current practice and to advise us of changes needed** so that our records and your manual accurately track the district's practice.

Vantage Points—A Board Member's Guide to Update 86 may be found in the separately wrapped package accompanying this packet. ***Vantage Points*** offers a highly summarized overview of the update and is intended to provide local officials a first glance at the scope of the update—as a prelude to studying the detailed Explanatory Notes and policy text within the packet. **Please distribute the enclosed copies of *Vantage Points* to your board members at the earliest possible opportunity, preferably with their review copies of this update.**

Update 86 policies are so identified in the lower left-hand corner of each policy page. If you have any questions concerning this Update, please call your policy consultant, Erin Oehler, at 800-580-7529 or 512-467-0222.

Regarding board action on Update 86 . . .

- Board action on Localized Update 86 must occur within a properly posted, open meeting of the board and may be addressed on the agenda posting as “Policy Update 86, affecting (LOCAL) policies (see attached list).” Policy On Line districts have access to a list of the (LOCAL) policies included in the update through the Local Manual Updates application in myTASB. Other districts may generate a list of the (LOCAL) policy codes added, revised, or deleted (**and the titles/subtitles of those policies**) using the Instruction Sheet as a guide and attach that list to the posting. BoardBook compilers should use “Policy Update 86, affecting (LOCAL) policies” as the agenda item and, as agenda sub-items, the code and name of each of the (LOCAL) policies affected by the update.
- A suggested motion for board action on Localized Update 86 is as follows:
“I move that the board add, revise, or delete (LOCAL) policies as recommended by TASB Policy Service and according to the Instruction Sheet for TASB Localized Policy Manual Update 86 [with the following changes:]”
- The board’s action on Localized Update 86 must be reflected in board minutes. The Instruction Sheet—annotated to reflect any changes made by the board—and the Explanatory Notes for the update should be filed with the minutes where they make up the authoritative record of your board’s actions. Include a copy of new, replaced, or rescinded (**LOCAL**) policies.
- In constructing the separate historical record of the manual, the emphasis is on tracking the history of individual policies. For guidance on maintaining this record, please refer to the **Policy Administrator’s Guide** at http://www.tasb.org/services/policy/mytasb/admin_guide/index.aspx.

Regarding manual maintenance and administrative regulations . . .

- **Notify your policy consultant of any changes made by the board so that Policy Service records—forming the basis for subsequent updating recommendations—exactly mirror your manual.**
- The update should be incorporated into each of the district’s Localized Policy Manuals as soon as practicable. If the district uses Policy On Line, you will need to notify us of the board’s action on Update 86 so that your district’s Localized Policy Manual as it appears on TASB’s Web server can be updated. Policy On Line staff may be reached by phone (800-580-7529 or 512-467-0222), fax (512-467-3618, using the tan form enclosed), e-mail (pol-support@tasb.org), or Internet feedback form (<http://www.tasb.org/policy/pol/private/polfdbk.html>).
- Administrative procedures and documents—including formal (REGULATIONS), handbooks, and guides—that may be affected by Update 86 policy changes should be inspected and revised by the district as needed.

PLEASE NOTE: This Localized Update packet and the Update 86 **Vantage Points** may not be considered as legal advice and are not intended as a substitute for the advice of the board’s own legal counsel.

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Instruction Sheet

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District West Orange-Cove CISD

Code	Action To Be Taken	Note
BBB (LEGAL)	Replace policy	Revised policy
BBBB (LEGAL)	Replace policy	Revised policy
BDF (LEGAL)	Replace policy	Revised policy
BQ (LEGAL)	Replace policy	Revised policy
CBA (LEGAL)	Replace policy	Revised policy
CFD (LEGAL)	ADD policy	See explanatory note
CFD (LOCAL)	Replace policy	Revised policy
CH (LEGAL)	Replace policy	Revised policy
CJA (LEGAL)	Replace policy	Revised policy
CL (LEGAL)	Replace policy	Revised policy
CLB (LEGAL)	Replace policy	Revised policy
CLB (LOCAL)	Replace policy	Revised policy
CMD (LEGAL)	Replace policy	Revised policy
CNC (LEGAL)	Replace policy	Revised policy
COA (LEGAL)	Replace policy	Revised policy
CS (LEGAL)	Replace policy	Revised policy
CV (LEGAL)	Replace policy	Revised policy
CV (LOCAL)	Replace policy	Revised policy
DAA (LEGAL)	Replace policy	Revised policy
DBA (LEGAL)	Replace policy	Revised policy
DBAA (LEGAL)	Replace policy	Revised policy
DBB (LEGAL)	Replace policy	Revised policy
DC (LEGAL)	Replace policy	Revised policy
DEA (LEGAL)	Replace policy	Revised policy
DEAA (LEGAL)	Replace policy	Revised policy
DEB (LEGAL)	Replace policy	Revised policy
DEC (LEGAL)	Replace policy	Revised policy
DG (LEGAL)	Replace policy	Revised policy
DGBA (LEGAL)	Replace policy	Revised policy
DGBA (LOCAL)	Replace policy	Revised policy
EEB (LEGAL)	Replace policy	Revised policy
EFAA (LEGAL)	Replace policy	Revised policy

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EHAA (LEGAL)	Replace policy	Revised policy
EHAC (LEGAL)	Replace policy	Revised policy
EHBAB (LEGAL)	Replace policy	Revised policy
EHBC (LEGAL)	Replace policy	Revised policy
EHBG (LEGAL)	Replace policy	Revised policy
EHBK (LEGAL)	Replace policy	Revised policy
EHDD (LEGAL)	Replace policy	Revised policy
EHDE (LEGAL)	Replace policy	Revised policy
EIA (LEGAL)	Replace policy	Revised policy
EIA (LOCAL)	Replace policy	Revised policy
EIC (LEGAL)	Replace policy	Revised policy
EIE (LEGAL)	Replace policy	Revised policy
EIE (LOCAL)	Replace policy	Revised policy
EIF (LEGAL)	Replace policy	Revised policy
EIF (LOCAL)	Replace policy	Revised policy
EJ (LEGAL)	Replace policy	Revised policy
EK (LEGAL)	Replace policy	Revised policy
EKB (LEGAL)	Replace policy	Revised policy
EKBA (LEGAL)	Replace policy	Revised policy
F (LEGAL)	Replace policy	Revised policy
FB (LEGAL)	Replace policy	Revised policy
FD (LEGAL)	Replace policy	Revised policy
FDD (LEGAL)	Replace policy	Revised policy
FDD (LOCAL)	DELETE policy	See explanatory note
FDE (LEGAL)	ADD policy	See explanatory note
FDE (LOCAL)	ADD policy	See explanatory note
FEA (LEGAL)	Replace policy	Revised policy
FEA (LOCAL)	Replace policy	Revised policy
FEB (LEGAL)	Replace policy	Revised policy
FEC (LOCAL)	Replace policy	Revised policy
FFAB (LEGAL)	Replace policy	Revised policy
FFAD (LOCAL)	DELETE policy	See explanatory note
FFG (LEGAL)	Replace policy	Revised policy
FM (LEGAL)	Replace policy	Revised policy

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FNCG (LEGAL)	Replace policy	Revised policy
FO (LEGAL)	Replace policy	Revised policy
FOC (EXHIBIT)	Replace exhibit	Revised exhibit
FOD (LEGAL)	Replace policy	Revised policy
FODA (LEGAL)	No policy enclosed	See explanatory note
GBA (LEGAL)	Replace policy	Revised policy
GBAA (LEGAL)	Replace policy	Revised policy
GKG (LEGAL)	Replace policy	Revised policy

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District: West Orange-Cove CISD

BBB (LEGAL) BOARD MEMBERS
ELECTIONS

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

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

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

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

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

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

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

Cites have been updated throughout the policy.

BBBB (LEGAL) ELECTIONS
ETHICS

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

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BDF (LEGAL) BOARD INTERNAL ORGANIZATION CITIZEN ADVISORY COMMITTEES

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

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

BQ (LEGAL) PLANNING AND DECISION-MAKING PROCESS

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

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

CBA (LEGAL) STATE AND FEDERAL REVENUE SOURCES STATE

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

CFD (LEGAL) ACCOUNTING ACTIVITY FUNDS MANAGEMENT

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

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CFD (LOCAL) ACCOUNTING ACTIVITY FUNDS MANAGEMENT

As indicated in the explanatory note for CFD(LEGAL), districts are required to adopt a local policy addressing expenditure of certain local funds over which the district has direct control. The policy must require that any expenditure relates to the district's educational purpose and provides a commensurate benefit to the district or its students. A new recommended local provision at DISTRICT AND CAMPUS ACTIVITY FUNDS addresses this requirement and directs the superintendent to establish regulations governing the expenditure of these funds in accordance with these guidelines. A new margin note at STUDENT ACTIVITY FUNDS helps to distinguish those funds from district and campus activity funds.

The provision at FIDUCIARY RESPONSIBILITY has been expanded to apply to all activity funds and as a result has been moved to the beginning of the policy. This provision has also been broadened to include the superintendent in the list of district employees who are responsible for administering such funds.

CH (LEGAL) PURCHASING AND ACQUISITION

Legislative changes affecting this policy include:

- On page 1, a new DISASTER EXCEPTION has been added at DELEGATION OF AUTHORITY. HB 4102, effective June 19, 2009, permits a board to delegate to the superintendent in the event of a disaster or emergency the authority to contract for the replacement or repair of school equipment if it is necessary for the health and safety of district students and staff. Such delegation will occur at the time of the disaster; districts should not include a delegation statement in local policy.
- At PURCHASES VALUED AT OR ABOVE \$50,000, HB 987, effective June 19, 2009, increases the dollar amount that triggers competitive procurement procedures from \$25,000 to \$50,000.
- Districts are now permitted to receive ELECTRONIC BIDS OR PROPOSALS, in accordance with HB 987, if the board adopts rules to ensure that the bids or proposals are secure and remain unopened until the appropriate time. See page 3.
- Provisions governing district purchasing procedures for personal property purchases valued between \$10,000 and \$25,000 and purchasing procedures governing produce or fuel were repealed by HB 987 and deleted from the policy.
- HB 1705, effective June 19, 2009, repeals the district's ability to participate in the Department of Information Resources' electronic procurement system, as it no longer exists. Thus, we have deleted the corresponding provision from the policy.
- At ENERGY OR WATER CONSERVATION MEASURES on page 10, SB 300, effective June 19, 2009, requires districts to establish a long-range plan to reduce energy consumption. Previously the law required districts to establish a goal to reduce energy consumption. The bill replaces the requirement for districts to reduce consumption by five percent each year for six years with a requirement to reduce annual consumption by five percent beginning with the 2008 fiscal year and subsequently according to the long-range plan. [See also the explanatory note for CL(LEGAL).]

See also the explanatory note for CV(LEGAL).

CJA (LEGAL) CONTRACTED SERVICES CRIMINAL HISTORY

Significant revisions to the criminal history provisions for contractors and subcontractors are from HB 2730, effective September 1, 2009. The changes are as follows:

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

CL (LEGAL) BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT

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

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

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

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

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

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

See also the explanatory note for EFAA(LLEGAL).

CNC (LEGAL) TRANSPORTATION MANAGEMENT TRANSPORTATION SAFETY

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

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

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

COA (LEGAL) FOOD SERVICES MANAGEMENT FOOD PURCHASING

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

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CS (LEGAL) FACILITY STANDARDS

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

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

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

CV (LEGAL) FACILITIES CONSTRUCTION

Legislative changes affecting this policy include:

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

See also the explanatory note for CH(LEGAL).

CV (LOCAL) FACILITIES CONSTRUCTION

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

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

Please note: We have retained, unchanged, your locally developed provisions at BOARD INSPECTION AND ACCEPTANCE OF COMPLETED PROJECT, PROJECT ACCEPTANCE FORM, and INSPECTION.

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DAA (LEGAL) EMPLOYMENT OBJECTIVES EQUAL EMPLOYMENT OPPORTUNITY

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

DBA (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS CREDENTIALS AND RECORDS

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

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

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

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

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

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

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

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

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

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

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

DC (LEGAL) EMPLOYMENT PRACTICES

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

DEA (LEGAL) COMPENSATION AND BENEFITS SALARIES AND WAGES

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

Other changes to the policy include:

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

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- Addition of a new provision on page 9 from HB 2360, effective September 1, 2009, requiring districts to provide NOTICE REGARDING EARNED INCOME TAX CREDIT. The information must be provided in person, electronically, through a payroll staffer, or by mail to the employee's last known address. The comptroller has been directed to prepare information for employers regarding this requirement.

DEAA (LEGAL) COMPENSATION AND BENEFITS INCENTIVES AND STIPENDS

We have deleted from this policy provisions on the Texas Educator Excellence Grant incentive program in accordance with HB 3646, effective September 1, 2009, which eliminated that program. HB 3646 also includes changes to the District Awards for Teacher Excellence (DATE) incentive program. Districts are now required to provide NOTICE TO TEACHERS AND PRINCIPALS of the criteria and any formulas on which the awards will be based before the beginning of the period on which awards will be based. Districts previously had to use 60 percent of the funds to directly award classroom teachers. Now districts must use 60 percent of the funds to directly award classroom teachers *and principals*.

Provisions on MENTOR TEACHERS were modified by SB 1290, effective June 19, 2009. The teachers eligible for a mentor are no longer required to be new to the profession. Now mentors may be assigned to teachers with less than two years of teaching experience in the subject or grade level to which the teacher is assigned. The new law relaxes the requirement that a mentor teach in the same school. Now, to the extent practical, the mentor and teacher should teach in the same school.

DEB (LEGAL) COMPENSATION AND BENEFITS FRINGE BENEFITS

At HEALTH INSURANCE, we have replaced detailed provisions previously listed in policy with a reference to Chapter 615, Subchapter D of the Government Code regarding continuation of health insurance benefits to eligible survivors if a district peace officer dies in the line of duty. Although not included in the policy, SB 872, effective May 19, 2009, amends these provisions to include a special election period for eligible survivors of a peace officer who died on or after September 1, 1993. Those survivors who did not previously purchase health insurance under these provisions may enroll any time between May 19, 2009, and March 1, 2010.

DEC (LEGAL) COMPENSATION AND BENEFITS LEAVES AND ABSENCES

At ORDER OF USE, SB 522, effective May 12, 2009, prohibits a district's local policy from restricting the order in which an employee may use state personal leave and any additional leave provided by the district. If an employee has accrued state sick leave, the employee may use that leave, any state personal leave, and local personal leave in any order, so long as the use is appropriate for the type of leave.

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At ASSAULT LEAVE, NOTICE OF RIGHTS, on page 3, HB 1470, effective June 19, 2009, requires districts to provide notice of assault leave rights in any informational handbook distributed to employees. Assault leave must be listed as a leave option on district forms to request leave. TASB HR Services has incorporated this and other legislative changes into the *Model Employee Handbook*, which is available to members of HR Services in myTASB at https://www.tasb.org/services/hr_services/mytasb/meh/index.aspx.

DG (LEGAL) EMPLOYEE RIGHTS AND PRIVILEGES

At IMMUNITY FOR SHELTER WORKERS on page 7, HB 4409, effective September 1, 2009, extends immunity to officers and employees of a district who are performing an activity related to sheltering or housing individuals in connection with a disaster. This would apply, for example, if a school were being used to house evacuees of a disaster.

See also the explanatory note for GKG(LEGAL).

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

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

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

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

All of your locally developed text throughout this policy has been retained, unchanged.

Please note: DGBA(LOCAL) is an employment policy that we recommend the district provide to each teacher pursuant to Education Code 21.204(d).

EEB (LEGAL) INSTRUCTIONAL ARRANGEMENTS CLASS SIZE

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

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

Explanatory Notes

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

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

- The SBOE shall include OPEN-SOURCE TEXTBOOKS that meet certain statutory requirements on the conforming or nonconforming textbook lists pursuant to HB 2488, effective September 1, 2009.
- HB 4294, effective June 19, 2009, creates an ELECTRONIC TEXTBOOK AND INSTRUCTIONAL MATERIALS LIST. A district shall select textbooks from this list or from the conforming or nonconforming lists. Districts may still select textbooks for the enrichment curriculum that do not appear on any of these lists.
- A new requirement from HB 4294 has been added on page 2. The bill requires districts to purchase a CLASSROOM SET OF TEXTBOOKS for each subject in the foundation and enrichment curricula, even if the textbooks are otherwise purchased from the electronic textbook and instructional materials list.
- Also from HB 4294, districts that subscribe to an approved subscription-based electronic textbook or instructional material may cancel the subscription and subscribe to a different approved electronic textbook or instructional material if the district used the textbook or material for at least a year and TEA approves the change. See DURATION OF SELECTION, EXCEPTION.
- The existing statute making the receipt of commissions, rebates, gifts, services, or favors related to textbook purchases a CRIMINAL OFFENSE has been expanded by HB 4294 to apply to electronic textbooks, instructional materials, and technological equipment.

See also the explanatory note for CMD(LEGAL).

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

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

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

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

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

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

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

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

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

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

EHBC (LEGAL) SPECIAL PROGRAMS
COMPENSATORY/ACCELERATED SERVICES

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

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

EHBG (LEGAL) SPECIAL PROGRAMS
PREKINDERGARTEN

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

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

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

EHBK (LEGAL) SPECIAL PROGRAMS OTHER INSTRUCTIONAL INITIATIVES

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

- October is HYDROCEPHALUS AWARENESS MONTH. HB 3597, effective September 1, 2009, requires this month to be regularly observed by appropriate activities in public schools. Hydrocephalus is a neurological condition characterized by the abnormal buildup of cerebrospinal fluids in the ventricles of the brain.
- The third Wednesday of September is DR. HECTOR P. GARCIA DAY. SB 495, effective September 1, 2009, provides that districts *may* regularly observe this day with ceremonies and activities. Dr. Hector P. Garcia made significant contributions to the Mexican American civil rights movement.
- The third week in October is TEXAS NATIVE PLANT WEEK. HB 1739, effective September 1, 2009, provides that districts *may* regularly observe this week with programs to appreciate, explore, and study Texas native plants.

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

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

EHDE (LEGAL) EXTENDED INSTRUCTIONAL PROGRAMS DISTANCE LEARNING

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

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

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

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

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

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

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

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

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

Please note: Your locally developed text throughout this policy has been retained, unchanged. Please review carefully to ensure your local text continues to reflect district practice. If additional revisions are needed, please contact your policy consultant.

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EIC (LEGAL) ACADEMIC ACHIEVEMENT CLASS RANKING

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

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

EIE (LEGAL) ACADEMIC ACHIEVEMENT RETENTION AND PROMOTION

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

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

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EIE (LOCAL) ACADEMIC ACHIEVEMENT RETENTION AND PROMOTION

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

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

EIF (LEGAL) ACADEMIC ACHIEVEMENT GRADUATION

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

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

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

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

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

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

EIF (LOCAL) ACADEMIC ACHIEVEMENT GRADUATION

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

Please review for accuracy the number of graduation credits required in the district's policy. Contact your policy consultant if any changes are needed. The district's provisions regarding graduation requirements for students who entered ninth grade in the 2004–05 school year or before have been deleted.

EJ (LEGAL) ACADEMIC GUIDANCE PROGRAM

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

See also the explanatory note for EIC(LLEGAL).

EK (LEGAL) TESTING PROGRAMS

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

EKB (LEGAL) TESTING PROGRAMS STATE ASSESSMENT

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

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

Cites throughout the policy have also been updated.

EKBA (LEGAL) STATE ASSESSMENT LEP STUDENTS

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

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

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

F (LEGAL) STUDENTS

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

FB (LEGAL) EQUAL EDUCATIONAL OPPORTUNITY

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

See also the explanatory note for FDD(LEGAL).

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FD (LEGAL) ADMISSIONS

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

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

FDD (LEGAL) ADMISSIONS MILITARY DEPENDENTS

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

- A DEFINITIONS section with relevant terms;
- An APPLICABILITY section explaining to which military dependents the Compact applies;
- A provision at ELIGIBILITY FOR ENROLLMENT specifying that a special power of attorney is sufficient for enrollment and all other actions requiring parental consent;
- A provision addressing CONTINUED ATTENDANCE, which permits a student who lives with a noncustodial parent or other person serving in the role of a parent to attend the school in which the child was enrolled while residing with the custodial parent;
- A section on EDUCATION RECORDS, which requires the sending state to give the parent an unofficial set of records if the official records cannot be released and requires a receiving district to enroll and place the student based on the unofficial records;
- A prohibition against charging such students TUITION;
- At GRADE-LEVEL PLACEMENT, a requirement that the enrolling district put the student in the same grade level, including kindergarten, that the student was in at the sending district;
- Provisions at COURSE PLACEMENT and EDUCATIONAL PROGRAM PLACEMENT requiring the enrolling district to initially place the student in courses and academic programs, such as gifted and talented or English as a second language programs, based on enrollment in courses and programs at the sending district; and
- A provision giving the receiving district the authority to issue WAIVERS for course and program prerequisites or preconditions.

See also the explanatory notes for EHBAB, EIF, EKB, FB, FEA, FFAB, and FM(LEGAL).

FDD (LOCAL) ADMISSIONS MILITARY DEPENDENTS

As described at FDD(LEGAL), above, provisions on school safety transfers have been moved to FDE.

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FDE (LEGAL) ADMISSIONS
SCHOOL SAFETY TRANSFERS

As described at FDD(LEGAL), above, this text on school safety transfers has been moved unaltered from FDD(LEGAL).

FDE (LOCAL) ADMISSIONS
SCHOOL SAFETY TRANSFERS

As described at FDE(LEGAL), above, provisions on school safety transfers have been moved to this policy from FDD. TEA's 2009–2010 Guidance on the School Safety Choice Option was recently revised to include aggravated robbery as one of the violent criminal offenses for which a student who is a victim must be offered a transfer.

See question E-1 in TEA's Guidance: <http://ritter.tea.state.tx.us/nclb/PDF/2009-10SSCOGuidance.pdf>.

FEA (LEGAL) ATTENDANCE
COMPULSORY ATTENDANCE

This policy has been rearranged to group together those absences that districts *must* excuse for compulsory attendance purposes and to distinguish them from absences that districts *may* excuse for compulsory attendance purposes. At EXCUSED ABSENCES FOR COMPULSORY ATTENDANCE DETERMINATIONS, several bills add to the list of reasons for which a district must excuse a student from attending school under compulsory attendance:

- HB 192, effective June 19, 2009, adds appearing at a governmental office to complete paperwork required to obtain U.S. citizenship and taking part in a U.S. naturalization oath ceremony, including travel for such purposes.
- SB 1134, effective September 1, 2009, adds serving as an election clerk, including travel for this purpose.
- HB 192 also adds a clarification—that temporary absences for health-care appointments include the absence of a student with autism spectrum disorder to attend an appointment with a health-care practitioner to receive services for autism, including applied behavioral analysis, speech therapy, and occupational therapy.

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

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

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

FEA (LOCAL) ATTENDANCE COMPULSORY ATTENDANCE

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

FEB (LEGAL) ATTENDANCE ATTENDANCE ACCOUNTING

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

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

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

- HB 192, effective June 19, 2009, adds appearing at a governmental office to complete paperwork required to obtain U.S. citizenship and taking part in a U.S. naturalization oath ceremony, including travel for such purposes;
- SB 1134, effective September 1, 2009, adds serving as an election clerk, including travel for that purpose;
- HB 192 also adds a clarification—that temporary absences for health-care appointments include the absence of a student with autism spectrum disorder to attend an appointment with a health-care practitioner to receive services for autism, including applied behavioral analysis, speech therapy, and occupational therapy;
- HB 2542, effective June 19, 2009, adds visiting an institution of higher education for up to two days during the student's junior year and up to two days during the student's senior year if the district adopts a policy to determine when an absence will be excused for this purpose and a procedure to verify the visit; and

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- SB 1969, effective May 20, 2009, adds playing Taps at a military honors funeral by a student in grade six or higher.

Pursuant to HB 4102, effective June 19, 2009, in the event of a DISASTER, the Commissioner shall adjust a district's ADA if all or part of the district is declared a disaster area by the governor and the district's ADA has declined as a result of the disaster. Any such adjustment shall be for two years after the governor declares the disaster.

FEC (LOCAL) ATTENDANCE ATTENDANCE FOR CREDIT

Revisions at PERSONAL ILLNESS are recommended to clarify that either the principal or attendance committee may require a medical statement concerning a student's illness for the purpose of classifying the absence as one for which there are extenuating circumstances. Similar provisions apply when the student has a questionable pattern of absences.

The 81st Legislature added several reasons for which a student's absence will be considered as a day of attendance for compulsory attendance purposes so long as the student makes up work and provides required documentation. These include absences for activities related to obtaining U.S. citizenship, serving as an election clerk, and health-care appointments for an autistic student to attend an appointment with a health-care practitioner to receive autism services. Districts may also excuse absences related to visiting an institution of higher education. Excused absences that are counted as days of attendance for purposes of the compulsory attendance law do not automatically count toward days of attendance for purposes of receiving credit under this policy. The majority of districts, however, do consider these absences to be extenuating circumstances if all required documentation has been submitted and makeup work has been completed satisfactorily. For this reason, these days are reflected at DAYS OF ATTENDANCE.

Districts now have more options when IMPOSING CONDITIONS FOR AWARDED CREDIT. As indicated at EHBC(LEGAL), above, a student who needs to earn credit for a class for which the student did not meet the attendance requirements may participate in an optional flexible school day program. This item has been added to the list of options the attendance committee may choose from in imposing conditions for the award of credit. Based on common district practice, we also have added to the list attending summer school. Finally, your locally developed option of attending after-school detention has been combined with several items to create one item addressing tutorial sessions held on Saturday or before or after school.

FFAB (LEGAL) WELLNESS AND HEALTH SERVICES IMMUNIZATIONS

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

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

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

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FFAD (LOCAL) WELLNESS AND HEALTH SERVICES
COMMUNICABLE DISEASES

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

FFG (LEGAL) STUDENT WELFARE
CHILD ABUSE AND NEGLECT

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

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

FM (LEGAL) STUDENT ACTIVITIES

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

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

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

FNCG (LEGAL) STUDENT CONDUCT
WEAPONS

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

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

FO (LEGAL) STUDENT DISCIPLINE

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

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

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

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

FOD (LEGAL) STUDENT DISCIPLINE EXPULSION

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

FODA (LEGAL) EXPULSION JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

Our records indicate that your district is located within a county with a population of 125,000 or less. If the population of the county within which the district is located now exceeds 125,000, please contact your policy consultant so that we may update your policy.

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GBA (LEGAL) PUBLIC INFORMATION PROGRAM ACCESS TO PUBLIC INFORMATION

At PERSONAL INFORMATION and PEACE OFFICERS/SECURITY OFFICERS, we have added existing statutory provisions to clarify when personal information of peace officers and security officers is confidential.

New provisions from SB 1068, effective June 4, 2009, allow a district to redact the personal information of an employee or board member who has exercised his or her option to withhold such information. The district does not have to seek an attorney general opinion before redacting the information but must provide NOTICE TO THE REQUESTOR regarding the redaction. The same redaction provisions apply to information regarding peace or security officers.

The list of INFORMATION EXCEPTED FROM PUBLIC DISCLOSURE, beginning on page 5, has been revised to reflect several legislative changes:

- SB 1068, effective June 4, 2009, adds information that if released by the district would subject an employee or officer to a substantial threat of physical harm. The district must make a case-by-case determination for each employee when a request for information is received and may not exempt broad classes of information. [See item 3.]
- HB 2730, effective September 1, 2009, adds information collected to perform a criminal history check. [See item 9.]
- HB 2730 also adds criminal history information that the district receives from the Texas Department of Public Safety. [See item 10.]
- HB 1830, effective September 1, 2009, expands the exception for computer network security to include restricted information under the Government Code and assessments that contain information that is otherwise sensitive or critical. Districts may disclose computer network security information to a bidder as necessary. [See item 29.]

We have also included more detail about the exception regarding informers (item 25) to better reflect current statutory wording.

GBAA (LEGAL) INFORMATION ACCESS REQUESTS FOR INFORMATION

We have rearranged and simplified this policy to improve ease of use and have revised the text throughout to better reflect statutory wording. In addition, we have updated the policy to reflect several new legislative provisions:

- At ELECTRONIC DATA, on page 4, HB 3544, effective September 1, 2009, deletes the requirement for a district to provide paper copies of information if the information exists in an electronic medium.
- At SUBMISSION TO ATTORNEY GENERAL, on page 8, SB 1182, effective September 1, 2009, requires the district to send to the requestor within 15 business days a copy of the comments the district submitted to the attorney general.
- At DEPOSIT OR BOND, on page 12, SB 1182 clarifies that the officer for public information can require a deposit or bond from the requestor if the officer has provided the requestor with the written itemized statement required by Government Code section 552.2615.

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

SECTION I

Elections Generally

1. Membership and terms
2. General election date
3. Joint elections
4. Method of election
5. Boundary change notice
6. Preclearance
7. Voting rights hotline

SECTION II

Conducting Elections

1. Election order and notices
2. Filing information
3. Election of unopposed candidate
4. Ballot
5. Election judges and clerks
6. Polling places
7. Bilingual materials
8. Voting systems
9. Early voting
10. Conducting elections

SECTION III

Post-Election Procedures

1. Determination of results
2. Canvass returns
3. Certificate of election
4. Certificate of election for unopposed candidate
5. Officer's statement
6. Oath of office

SECTION I: ELECTIONS GENERALLY

MEMBERSHIP AND TERMS	<p>The Board consists of seven Trustees serving terms of three years, with elections held annually. The terms of one-third of the Trustees, or as near to one-third as possible, expire each year. <i>Education Code 11.051(b), 11.059</i></p> <p>Board policy shall state the schedule on which specific terms expire. <i>Education Code 11.059</i> [See BBB(LOCAL)]</p>
GENERAL ELECTION DATE	<p>Election of Trustees of the District shall be on the May uniform election date. <i>Election Code 41.001</i></p>
CHANGING TO NOVEMBER ELECTION DATE	<p>If the District holds its election in May, the District is authorized to change to the November uniform election date. The District must take such action not later than December 31, 2010. <i>Election Code 41.0052(a-1)</i></p>
JOINT ELECTIONS REQUIRED	<p>A District Trustee election shall be held on the same date as:</p> <ol style="list-style-type: none">1. The election for the members of the governing body of a municipality located in the District; or2. The general election for state and county officers. <p>Elections held on the same date as the election for the members of the governing body of a municipality located in the District or the same date as the general election for state and county officers shall be held as a joint election under Election Code Chapter 271.</p> <p>The voters of a joint election under this section shall be served by common polling places consistent with Election Code 271.003(b).</p> <p>The 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.</p> <p><i>Education Code 11.0581</i></p>
ADMINISTRATOR	<p>The District may seek to create the position of joint elections administrator under Election Code Chapter 31, Subchapter F. <i>Election Code 31.152</i></p>
METHOD OF ELECTION	<p>Election of Trustees is at large in accordance with Texas law. <i>Education Code 11.057(b)</i></p>
CHANGING METHOD OF ELECTION	<p>The Board may by resolution order that trustees be elected at-large by position or place in accordance with Education Code 11.058. <i>Education Code 11.058</i></p>

In accordance with Education Code 11.052, the Board may decide, on the Board's motion or by voter petition, to change its method of election to single member districts. *Education Code 11.052*

Note: For additional information regarding the legal requirements of changing the method of election, see this policy code in the ***TASB Policy Reference Manual***.

BOUNDARY CHANGE
NOTICE

If the District changes its boundaries, it shall not later than the 30th day after the date the change is adopted:

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

The 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 ORDER

A call for an election shall be made not later than the 62nd 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 election shall be called not later than the 70th day before the election day. The Board shall order the 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 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 Board shall retain the elec-

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	<p>tion order for at least 22 months after election day. <i>Election Code 3.006, 3.008, 66.058(a), 83.010, 85.004, 85.007</i></p>
FAILURE TO ORDER AN ELECTION	<p>Failure to order a general election does not affect the validity of the election. <i>Election Code 3.007</i></p>
ELECTION NOTICE	<p>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 the District's boundaries or in a newspaper of general circulation in the District if none is published within the District's boundaries. <i>Election Code 4.003(a)(1), (c)</i></p> <p>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.</p> <p>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. The Board shall retain a copy of the published notice that contains the name of the newspaper and the date of publication and shall preserve that copy for at least 22 months after election day.</p> <p><i>Election Code 4.004, 4.005, 66.058(a), 83.010, 85.004, 85.007</i></p>
POSTING	<p>In addition to the notice described above, the 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 the Board. 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</i></p>
NOTICE TO COUNTY CLERK	<p>The 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. <i>Election Code 4.008</i></p>
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;

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3. The hours that the polls will be open;
4. The judge's duty to hold the election in the precinct specified by the notice; and
5. The maximum number of clerks that the judge may appoint for the election.

Election Code 4.007

FAILURE TO GIVE
NOTICE OF
ELECTION

Failure to give notice of a general election does not affect the validity of the election. *Election Code 4.006*

FILING INFORMATION
NOTICE TO
CANDIDATES

Not later than the 30th day before the first day on which a candidate may file an application for a place on the ballot, the District shall post notice of the dates of the filing period in a public place in a building where applications are filed. *Election Code 141.040*

GENERAL
ELECTION

An application for a place on the ballot may not be filed earlier than the 30th day before the date of the filing deadline.

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.

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 day of the filing deadline is the 67th day before election day.

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

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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. <i>Education Code 11.056(b), (e)</i>
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] <i>Election Code 31.0021, 141.031, 141.039</i>
ELECTION OF UNOPPOSED CANDIDATE	<p>The Board may declare each unopposed candidate elected to office if each candidate for an office that is to appear on the ballot is unopposed.</p> <p>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:</p> <ol style="list-style-type: none"><li data-bbox="560 924 1435 987">1. A general election for Trustees held at the same time as the special election; or<li data-bbox="560 1008 1435 1081">2. Another special election of the District held at the same time as the special election.
PROCEDURE FOR CANCELING ELECTION	<p><i>Election Code 2.051</i></p> <p>The 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 the Board makes such a declaration, the election is not held. <i>Election Code 2.052, 2.053(a), (b)</i></p> <p>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.</p> <p>If a trustee 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.</p>

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Election Code 2.053(a), (c)

BALLOT	The ballot shall be printed in the form required by law. <i>Election Code 52.061-.064, 52.069, 52.093-.094; Education Code 11.058(g)</i>
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. <i>Election Code 52.094</i>
ELECTION JUDGES AND CLERKS	The 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. <i>Election Code Chapter 32</i>
POLLING PLACES	<p>The Board shall designate polling places. Each polling place shall be accessible to and usable by the elderly and physically handicapped. <i>Election Code 43.004, 43.034</i></p> <p>If the 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. <i>Election Code 42.002(a)(5), 42.0621, 43.004(b)</i></p>
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. <i>Election Code 62.013(b)</i>
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	<p>The prohibition does not apply to:</p> <ol style="list-style-type: none">1. An election officer in conducting the officer's official duties;2. The use of election equipment necessary for the conduct of the election; or3. 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 The 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 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.

An election precinct may be exempt from the bilingual requirement 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 272.002, 272.003

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 the 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
SYSTEMS

Upon providing the notice detailed in Election Code 61.013(d), the 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

MULTIPLE VOTING SYSTEMS PERMITTED	The 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. <i>1 TAC 81.55 [See GA]</i>
VOTING SYSTEM MALFUNCTION	If no private vendor supports the 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. <i>1 TAC 81.64</i>
EARLY VOTING	The 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>
CONDUCTING ELECTIONS	Elections shall be conducted in accordance with Election Code Title 6. <i>Election Code Title 6</i>

SECTION III: POST-ELECTION PROCEDURES

DETERMINATION OF RESULTS PLURALITY	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> The candidates receiving the highest number of votes shall fill the positions the terms of which are normally expiring. <i>Education Code 11.057(b)</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 Trustee 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	Except as provided below, the 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.

BOARD MEMBERS
ELECTIONS

BBB
(LEGAL)

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:

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; or
3. 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.

Two members of the Board constitute a quorum for purposes of canvassing an election.

Election Code 67.003, 67.004(a)

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.

BOARD MEMBERS
ELECTIONS

BBB
(LEGAL)

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 Trustees, 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 Trustee shall take the oath or affirmation 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

ELECTIONS
ETHICS

BBBB
(LEGAL)

ELECTIONEERING

The 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*

POLITICAL
ADVERTISING

No officer or employee of the 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 the 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 the 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

NEPOTISM

A candidate shall not take affirmative action to influence a District employee or current Trustee regarding the appointment, reappointment, employment, confirmation, reemployment, change in status, compensation, or dismissal of a person related to the candidate within a prohibited degree of relationship under the nepotism law. [See DBE(EXHIBIT)] However, this prohibition does not apply to a candidate's actions taken with respect to a bona fide class or category of employees or prospective employees. *Gov't Code 573.042*

BOARD INTERNAL ORGANIZATION
CITIZEN ADVISORY COMMITTEES

BDF
(LEGAL)

SCHOOL HEALTH
ADVISORY COUNCIL

The Board shall establish a local school health advisory council to assist the District in ensuring that local community values and health issues are reflected in the District's health education instruction. The Board shall appoint at least five members to the council, a majority of whom must be parents of students enrolled in the District and must not be employed by the District. One of those members shall serve as chair or co-chair of the council.

The Board may also appoint one or more public school teachers, public school administrators, District students, health-care professionals, members of the business community, law enforcement representatives, senior citizens, clergy, representatives of nonprofit health organizations, or representatives of another group. [See EHAA]

ANNUAL REPORT

In addition to its other duties, the council shall submit to the Board, at least annually, a written report that includes:

1. Any council recommendation concerning the District's health education curriculum and instruction or related matters that the council has not previously submitted to the Board;
2. Any suggested modification to a council recommendation previously submitted to the Board; and
3. A detailed explanation of the council's activities during the period between the date of the current report and the date of the last prior written report.

STATEMENT FOR
PUBLIC
INSPECTION

The District shall publish in the student handbook and post on the District's Internet Web site, if the District has an Internet Web site, a statement of:

1. District policies adopted to ensure that elementary school, middle school, and junior high school students engage in physical activity;
2. The number of times during the preceding year the council has met;
3. District policies to ensure compliance with applicable vending machine and food service guidelines for restricting student access to vending machines; and
4. District policies and procedures that prescribe penalties for the use of tobacco products by students and others on school campuses or at school-sponsored or school-related activities.

CHANGES IN
CURRICULUM

The District must consider the recommendations of the local school health advisory council before changing the District's health education curriculum or instruction.

Education Code 28.004

PLANNING AND DECISION-MAKING PROCESS

BQ
(LEGAL)

REQUIRED PLANS

The 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. The 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)

DISTRICT
IMPROVEMENT
PLAN

The District shall have a District improvement plan that is developed, evaluated, and revised annually, in accordance with District policy, by the Superintendent with the assistance of the District-level committee. The purpose of the District improvement plan is to guide District and campus staff in the improvement of student performance for all student groups in order to attain state standards in respect to the academic excellence indicators. [See GND]

The District improvement plan must include provisions for:

1. A comprehensive needs assessment addressing District student performance on the academic excellence indicators, and other appropriate measures of performance, that are disaggregated by all student groups served by the 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 academic excellence 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 prevention, conflict resolution, violence prevention, or dyslexia treatment programs.

PLANNING AND DECISION-MAKING PROCESS

BQ
(LEGAL)

- c. Dropout reduction.
 - d. Integration of technology in instructional and administrative programs.
 - e. Discipline management.
 - f. Staff development for professional staff of the 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:

PLANNING AND DECISION-MAKING PROCESS

BQ
(LEGAL)

- 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 of children that must include:
 - a. Methods for increasing teacher, student, and parent awareness of issues regarding sexual abuse of children, including knowledge of likely warning signs indicating that a child may be a victim of sexual abuse, using resources developed by TEA on prevention of child abuse;
 - b. Actions that a child who is a victim of sexual abuse should take to obtain assistance and intervention; and
 - c. Available counseling options for students affected by sexual abuse.

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

Education Code 38.0041

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

CAMPUS-LEVEL
PLAN

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

Each campus improvement plan must:

1. Assess the academic achievement for each student in the school using the academic excellence indicator system.

PLANNING AND DECISION-MAKING PROCESS

BQ
(LEGAL)

2. Set the campus performance objectives based on the academic excellence 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(c), (d)

SHARED SERVICES
ARRANGEMENT
FOR DAEP
SERVICES

Each 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

PLANNING AND DECISION-MAKING PROCESS

BQ
(LEGAL)

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)

EVALUATION

At least every two years, the 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

The Board shall adopt a policy to establish a District- and campus-level planning and decision-making process that will involve the professional staff of the District, parents of students enrolled in the 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

The 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. The 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)*

PLANNING AND DECISION-MAKING PROCESS

BQ
(LEGAL)

The planning and decision-making requirements do not:

1. Prohibit the Board from conducting meetings with teachers or groups of teachers other than the District-level committee meetings.
2. Prohibit the 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 the Board to govern the public schools.
4. Create a new cause of action or require collective bargaining.

Education Code 11.251(g)

STATE AND FEDERAL REVENUE SOURCES
STATE

CBA
(LEGAL)

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 be 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)

DISCRETIONARY
FUNDS

The District shall adopt a policy governing the expenditure of local funds from vending machines, rentals, gate receipts, or other local sources of revenue over which the District has direct control.

A policy under this section must:

1. Require discretionary expenditures of local funds to be related to the District's educational purpose and provide a commensurate benefit to the District or its students; and
2. Meet the standards of Section 52, Article III, Texas Constitution, regarding expenditure of public funds.

Education Code 44.908

ACCOUNTING
ACTIVITY FUNDS MANAGEMENT

CFD
(LOCAL)

FIDUCIARY RESPONSIBILITY	The Superintendent, principal, and sponsor, as applicable, shall be responsible for the proper administration of District and campus activity funds and student activity funds in accordance with state law and local policy, District-approved accounting practices and procedures, and the TEA <i>Financial Accountability System Resource Guide</i> .
STUDENT ACTIVITY FUNDS	<p>The Superintendent or designee shall ensure that student activity accounts are maintained to manage all class funds, organization funds, and any other funds collected from students for a school-related purpose. The principal or designee shall issue receipts for all funds prior to their deposit into the appropriate District account at the District depository.</p> <p>Student activity funds shall be included in the annual audit of the District's fiscal accounts. [See CFC]</p>
USE AND EXPENDITURE	Funds collected by student groups shall be used only for purposes authorized by the organization or upon approval of the sponsor. The principal or designee shall approve all disbursements. All funds raised by student organizations must be expended for the benefit of the students.
DISTRICT AND CAMPUS ACTIVITY FUNDS	The Superintendent shall establish regulations governing the expenditure of District and campus activity funds generated from vending machines, rentals, gate receipts, concessions, and other local sources of revenue over which the District has direct control. Funds generated from such sources shall be expended for the benefit of the District or its students and shall be related to the District's educational purpose.
APPROVAL	Approval from the immediate supervisor or designee shall be obtained prior to a disbursement being made to any employee, including the principal.
CARRYOVER FUNDS	All funds shall be left in the appropriate account and each sponsoring group shall retain the carryover funds for the next fiscal year. If an organization ceases to function or exist, the unexpended funds of the organization shall be credited to the appropriate administrative activity account.

PURCHASING AND ACQUISITION

CH
(LEGAL)

BOARD AUTHORITY	The Board may adopt rules and procedures for the acquisition of goods and services. <i>Education Code 44.031(d)</i>
DELEGATION OF AUTHORITY	<p>The Board may delegate its authority regarding an action authorized or required to be taken by the District by Education Code Chapter 44, Subchapter B, to a designated person, representative, or committee.</p> <p>The 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 the 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	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 the 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>
PURCHASES VALUED AT OR ABOVE \$50,000	<p>All District contracts, 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 the District:</p> <ol style="list-style-type: none">1. Competitive bidding.2. Competitive sealed proposals.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. <p><i>Education Code 44.031(a)</i></p>

PURCHASING AND ACQUISITION

CH
(LEGAL)

Note: Regarding construction of school facilities, see CV generally; CVA for competitive bidding; CVB for competitive sealed proposals; CVC for design/build contracts; CVD, CVE for contracts using a construction manager; and CVF for job order contracts for minor repairs/alterations.

FACTORS

In awarding a contract, the 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. 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 the District in its decision to award a contract. *R.G.V. Vending v. Weslaco Indep. Sch. Dist.*, 995 S.W.2d 897 (Tex. App.—Corpus Christi 1999, no pet.).

CONTRACT WITH
PERSON INDEBTED
TO DISTRICT

The Board may, by resolution, establish regulations permitting the District to refuse to enter into a contract or other transaction with a person indebted to the District. The 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.

PURCHASING AND ACQUISITION

CH
(LEGAL)

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 the 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 the 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 the 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

The District may receive bids or proposals through electronic transmission if the Board adopts rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

An electronic bid or proposal is not required to be sealed. A provision of Education Code Chapter 44 that applies to a sealed bid or proposal applies to a bid or proposal received through electronic transmission in accordance with the rules adopted by the Board.

Education Code 44.0313

PROFESSIONAL
SERVICES

The purchasing requirements of Education Code 44.031 do not apply to a contract for professional services rendered, including the services of an architect, attorney, or fiscal agent.

The 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 ser-

PURCHASING AND ACQUISITION

CH
(LEGAL)

vices 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 the 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 the 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

The 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

The 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.

PURCHASING AND ACQUISITION

CH
(LEGAL)

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), (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

The 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 the 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)*

PURCHASING AND ACQUISITION

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COMPETITIVE
BIDDING

If the 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 the District, that bidder shall be selected. If two or more such bidders are residents of the 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.

The 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

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

The 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. The District shall rely on information published by the

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comptroller in evaluating the bids of a nonresident bidder. *Gov't Code 2252.003, 2252.004*

INTERLOCAL
AGREEMENTS

To increase efficiency and effectiveness, the 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 the 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)

The District may agree with another local government, including a nonprofit corporation that is created and operated to provide one or more governmental functions and services, or with the state or a state agency, including the comptroller, to purchase goods and services reasonably required for the installation, operation, or maintenance of the goods. Such an agreement may not, however, apply to services provided by firefighters, police officers, or emergency medical personnel.

A district that purchases goods and services by agreement with another local government or with the state or state agency satisfies the requirement to seek competitive bids for the purchase of goods and services.

Gov't Code 791.025(b), (c); Atty. Gen. Op. JC-37 (1999)

STATE PURCHASING
PROGRAM

Purchasing services performed for the District by the comptroller shall include:

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

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The comptroller may charge the District its actual costs in providing purchasing services.

Local Gov't Code 271.082

DISTRICT
REQUIREMENTS

The 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.

The 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. The District may negotiate a lower price for goods or services under a contract listed on a schedule.

Gov't Code 2155, Subch. 1

PURCHASING AND ACQUISITION

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COOPERATIVE
PURCHASING
PROGRAM

The District may participate in a cooperative purchasing program with another local government or a local cooperative organization. If the 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 the 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 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 (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, the 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)*

COMMITMENT OF
CURRENT REVENUE

A contract for the acquisition, including lease, of real or personal property is a commitment of the 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.

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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

ENERGY OR WATER
CONSERVATION
MEASURES

The 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.

The Board shall establish a long-range energy plan to reduce the 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

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

The 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, the 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, the 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.

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	<p>The District may not adopt product purchasing specifications that unnecessarily exclude agricultural products produced, processed, or grown in Texas.</p>
VEGETATION FOR LANDSCAPING	<p>If cost is equal and the quality is not inferior, the 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, the 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; and2. 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>The 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); or4. 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>

CONTRACTED SERVICES
CRIMINAL HISTORY

CJA
(LEGAL)

CRIMINAL HISTORY —
IN GENERAL

Before entering into a contract with the 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. The 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. The 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 the 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 District, or is an individual subcontractor of a service contractor;
2. Has or will have continuing duties related to the contracted services;
3. Has or will have direct contact with students; and
4. Is not a student of (or enrolled in) the District for which the services are performed.

'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 the 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

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'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.

Education Code 22.0834(p); 19 TAC 153.1101(2), (3), (7), (10)

CONTRACTOR
RESPONSIBILITIES

EMPLOYED
BEFORE
JANUARY 1, 2008

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

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

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 the District or any subcontractor of the entity must submit to a national criminal history record information review if:

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

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

An entity contracting with the 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 clearing-house 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 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.

CONTRACTED SERVICES
CRIMINAL HISTORY

CJA
(LEGAL)

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 the District, at its request, the information necessary for the 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 under Education Code 21.060.

A contracting entity shall not permit a covered contract employee to provide services at the District if the employee has a disqualifying conviction under Education Code 22.085.

DISTRICT
RESPONSIBILITIES

EMPLOYED
BEFORE
JANUARY 1, 2008

The 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.

EMPLOYMENT
OFFERED ON OR
AFTER JANUARY 1,
2008

The 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.

CERTIFICATION
FROM
CONTRACTOR

The 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

The District may not allow a covered contract employee to serve at the District if the District obtains information through a criminal his-

CONTRACTED SERVICES
CRIMINAL HISTORY

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tory 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 the 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.

Education Code 22.0834; 19 TAC 153.1117(b), (c)

EMERGENCY
EXCEPTION TO
CRIMINAL HISTORY
CHECK

In the event of an emergency, the District may allow a covered contract employee to enter District property without the required criminal history record information review if the person is accompanied by a District employee. The District may adopt rules regarding an emergency situation. *Education Code 22.0834(f); 19 TAC 153.1117(b)(2)*

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

CONTRACTORS
PROVIDING
TRANSPORTATION
SERVICES

In addition to the requirements described above at CRIMINAL HISTORY—IN GENERAL, if the 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 the 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 the 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. *Education Code 22.084(a), (b)*

COMMERCIAL
TRANSPORTATION
COMPANY

In addition to the requirements described above at CRIMINAL HISTORY — IN GENERAL, if the 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 in-

CONTRACTED SERVICES
CRIMINAL HISTORY

CJA
(LEGAL)

formation 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, the District is not required to do the same. *Education Code 22.084(c), (d)*

BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT

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REDUCTION OF
ENERGY
CONSUMPTION

The Board shall establish a long-range energy plan to reduce the 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 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 are available to the District.

Education Code 44.902

ENERGY OR WATER
CONSERVATION
MEASURES

The 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.

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 improvements 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.

The Board may enter into energy savings performance contracts only with persons who are experienced in the design, implementa-

BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT

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tion, and installation of the energy or water conservation measures addressed by the contract.

PERFORMANCE
BOND

Before entering an energy savings performance contract, the 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. The 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.

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 the District under the contract. If the term of an energy savings performance contract exceeds one year, the District's contractual obligations in any one year during the term of the contract beginning after the final date of installation 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.

COST SAVINGS
REVIEW

Before entering an energy savings performance contract, the 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 con-

ducting 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

The 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. The 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

The 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), the 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 paper-board cartons, high-grade office paper, and corrugated cardboard. "Recyclable materials" includes materials in the District's possession that have been abandoned or disposed of by the District's officers or employees or by any other person.

The 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.

BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT

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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.

The 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 the 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. *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*

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*

BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT
MAINTENANCE

CLB
(LEGAL)

BUILDINGS	Every school building shall be located on grounds that are well-drained and maintained in a sanitary condition. All buildings shall be properly ventilated and provided with an adequate supply of drinking water, an approved sewage disposal system, handwashing facilities, a heating system, and lighting facilities, all of which shall conform with established standards of good public health engineering practices.
LUNCHROOMS	All school lunchrooms shall be maintained in accordance with state food and drug regulations.
CUSTODIAL SERVICES	All school buildings and appurtenances to buildings shall be maintained in a sanitary manner, and all full-time building custodians and janitors shall know the fundamentals of safety and school sanitation. <i>Health and Safety Code 341.065</i>
STRUCTURAL PEST CONTROL	When necessary, the District shall obtain pest control services for school buildings either by: <ol style="list-style-type: none">1. Contracting with a business that has a structural pest control business license; or2. Requiring the District employee who is licensed as a certified noncommercial applicator or technician to perform the services. <i>Occupations Code 1951.459</i> Before treating a school building for pest control, the District shall ensure that the necessary signs and information for employees and parents of students are posted or made available. <i>Occupations Code 1951.455</i> [See DI, FD]
INTEGRATED PEST MANAGEMENT PROGRAM	The District shall establish, implement, and maintain an Integrated Pest Management (IPM) program. An IPM program is a regular set of procedures for preventing and managing pest problems using an integrated pest management strategy. The District is responsible for the IPM coordinator's compliance with these regulations.
IPM PROGRAM REQUIREMENTS	The IPM program shall contain these essential elements: <ol style="list-style-type: none">1. The Board-approved IPM policy, stating the District's commitment to follow integrated pest management guidelines in all pest control activities that take place on District property. The IPM policy statement shall include: <ol style="list-style-type: none">a. A definition of IPM consistent with this section;b. A reference to Texas laws and rules governing pesticide use and IPM in public schools;

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- c. Information about who can apply pesticides on District property; and
 - d. Information about designating, registering, and required training for the District's IPM coordinator. The Superintendent and IPM coordinator shall maintain a copy of the policy.
2. A monitoring program to determine when pests are present and when pest problems are severe enough to justify corrective action;
 3. The preferential use of lower risk pesticides and the use of non-chemical management strategies to control pests, rodents, insects, and weeds;
 4. A system for keeping records of facility inspection reports, pest-related work orders, pest control service reports, pesticide applications, and pesticide complaints;
 5. A plan for educating and informing District employees about their roles in the IPM program; and
 6. Written guidelines that identify thresholds for when pest control actions are justified.

IPM COORDINATOR

The Superintendent shall appoint an IPM coordinator to implement the District's IPM program. Not later than 90 days after the Superintendent designates or replaces an IPM coordinator, the District must report to the Texas Department of Agriculture (TDA) the newly appointed coordinator's name, address, telephone number, e-mail address and the effective date of the appointment. A school district that appoints more than one IPM coordinator shall designate a responsible IPM coordinator who will have overall responsibility for the IPM program and provide oversight of subordinate IPM coordinators regarding IPM program decisions.

TRAINING

The IPM coordinator shall:

1. Successfully complete a TDA-approved IPM coordinator training course within six months of appointment; and
2. Obtain at least six hours of TDA-approved IPM continuing education units at least every three years, beginning July 7, 2009, or the date of designation, whichever is later. No approved course may be repeated for credit within the same three-year period.

DUTIES

The IPM coordinator shall be responsible for implementation of the District IPM program and District compliance with 4 TAC 7.150. The IPM coordinator shall oversee and be responsible for:

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1. Coordination of pest management personnel, ensuring that all school employees who perform pest control, including those employees authorized to perform incidental use applications, have the necessary training, are equipped with the appropriate personal protective equipment, and have the necessary licenses for their pest management responsibilities;
2. Ensuring that all IPM program records, including incidental use training records, facility inspection reports, pest-related work orders, pest control service reports, pesticide applications, and pesticide complaints are maintained for a period of two years and are made available to a TDA inspector upon request;
3. Conducting periodic facility inspections on campus buildings and grounds;
4. Working with District administrators to ensure that all pest control proposal specifications for outside contractors are compatible with IPM principles, and that contractors work under the guidelines of the District's IPM policy;
5. Ensuring that all pesticides used on District property are in compliance with the District's IPM program and that current pesticide labels and material safety data sheets (MSDS) are available for interested individuals upon request;
6. Overseeing and implementing that portion of the plan that ensures that District administrators and relevant District personnel are provided opportunities to be informed and educated about their roles in the IPM program, reporting, and notification procedures;
7. Pesticide applications, including the approval of emergency applications at buildings and on school District grounds, are conducted in accordance with these rules; and
8. Maintaining a current copy of the District's IPM policy and making it available to a TDA inspector upon request.

LICENSED
APPLICATOR

A district that engages in pest control activities must employ or contract with a licensed applicator, who may, if an employee, also serve as the IPM coordinator.

The commercial or noncommercial certified applicator or licensed technician shall:

1. Apply only EPA labeled pesticides, appropriate for the target pest, except as provided in these rules;

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2. Provide the structural pest management needs of the District by following the District's IPM program and these regulations;
3. Obtain written approval from the IPM coordinator for the use of pesticides in accordance with these rules;
4. Handle and forward to the IPM coordinator records of IPM activities, any complaints relating to pest problems, and pesticide use;
5. Ensure that pesticide use records are forwarded to the IPM coordinator within two business days or in a time frame as agreed to by the IPM coordinator;
6. Consult with the IPM coordinator concerning the use of control measures in buildings and grounds; and
7. Ensure that all pest control activities are consistent with the District's IPM program and IPM policy.

NOTICE

The District shall prior to or by the first week of school attendance, ensure that a procedure is in place to provide prior notification of pesticide applications in accordance with 4 TAC Chapter 7. Individuals who request in writing to be notified of pesticide applications may be notified by telephonic, written, or electronic methods.

PESTICIDE USE

All pesticides used by the District must be registered with the United States Environmental Protection Agency (EPA) and the TDA, with the exception of those pesticides that have been exempted from registration by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Section 25(b). All pesticides used by the District must also bear a label as required by FIFRA and Chapter 76 of the Texas Agriculture Code. Pesticide use must also meet the following requirements:

1. Pest control signs shall be posted at least 48 hours prior to a pesticide application inside District buildings as provided for under 4 TAC 7.148.
2. For outdoor applications made on District grounds, a pest control sign shall be displayed at the time of application and shall remain posted until the specified reentry interval has been met in accordance with these rules.
3. Pesticides used on District property shall be mixed outside of student occupied areas of buildings and grounds.
4. The use of non-pesticide control measures, non-pesticide monitoring tools and mechanical devices, such as glue boards and traps as permitted in accordance with these rules, are exempt from posting requirements.

5. Pesticide applications shall not be made to outdoor school grounds if such an application will expose students to physical drift of pesticide spray particles. Reasonable preventative measures shall be taken to avoid the potential of drift to occur.
6. Districts are allowed to apply the pesticides to control pests, rodents, insects, and weeds at school buildings, grounds, or other facilities in accordance with the approval for use and restrictions listed in the categories detailed in 4 TAC 7.150.

Occupations Code 1951.212; 4 TAC 7.150

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INTEGRATED PEST MANAGEMENT PROGRAM	The District is committed to following integrated pest management guidelines in all pest control activities that take place on District property.
DEFINITION	As provided in the Texas Administrative Code, integrated pest management (IPM) is a pest management strategy that relies on accurate identification and scientific knowledge of target pests, reliable monitoring methods to assess pest presence, preventative measures to limit pest problems, and thresholds to determine when corrective control measures are needed. Under IPM, whenever economical and practical, multiple control tactics shall be used to achieve best control of pests. These tactics shall possibly include, but are not limited to, the judicious use of pesticides.
STANDARDS	In accordance with Part 4, Title 7 of the Administrative Code and Chapter 1951 of the Occupations Code, the District's IPM program shall govern the District's use of pesticides, herbicides, and other chemical agents for the purpose of controlling pests, rodents, insects, and weeds in and around District facilities.
IPM COORDINATOR	The Superintendent shall designate the IPM coordinator(s), who shall be registered with the Texas Department of Agriculture. The IPM coordinator(s) shall receive training in accordance with law.
APPLICATION TIME FRAME	The IPM coordinator(s), in addition to the responsibilities set out in CLB(LEGAL), shall coordinate with appropriate District administrators or other designated and trained employees regarding pesticide or herbicide applications in accordance with law. The IPM coordinator(s) shall determine when an emergency situation exists and an exception to the 48-hour notice requirement may be made.
NO UNAUTHORIZED APPLICATION	No other employee or other person or entity shall be permitted to apply a pesticide or herbicide at a school facility without the prior approval of the IPM coordinator and other than in the manner prescribed by law and the District's IPM program.

Note: For provisions regarding selection and adoption of textbooks, see EFAA.

TEXTBOOKS	Textbooks selected for use in the public schools shall be furnished without cost to the students attending those schools. All textbooks purchased in accordance with Education Code Chapter 31 are the property of the state of Texas. <i>Education Code 31.001, 31.102(a)</i>
DELEGATION OF POWER	The Board may delegate the power to requisition, distribute, and manage the inventory of books, consistent with Education Code Chapter 31. <i>Education Code 31.104(a)</i>
TEXTBOOK FUNDING	Annually, the State Board of Education (SBOE) shall set aside out of the available 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. <i>Education Code 31.021(b)</i>
MAXIMUM COST	<p>The SBOE shall set a limit on the cost that may be paid from the state textbook fund for a textbook on the conforming or nonconforming list. <i>Education Code 31.025</i></p> <p>If the 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. <i>19 TAC 66.104(b)</i></p>
NONADOPTED MATERIALS	<p>If the 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><i>Education Code 31.101(b)</i></p> <p>Funds received from the state under this provision may be used only to purchase the nonadopted instructional materials selected and ratified by the Board. The minutes of the Board meeting at which such a selection is ratified shall reflect the District's agreement to bear responsibility for the portion of the costs not eligible for payment by the state. <i>19 TAC 66.104(c)-(e)</i></p>
ELECTRONIC TEXTBOOK AND INSTRUCTIONAL MATERIALS LIST	If the 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 differ-

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	<p>ence 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. <i>Education Code 31.101(b-1)</i></p>
OPEN-SOURCE TEXTBOOK	<p>If the 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; and2. Fifty percent of the amount shall be credited to the District for use as provided by Education Code 31.1011(c). [See TEXTBOOK CREDIT, below] <p><i>Education Code 31.073(b)</i></p>
LOCAL FUNDS	<p>The District may use local funds to purchase any textbooks in addition to those selected under Education Code Chapter 31. <i>Education Code 31.106</i></p>
REQUISITIONS, USE, AND DISTRIBUTION	<p>Not later than the seventh day after the first school day in April, each principal shall report the maximum attendance for a school to the Superintendent. Not later than April 25, the Superintendent shall report the District's maximum attendance to 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 later than June 1 of each year. The District may requisition textbooks for grades above the grade level in which a student is enrolled, except that the total quantity requisitioned may not exceed the above limit. <i>Education Code 31.103; 19 TAC 66.104(l)</i> [See BJA]</p>
DURATION OF SELECTION	<p>Once instructional materials have been requisitioned and delivered, including nonadopted materials, the District shall continue to use those instructional materials during the contract period or periods of the materials. The District may not return copies of one title to secure copies of another title in the same subject. <i>19 TAC 66.104(f), (j)</i></p>
EXCEPTION	<p>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</p>

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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
2. 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.

Education Code 31.101(e)

DISTRIBUTION The Board, as legal custodian of the textbooks used in the District, shall distribute books to students as it may deem most effective and economical. *Education Code 31.102(c)*

ORDER QUANTITIES When placing orders for instructional materials, the District shall report enrollments as follows:

1. Annual orders for instructional materials: enrollments shall be reported based on the maximum number of students enrolled in the District during the previous school year and/or registered to attend the District during the next school year; and
2. Supplemental orders for instructional materials: enrollments shall be reported based on the actual number of students enrolled in the District when the order is submitted, adjusted for students reported as working above or below grade level.

19 TAC 66.107(d)

SHORTAGE If the 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:

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; or
2. 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.

Education Code 31.1031

TIME FOR DELIVERY At the time an order for textbooks is acknowledged, a publisher or manufacturer shall provide to the District an accurate shipping date for textbooks that are back-ordered, and shall guarantee delivery of textbooks at least ten business days before the opening day of the school year for which the textbooks are ordered if they are ordered

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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 District to be surplus-to-quota shall be reported to TEA by October 1 of each year in accordance with instructions provided by TEA. The 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 the 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. The 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

The District may requisition a supplemental textbook only if the District:

1. Uses textbook credits received under Education Code 31.1011 to purchase the supplemental textbook; or

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2. 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 along with other supplemental textbooks or textbooks on the nonconforming 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.

Education Code 31.035(d)

If the total cost for the supplemental textbooks requisitioned by the 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

A district that selects an open-source textbook shall requisition a sufficient number of printed copies for use by students unable to access the textbook electronically unless the District or school provides to each student:

1. Electronic access to the textbook at no cost to the student; or
2. Printed copies of the portion of the textbook that will be used in the course.

Education Code 31.103(d)

CERTIFICATION

The District shall annually certify to the SBOE and the Commissioner that, for each subject in the foundation curriculum 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. *Education Code 31.004*

TEXTBOOK CREDIT

The 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)*

CALCULATION

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)*

If the total cost for the supplemental textbooks requisitioned by the 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)*

DISTRIBUTION

Fifty percent of the total textbook credit of the 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 of:

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;
3. Electronic textbooks or instructional materials on the list adopted under Education Code 31.0231; or
4. Technological equipment under Education Code 31.021(f).

Education Code 31.1011(c)

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 to the teacher at the end of the school year or when the student withdraws from school, unless the textbook is an open-source textbook that the District does not intend to use for another student. The printed copy of the open-source textbook 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.

Education Code 31.104(c)

RESPONSIBILITY FOR
BOOKS AND
EQUIPMENT

Each student or his or her parent or guardian shall be responsible for all books, including an electronic textbook, and all technological equipment not returned in an acceptable condition by the student, and any student failing to return in an acceptable condition all books, including electronic textbooks, and technological equipment shall forfeit the right to free textbooks, including electronic textbooks, 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, the District may waive or reduce the payment required if the student is from a low-

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income family. The District shall allow students to use textbooks, including electronic textbooks, and technological equipment at school during each school day.

If a book, including electronic textbooks, or technological equipment is not returned in an acceptable condition and payment is not made, the 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.

Education Code 31.104(d); 20 U.S.C. 1232g; Gov't Code 552.114(b)(2) [See also EF]

SALE OF BOOKS

The 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*

ANNUAL INVENTORY

The 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

The District may retain out-of-adoption instructional materials.

The 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, the 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 the District sell out-of-adoption instructional materials.

19 TAC 66.131

TRANSPORTATION MANAGEMENT
TRANSPORTATION SAFETY

CNC
(LEGAL)

SAFETY STANDARDS The 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 the 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 The 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 the 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 the District on or after September 1, 2010, for the transportation of schoolchildren; and
2. Each school-chartered bus contracted for use by the District on or after September 1, 2011, for the transportation of schoolchildren.

The District is required to comply with this requirement only to the extent TEA pays or commits to pay the District for expenses incurred in complying with the requirement.

Trans. Code 547.701(e)-(f)

STUDENT
REQUIREMENT The 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. The District may implement a disciplinary policy to enforce the use of seat belts by students. *Education Code 34.013*

DONATIONS The 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 the District's school buses. The Board may accept or decline the offer after adequate consideration.

The 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, the 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. 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, the 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 the District completes a training session, the District shall provide DPS with a record certifying the District's completion of the training.

Education Code 34.0021

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

TRANSPORTATION MANAGEMENT
TRANSPORTATION SAFETY

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DISRUPTION OF
TRANSPORTATION

Any person who intentionally disrupts, prevents, or interferes with the lawful transportation of students to and from school or activities sponsored by a school on a vehicle owned and/or operated by the 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

The 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 the School Bus Transportation Safety Unit, Texas Department of Public Safety, Box 4087, Austin, TX 78773-0252.

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 TAC 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.

The 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 the District and was transporting District personnel, students, or a combination of personnel and students; or
2. The bus was driven by a District employee or by an employee of the District's bus contractor with no passengers on board and the accident involved a collision with a pedestrian.

EXCEPTIONS

The 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 District employee or by an employee of the District's bus contractor, the accident occurred when no passenger other than the 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 the District for a school activity trip and no District personnel or students were on board the bus at the time of the accident.

The District shall not report an accident that occurred in a vehicle that is owned, contracted, or chartered by the 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)

FOOD SERVICES MANAGEMENT
FOOD PURCHASING

COA
(LEGAL)

DAIRY PRODUCTS

The Board shall not purchase milk, cream, butter, cheese, or a product consisting largely of one or more of those items that has been imported from outside the United States. However, imported milk powder may be purchased if domestic milk powder is not readily available in the normal course of business. *Health & Safety Code 435.021*

IMPORTED BEEF

The District shall not purchase beef or a product consisting substantially of beef that has been imported from outside the United States. *Agriculture Code 150.012*

FACILITY STANDARDS

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(LEGAL)

APPLICABILITY OF
STATE STANDARDS
AFTER JANUARY 1,
2004

All new facilities and major space renovations approved by the Board after January 1, 2004, shall meet the facility standards established by the Commissioner as set out in Texas Administrative Code Title 19, Chapter 61, Section 61.1036. Other renovations associated with repair or replacement of architectural interior or exterior finishes, fixtures, equipment, and electrical, plumbing, and mechanical systems are not subject to space or educational adequacy requirements, but must meet construction quality standards. *Education Code 46.008; 19 TAC 61.1036*

DEFINITIONS

After January 1, 2004, a "major space renovation" means renovations to all or part of the facility's instructional space where the scope of the work in the affected part of the facility involves substantial renovations to the extent that most existing interior walls and fixtures are demolished and then subsequently rebuilt in a different configuration or function. *19 TAC 61.1036(a)(10)*

"Educational program" means a written document, developed and provided by the District, that includes the following information:

1. A summary of the District's educational philosophy, mission, and goals; and
2. A description of the general nature of the District's instructional program in accordance with the Texas Administrative Code Title 19, Chapter 74, Section 74.1 (relating to Essential Knowledge and Skills). The written educational program should describe:
 - a. The learning activities to be housed, by instructional space;
 - b. How the subject matter will be taught (methods of instructional delivery);
 - c. The materials and equipment to be used and stored;
 - d. Utilities and infrastructure needs; and
 - e. The characteristics of furniture needed to support instruction.

19 TAC 61.1036(a)(2)

"Educational specifications" means a written document for a proposed new school facility or major space renovation that includes a description of the proposed project, expressing the range of issues and alternatives. School districts that do not have personnel on staff with experience in developing educational specifications shall use the services of a design professional or consultant experienced in school planning and design to assist in the development

of the educational specifications. The District shall allow for input from teachers, other school campus staff, and District program staff in developing the educational specifications. The following information should be included in the educational specifications:

1. The instructional programs, grade configuration, and type of facility;
2. The spatial relationships—the desired relationships for the functions housed at the facility:
 - a. Should be developed by the District to support the District's instructional program;
 - b. Should identify functions that should be:
 - (1) Adjacent to, immediately accessible;
 - (2) Nearby, easily accessible; and
 - (3) Removed from or away from; and
 - c. Should relate to classroom/instructional functions, instructional support functions, building circulation, site activities/functions, and site circulation.
3. Number of students;
4. A list of any specialized classrooms or major support areas, noninstructional support areas, outdoor learning areas, outdoor science discovery centers, living science centers, or external activity spaces;
5. A schedule of the estimated number and approximate size of all instructional and instructional support spaces included in the facility;
6. Estimated budget for the facility project;
7. School administrative organization;
8. Provisions for outdoor instruction;
9. Hours of operation that include the instructional day, extracurricular activities, and any public access or use;
10. The safety of students and staff in instructional programs, such as science and vocational instruction; and
11. The overall security of the facility.

19 TAC 61.1036(a)(3)

FACILITY STANDARDS

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(LEGAL)

APPLICABILITY OF
STATE STANDARDS
BEFORE JANUARY 1,
2004

All new facilities and major space renovations approved by the Board before January 1, 2004, shall meet the facility standards established by the Commissioner as set out in Texas Administrative Code Title 19, Chapter 61, Section 61.1033. Other renovations associated with repair or replacement of architectural interior or exterior finishes, fixtures, equipment, and electrical, plumbing, and mechanical systems are not subject to space or educational adequacy requirements, but must meet construction quality standards. *Education Code 46.008; 19 TAC 61.1033(a)(5), (b)*

FIRE ESCAPES

The Board shall ensure that each school building that is two or more stories shall have such fire escapes as are required by law. *Health and Safety Code 791.002, 791.035, 791.036*

SECURITY CRITERIA

A district that constructs a new instructional facility or conducts a major renovation of an existing instructional facility using Instructional Facilities Allotment funds shall consider, in the design of the instructional facility, security criteria developed by the Texas School Safety Center. *Education Code 46.0081*

READILY ACCESSIBLE
PROGRAMS

No qualified individual with a disability shall, because the District's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of, the services, programs, and activities of the District or be subject to discrimination. *42 U.S.C. 12132; 28 CFR 35.149; 29 U.S.C. 794; 34 CFR 104.21*

The District shall operate each program, service, or activity so that when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities. The District is not, however, required to make each existing facility or every part of a facility accessible to and usable by individuals with disabilities.

Compliance with these requirements may be achieved by:

1. Redesigning equipment.
2. Reassigning classes or other services to accessible buildings.
3. Assigning aides to qualified individuals with disabilities.
4. Home visits.
5. Delivery of services at alternate accessible sites.
6. Alteration of existing facilities.
7. Constructing new facilities that comply with 34 CFR 104.23 and 28 CFR 35.151.
8. Any other methods that would result in making services, programs, and activities accessible to individuals with disabilities.

Structural changes in existing facilities need not be made when other methods will achieve compliance with Title II of the Americans with Disabilities Act and its implementing regulation. In choosing among available alternatives for meeting these requirements, the Board shall give priority to methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

28 CFR 35.150; 34 CFR 104.22

REVIEW OF PLANS

All plans and specifications for construction or for the substantial renovation, modification, or alteration of a building or facility that has an estimated construction cost of \$50,000 or more shall be submitted to the Department of Licensing and Regulation for review and approval. The District as owner of the building or facility may not allow an application to be filed with a local governmental entity for a building construction permit related to the plans and specifications or allow construction, renovation, modification, or alteration of the building or facility to begin before the date the plans and specifications are submitted to the Department by the architect, interior designer, landscape architect, or engineer.

The District as owner of each building or facility that has an estimated construction, renovation, modification, or alteration cost of at least \$50,000 is responsible for having the building or facility inspected for compliance with the standards and specifications adopted by the Commission of Licensing and Regulation not later than the first anniversary of the date that construction or substantial renovation, modification, or alteration of the building or facility is completed. The inspection must be performed by the Department, an entity with whom the Commission contracts, or a person who holds a certificate of registration to perform inspections.

Gov't Code 469.101, 469.102(c), 469.105

NOTICE

The District shall adopt and implement procedures to ensure that interested persons, including those with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by persons with disabilities. *34 CFR 104.22(f)*

RELOCATABLE
EDUCATIONAL
FACILITY

In this section, "relocatable educational facility" means a portable, modular building capable of being relocated, regardless of whether the facility is built at the installation site that is used primarily as an educational facility for teaching the curriculum required under Education Code 28.002.

A relocatable educational facility that is purchased or leased on or after January 1, 2010, must comply with all provisions applicable to

industrialized buildings under Occupations Code Chapter 1202.
Occupations Code 1202.404

Any portable, modular building capable of being relocated that is purchased or leased after September 1, 2007, but before December 31, 2009, for use as a school facility, regardless of whether the building is an industrialized building as defined by Occupations Code 1202.003, must be inspected as provided by Occupations Code Subchapter E, Chapter 1202 to ensure compliance with the mandatory building codes or approved designs, plans, and specifications. *Education Code 46.008(b); 19 TAC 61.1036(f)(3)*

PLAYGROUNDS

Public funds may not be used to purchase or install playground equipment if the equipment does not comply with each applicable provision of ASTM Standard F1487-07ae1, "Consumer Safety Performance Specification for Playground Equipment for Public Use," published by ASTM International or has a horizontal bare metal platform or a bare metal step or slide, unless the bare metal is shielded from direct sun by a covering provided with the equipment or by a shaded area in the location where the equipment is installed.

Public funds may not be used to purchase or install surfacing for the area under and around the playground equipment if the surfacing will not comply with each applicable provision of ASTM Standard F2223-04e1, "Standard Guide for ASTM Standards on Playground Surfacing," published by ASTM International.

EXCEPTION

Public funds may be used to maintain playground equipment or surfacing that was purchased before September 1, 2009, even if they do not comply with the applicable specifications described above.

Health and Safety Code 756.061

OUTDOOR LIGHTING
FIXTURES

An outdoor lighting fixture that is designed, installed, or replaced on or after September 1, 1999, may be installed, replaced, maintained, or operated using state funds only if the fixture meets the specific energy conservation and light pollution standards in Health and Safety Code Chapter 425.

EXCEPTIONS

The standards for state-funded outdoor lighting fixtures do not apply when:

1. Preempted by federal law, rule, or regulation;
2. Emergency personnel temporarily require additional illumination for emergency procedures;
3. The lighting fixture is used temporarily for nighttime work;

4. Special events or circumstances* require additional illumination;
5. The fixture is used solely to enhance the aesthetic beauty of an object; or
6. A compelling safety interest cannot be addressed by another method.

***Note:** Special events or situations that may require additional illumination include sporting events and illumination of monuments, historic structures, or flags. Illumination for special events or situations must be installed to shield the outdoor lighting fixtures from direct view and to minimize upward lighting and light pollution.

Health and Safety Code 425.002

TESTING OF NATURAL
GAS PIPING

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, the District shall pressure test the natural gas piping system in each District facility. The testing may be performed on a two-year cycle under which the District pressure tests the natural gas piping system in approximately one-half of the facilities each year. If the District operates one or more District facilities on a year-round calendar, the pressure test in each of those facilities shall be conducted and reported not later than July 1 of the year in which the pressure test is performed. *Utilities Code 121.502; 16 TAC 8.230(c)(4)*

RAILROAD
COMMISSION
RULES

The Railroad Commission of Texas has adopted rules to enforce this policy. Each District facility described in Commission rules shall be tested in accordance with the procedures and timetables implemented by Commission rules. *16 TAC 8.230*

STANDARDS AND
PROCEDURE

A test performed under a municipal code in compliance with Railroad Commission rules shall satisfy the pressure testing requirements. *Utilities Code 121.502(d); 16 TAC 8.230(c)(1)*

The pressure test shall determine whether the natural gas piping downstream of a District facility meter holds at least normal operating pressure over a specified period determined by the Railroad Commission. During the pressure test, each system supply inlet and outlet in the facility must be closed. The pressure test shall be performed by a person qualified in accordance with the testing procedures established by Railroad Commission rules. At the District's request, the Railroad Commission shall assist the District in

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developing a procedure for conducting the test. *Utilities Code 121.503; 16 TAC 8.230(c)(2), (3)*

NOTICE

The District shall provide written notice to the District's natural gas supplier specifying the date and result of each pressure test or other inspection. The supplier shall develop procedures for receiving such written notice from the District. *Utilities Code 121.504(a); 16 TAC 8.230(c)(1)*

TERMINATION OF SERVICE

The supplier shall terminate service to a District facility if:

1. The supplier receives official notification from the firm or individual conducting the test of a hazardous natural gas leakage in the facility piping system; or
2. A test or other inspection is not performed as required.

Utilities Code 121.505(a)

The supplier shall develop procedures for terminating service to the District if:

1. The natural gas supplier receives notification of a hazardous natural gas leak in the school facility piping system; or
2. The natural gas supplier does not receive written notification from the District specifying the completion date and results of the testing.

16 TAC 8.230(b)(2)

REPORTING LEAKS

An identified natural gas leakage in a District facility must be reported to the Board. The firm or individual conducting the natural gas piping test shall immediately report any hazardous natural gas leak in a District facility to the Board and to the District's natural gas supplier. *Utilities Code 121.506; 16 TAC 8.230(c)(6)*

LP-GAS SYSTEMS TESTING

At least biennially, the District shall perform leakage tests on the LP-gas piping system in each District facility before the beginning of the school year. The District may perform the leakage tests on a two-year cycle under which the tests are performed for the LP-gas piping systems of approximately half of the facilities each year. If the District operates one or more District facilities on a year-round calendar, the leakage test in each of those facilities must be conducted and reported not later than July 1 of the year in which the test is performed.

A test performed under a municipal code satisfies the testing requirements.

Natural Resources Code 113.352; 16 TAC 9.41

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REQUIREMENTS OF TEST	<p>The District shall perform the leakage test to determine whether the LP-gas piping system holds at least the amount of pressure specified by the Railroad Commission. The leakage test must be conducted in accordance with Railroad Commission rules.</p> <p>The Railroad Commission, upon request, shall assist the District in providing for the certification of a District employee to conduct the test and in developing a procedure for conducting the test.</p> <p><i>Natural Resources Code 113.353</i></p> <p>Before the introduction of any LP-gas into the LP-gas piping system, the District shall provide verification to its supplier that the piping has been tested.</p>
DOCUMENTATION	<p>The District shall retain documentation specifying the date and the result of each leakage test or other inspection of each LP-gas piping system until at least the fifth anniversary of the date the test or other inspection was performed. The commission may review the District's documentation of each leakage test or other inspection conducted by the District.</p> <p><i>Natural Resources Code 113.354; 16 TAC 9.41</i></p>
TERMINATION OF SERVICE	<p>A supplier shall terminate service to a District facility if:</p> <ol style="list-style-type: none">1. The supplier receives official notification from the firm or individual conducting the test of a hazardous leakage in the facility LP-gas piping system; or2. A test at the facility is not performed as required. <p><i>Natural Resources Code 113.355</i></p>
REPORTING LEAKS	<p>An identified LP-gas leakage in a District facility shall be reported to the Board and the LP gas system shall be removed from LP gas service until repairs are made and another test passed. <i>Natural Resources Code 113.356; 16 TAC 9.41(b)(3)</i></p>
INTRASTATE PIPELINE EMERGENCY RESPONSE PLAN	<p>The Railroad Commission shall require the owner or operator of each intrastate hazardous liquid or carbon dioxide pipeline facility, any part of which is located within 1,000 feet of a public school building containing classrooms, or within 1,000 feet of another public school facility where students congregate, to:</p> <ol style="list-style-type: none">1. On written request from the District, provide in writing the following parts of a pipeline emergency response plan that are relevant to the school:<ol style="list-style-type: none">a. A description and map of the pipeline facilities that are within 1,000 feet of the school building or facility;

- b. A list of any product transported in the segment of the pipeline that is within 1,000 feet of the school facility;
 - c. The designated emergency number for the pipeline facility operator;
 - d. Information on the state's excavation one-call system; and
 - e. Information on how to recognize, report, and respond to a product release; and
2. Mail a copy of the requested items by certified mail, return receipt requested, to the Superintendent of the District in which the school building or facility is located.

A pipeline operator or the operator's representative shall appear at a regularly scheduled meeting of the Board to explain the above items if requested by the Board or District.

The Railroad Commission may not require the release of parts of an emergency response plan that include security sensitive information, including maps or data. Security sensitive information shall be made available for review by but not provided to the Board.

Natural Resources Code 117.012(k), (l), (m); 16 TAC 8.315

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BOARD AUTHORITY	The Board may adopt rules and procedures for the acquisition of goods and services. <i>Education Code 44.031(d)</i>
DELEGATION OF AUTHORITY	<p>The Board may delegate its authority regarding an action authorized or required to be taken by the District by Education Code Chapter 44, Subchapter B to a designated person, representative, or committee.</p> <p>The 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> <p>In procuring construction services, the District shall provide notice of the delegation and the limits of the delegation in the request for bids, proposals, or qualifications or in an addendum to the request. If the 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.</p>
DISASTER EXCEPTION	<p>Notwithstanding any other provision of the Education Code, in the event of a catastrophe, emergency, or natural disaster affecting the 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.</p> <p><i>Education Code 44.0312</i></p>
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 the 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>
IMPERMISSIBLE PRACTICES	A trustee, employee, or agent of the District who knowingly or with criminal negligence violates the purchasing laws is subject to criminal penalties. <i>Education Code 44.032</i> [See CH]
CONTRACTS VALUED AT OR ABOVE \$50,000	<p>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 the District [see also CH]:</p> <ol style="list-style-type: none">1. Competitive bidding. [See CVA]2. Competitive sealed proposals. [See CVB]

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3. An interlocal contract.
4. A design/build contract. [See CVC]
5. A contract to construct, rehabilitate, alter, or repair facilities that involves using a construction manager. [See CVD, CVE]
6. A job order contract for the minor construction, repair, rehabilitation, or alteration of a facility. [See CVF]
7. The reverse auction procedure as defined by Government Code 2155.062(d). [See CH]

Education Code 44.031(a)

[For information on contract-related fees, see CH]

SELECTING A
CONTRACTING
METHOD

When the District is considering awarding a construction contract using a method specified by Education Code 44.031(a), the Board shall, before advertising, determine which purchasing method provides the best value for the District. *Education Code 44.035(a)*

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 the 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 the 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)*

CONTRACT
SELECTION CRITERIA

The District shall base its selection among offerors on criteria authorized in Education Code 44.031(b). [See CH] The 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(b)*

MAKING EVALUATIONS
PUBLIC

The 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(c)*

ELECTRONIC BIDS OR
PROPOSALS

The 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.

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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

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 the 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

The 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*

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. The 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)* [See PROCURING ARCHITECTURAL, ENGINEERING, AND LAND-SURVEYING SERVICES, below]

An interlocal contract between the 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 the Board determines that the delay posed by the methods provided for in Education Code

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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, the District:

1. May not consider whether a vendor is a member of or has another relationship with any organization; and
2. Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.

Education Code 44.043

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 the 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 the 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 the 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,

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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)*

The 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
SERVICES

In procuring architectural, engineering, or land-surveying services, the 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, the 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. The District shall continue this process until a contract is entered into.

Gov't Code 2254.004

ACCESSIBILITY

Each facility or part of a facility constructed by, on behalf of, or for the use of the 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 the 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

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performance of the work according to the plans, specifications, and contract documents. The bond is solely for the protection of the 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 the 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 portion of a design-build contract that includes design services only. *Education Code 44.036(j)* [See CVC for more information on design/build contracts, including bond amounts]

BOND FOR
INSURED LOSS

The 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 the District, as described above; and
2. A payment bond, as described above. If the payment bond is not furnished, the 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 the 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

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OUT-OF-STATE
BIDDERS

The 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. The 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 the 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 the District. *Gov't Code 2258.001, 2258.021*

The Board shall determine, as a sum certain, the general prevailing rate of per diem wages in the 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, the 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 the District or adopt the prevailing wage rate as determined by the U.S. Department of Labor. The Board shall specify the prevailing rate of per diem wages in the call for bids and in the contract itself. The Board's determination of the general prevailing rates of per diem wages shall be final. *Gov't Code 2258.001, 2258.022*

ENFORCEMENT

The 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, the 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

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and any affected laborer, worker, or mechanic of its initial determination. *Gov't Code 2258.051, 2258.052*

RETAINAGE AND
REIMBURSEMENT

The Board shall retain any amounts due under the contract pending a final determination of the violation. Upon a final determination that violations have occurred, the 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. The 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 the 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. The Board must specify this penalty in the contract. If the District does not determine the prevailing wage rates and specify them in the contract, the contractor or subcontractor may not be fined. The 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 the 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 the District. The 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 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 contrac-

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tor 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).

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(LOCAL)

COMPLIANCE WITH LAW	The Superintendent shall be responsible for establishing procedures that ensure that all school facilities within the District comply with applicable laws and local building codes.
CONSTRUCTION CONTRACTS	<p>Prior to advertising, the Board shall determine the project delivery/contract award method to be used for each construction contract valued at or above \$50,000. To assist the Board, the Superintendent shall recommend the project delivery/contract award method that he or she determines provides the best value to the District. [See CV series]</p> <p>For construction contracts valued at or above \$10,000, the Superintendent shall also submit the resulting contract to the Board for approval. Lesser expenditures for construction and construction-related materials or services shall be at the discretion of the Superintendent and consistent with law and policy. [See also CH]</p>
PROJECT ADMINISTRATION	<p>All construction projects shall be administered by the Superintendent or designee.</p> <p>The Superintendent shall keep the Board informed concerning construction projects and also shall provide information to the general public.</p>
CHANGE ORDERS	Change orders shall be approved by the Board or its designee prior to any changes being made in the approved plans or the actual construction of the facility.
PROJECT ACCEPTANCE FORM	The official project construction and acceptance form shall be completed and signed by the Superintendent or designee before the completed projects are accepted by the Board, occupied, or put into use.
INSPECTION	Prior to acceptance of a completed project, the Board or a committee appointed by the Board shall inspect all capital construction and major renovation projects of the District. Only after final acceptance and approval by the Board shall final payment be made.
BOARD INSPECTION AND ACCEPTANCE OF COMPLETED PROJECT	Acceptance of a new construction project or a major renovation project by the Board shall be withheld until all details are complete and the buildings are certified as complete by the architect and Superintendent. Completion of a project construction and acceptance form by the Superintendent shall constitute acceptance of the project and its readiness for Board inspection.

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NONDISCRIMINATION
— IN GENERAL

The District shall not fail or refuse to hire or discharge any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis of any of the following protected characteristics:

1. Race, color, or national origin;
2. Sex;
3. Religion;
4. Age (applies to individuals who are 40 years of age or older);
5. Disability; or
6. Genetic information.

42 U.S.C. 1981; 42 U.S.C. 2000e et seq. (Title VII); 20 U.S.C. 1681 et seq. (Title IX); 42 U.S.C. 12111 et seq. (Americans with Disabilities Act); 29 U.S.C. 621 et seq. (Age Discrimination in Employment Act); 29 U.S.C. 793, 794 (Rehabilitation Act); U.S. Const. Amend. I; Human Resources Code 121.003(f); Labor Code Chapter 21 (Texas Commission on Human Rights Act); Labor Code Chapter 21, Subchapter H (genetic information)

Title VII proscribes employment practices that are overtly discriminatory (disparate treatment), as well as those that are fair in form but discriminatory in practice (disparate impact). Wards Cove Packing Co. v. Atonio, 490 U.S. 642 (1989)

DISPARATE
TREATMENT

Disparate treatment (intentional discrimination) occurs when members of a protected group have been denied the same employment, promotion, membership, or other employment opportunities as have been available to other employees or applicants. 29 CFR 1607.11

DISPARATE IMPACT

Disparate impact occurs when an employer uses a particular employment practice that causes a disparate (disproportionate) impact on a protected group and the employer fails to demonstrate that the challenged practice is job-related and consistent with business necessity. 42 U.S.C. 2000e-2(k)(1)(A); Labor Code 21.115, 21.122

JOB QUALIFICATION

The District may take employment actions based on religion, sex, national origin, or age in those certain instances where religion, sex, national origin, or age is a bona fide occupational qualification. 42 U.S.C. 2000e-2(e); 29 U.S.C. 623(f); Labor Code 21.119

EMPLOYMENT
POSTINGS

The District shall not print or publish any notice or advertisement relating to District employment that indicates any preference, limitation, specification, or discrimination based on race, color, religion,

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	sex, or national origin, unless the characteristic is a bona fide occupational qualification. <i>42 U.S.C. 2000e-3(b); Labor Code 21.059</i>
HARASSMENT OF EMPLOYEES	The District has an affirmative duty to maintain a working environment free of harassment on the basis of a protected characteristic. <i>42 U.S.C. 2000e et seq.; 29 CFR 1606.8(a), 1604.11</i> [See DIA]
RETALIATION	The District may not discriminate against any employee or applicant for employment because the employee or applicant has opposed any unlawful, discriminatory employment practices or participated in the investigation of any complaint related to an unlawful, discriminatory employment practice. <i>29 U.S.C. 623(d) (ADEA); 42 U.S.C. 2000e-3(a) (Title VII); 34 CFR 100.7(e) (Title VI); 34 CFR 110.34 (Age Act); 42 U.S.C. 12203 (ADA); <u>Jackson v. Birmingham Bd. of Educ.</u>, 544 U.S. 167 (2005) (Title IX); Labor Code 21.055</i> [See DIA]
NOTICES	The District shall post in conspicuous places upon its premises a notice setting forth the information the Equal Employment Opportunity Commission deems appropriate to effectuate the purposes of the anti-discrimination laws. <i>29 U.S.C. 627; 42 U.S.C. 2000e-10</i>
SECTION 504 NOTICE	<p>A district that employs 15 or more persons shall take appropriate steps to notify applicants and employees, including those with impaired vision or hearing, that it does not discriminate on the basis of disability.</p> <p>The notice shall state:</p> <ol style="list-style-type: none">1. That the District does not discriminate in employment in its programs and activities; and2. The identity of the District's 504 coordinator. <p>Methods of notification may include:</p> <ol style="list-style-type: none">1. Posting of notices;2. Publication in newspapers and magazines;3. Placing notices in District publications; and4. Distributing memoranda or other written communications. <p>If the District publishes or uses recruitment materials containing general information that it makes available to applicants or employees, it shall include in those materials a statement of its nondiscrimination policy.</p> <p><i>34 CFR 104.8</i></p>

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AGE DISCRIMINATION	The District may take an employment action on the basis of age pursuant to a bona fide seniority system or a bona fide employee benefit plan. However, a bona fide employee benefit plan shall not excuse the failure to hire any individual and no such benefit plan shall require or permit the involuntary retirement of any individual because of age. <i>29 U.S.C. 623(f); Labor Code 21.102</i>
SEX DISCRIMINATION	The District may not evaluate employees by assuming or insisting that they match the stereotype associated with their group. <i>Price Waterhouse v. Hopkins, 490 U.S. 228 (1989)</i>
GENDER STEREOTYPES	
PREGNANCY	The prohibition against discrimination on the basis of sex includes discrimination on the basis of pregnancy, childbirth, or related medical conditions. The District shall treat women affected by pregnancy, childbirth, or related medical conditions the same for all employment-related purposes, including receipt of benefits under fringe benefit programs. <i>42 U.S.C. 2000e(k); 29 CFR 1604.10; Labor Code 21.106</i>
EQUAL PAY	The District may not pay an employee at a rate less than the rate the District pays employees of the opposite sex for equal work on jobs the performance of which require equal skill, effort, or responsibility and which are performed under similar working conditions. This rule does not apply if the payment is pursuant to a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any other factor other than sex. <i>29 U.S.C. 206(d); 34 CFR 106.54</i>
RELIGIOUS DISCRIMINATION	<p>The prohibition against discrimination on the basis of religion includes all aspects of religious observances and practice, as well as religious belief, unless the District demonstrates that it is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship to the District's business. "Undue hardship" means more than a <i>de minimus</i> (minimal) cost. <i>42 U.S.C. 2000e(j); 29 CFR 1605.2; Labor Code 21.108</i></p> <p>The District may not substantially burden an employee's free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. <i>Civ. Prac. & Rem. Code 110.003</i></p>
DISABILITY DISCRIMINATION	The District may not discriminate against a qualified individual on the basis of disability in job application procedures, hiring, advancement, or discharge of employees, compensation, job training, and other terms, conditions, and privileges of employment. <i>42 U.S.C. 12112(a), 12201(g); 29 U.S.C. 794(a); Labor Code 21.051, 21.105</i>

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DISCRIMINATION
BASED ON LACK OF
DISABILITY

The Americans with Disabilities Act (ADA) and the Texas Commission on Human Rights Act do not provide a basis for a claim that an individual was subject to discrimination because of the individual's lack of disability. *42 U.S.C. 12201(g); Labor Code 21.005(c)*

In addition, each district that receives assistance under the Individuals with Disabilities Education Act (IDEA) must make positive efforts to employ, and advance in employment, qualified individuals with disabilities in programs assisted by the IDEA. *34 CFR 300.177(b)*

DEFINITION OF
DISABILITY

"Disability" means a physical or mental impairment that substantially limits one or more of an individual's major life activities, a record of having such an impairment, or being regarded as having such an impairment.

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

An individual meets the requirement of being "regarded as" having an impairment if the individual establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. However, this provision does not apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of six months or less.

42 U.S.C. 12102(1), (3), (4); 29 CFR 1630.2(g); Labor Code 21.002, 21.0021

OTHER
DEFINITIONS
'MAJOR LIFE
ACTIVITIES'

"Major life activities" include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. "Major life activities" also include the operation of major bodily functions, including functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. *42 U.S.C. 12102(2); Labor Code 21.002*

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'QUALIFIED INDIVIDUAL'	"Qualified individual" means an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires. Consideration shall be given to a district's judgment as to what functions of a job are essential. A written job description prepared before advertising or interviewing applicants for the job is evidence of the job's essential functions. <i>42 U.S.C. 12111(8)</i>
REASONABLE ACCOMMODATIONS	The District shall make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability, unless the District can demonstrate that the accommodation would impose an undue hardship on the operation of the District. <i>42 U.S.C. 12112(b)(5); 29 CFR 1630.9; 29 U.S.C. 794; 34 CFR 104.11; Labor Code 21.128</i> [See DBB regarding medical examinations and inquiries under the Americans with Disabilities Act] "Reasonable accommodation" includes: <ol style="list-style-type: none">1. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and2. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities. <i>42 U.S.C. 12111(9); 29 CFR 1630.2(o); 34 CFR 104.12(b)</i> "Undue hardship" means an action requiring significant difficulty or expense when considered in light of the nature and cost of the accommodation needed, overall financial resources of the affected facility and the District, and other factors set out in law. <i>42 U.S.C. 12111(10); 29 CFR 1630.2(p); 34 CFR 104.12(c)</i>
DISCRIMINATION BASED ON RELATIONSHIP	The District shall not exclude or deny equal jobs or benefits to, or otherwise discriminate against, a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social, or other relationship or association. <i>42 U.S.C. 12112(b)(4); 29 CFR 1630.8; 34 CFR 104.11</i>
ILLEGAL DRUGS AND ALCOHOL	The term "qualified individual with a disability" does not include any employee or applicant who is currently engaging in the illegal use of drugs, when the District acts on the basis of such use.

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DRUG TESTING	<p>The District is not prohibited from conducting drug testing of employees and applicants for the illegal use of drugs or making employment decisions based on the results of such tests.</p> <p><i>42 U.S.C. 12114(c), (d); Labor Code 21.002(6)(A) [See DHE]</i></p>
ALCOHOL USE	<p>The term “qualified individual with a disability” does not include an individual who is an alcoholic and whose current use of alcohol prevents the employee from performing the duties of his or her job or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.</p> <p><i>42 U.S.C. 12114(a); 29 U.S.C. 705(20)(C); 29 CFR 1630.3(a); 28 CFR 35.104; Labor Code 21.002(6)(A)</i></p>
QUALIFICATION STANDARDS	<p>As a qualification standard, the District may require that an individual not pose a direct threat to the health or safety of other individuals in the workplace. “Direct threat” means a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation. <i>42 U.S.C. 12111(3); 29 CFR 1630.2(r); Labor Code 21.002(6)(B)</i></p>
DIRECT THREAT TO HEALTH OR SAFETY	
VISION STANDARDS AND TESTS	<p>The District shall not use qualification standards, employment tests, or other selection criteria based on an individual’s uncorrected vision unless the standard, test, or other selection criteria, as used by the District, is shown to be job-related for the position in question and consistent with business necessity. <i>42 U.S.C. 12113(c); Labor Code 21.115(b)</i></p>
COMMUNICABLE DISEASES	<p>The District may refuse to assign or continue to assign an individual to a job involving food handling if the individual has an infectious or communicable disease that is transmitted to others through handling of food. <i>42 U.S.C. 12113(d); 29 U.S.C. 705(20)(D); 29 CFR 1630.16(e); Labor Code 21.002(6)(B)</i></p>
MILITARY SERVICE	<p>The District shall not deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of membership in a uniformed service, performance in a uniformed service, application for uniformed service, or obligation to a uniformed service. The District shall not take adverse employment action or discriminate against any person who takes action to enforce protections afforded by the Uniformed Services Employment and Re-employment Rights Act (USERRA). <i>38 U.S.C. 4311 [See also DECB]</i></p>
GRIEVANCE POLICIES SECTION 504	<p>A district that receives federal financial assistance and that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any ac-</p>

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tion prohibited by Section 504 of the Rehabilitation Act. *34 CFR 104.7(b), 104.11*

AMERICANS WITH
DISABILITIES ACT

A district that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Americans with Disabilities Act. *28 CFR 35.107, 35.140*

TITLE IX

A district that receives federal financial assistance shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX. *34 CFR 106.8(b); North Haven Board of Education v. Bell, 456 U.S. 512 (1982)*

COMPLIANCE
COORDINATOR

The District shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, the Age Act, and the ADA. The District shall notify all employees of the name, office address, and telephone number of the employee(s) so designated. *34 CFR 104.7(b), 104.11; 28 CFR 35.107, 35.140; 34 CFR 106.8(b)*

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
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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.*), the 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 the 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 the District before the person's contract with the Board is binding.

A person employed by the 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:

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
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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 the District as an audiologist, occupational therapist, physical therapist, physician, nurse, school psychologist, associate school psychologist, 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 the District only if the person holds the appropriate credentials from the appropriate state agency. *Education Code 21.003(b)*

SCHOOL DISTRICT
TEACHING PERMIT

The 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, the 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 the 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, the 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

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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
CERTIFICATION

The term "highly qualified":

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
NEW
ELEMENTARY
TEACHER

2. When used with respect to an elementary school teacher who is new to the profession, means the 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

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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

2. A special education teacher who teaches two or more core academic subjects exclusively to children with disabilities may either:
 - a. Meet the applicable requirements for any new or existing elementary, middle, or secondary school teacher;

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- 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; or
- c. 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.

20 U.S.C. 1401(10)

PARAPROFESSIONAL
EMPLOYEES
CERTIFICATION

Educational aides shall be certified according to standards established by the State Board for Educator Certification. *19 TAC 230.551*

TITLE I PROGRAM

Each district receiving assistance under Title I, Part A of the ESEA shall ensure that all paraprofessionals working in a program supported with those funds shall:

DUTIES

1. Be assigned only duties consistent with 20 U.S.C. 6319(g).

HIGH SCHOOL
DIPLOMA

2. Regardless of the paraprofessionals' hiring date, have earned a secondary school diploma or its recognized equivalent.

HIGHER
EDUCATION OR
COMPETENCY TEST

3. If hired after January 8, 2002, have one of the following credentials:

- a. Completed at least 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

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- (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. The 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:

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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]
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)

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
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ANNUAL EVALUATION	The District shall, at least once every twelve 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). <i>Trans. Code 521.022(d); 37 TAC 14.14(c)</i>
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. The District shall not permit a disqualified driver to drive a school bus, school activity bus, or multifunction school activity bus. <i>37 TAC 14.14(g)</i>
EMPLOYEE RECORDS PROFESSIONAL EMPLOYEES	The following records on professional personnel must be readily available for review by the Commissioner: <ol style="list-style-type: none">1. Credentials (certificate or license);2. Service record(s) and any attachments;3. Contract;4. Teaching schedule or other assignment record; and5. Absence from duty reports.
SERVICE RECORD	<p>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.</p> <p>The service record must be validated by a person designated by the District to sign service records. The service record shall be kept on file at the District.</p>
FORMER EMPLOYEES	On request by a classroom teacher, librarian, counselor, or nurse or by the 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

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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. The 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 the 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 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 the District that relates to the employee and that is protected from public disclosure by laws intended to protect the employee's privacy interests.

The 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. The 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 the 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

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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, the 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
CRIMINAL HISTORY AND CREDIT REPORTS

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DEFINITIONS

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

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

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

CERTIFIED PERSONS

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

NONCERTIFIED
EMPLOYEES

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

APPLICABILITY

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

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

INFORMATION TO
DPS AND TEA

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

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

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
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EMPLOYMENT PENDING REVIEW	After the required information is submitted, the person may begin employment, but that employment is conditional upon the review of that person's CHRI by TEA and must be terminated if TEA makes a determination that the employee or applicant is ineligible for employment.
CRIMINAL HISTORY	<p>The District shall obtain all CHRI that relates to a person subject to this section through the Clearinghouse and shall subscribe to the CHRI of that person. The District may require the person to pay any fees related to obtaining the CHRI.</p> <p><i>Education Code 22.0833; 19 TAC 153.1109(d)</i></p>
SUBSTITUTE TEACHERS	This section applies to a person who is a substitute teacher for the District or a shared services arrangement.
APPLICABILITY	For purposes of the CHRI review requirements, a "substitute teacher" is a teacher who is on call or on a list of approved substitutes to replace a regular teacher and has no regular or guaranteed hours. A substitute teacher may be certified or noncertified.
INFORMATION TO DPS AND TEA	<p>The District shall send or ensure that a person to whom this section applies sends to DPS information required for obtaining NCHRI, which may include fingerprints and photographs.</p> <p>The District shall provide TEA with the name of a person to whom this section applies. TEA shall examine the CHRI and certification records of the person and notify the District if the person:</p> <ol style="list-style-type: none">1. May not be hired or must be discharged as provided by Education Code 22.085; or2. May not be employed as a substitute teacher because the person's educator certification has been revoked or is suspended.
EMPLOYMENT PENDING REVIEW	After the required information is submitted, the person may begin employment, but that employment is conditional upon the review of that person's CHRI by TEA and must be terminated if TEA makes a determination that the employee or applicant is ineligible for employment.
CRIMINAL HISTORY	<p>The District shall obtain all CHRI that relates to a person to whom this section applies through the Clearinghouse. The District may require the person to pay any fees related to obtaining the CHRI.</p> <p><i>Education Code 22.0836; 19 TAC 153.1101(5), 153.1111(d)</i></p>
STUDENT TEACHERS APPLICABILITY	This section applies to a person participating in an internship consisting of student teaching to receive a teaching certificate.

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- CRIMINAL HISTORY A student teacher may not perform any student teaching until:
1. The student teacher has provided to the 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 DPS all CHRI that relates to a student teacher. The District may also obtain CHRI relating to a student teacher from any other law enforcement agency, criminal justice agency, or private consumer reporting agency. The District may require a student teacher to pay any costs related to obtaining the CHRI.

Education Code 22.0835

COORDINATION OF EFFORTS TEA, SBEC, the District, and a shared services arrangement may coordinate as necessary to ensure that criminal history reviews authorized or required under Education Code Chapter 22, Subchapter C are not unnecessarily duplicated. *Education Code 22.0833(h)*

ALL OTHER EMPLOYEES The District shall obtain CHRI that relates to a person who is not subject to an NCHRI review under Education Code Chapter 21, Subchapter C and who is an employee of:

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

The District may obtain the CHRI from:

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

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

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

1. Is for the exclusive use of the District; and

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2. May be disclosed or used by the District only if, and only to the extent, disclosure is authorized or directed by a statute, rule, or order of a court of competent jurisdiction.

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

The District or an individual may not confirm the existence or non-existence of CHRI to any person who is not eligible to receive the information.

Gov't Code 411.084

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

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

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

DESTRUCTION OF
CHRI

The District shall destroy CHRI obtained from DPS on the earlier of:

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

Gov't Code 411.097(d)(3)

CONFIDENTIALITY OF
INFORMATION
OBTAINED FROM
APPLICANT OR
EMPLOYEE

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

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

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

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

Education Code 22.08391

SBEC NOTIFICATION

The Superintendent shall promptly notify SBEC in writing by filing a report with the TEA staff within seven calendar days of the date the Superintendent obtains or has knowledge of information indicating that an applicant for or holder of a certificate issued by SBEC has a reported criminal history. *Education Code 22.087; 19 TAC 249.14(d)(1)* [See also DF]

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

DISCHARGE OF
CONVICTED
EMPLOYEES

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

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

EXCEPTION

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

1. The date of the offense is more than 30 years before:
 - a. June 15, 2007, in the case of a person employed by the District as of that date; or
 - b. The date the person's employment will begin, in the case of a person applying for employment with the District after June 15, 2007; and

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2. The employee or applicant for employment satisfied all terms of the court order entered on conviction.

CERTIFICATION TO
SBEC

Each school year, the Superintendent shall certify to the Commissioner that the District has complied with the above provisions.

SANCTIONS

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

OPTIONAL
TERMINATION

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

Education Code 22.085 [See DF]

CONSUMER CREDIT
REPORTS

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

DEFINITIONS

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

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

"Employment purposes" when used in connection with a consumer report means a report used for the purpose of evaluating a person for employment, promotion, reassignment, or retention as an employee.

15 U.S.C. 1681a

OBTAINING
REPORTS

The District may not procure a consumer report for employment purposes unless:

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

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CRIMINAL HISTORY AND CREDIT REPORTS

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

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

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

ADDRESS
DISCREPANCIES

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

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

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

16 CFR 681.1

DISPOSAL OF
RECORDS

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

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

Examples of reasonable measures include:

1. Burning, pulverizing, or shredding papers containing a consumer report so the information cannot practicably be read or reconstructed;
2. Destroying or erasing electronic media containing a consumer report so that the information cannot practicably be read or reconstructed; or

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3. After due diligence, entering into and monitoring compliance with a contract with another party engaged in the business of record destruction to dispose of the consumer report.

16 CFR 682.3

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SCHOOL BUS
DRIVERS

A person shall not drive a school bus, school activity bus, or multi-function school activity bus unless he or she is physically qualified to do so. Each school bus driver shall undergo and successfully complete an annual physical examination in accordance with the requirements of 49 CFR 391.41 and 391.43, which list those physical and mental conditions for which the medical examiner is directed to disqualify an applicant. A driver shall not operate a school bus, school activity bus, or multifunction school activity bus unless he or she has in his or her possession the original, or photographic copy, of the medical examiner's certificate stating that the driver is physically qualified to drive a school bus, school activity bus, or multifunction school activity bus. *Trans. Code 521.022; 37 TAC 14.12*

A person disqualified on the basis of the medical examination may request special consideration in accordance with 37 TAC 14.13.

DEFINITIONS

The definitions related to individuals with disabilities and exceptions to those definitions included in policy DAA shall be used in applying and interpreting this policy and any (LOCAL) policy adopted in conjunction with this policy.

BLOODBORNE
PATHOGEN CONTROL

A district that employs employees who provide services in a public or private facility providing health care-related services, including a home health-care organization, or who otherwise have a risk of exposure to blood or other material potentially containing bloodborne pathogens in connection with exposure to sharps shall comply with the minimum standards set by the Texas Department of State Health Services (TDSHS). This includes a district that operates a public school health clinic.

'SHARPS' DEFINED

"Sharps" means an object used or encountered in a health-care setting that can be reasonably anticipated to penetrate the skin or any other part of the body and to result in an exposure incident, including a needle device, a scalpel, a lancet, a piece of broken glass, a broken capillary tube, an exposed end of a dental wire, or a dental knife, drill, or bur.

MINIMUM
STANDARDS

The minimum standards in the TDSHS Bloodborne Pathogens Exposure Control Plan require the District to:

1. Develop, review annually, update as necessary, and document its actions regarding a comprehensive exposure control plan appropriate to the District and its particular facilities;
2. Provide, at District expense, personal protective equipment and Hepatitis B vaccinations to affected employees, and if an employee declines to be vaccinated, maintain a record of the employee's written refusal;

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3. Provide to affected employees pre-service and annual refresher training as described in the TDSHS Exposure Control Plan;
4. Record all exposure incidents (e.g., “sticks” by needles or other “sharps”) in a sharps injury log and report the sharps injury to TDSHS on a standardized form; and
5. Provide a post-exposure evaluation and follow up with an employee who has a sharps injury.

Health and Safety Code 81.301–.307; 25 TAC 96

COST OF HEPATITIS
TESTING AFTER
ACCIDENTAL
EXPOSURE

If certified emergency medical services personnel, a firefighter, a peace officer, or a first responder who renders assistance at the scene of an emergency or during transport to the hospital is accidentally exposed to blood or other body fluids of a patient, the hospital to which the patient is transported shall take reasonable steps to test the patient for hepatitis B or hepatitis C. A district that employs the person, or for which the person works as a volunteer in connection with rendering the assistance, is responsible for paying the costs of the test. *Health and Safety Code 81.095(B)*

PRE-EMPLOYMENT
INQUIRIES AND
EMPLOYMENT
ENTRANCE
EXAMINATIONS

The District shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of a disability, except as provided below. However, the District is permitted to make pre-employment inquiries into the ability of an applicant to perform job-related functions, such as asking an applicant to describe or demonstrate how, with or without reasonable accommodation, the applicant will be able to perform job-related functions. *42 U.S.C. 12112(d)(2); 29 CFR 1630.14(a)*

The District may require a medical examination (and/or inquiry) after an offer of employment has been made to a job applicant and prior to the beginning of employment duties and may condition the offer on the results of such examination (and/or inquiry), provided all entering employees in the same job category are subjected to such an examination (and/or inquiry) regardless of disability.

The results of an employment entrance medical examination shall be used only to determine the applicant’s ability to perform job-related functions.

42 U.S.C. 12112(d)(3); 29 CFR 1630.14(b)

CONFIDENTIALITY

Information obtained regarding the medical condition or history of the applicant shall be collected and maintained on separate forms and in separate medical files and shall be treated as confidential medical records. However, supervisors and managers may be in-

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formed regarding necessary restrictions on the employee's work or duties and necessary accommodation; first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment. *29 CFR 1630.14(b)(c)*

EXAMINATION DURING
EMPLOYMENT

The District may require a medical examination (and/or inquiry) of an employee that is job related and consistent with business necessity and may make inquiries into the ability of an employee to perform job-related functions.

The Board may adopt a policy providing for placing an educator on leave of absence for temporary disability if, in the Board's judgment and in consultation with a physician who has performed a thorough medical examination of the educator, the educator's condition interferes with the performance of regular duties. Such a policy must reserve to the educator the right to present to the Board testimony or other information relevant to the educator's fitness to continue the performance of regular duties. [See also DEC]

The results of an employee's medical examination shall be used only to determine the employee's ability to perform job-related functions.

42 U.S.C. 12112(d)(3)-(4); 29 CFR 1630.14(c); Education Code 21.409(c)

EMPLOYMENT PRACTICES

DC
(LEGAL)

EMPLOYMENT POLICIES	The Board shall adopt a policy providing for the employment and duties of District personnel. The policy shall provide that:
SUPERINTENDENT	1. The Board employs and evaluates the Superintendent;
SELECTION OF PERSONNEL	2. The Superintendent has sole authority to make recommendations to the 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	<p>The employment policy must provide each employee with the right to present grievances to the Board. [See DGBA]</p> <p>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 the District, except that the policy may prohibit ex parte communication relating to:</p> <ol style="list-style-type: none">1. A hearing under Education Code Chapter 21, Subchapter E (Term Contracts) or F (Hearing Examiners); and2. Another appeal or hearing in which ex parte communication would be inappropriate pending a final decision by the Board. <p><i>Education Code 11.1513</i></p>
CONTRACT POSITIONS	The 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	The 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>
NEPOTISM	A superintendent to whom the Board has delegated final hiring authority to select personnel is a "public official" with appointment authority for purposes of the nepotism laws. <i>Atty. Gen. Op. GA-123 (2003)</i> [See DBE]
INTERNAL AUDITOR	If the 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>

EMPLOYMENT PRACTICES

DC
(LEGAL)

SUPERINTENDENT
RECOMMENDATION

The Board may accept or reject the 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 the Board rejects the Superintendent's recommendation, the Superintendent shall make alternative recommendations until the Board accepts a recommendation. *Education Code 11.1513*

POSTING OF
VACANCIES

The District's employment policy must provide that not later than the tenth school day before the date on which the 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 affects 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, the 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, the 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)*

CONTRACT
EMPLOYEES

The District shall employ each classroom teacher, principal, librarian, nurse, or counselor under a probationary contract, a continuing contract, or a term contract. The District is not required to employ a person other than these listed employees under a probationary, continuing, or term contract. *Education Code 21.002*

EMPLOYMENT PRACTICES

DC
(LEGAL)

“Classroom teacher” means an educator who is employed by the 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. *Education Code 5.001(2)*

LENGTH OF
CONTRACT

A contract between the 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. *Education Code 21.401*

EDUCATIONAL AIDES

The Board shall establish a plan to encourage the hiring of educational aides who show a willingness to become certified teachers. *Education Code 54.214(f); 19 TAC Chapter 21*

EMPLOYMENT OF
RETIREES

REPORT TO TRS

The District shall file a monthly certified statement of employment of a retiree in the form and manner required by TRS. The District shall inform TRS of changes in status of the District that affect the District’s reporting responsibilities.

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 the District.

An administrator of the District who is responsible for filing the statement, and who knowingly fails to file the statement, commits an offense.

Gov’t Code 824.6022, 825.403(k); 34 TAC 31.2

ACUTE SHORTAGE
AREAS

For purposes of Government Code 824.602(a)(5) (permitting certain retirees to return to work in acute shortage areas) the Board shall determine by rule whether there are acute shortage areas in the District based on TEA’s acute shortage area guidelines. The guidelines must include:

1. A list of acute shortage areas;
2. Suggested criteria for identifying local acute shortage areas; and
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)

EMPLOYMENT PRACTICES

DC
(LEGAL)

NEW HIRES
I-9 FORMS

The District shall ensure that an employee properly completes section 1—"Employee Information and Verification"—on Form I-9 at the time of hire.

The 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 the 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.

The 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 the 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

The 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 the District's name, address, and employer identification number.

The 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.

The 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

New hire reports are due:

1. Not later than 20 calendar days after the date the District hires the employee; or
2. In the case of the District transmitting reports magnetically or electronically, by two monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.

EMPLOYMENT PRACTICES

DC
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New hire reports shall be considered timely if postmarked by the due date or, if filed electronically, upon receipt by the agency.

42 U.S.C. 653a(b), (c); Family Code 234.101–234.104; 1 TAC 55, Subch. I

SOCIAL SECURITY
NUMBERS

It shall be unlawful for the District to 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.

EXCEPTIONS

The above provision does not apply to:

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 the 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 the District's jurisdiction.

STATEMENT OF
USES

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.

Privacy Act of 1974, Pub. L. No. 93-579, sec. 7(b), 88 Stat. 1896, 1897 (1974)

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MINIMUM SALARY SCHEDULE — EDUCATORS	The District shall pay each classroom teacher, full-time librarian, full-time counselor, or full-time nurse not less than the minimum monthly salary, based on the employee's level of experience, specified in Education Code 21.402 and 19 TAC 153.1021.
DEFINITIONS	
'CLASSROOM TEACHER'	"Classroom teacher" means an educator who teaches an average of at least four hours per day in an academic or career and technology instructional setting, focusing on the delivery of the Texas Essential Knowledge and Skills, and who holds the relevant certificate from SBEC. Although noninstructional duties do not qualify as teaching, necessary functions related to the educator's instructional assignment, such as instructional planning and transition between instructional periods, should be applied to creditable classroom time.
'LIBRARIAN'	"Librarian" means an educator who provides full-time library services and holds the relevant certificate from SBEC.
'COUNSELOR'	"Counselor" means an educator who provides full-time counseling and guidance services and holds the relevant certificate from SBEC.
'NURSE'	"Nurse" means an educator employed to provide full-time nursing and health care services and who meets all the requirements to practice as a registered nurse (RN) pursuant to the Nursing Practice Act and the rules and regulations relating to professional nurse education, licensure, and practice and has been issued a license to practice professional nursing in Texas.
'FULL-TIME'	"Full-time" means contracted employment for at least ten months (187 days) for 100 percent of the school day, in accordance with the definitions of school day in Education Code 25.082, employment contract in Education Code 21.002, and school year in Education Code 25.081. <i>19 TAC 153.1022(a)</i>
PLACEMENT ON SALARY SCHEDULE	The Commissioner's rules determine the experience for which a teacher, librarian, counselor, or nurse is to be given credit in placing the teacher, librarian, counselor, or nurse on the minimum salary schedule. The District shall credit the teacher, librarian, counselor, or nurse for each year of experience, whether or not the years are consecutive. <i>Education Code 21.402(a), 21.403(c); 19 TAC 153.1022</i>
SALARIES FOR 2009–10 AND 2010–11	For the 2009–10 and 2010–11 school years, the District shall increase the monthly salary of each classroom teacher, full-time speech pathologist, full-time librarian, full-time counselor, and full-time school nurse by the greater of:

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1. \$80; or
2. The maximum uniform amount that, when combined with any resulting increases in the amount of contributions made by the District for social security coverage for the specified employees or by the District on behalf of the specified employees under Government Code 825.405 (TRS retirement fund contributions), may be provided using an amount equal to the product of \$60 multiplied by the number of students in weighted average daily attendance in the school during the 2009–10 school year.

The increase in salary does not include:

1. Any amount an employee would have received for the 2009–10 or 2010–11 school year, as applicable, under the District's salary schedule for the 2008–09 school year, if that schedule had been in effect for the 2009–10 or 2010–11 school year, including any local supplement and any money representing a career ladder supplement the employee would have received in the 2009–10 or 2010–11 school year; or
2. Any part of the salary to which an employee is entitled under the state minimum salary schedule.

These provisions expire September 1, 2011.

Education Code 19.009(d-2), (d-3), 21.402(c-1)–(c-3)

CONTINGENCY

A classroom teacher, full-time speech pathologist, full-time librarian, full-time counselor, or full-time school nurse employed by the District in the 2010–11 school year is entitled to a salary that is at least equal to the salary the employee received for the 2010–11 school year, for as long as the employee is employed by the same district. *Education Code 21.402(d)*

EMPLOYEES
FORMERLY ON
CAREER LADDER

A teacher or librarian who received a career ladder supplement on August 31, 1993, is entitled to at least the same gross monthly salary the teacher or librarian received for the 1994–95 school year as long as the teacher or librarian is employed by the same district.

In addition, a teacher or librarian who was on level two or three of the career ladder is entitled, as long as he or she is employed by the same district, to placement on the minimum salary schedule according to the guidelines at Education Code 21.403(d).

Education Code 21.402(f), 21.403(d)

SUPPORT STAFF
COMPENSATION

The District shall pay each District employee, other than an administrator or an employee subject to the minimum salary schedule, an amount at least equal to:

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1. \$500, for full-time employees.
2. \$250, for part-time employees.

Such payment is in addition to wages the District would otherwise pay the employee during the school year.

To be eligible, the employee must be a participating member of TRS, must not be a TRS retiree, and must have provided written election of whether to designate a portion of the individual's compensation to be used as health-care supplementation.

For purposes of this support staff compensation, a "full-time" employee is one who works for a school district, a participating open-enrollment charter school, an education service center, or a combination of such entities for 30 or more hours each week. A "part-time" employee is one who works for a school district, a participating open-enrollment charter school, an education service center, or a combination of such entities for fewer than 30 hours each week.

Education Code 22.107; 19 TAC 61.1018

PAY INCREASES

The 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. *Tex. Const. Art. III, Sec. 53*

SALARY ADVANCES
AND LOANS

The 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)*

DESIGNATION OF
COMPENSATION FOR
BENEFITS

An employee who is covered by a cafeteria plan or who is eligible to pay health care premiums through a premium conversion plan may elect to designate a portion of the employee's compensation to be used as health care supplementation. The amount designated may not exceed the amount permitted under federal law. *Education Code 22.103*

USE

An employee may use the compensation designated for health care supplementation for any employee benefit, including depositing the designated amount into a cafeteria plan in which the employee is enrolled or using the designated amount for health care premiums through a premium conversion plan. *Education Code 22.106*

ANNUAL ELECTION

Each school year, an active employee must elect in writing whether to designate a portion of the employee's compensation to be used as health care supplementation. The election must be made at the same time that the employee elects to participate in a cafeteria plan, if applicable. *Education Code 22.105*

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DEFINITION	<p>For purposes of the designation of compensation as health care supplementation, "employee" means an active, contributing member of TRS who:</p> <ol style="list-style-type: none">1. Is employed by the District;2. Is not a retiree eligible for coverage under Insurance Code Chapter 1575 (retiree group health benefits);3. Is not eligible for coverage by a group insurance plan under Insurance Code Chapter 1551 (state employee health insurance) or Chapter 1601 (state university employee health insurance); and4. Is not an individual performing personal services for the District as an independent contractor. <p><i>Education Code 22.101(2)</i></p>
FAIR LABOR STANDARDS ACT	<p>Unless an exemption applies, the District shall pay each of its employees not less than minimum wage. <i>29 U.S.C. 206(a)(1)</i></p>
MINIMUM WAGE	<p>Unless an exemption applies, the District shall pay an employee not less than one and one-half times the employee's regular rate of pay for all hours in excess of forty in any workweek. <i>29 U.S.C. 207(a)(1); 29 CFR pt. 778</i></p>
COMPENSATORY TIME	<p>Nonexempt employees may receive, in lieu of overtime compensation, compensatory time off at a rate of not less than one and one-half hours for each hour of overtime work, pursuant to an agreement or understanding arrived at between the employer and employee before the performance of the work. Such agreement or understanding may be informal, such as when an employee works overtime knowing that the employer rewards overtime with compensatory time.</p>
ACCRUAL	<p>An employee may accrue not more than 240 hours of compensatory time. If the employee's overtime work included a public safety activity, an emergency response activity, or a seasonal activity, the employee may accrue not more than 480 hours of compensatory time. After the employee has reached these limits, the employee shall be paid overtime compensation for additional overtime work.</p>
PAYMENT FOR ACCRUED TIME	<p>Compensation paid to an employee for accrued compensatory time shall be paid at the regular rate earned by the employee at the time of payment. An employee who has accrued compensatory time off shall be paid for any unused compensatory time upon separation from employment at the rates set forth at <i>29 U.S.C. 207(o)(4)</i>.</p>
USE	<p>An employee who has requested the use of compensatory time shall be permitted to use such time within a reasonable period after</p>

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making the request if the use of the compensatory time does not unduly disrupt the operations of the District.

The Fair Labor Standards Act does not prohibit the District from compelling the use of accrued compensatory time.

29 U.S.C. 207(o); Christensen v. Harris County, 529 U.S. 576 (2000); Houston Police Officers' Union v. City of Houston, 330 F.3d 298 (5th Cir. 2003)

EXEMPT
EMPLOYEES

The minimum wage and overtime provisions do not apply to any employee employed in a bona fide executive, administrative, or professional capacity. *29 U.S.C. 213(a)(1)*

ACADEMIC
ADMINISTRATORS

The term "employee employed in a bona fide administrative capacity" includes an employee:

1. Compensated for services on a salary or fee basis at a rate of not less than \$455 per week exclusive of board, lodging, or other facilities, or on a salary basis that is at least equal to the entrance salary for teachers in the District by which employed; and
2. Whose primary duty is performing administrative functions directly related to academic instruction or training in the District or department or subdivision thereof.

"Performing administrative functions directly related to academic instruction or training" means work related to the academic operations and functions in a school rather than to administration along the lines of general business operations. Such academic administrative functions include operations directly in the field of education. Jobs relating to areas outside the educational field are not within the definition of academic administration.

Employees engaged in academic administrative functions include:

1. The Superintendent or other head of an elementary or secondary school system, and any assistants, responsible for administration of such matters as curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students, establishing and maintaining academic and grading standards, and other aspects of the teaching program;
2. The principal and any vice principals responsible for the operation of an elementary or secondary school;
3. Academic counselors who perform work such as administering school testing programs, assisting students with academic

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problems and advising students concerning degree requirements; and

4. Other employees with similar responsibilities.

Jobs relating to building management and maintenance, jobs relating to the health of the students, and academic staff such as social workers, psychologists, lunch room managers, or dietitians do not perform academic administrative functions, although such employees may qualify for another exemption.

29 CFR 541.204

SALARY BASIS

To qualify as an exempt executive, administrative, or professional employee, the employee must be compensated on a salary basis, unless the employee is a teacher. Subject to the exceptions listed in the rule, an employee must receive the full salary for any week in which the employee performs any work, without regard to the number of days or hours worked. A district that makes improper deductions from salary shall lose the exemption if the facts demonstrate that the District did not intend to pay exempt employees on a salary basis. *29 CFR 541.500, 541.602(a), 541.603*

PARTIAL-DAY
DEDUCTIONS

A District employee who otherwise meets the salary basis requirements shall not be disqualified from exemption on the basis that the employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the employee's pay to be reduced or the employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one workday when accrued leave is not used by an employee because:

1. Permission for its use has not been sought or has been sought and denied;
2. Accrued leave has been exhausted; or
3. The employee chooses to use leave without pay.

Deductions from the pay of a District employee for absences due to a budget-required furlough shall not disqualify the employee from being paid on a salary basis except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

29 CFR 541.710

SAFE HARBOR
POLICY

If the District has a clearly communicated policy that prohibits improper pay deductions and includes a complaint mechanism, reim-

burses employees for any improper deductions, and makes a good faith commitment to comply in the future, the District will not lose the deduction unless the District willfully violates the policy by continuing to make improper deductions after receiving employee complaints.

The best evidence of a clearly communicated policy is a written policy that was distributed to employees before the improper pay deductions by, for example, providing a copy of the policy to employees upon hire, publishing the policy in an employee handbook, or publishing the policy on the District's intranet.

29 CFR 541.603(d)

TEACHERS

The term "employee employed in a bona fide professional capacity" includes any employee with a primary duty of teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an elementary or secondary school system by which the employee is employed. The salary basis requirements do not apply to teaching professionals.

Exempt teachers include:

1. Regular academic teachers;
2. Teachers of kindergarten or nursery school pupils;
3. Teachers of gifted or disabled children;
4. Teachers of skilled and semi-skilled trades and occupations;
5. Teachers engaged in automobile driving instruction;
6. Home economics teachers; and
7. Vocal or instrumental music instructors.

Those faculty members who are engaged as teachers but also spend a considerable amount of their time in extracurricular activities such as coaching athletic teams or acting as moderators or advisors in such areas as drama, speech, debate, or journalism are engaged in teaching. Such activities are a recognized part of the schools' responsibility in contributing to the educational development of the student.

The possession of an elementary or secondary teacher's certificate provides a clear means of identifying the individuals contemplated as being within the scope of the exemption for teaching professionals. Teachers who possess a teaching certificate qualify for the exemption regardless of the terminology (e.g., permanent, conditional, standard, provisional, temporary, emergency, or unlimited)

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used by the state to refer to different kinds of certificates. However, a teacher who is not certified may be considered for exemption, provided that such individual is employed as a teacher by the employing school or school system.

29 CFR 541.303

WAGE AND HOUR
RECORDS

The District shall maintain and preserve payroll or other records for nonexempt employees containing the information required by the regulations under the Fair Labor Standards Act. *29 CFR 516.2*

TRS CONTRIBUTIONS
FOR NEW HIRES

During each fiscal year, the District shall pay an amount equal to the state contribution rate, as established by the General Appropriations Act for the fiscal year, applied to the aggregate compensation of new members of the retirement system, during their first 90 days of employment.

“New member” means a person first employed on or after September 1, 2005, including a former member who withdrew retirement contributions under Government Code 822.003 and is reemployed on or after September 1, 2005.

On a monthly basis, the District shall:

1. Certify to TRS the total amount of salary paid during the first 90 days of employment of a new member and the total amount of employer payments under this section for the payroll periods; and
2. Retain information, as determined by TRS, sufficient to allow administration of this section, including information for each employee showing the applicable salary as well as aggregate compensation for the first 90 days of employment for new employees.

The District must remit the amount required under this section to TRS at the same time the District remits the member’s contribution. In computing the amount required to be remitted, the District shall include compensation paid to an employee for the entire pay period that contains the 90th calendar day of new employment.

Gov’t Code 825.4041

TRS SURCHARGE FOR
REHIRED RETIREES
TRS FUND
CONTRIBUTIONS

During each payroll period for which a retiree is reported, the District shall contribute to the retirement system for each retiree reported an amount based on the retiree’s salary equal to the sum of:

1. The current contribution amount that would be contributed by the retiree if the retiree were an active, contributing member; and

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2. The current contribution amount authorized by the General Appropriations Act that the state would contribute for that retiree if the retiree were an active, contributing member.

HEALTH
INSURANCE
CONTRIBUTIONS

In addition, each payroll period and for each rehired retiree who is enrolled in TRS Care (retiree group health insurance), the District shall contribute to the TRS Care trust fund any difference between the amount the retiree is required to pay for the retiree and any enrolled dependents to participate in the group program and the full cost of the retiree's and enrolled dependents' participation in the group program, as determined by TRS. If more than one employer reports the retiree to TRS during a month, the amount of the required payment shall be prorated among employers.

EXCEPTION

The District is not required to contribute these amounts for a retiree who retired from the retirement system before September 1, 2005.

Gov't Code 825.4092; Insurance Code 1575.204

NOTICE REGARDING
EARNED INCOME TAX
CREDIT

Not later than March 1 of each year, the District shall provide employees with information regarding general eligibility requirements for the federal earned income tax credit by one of the following means:

1. In person;
2. Electronically at the employee's last known e-mail address;
3. Through a flyer included, in writing or electronically, as a payroll stuffer; or
4. By first class mail to the employee's last known address.

The District may not satisfy this requirement solely by posting information in the workplace.

In addition, the District may provide employees with IRS publications and forms, or information prepared by the comptroller, relating to the earned income tax credit.

Labor Code 104.001-.003

COMPENSATION AND BENEFITS
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INCENTIVE GRANTS— CONTRACT PROVISION	The District shall provide in employment contracts that qualifying employees may receive an incentive payment under the Educator Excellence Award Program/District Awards for Teacher Excellence (DATE) if the District participates in the program. The District shall indicate that any incentive payment distributed is considered a payment for performance and not an entitlement as part of an employee's salary. <i>Education Code 21.415</i>
DISTRICT AWARDS FOR TEACHER EXCELLENCE (DATE)	The DATE is an annual grant program under which the District may receive a grant for the purpose of providing awards to classroom teachers and District employees. Funds from the program shall be distributed to each selected school district that submitted an approved local awards plan developed in accordance with Education Code 21.704 and 19 TAC 102.1073(e).
APPLICATION	The District must act pursuant to local Board policy for submitting a local awards plan and grant application to TEA. The local awards plan must meet the criteria set forth at 19 TAC 102.1073(e). The Board's decision to approve and submit its local awards plan and grant application may not be appealed to the Commissioner.
EXCLUSION OF CERTAIN TEACHERS	The District may choose to exclude a teacher on a selected campus from receiving an award except involuntarily transferred teachers or retired teachers no longer on the selected campus. The local awards plan must reflect the District policies with regard to such a teacher at the program start date. A decision to exclude certain teachers from receiving an award may not be appealed to the Commissioner.
NOTICE TO TEACHERS AND PRINCIPALS	A local awards plan must provide for notifying teachers and principals eligible to receive awards under the plan of the specific criteria and any formulas on which the awards will be based before the beginning of the period on which the awards will be based.
AWARD AMOUNTS	The District must use at least 60 percent of grant funds to directly award classroom teachers and principals who effectively improve student achievement as determined by meaningful, objective measures (Part 1 funds). The remaining funds may be used only for the purposes listed at Education Code 21.705. Annual award amounts should be equal to or greater than \$3,000, unless otherwise determined by the Board. Minimum awards must be no less than \$1,000 per teacher identified under Part 1. The Board's decision on award amounts per teacher is final and may not be appealed to the Commissioner.

Education Code Ch. 21, Subch. O; 19 TAC 102.1073

COMPENSATION AND BENEFITS
INCENTIVES AND STIPENDS

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MENTOR TEACHERS The District may assign a mentor teacher to each classroom teacher who has less than two years of teaching experience in the subject or grade level to which the teacher is assigned. A teacher assigned as a mentor must:

1. To the extent practicable, teach in the same school;
2. To the extent practicable, teach the same subject or grade level, as applicable; and
3. Meet the qualifications prescribed by Commissioner's rules.

The Commissioner's rules must require that a mentor teacher:

1. Complete a research-based mentor and induction training program approved by the Commissioner;
2. Complete a training program provided by the District; and
3. Have at least three complete years of teaching experience with a superior record of assisting students, as a whole, in achieving improvement in student performance.

The District may apply to the Commissioner for funds for a mentor teacher program. The District may use the funds only for providing:

1. Mentor teacher stipends;
2. Scheduled time for mentor teachers to provide mentoring to assigned classroom teachers; and
3. Mentoring support through providers of mentor training.

Education Code 21.458

MASTER TEACHER
GRANT PROGRAMS The Commissioner shall establish master reading, mathematics, technology, and science teacher grant programs to encourage teachers to become certified as master teachers and to work with other teachers and students to improve student performance.

Education Code 21.410-.413

APPLICATION The District may apply to the Commissioner for grants for each identified high-need campus to be used to pay year-end stipends to certified master reading teachers, master mathematics teachers, and master science teachers.

USE OF FUNDS Grant funds may be used only for the purpose of paying a year-end stipend to a master reading teacher, master mathematics teacher, or master science teacher whose primary duties are to teach reading, mathematics, or science, respectively, and to serve as a read-

COMPENSATION AND BENEFITS
INCENTIVES AND STIPENDS

DEAA
(LEGAL)

ing, mathematics, or science teacher mentor for the amount of time and in the manner established by the District.

PAYMENTS

The Commissioner shall reduce payments to the District proportionately to the extent a teacher does not meet the requirements for a master teacher for the entire school year.

If a teacher qualifies as a master teacher for a partial month, the District's written policy will determine how the District counts the partial month, for example, as no month served or as an entire month served. Only whole months shall be entered on the application by the District on the teacher's behalf.

Education Code sections 21.410–.413 do not create a property right to a grant or stipend. A master teacher stipend is not considered in determining whether the District is paying the teacher the minimum monthly salary under Education Code 21.402.

DESIGNATION OF
TEACHER

A district that employs more certified master teachers than the number of grants available shall designate which certified master teacher(s) to assign the duties required to receive the state stipends. The designation is based on a written policy adopted by the Board. The District's decision is final and may not be appealed.

The District may not apportion among teachers a stipend paid with a grant the District receives under this program. The District may use local money to pay additional stipends in amounts determined by the District.

Education Code 21.410(g), 21.411(g), 21.412(g), 21.413(g); 19 TAC Ch. 102, Subch.

RETIREMENT
INCENTIVES

The District may not offer or provide a financial or other incentive to an employee to encourage the employee to retire from the Teacher Retirement System of Texas. *Education Code 22.007*

ATTENDANCE
SUPPLEMENT

The District shall not deny an educator a salary bonus or similar compensation given in whole or in part on the basis of educator attendance because of the educator's absence from school for observance of a religious holy day observed by a religion whose places of worship are exempt from property taxation under Tax Code 11.20. *Education Code 21.406*

COMPENSATION AND BENEFITS
FRINGE BENEFITS

DEB
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PEACE OFFICERS

If a District peace officer dies, the District shall provide, at no cost, the deceased person's duty weapon, if any, and badge to the person's designated beneficiary, or if there is no designated beneficiary, to the person's estate. The 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 a District peace officer dies in the line of duty as a result of a personal injury, as that term is defined at Government Code 615.072(c), an eligible survivor is entitled to purchase continued health insurance benefits from the District as set forth at Government Code Chapter 615, Subchapter D. An eligible survivor is a person who on the date of the peace officer's death is the officer's surviving spouse or dependent. *Government Code Ch. 615, Subch. D*

Note: This policy addresses leaves in general. 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. For provisions addressing leave for an employee's military service, see DECB.

STATE LEAVE

STATE PERSONAL
LEAVE

The District shall provide employees with five days per year of state personal leave, with no limit on accumulation and no restrictions on transfer among districts. The District may provide additional personal leave beyond this minimum.

The Board may adopt a policy governing an employee's use of state personal leave, except that the policy may not restrict the purposes for which the leave may be used.

Education Code 22.003(a)

STATE SICK LEAVE
(ACCUMULATED
PRIOR TO 1995)

District employees retain any sick leave accumulated as state minimum sick leave under former Section 13.904(a) of the Education Code. Accumulated state sick leave shall be used only for the following:

1. Illness of the employee.
2. Illness of a member of the employee's immediate family.
3. Family emergency.
4. Death in the employee's immediate family.

Acts of the 74th Legislative Session, Senate Bill 1, Sec. 66

FORMER
EDUCATION
SERVICE CENTER
(ESC) EMPLOYEES

The District shall accept the sick leave accrued by an employee who was formerly employed by a regional education service center (ESC), not to exceed five days per year for each year of employment. *Education Code 8.007*

ORDER OF USE

The Board's policy governing an employee's use of state personal leave may not restrict the order in which an employee may use state personal leave and any additional personal leave provided by the District.

An employee who retains any state sick leave is entitled to use the state sick leave, state personal leave, or local personal leave in any order to the extent that the leave the employee uses is appropriate to the purpose of the leave.

Education Code 22.003(a), (f)

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

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TEMPORARY DISABILITY	Each full-time educator shall be given a leave of absence for temporary disability at any time the educator's condition interferes with the performance of regular duties. The contract or employment of the educator may not be terminated while the educator is on a leave of absence for temporary disability. For purposes of temporary disability leave, pregnancy is considered a temporary disability.
AT EMPLOYEE'S REQUEST	A request for a leave of absence for temporary disability must be made to the Superintendent. The request must: <ol style="list-style-type: none">1. Be accompanied by a physician's statement confirming inability to work;2. State the date requested by the educator for the leave to begin; and3. State the probable date of return as certified by the physician.
BY BOARD AUTHORITY	The Board may adopt a policy providing for placing an educator on leave of absence for temporary disability if, in the Board's judgment in consultation with a physician who has performed a thorough medical examination of the educator, the educator's condition interferes with the performance of regular duties. The educator shall have the right to present to the Board testimony or other information relevant to the educator's fitness to continue in the performance of regular duties. [See DBB]
RETURN TO ACTIVE DUTY NOTICE	The educator shall notify the Superintendent of a desire to return to active duty no later than the 30th day before the expected date of return. The notice must be accompanied by a physician's statement indicating the educator's physical fitness for the resumption of regular duties.
PLACEMENT	An educator returning to active duty after a leave of absence for temporary disability is entitled to an assignment at the school where the educator formerly taught, subject to the availability of an appropriate teaching position. In any event, the educator shall be placed on active duty no later than the beginning of the next school year. A principal at another campus voluntarily may approve the appointment of an employee who wishes to return from leave of absence. However, if no other principal approves the assignment by the beginning of the next school year, the District must place the employee at the school at which the employee formerly taught or was assigned.
LENGTH OF ABSENCE	The Superintendent shall grant the length of leave of absence for temporary disability as required by the individual educator. The Board may establish a maximum length for a leave of absence for

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

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	<p>temporary disability, but the maximum length may not be less than 180 calendar days.</p> <p><i>Education Code 21.409; Atty. Gen. Op. DM-177 (1992); Atty. Gen. Op. H-352 (1974)</i></p>
<p>SICK LEAVE DIFFERENT FROM TEMPORARY DISABILITY LEAVE</p>	<p>An employee's entitlement to sick leave is unaffected by any concurrent eligibility for a leave of absence for temporary disability. The two types of leave are different, and each must be granted by its own terms. <i>Atty. Gen. Op. H-352</i></p>
<p>ASSAULT LEAVE</p>	<p>In addition to all other days of leave, a District employee who is physically assaulted during the performance of regular duties is entitled to the number of days of leave necessary to recuperate from physical injuries sustained as a result of the assault. The leave shall be paid as set forth below at COORDINATION WITH WORKERS' COMPENSATION BENEFITS.</p> <p>A District employee is physically assaulted if the person engaging in the conduct causing injury to the employee:</p> <ol style="list-style-type: none">1. Could be prosecuted for assault; or2. Could not be prosecuted for assault only because the person's age or mental capacity makes the person a nonresponsible person for purposes of criminal liability.
<p>NOTICE OF RIGHTS</p>	<p>Any informational handbook the District provides to employees in an electronic or paper form or makes available by posting on the District's Web site must include notification of an employee's rights regarding assault leave, in the relevant section of the handbook. Any form used by the District through which an employee may request personal leave must include assault leave as an option.</p>
<p>ASSIGNMENT TO ASSAULT LEAVE</p>	<p>At the request of an employee, the District must immediately assign the employee to assault leave. Days of assault leave may not be deducted from accrued personal leave. Assault leave may not extend more than two years beyond the date of the assault. Following an investigation of the claim, the District may change the assault leave status and charge the leave against the employee's accrued personal leave or against the employee's pay if insufficient accrued personal leave is available.</p>
<p>COORDINATION WITH WORKERS' COMPENSATION BENEFITS</p>	<p>Notwithstanding any other law, assault leave benefits due to an employee shall be coordinated with temporary income benefits due from workers' compensation so the employee's total compensation from temporary income benefits and assault leave benefits will equal 100 percent of the employee's weekly rate of pay.</p> <p><i>Education Code 22.003(b)-(c-1)</i></p>

COMPENSATION AND BENEFITS
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RELIGIOUS OBSERVANCES	The District shall reasonably accommodate an employee's request to be absent from duty in order to participate in religious observances and practices, so long as it does not cause undue hardship on the conduct of District business. Such absence shall be without pay unless applicable paid local leave is available. <i>42 U.S.C. 2000e(j), 2000e-2(a); Ansonia Bd. of Educ. v. Philbrook, 479 U.S. 60, 107 S.Ct. 367 (1986); Pinsker v. Joint Dist. No. 28J of Adams and Arapahoe Counties, 735 F.2d 388 (10th Cir. 1984)</i>
COMPLIANCE WITH A SUBPOENA	The District may not discharge, discipline, or penalize in any manner an employee because the employee complies with a valid subpoena to appear in a civil, criminal, legislative, or administrative proceeding. <i>Labor Code 52.051(a)</i>
JURY DUTY	The District may not discharge, discipline, reduce the salary of, or otherwise penalize or discriminate against an employee because of the employee's compliance with a summons to appear as a juror. For each regularly scheduled workday on which a nonsalaried employee serves in any phase of jury service, the District shall pay the employee the employee's normal daily compensation. An employee's accumulated personal leave may not be reduced because of the employee's service in compliance with a summons to appear as a juror. <i>Education Code 22.006</i>
DEVELOPMENTAL LEAVES OF ABSENCE	<p>The Board may grant a developmental leave of absence for study, research, travel, or other suitable purpose to an employee working in a position requiring a permanent teaching certificate who has served in the District at least five consecutive school years.</p> <p>A developmental leave of absence may be granted for one school year at one-half regular salary or for one-half of a school year at full regular salary. Payment to the employee shall be made periodically by the District in the same manner, on the same schedule, and with the same deductions as if the employee were on full-time duty.</p> <p>An employee on developmental leave shall continue to be a member of the Teacher Retirement System of Texas and shall be an employee of the District for purposes of participating in programs, holding memberships, and receiving benefits afforded by employment in the District.</p> <p><i>Education Code 21.452</i></p>
ABSENCE CONTROL	Uniform enforcement of a reasonable absence-control rule is not retaliatory discharge. For example, a district that terminates an employee for violating a reasonable absence-control provision cannot be liable for retaliatory discharge as long as the rule is uniformly enforced. <i>Continental Coffee Products Co. v. Cazarez, 937</i>

S.W.2d 444 (Tex. 1996) (workers' compensation discrimination case); Texas Division-Tranter, Inc. v. Carrozza, 876 S.W.2d 312 (Tex. 1994) (workers' compensation discrimination case); Swearingen v. Owens-Corning Fiberglas Corp., 968 F.2d 559 (5th Cir. 1992) (workers' compensation discrimination case); Howell v. Standard Motor Prods., Inc., 2001 U.S. Dist LEXIS 12332 (N. D. Tex. 2001) (Family and Medical Leave Act case); Specialty Retailers v. DeMoranville, 933 S.W.2d 490 (Tex. 1996) (age discrimination case); Gonzalez v. El Paso Natural Gas Co., 40 F.E.P. Cases (BNA) 353 (Tex. App.—El Paso 1986, no pet.) (sex discrimination case)

[Some employees may have protected status even after the expiration of all other leave. See CRE and DAA.]

EMPLOYEE RIGHTS AND PRIVILEGES

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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

The 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 the 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 the 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)*

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.

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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 the 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 the District's grievance policy or other applicable policies concerning suspension or termination of employment or adverse personnel action.

The employee must invoke the 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 the Board does not render a final decision before the 61st day after grievance procedures are initiated, the employee may elect to:

1. Exhaust the 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

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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

The 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

The 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

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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 GRA]

ADMINISTRATION OF
MEDICATION

The District, the 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]

PROTECTION OF
NURSES

The 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)

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)*

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'PROFESSIONAL
EMPLOYEES'

A professional employee of the 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 the District" includes a superintendent; principal; teacher, including a substitute teacher or a teacher employed by a company that contracts with the 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), 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)

'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

The 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'
(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:

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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)

TEXTBOOKS AND
TECHNOLOGICAL
EQUIPMENT

The Board may not require an employee who acts in good faith to pay for a textbook, electronic textbook, or technological equipment

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that is damaged, stolen, misplaced, or not returned. An employee may not waive this provision by contract or any other means.

EXCEPTION

The District may enter into a written agreement with an employee whereby the employee assumes financial responsibility for electronic textbook 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 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 the 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

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LEGAL)

UNITED STATES
CONSTITUTION

The District shall take no action abridging the freedom of speech or the right of the people to petition the Board for redress of grievances. *U.S. Const. Amend. I, XIV*

The Board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when the Board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 828 (1995); *City of Madison v. Wis. Emp. Rel. Comm'n*, 429 U.S. 167, 174 (1976); *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568 (1968) [See DG]

TEXAS CONSTITUTION

Employees shall have the right, in a peaceable manner, to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. *Tex. Const. Art. I, Sec. 27*

There is no requirement that the Board negotiate or even respond to complaints. However, the Board must stop, look, and listen and must consider the petition, address, or remonstrance. *Prof'l Ass'n of College Educators v. El Paso County Cmty. [College] District*, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)

FEDERAL LAWS
SECTION 504

A district that receives federal financial assistance, directly or indirectly, and that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973. *34 CFR 104.7(b), 104.11*

AMERICANS WITH
DISABILITIES ACT

A district that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Code of Federal Regulations, Title 28, Part 35 (Americans with Disabilities Act regulations). *28 CFR 35.107, 35.140*

TITLE IX

A district that receives federal financial assistance, directly or indirectly, shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX of the Education Amendments of 1972. *34 CFR 106.8(b); North Haven Board of Education v. Bell*, 456 U.S. 512 (1982)

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
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STATE LAWS

WAGES, HOURS,
CONDITIONS OF
WORK

The prohibition against collective bargaining and strikes [see DGA] does not impair the right of employees to present grievances concerning their wages, hours of employment, or conditions of work, either individually or through a representative that does not claim the right to strike. *Gov't Code 617.005*

The term "conditions of work" should be construed broadly to include any area of wages, hours or conditions of employment, and any other matter that is appropriate for communications from employees to employer concerning an aspect of their relationship. *Atty. Gen. Op. JM-177 (1984)*; *Corpus Christi Fed. of Teachers v. Corpus Christi ISD*, 572 S.W.2d 663 (Tex. 1978)

The statute protects grievances presented individually or individual grievances presented collectively. *Lubbock Prof'l Firefighters v. City of Lubbock*, 742 S.W.2d 413 (Tex. App.—Amarillo 1987, writ ref'd n.r.e.)

REPRESENTATIVE

The District cannot deny an employee's representative, including an attorney, the right to represent the employee at any stage of the grievance procedure, so long as the employee designates the representative and the representative does not claim the right to strike. *Lubbock Prof'l Firefighters v. City of Lubbock*, 742 S.W.2d 413 (Tex. App.—Amarillo 1987, writ ref'd n.r.e.); *Sayre v. Mullins*, 681 S.W.2d 25 (Tex. 1984)

The District should meet with employees or their designated representatives at reasonable times and places to hear grievances concerning wages, hours of work, and conditions of work. The right to present grievances is satisfied if employees have access to those in a position of authority to air their grievances. However, that authority is under no legal compulsion to take action to rectify the matter. *Atty. Gen. Op. H-422 (1974)*; *Corpus Christi ISD v. Padilla*, 709 S.W.2d 700 (Tex. App.—Corpus Christi, 1986, no writ)

EMPLOYMENT
POLICY

The 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 the 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

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LEGAL)

GRIEVANCE POLICY	<p>The District's grievance policy must permit an employee to report a grievance against a supervisor to a different supervisor if the employee alleges that the supervisor:</p> <ol style="list-style-type: none">1. Violated the law in the workplace; or2. Unlawfully harassed the employee.
AUDIO RECORDING	<p>In addition, the policy must permit an employee who reports a grievance to make an audio recording of any meeting or proceeding at which the substance of a grievance that complies with the policy is investigated or discussed. The implementation of an employee's authorization to make an audio recording may not result in a delay of any time line provided by the grievance policy. The District is not required to provide equipment for the employee to make the recording.</p> <p><i>Education Code 11.171</i></p>
FINALITY OF GRADES	<p>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's grading policy applicable to the grade, as determined by the Board.</p> <p>The Board's determination is not subject to appeal.</p> <p><i>Education Code 28.0214</i></p>
OPEN MEETINGS ACT	<p>The Board is not required to conduct an open meeting to hear a complaint or charge against an employee. However, the Board may not conduct a closed meeting if the employee who is the subject of the hearing requests a public hearing. <i>Gov't Code 551.074</i> [See BEC]</p>
CLOSED MEETING	<p>The Board may conduct a closed meeting on an employee complaint to the extent required or provided by law. [See BEC]</p>
RECORD OF PROCEEDINGS	<p>An appeal of the Board's decision to the Commissioner of Education shall be decided based on a review of the record developed at the District level. "Record" includes, at a minimum, an audible electronic recording or written transcript of all oral testimony or argument. <i>Education Code 7.057(c), (f)</i></p> <p>It is the District's responsibility to make and preserve the records of the proceedings before the Board. If the District fails to create and preserve the record without good cause, all substantial evidence issues that require missing portions of the record for resolution shall be deemed against the District. The record shall include:</p> <ol style="list-style-type: none">1. A tape recording or a transcript of the hearing at the local level. If a tape recording is used:

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
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- a. The tape recording must be complete, audible, and clear; and
 - b. Each speaker must be clearly identified.
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 decision of the hearing examiner;
 7. A tape recording or transcript of the oral argument before the Board; and
 8. The decision of the Board.

19 TAC 157.1073(d)

WHISTLEBLOWER
COMPLAINTS

Before bringing suit, an employee who seeks relief under Government Code Chapter 554 (whistleblowers) must initiate action under the District's grievance or appeal procedures relating to suspension or termination of employment or adverse personnel action. *Gov't Code 554.005* [See DG]

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LOCAL)

GUIDING PRINCIPLES	The Board encourages employees to discuss their concerns and complaints through informal conferences with their supervisor, principal, or other appropriate administrator.
INFORMAL PROCESS	Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.
DIRECT COMMUNICATION WITH BOARD MEMBERS	Employees shall not be prohibited from communicating with a member of the Board regarding District operations except when communication between an employee and a Board member would be inappropriate because of a pending hearing or appeal related to the employee.
FORMAL PROCESS	<p>If an informal conference regarding a complaint fails to reach the outcome requested by the employee, he or she may initiate the formal process described below by timely filing a written complaint form.</p> <p>Even after initiating the formal complaint process, employees are encouraged to seek informal resolution of their concerns. An employee whose concerns are resolved may withdraw a formal complaint at any time.</p> <p>The process described in this policy shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or “mini-trial” at any level.</p>
NOTICE TO EMPLOYEES	The District shall inform employees of this policy.
FREEDOM FROM RETALIATION	Neither the Board nor any District employee shall unlawfully retaliate against an employee for bringing a concern or complaint.
WHISTLEBLOWER COMPLAINTS	Whistleblower complaints shall be filed within the time specified by law and may be made to the Superintendent or designee beginning at Level Three. Time lines for the employee and the District set out in this policy may be shortened to allow the Board to make a final decision within 60 calendar days of the initiation of the complaint. [See DG]
COMPLAINTS AGAINST SUPERVISORS	Complaints alleging a violation of law by a supervisor may be made to the Superintendent or designee. Complaints alleging a violation of law by the Superintendent may be made directly to the Board or designee.
COMPLAINTS	In this policy, the terms “complaint” and “grievance” shall have the same meaning. This policy shall apply to all employee complaints, except as provided below.

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LOCAL)

EXCEPTIONS

This policy shall not apply to:

1. Complaints alleging discrimination, including violations of Title IX (gender), Title VII (sex, race, color, religion, national origin), ADEA (age), or Section 504 (disability). [See DIA]
2. Complaints alleging certain forms of harassment, including harassment by a supervisor and violations of Title VII. [See DIA]
3. Complaints concerning retaliation relating to discrimination and harassment. [See DIA]
4. Complaints concerning instructional materials. [See EFA]
5. Complaints concerning a commissioned peace officer who is an employee of the District. [See CKE]
6. Complaints arising from the proposed nonrenewal of a term contract issued under Chapter 21 of the Education Code. [See DFBB]
7. Complaints arising from the proposed termination or suspension without pay of an employee on a probationary, term, or continuing contract issued under Chapter 21 of the Education Code during the contract term. [See DFAA, DFBA, or DFCA, respectively]

GENERAL
PROVISIONS

FILING

Complaint forms and appeal notices may be filed by hand-delivery, fax, or U.S. Mail. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by the close of business on the deadline. Fax filings shall be timely filed if they are received on or before the deadline, as indicated by the date/time shown on the fax copy. Mail filings shall be timely filed if they are postmarked by U.S. Mail on or before the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.

RESPONSE

At Levels One, Two, and Three, "response" shall mean a written communication to the employee from the appropriate administrator. Responses may be hand-delivered or sent by U.S. Mail to the employee's mailing address of record. Mailed responses shall be timely if they are postmarked by U.S. Mail on or before the deadline.

DAYS

"Days" shall mean District business days, unless otherwise noted. In calculating time lines under this policy, the day a document is filed is "day zero." The following business day is "day one."

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

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(LOCAL)

REPRESENTATIVE	<p>“Representative” shall mean any person who or an organization that does not claim the right to strike and is designated by the employee to represent him or her in the complaint process.</p> <p>The employee may designate a representative through written notice to the District at any level of this process. If the employee designates a representative with fewer than three days’ notice to the District before a scheduled conference or hearing, the District may reschedule the conference or hearing to a later date, if desired, in order to include the District’s counsel. The District may be represented by counsel at any level of the process.</p>
CONSOLIDATING COMPLAINTS	<p>Complaints arising out of an event or a series of related events shall be addressed in one complaint. Employees shall not bring separate or serial complaints arising from any event or series of events that have been or could have been addressed in a previous complaint.</p> <p>When two or more complaints are sufficiently similar in nature and remedy sought to permit their resolution through one proceeding, the District may consolidate the complaints.</p>
UNTIMELY FILINGS	<p>All time limits shall be strictly followed unless modified by mutual written consent.</p> <p>If a complaint form or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the employee, at any point during the complaint process. The employee may appeal the dismissal by seeking review in writing within ten days from the date of the written dismissal notice, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness.</p>
COSTS INCURRED	<p>Each party shall pay its own costs incurred in the course of the complaint.</p>
COMPLAINT FORM	<p>Complaints under this policy shall be submitted in writing on a form provided by the District.</p> <p>Copies of any documents that support the complaint should be attached to the complaint form. If the employee does not have copies of these documents, they may be presented at the Level One conference. After the Level One conference, no new documents may be submitted by the employee unless the employee did not know the documents existed before the Level One conference.</p> <p>A complaint form that is incomplete in any material aspect may be dismissed, but may be refiled with all the required information if the refiling is within the designated time for filing a complaint.</p>

PERSONNEL-MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA
(LOCAL)

AUDIO RECORDING As provided by law, an employee shall be permitted to make an audio recording of a conference or hearing under this policy at which the substance of the employee's complaint is discussed. The employee shall notify all attendees present that an audio recording is taking place.

LEVEL ONE Complaint forms must be filed:

1. Within 15 days of the date the employee first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint or grievance; and
2. With the lowest level administrator who has the authority to remedy the alleged problem.

In most circumstances, employees on a school campus shall file Level One complaints with the campus principal; other District employees shall file Level One complaints with their immediate supervisor.

If the only administrator who has authority to remedy the alleged problem is the Superintendent or designee, the complaint may begin at Level Three following the procedure, including deadlines, for filing the complaint form at Level One.

If the complaint is not filed with the appropriate administrator, the receiving administrator must note the date and time the complaint form was received and immediately forward the complaint form to the appropriate administrator.

The appropriate administrator shall investigate as necessary and hold a conference with the employee within ten days after receipt of the written complaint. The administrator may set reasonable time limits for the conference.

The administrator shall provide the employee a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the administrator may consider information provided at the Level One conference and any other relevant documents or information the administrator believes will help resolve the complaint.

LEVEL TWO

If the employee did not receive the relief requested at Level One or if the time for a response has expired, the employee may request a conference with the executive director of human resources or designee to appeal the Level One decision.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level One response or, if no response was received, within ten days of the Level One response deadline.

After receiving notice of the appeal, the Level One administrator shall prepare and forward a record of the Level One complaint to the Level Two administrator. The employee may request a copy of the Level One record.

The Level One record shall include:

1. The original complaint form and any attachments.
2. All other documents submitted by the employee at Level One.
3. The written response issued at Level One and any attachments.
4. All other documents relied upon by the Level One administrator in reaching the Level One decision.

The Level Two administrator shall hold a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues presented by the employee at Level One and identified in the Level Two appeal notice. At the conference, the employee may provide information concerning any documents or information relied upon by the administration for the Level One decision. The Level Two administrator may set reasonable time limits for the conference.

The Level Two administrator shall provide the employee a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the Level Two administrator may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Level Two administrator believes will help resolve the complaint.

Recordings of the Level One and Level Two conferences, if any, shall be maintained with the Level One and Level Two records.

LEVEL THREE

If the employee did not receive the relief requested at Level Two or if the time for a response has expired, the employee may request a conference with the Superintendent or designee to appeal the Level Two decision.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level Two response or, if no response was received, within ten days of the Level Two response deadline.

After receiving notice of the appeal, the Level Two administrator shall prepare and forward a record of the Level Two complaint to the Level Three administrator. The employee may request a copy of the Level Two record.

The Level Two record shall include:

1. The Level One record.
2. The written response issued at Level Two and any attachments.
3. All other documents relied upon by the Level Two administrator in reaching the Level Two decision.

The Level Three administrator shall hold a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues presented by the employee at Level One and identified in the Level Three appeal notice. At the conference, the employee may provide information concerning any documents or information relied upon by the administration for the Level Two decision. The Level Three administrator may set reasonable time limits for the conference.

The Level Three administrator shall provide the employee a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the Level Three administrator may consider the Level One and Level Two records, information provided at the Level Three conference, and any other relevant documents or information the Level Three administrator believes will help resolve the complaint.

Recordings of the Level One, Level Two, and Level Three conferences, if any, shall be maintained with the Level One, Level Two, and Level Three records.

LEVEL FOUR

If the employee did not receive the relief requested at Level Three or if the time for a response has expired, the employee shall deliver the appeal notice to the Superintendent's secretary for filing with the Board. [See BE]

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level Three response or, if no response was received, within ten days of the Level Three response deadline.

Following receipt of the appeal notice and a determination that time lines have been met, the Board President shall furnish a copy of the appeal notice to each Trustee.

At a future Board meeting, the Board shall examine the written grievance in closed meeting unless otherwise required by the Open Meetings Act, with neither the grievant nor the grievant's representative, nor the person or persons complained of in the grievance, present. The Board shall make a determination as to whether the grievance as presented merits a hearing. If the Board

determines that the grievance is not meritorious, the grievant shall be so informed in writing by the Board President within seven days following that meeting. The decision of the Superintendent with respect to the grievance shall then be final.

If the Board determines that the grievance as presented merits a hearing, the Board President shall inform the grievant of the date, time, and place of such hearing. The District shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law. [See BE]

The Superintendent or designee shall provide the Board the record of the Level Three complaint. The employee may request a copy of the Level Three record.

The Level Three record shall include:

1. The Level One record.
2. The Level Two record.
3. The written response issued at Level Three and any attachments.
4. All other documents relied upon by the administration in reaching the Level Three decision.

If at the Level Four hearing the administration intends to rely on evidence not included in the Level Three record, the administration shall provide the employee notice of the nature of the evidence at least three days before the hearing.

The presiding officer may set reasonable time limits and guidelines for the presentation including an opportunity for the employee and administration to each make a presentation and provide rebuttal and an opportunity for questioning by the Board. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.

In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of the Level Four presentation. The Level Four presentation, including the presentation by the employee or the employee's representative, any presentation from the administration, and questions from the Board with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

The Board shall then consider the complaint. It may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. If the Board does not

make a decision regarding the complaint by the end of the next regularly scheduled meeting, the lack of a response by the Board upholds the administrative decision at Level Three.

INSTRUCTIONAL ARRANGEMENTS
CLASS SIZE

EEB
(LEGAL)

TEACHER-STUDENT RATIO The District shall employ a sufficient number of certified teachers to maintain an average ratio of not less than one teacher for each 20 students in average daily attendance. *Education Code 25.111*

PHYSICAL EDUCATION The District's physical education curriculum objectives and goals shall address teacher-student ratios. [See EHAA] *Education Code 25.114*

KINDERGARTEN- GRADE 4 The District shall not enroll more than 22 students in a class, kindergarten through fourth grade, except as allowed by the Commissioner of Education. The limit on class size, kindergarten through grade 4, shall not apply during:

1. The last 12 weeks of the school year; or
2. Any 12-week period of the school year selected by the District, if the District's average daily attendance has been adjusted due to high migratory population under Education Code 42.005(c). A district claiming this exemption must notify the Commissioner in writing not later than the 30th day after the first day of the 12-week period.

A "migratory child" is a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker or migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany the parent or spouse in order to obtain, temporary or seasonal employment in agricultural or fishing work has moved from one school district to another.

Education Code 25.112(a), (b); No Child Left Behind Act of 2001, 20 U.S.C. 6399(2)

EXCEPTION TO CLASS SIZE LIMITS The Commissioner may except the District, on application, from the class size limits above if the limit works an undue hardship on the District. An exception expires at the end of the school year for which it is granted.

A school district seeking an exception shall notify the Commissioner and apply for the exception not later than the later of:

1. October 1; or
2. The 30th day after the first school day the District exceeds the limit described above.

Education Code 25.112(d)-(e)

NOTICE TO PARENTS A campus or district that is granted an exception from class size limits shall provide written notice of the exception to the parent of or person standing in parental relation to each student affected by the exception. The notice must be in conspicuous bold or underlined print and:

INSTRUCTIONAL ARRANGEMENTS
CLASS SIZE

EEB
(LEGAL)

1. Specify the class for which an exception was granted;
2. State the number of children in the class; and
3. Be included in a regular mailing or other communication from the campus or District, such as information sent home with students.

The notice must be provided not later than the 31st day after the first day of the school year or the date the exception is granted, if the exception is granted after the beginning of the school year.

Education Code 25.113

INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION
TEXTBOOK SELECTION AND ADOPTION

EFAA
(LEGAL)

Note: For provisions regarding inventory and requisition of textbooks, see CMD.

STATE TEXTBOOK AND INSTRUCTIONAL MATERIALS LISTS	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.
	<i>Education Code 31.023</i>
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. <i>Education Code 31.0241(b)</i>
ELECTRONIC TEXTBOOK AND INSTRUCTIONAL MATERIALS LIST	The Commissioner, with input from the SBOE, shall adopt a list of: <ol style="list-style-type: none">1. Electronic textbooks; and2. Instructional 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.
	<i>Education Code 31.0231</i>
SUPPLEMENTAL TEXTBOOK LIST	The SBOE may adopt supplemental textbooks that are not on the conforming or nonconforming lists. A supplemental textbook 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>
LOCAL SELECTION	Each year, during a period established by the SBOE, the Board shall select textbooks for subjects in the foundation and enrichment curricula. <i>Education Code 31.101(a)</i>
POLICY	The Board shall adopt a policy for selecting instructional materials. Final selections must be recorded in Board minutes. <i>19 TAC 66.104(a)</i>

INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION
TEXTBOOK SELECTION AND ADOPTION

EFAA
(LEGAL)

FOUNDATION TEXTBOOKS	<p>The Board shall select textbooks for a subject in the foundation curriculum from among the textbooks on the appropriate conforming list or the nonconforming list, including the electronic textbook and instructional materials list. <i>Education Code 31.101(a)(1)</i></p> <p>The Board may select a supplemental textbook adopted by the SBOE, as set forth at Education Code 31.035. If the Board selects a supplemental textbook for a course in the foundation curriculum, the District shall certify to TEA that the supplemental textbook, in combination with any other textbooks or supplemental textbooks used by the District, cover the essential knowledge and skills for the course. <i>Education Code 31.035(d), (f)</i></p>
ENRICHMENT TEXTBOOKS	<p>The 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></p>
BRAILLE / LARGE-TYPE	<p>The District is responsible for providing Braille and/or large-type versions of nonadopted enrichment materials. <i>19 TAC 66.104(d)</i></p>
CLASSROOM SET OF TEXTBOOKS	<p>Notwithstanding any other provision of Education Code Chapter 31, the 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)</i></p>
SPECIAL EDUCATION	<p>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></p>
DURATION OF SELECTION	<p>Once instructional materials have been requisitioned and delivered, including nonadopted materials, the 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></p>
EXCEPTION	<p>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:</p>

INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION
TEXTBOOK SELECTION AND ADOPTION

EFAA
(LEGAL)

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

Education Code 31.101(e)

REPORT

By April 1 of each year, the District shall transmit a report to TEA listing the instructional materials selected for use in the District. Selections certified to TEA are final and, therefore, not subject to reconsideration during the original contract period or readoption contract periods covering the instructional materials selected.
19 TAC 66.104(g), (h)

CRIMINAL OFFENSE

A Trustee, 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 Trustee, 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.

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

1. Staff development, in-service, or teacher training; or
2. Instructional 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 the 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 the Board with the advice of the local school health advisory council. *Education Code 28.004(e)* [See EHAA]

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (ALL LEVELS)

EHAA
(LEGAL)

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. The 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, the 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)*

The 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(b)

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;

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (ALL LEVELS)

EHAA
(LEGAL)

- d. Fine Arts;
- e. Economics, with emphasis on the free enterprise system and its benefits;
- f. Career and technology education;
- g. Technology applications; and
- h. 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(c)

LOCAL CREDIT

The 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 28.004(f); 19 TAC 74.1(b)*

LOCAL
INSTRUCTIONAL PLAN

The District's local instructional plan may draw on state curriculum frameworks and program standards as appropriate. The 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 the 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)

The 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 the District and that meet TEA criteria may be approved and made available as approved programs. The District 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)*

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (ALL LEVELS)

EHAA
(LEGAL)

PHYSICAL EDUCATION The 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.

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 the 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)

CLASSIFICATION FOR PHYSICAL EDUCATION The 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

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (ALL LEVELS)

EHAA
(LEGAL)

SCHOOL HEALTH
ADVISORY COUNCIL

The 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)

CONTENT OF HUMAN
SEXUALITY
INSTRUCTION

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:

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;

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REQUIRED INSTRUCTION (ALL LEVELS)

EHAA
(LEGAL)

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; and
5. 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.

Education Code 28.004(e)

CONDOMS

The District may not distribute condoms in connection with instruction relating to human sexuality. *Education Code 28.004(f)*

SEPARATE
CLASSES

If the District provides human sexuality instruction, it may separate students according to sex for instructional purposes. *Education Code 28.004(g)* [See FBA regarding single-sex classes under Title IX]

NOTICE TO
PARENTS

Before each school year, the 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 instruction 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
 - c. 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), (i-1)

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (ALL LEVELS)

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(LEGAL)

AVAILABILITY OF
MATERIALS

The 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

The 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*

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (SECONDARY)

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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. The District is not required to offer a specific course in the foundation and enrichment curriculum except as specified in 19 TAC 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 TAC 74.1, relating to essential knowledge and skills. The District shall 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. *19 TAC 74.3(a)*

PHYSICAL ACTIVITY
REQUIREMENTS

The 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.

The 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

The 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 TAC 76.1001.

The 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

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REQUIRED INSTRUCTION (SECONDARY)

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of the essential knowledge and skills for physical education specified in 19 TAC chapter 116; and

2. The activity is organized and monitored by school personnel or by appropriately trained instructors who are part of a program that has been certified by the Board.

Education Code 28.002(l), (l-1); 19 TAC 103.1003

FINE ARTS
REQUIREMENT

Beginning with the 2010–11 school year, students enrolled in grades 6–8 shall be required to complete at least one fine arts course during those grade levels as part of the District's fine arts curriculum. *Education Code 28.002(c-1)*

HIGH SCHOOL
COURSES AT EARLIER
GRADES

The District may offer courses designated for grades 9–12 in earlier grade levels. *19 TAC 74.26(b)*

GRADES 9–12
COURSE OFFERINGS

A district that offers grades 9–12 shall provide instruction in the required curriculum as specified in 19 TAC 74.1, relating to the essential knowledge and skills. The 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)*

The 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.

The District shall incorporate instruction in personal financial literacy into any course meeting a requirement for an economics credit, using materials approved by the State Board of Education. The District may add elements at its discretion, but must include the areas of instruction listed at 19 TAC 74.34(b). *Education Code 28.0021; 19 TAC 74.34*

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REQUIRED INSTRUCTION (SECONDARY)

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6. Physical education — Foundations of Personal Fitness and at least two of the following:
 - a. Adventure/Outdoor Education;
 - b. Aerobic Activities;
 - c. Individual Sports; or
 - d. Team Sports.
7. Health education — Health I.

The District shall use the parenting and paternity awareness program developed by the State Board of Education 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. *Education Code 28.002(p)*
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.
9. Career and technology education, taught on a campus in the District with provisions for contracting for additional offerings with programs or institutions as may be practical [see EEL] — courses selected from at least three of the eight career and technology areas, as follows:
 - a. Agricultural science and technology education;
 - b. Business education;
 - c. Career orientation;
 - d. Health science technology education;
 - e. Family and consumer sciences education/home economics education;
 - f. Technology education/industrial technology education;
 - g. Marketing education; and
 - h. Trade and industrial education.

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REQUIRED INSTRUCTION (SECONDARY)

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10. Languages other than English — Levels I, II, and III or higher of the same language.
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.
12. Speech — Communications Applications.

19 TAC 74.3(b)(2)

The 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 the 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)*

The 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, the District shall either teach the course or use alternate delivery systems, as described in 19 TAC, Chapter 74, Subchapter C, to provide the course and shall maintain evidence thereof. *19 TAC 74.3(b)(4)*

The District may offer additional courses from the complete list of courses approved by the State Board of Education to satisfy graduation requirements. *19 TAC 74.3(b)(3)*

APPLIED COURSES

The 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

The District shall use the parenting and paternity awareness program developed by the State Board of Education (SBOE) in its high school health curriculum.

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (SECONDARY)

EHAC
(LEGAL)

MIDDLE AND JUNIOR HIGH SCHOOL	The District may use the program in the District's middle or junior high school curriculum.
PROGRAM REQUIREMENTS	<p>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.</p> <p>The District may add elements at its discretion but must include the following areas of instruction:</p> <ol style="list-style-type: none">1. Parenting skills and responsibilities, including child support;2. Relationship skills, including money management, communication, and marriage preparation; and3. 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. <p>At the discretion of the District, a teacher may modify the suggested sequence and pace of the program at any grade level.</p>
LOCAL PROGRAMS AND MATERIALS	<p>The 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:</p> <ol style="list-style-type: none">1. Child development;2. Parenting skills, including child abuse and neglect prevention; and3. Assertiveness skills to prevent teenage pregnancy, abusive relationships, and family violence.
PARENT PERMISSION	<p>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.</p> <p><i>Education Code 28.002(p); 19 TAC 74.35</i></p>
ALCOHOL AWARENESS PROGRAM	<p>The District shall choose a program from TEA's list of evidence-based alcohol awareness programs to use in the District's middle school, junior high school, and high school health curriculum.</p> <p>"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.</p> <p><i>Education Code 28.002(r)</i></p>

SPECIAL EDUCATION
ARD COMMITTEE AND INDIVIDUALIZED EDUCATION PROGRAM

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(LEGAL)

ADMISSION, REVIEW,
AND DISMISSAL
COMMITTEE

The 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;
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

The 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 career and technology education (CATE), a representative from CATE, 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

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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, the District shall invite:

1. The student. If the student does not attend, the 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

The 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 the District is unable to convince the parents that they should

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attend, 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

The 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. The District must respond to the request by holding the meeting or requesting TEA's assistance through the mediation process. The 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, the 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); 34 CFR 300.323(g)

MILITARY
DEPENDENTS

The 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)

The 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, the 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 districtwide 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

TRANSLATION OF
IEP INTO NATIVE
LANGUAGE

If the parent is unable to speak English and Spanish is the parent's native language, the 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, the 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 consid-

ers 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 the 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;

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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, the 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 the 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, the 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)

SPECIAL PROGRAMS
COMPENSATORY/ACCELERATED SERVICES

EHBC
(LEGAL)

COMPENSATORY
EDUCATION
ALLOTMENT

The District is entitled to an annual compensatory education allotment for each student:

1. Who is educationally disadvantaged; or
2. Who does not have a disability and resides in a residential placement facility in the district in which the student's parent or legal guardian does not reside.

The number of educationally disadvantaged students is determined by the formula set forth at Education Code 42.152(b).

Education Code 42.152(a)–(b)

USE

The District shall use its compensatory education allotment to fund supplemental programs and services designed to eliminate any disparity in performance on state assessment instruments or disparity in the rates of high school completion between students at-risk of dropping out of school, as defined below, and all other students.

Specifically, the District may use the funds, other than an indirect cost allotment established by State Board rule, to meet the costs of providing a compensatory, intensive, or accelerated instruction program under Education Code 29.081, a disciplinary alternative education program under Education Code 37.008, or to support a Title I program [see EHBD], at a campus at which at least 40 percent of the students are educationally disadvantaged.

The District may also use allocated funds for:

1. A mentoring services program under Education Code 29.089;
2. An accelerated reading instruction program under Education Code 28.006(g);
3. A program for treatment of students who have dyslexia or a related disorder, as required by Education Code 38.003; and
4. A program under Education Code 29.081 specifically designed to serve students at risk of dropping out of school.

Education Code 42.152(c), (c-1), (c-2)

LIMIT ON DAEP
EXPENDITURES

The District may not use more than 18 percent of its compensatory education allotment for disciplinary alternative education programs.

The Commissioner may waive this limitation upon an annual petition, by the District's Board and site-based decision making committee, presenting the reason for the need to spend supplemental compensatory education funds on disciplinary alternative education programs.

Education Code 42.152(c)(1)–(2)

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DROPOUT
PREVENTION
STRATEGIES

A district with a high dropout rate, as determined by the Commissioner, shall submit a plan to the Commissioner describing the manner in which the district intends to use its compensatory education and high school allotments for developing and implementing research-based strategies for dropout prevention.

If the District is required to submit both a dropout prevention strategy plan and a plan to increase college enrollment [see GNC], the District must describe in its dropout prevention strategy plan how the activities identified in both plans will be coordinated. If a district is required to submit both a school improvement plan, due to failure to meet the required performance standard regarding dropout rates or completion rates, as well as a dropout prevention strategy plan, the District may request that its school improvement plan be used to satisfy both requirements.

The District shall submit the plan not later than December 1 of each school year preceding the school year in which the District will receive the compensatory education or high school allotment to which the plan applies. The plan must meet the requirements at 19 TAC 89.1701(e).

The District may not spend or obligate more than 25 percent of the District's compensatory or high school allotment unless the Commissioner approves the plan.

Education Code 29.918; 19 TAC 89.1071

DEFINITION OF AT-
RISK STUDENT

"Student at risk of dropping out of school" includes each student who is under 21 years of age and who:

1. If the student is in prekindergarten, kindergarten, or grades 1–3, did not perform satisfactorily on a readiness test or assessment instrument administered during the current school year;
2. If the student is in grades 7–12 did not maintain an average equivalent to 70 on a scale of 100 in two or more subjects in the foundation curriculum during a semester in the preceding or current school year, or is not maintaining such an average in two or more subjects in the foundation curriculum in the current semester;
3. Was not advanced from one grade level to the next for one or more school years, unless the student did not advance from prekindergarten or kindergarten to the next grade level only as a result of the request of the student's parent;
4. Did not perform satisfactorily on a state assessment instrument and who has not in the previous or current school year

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subsequently performed on that instrument or another appropriate instrument at a level equal to at least 110 percent of the level of satisfactory performance on that instrument;

5. Is pregnant or is a parent;
6. Has been placed in a disciplinary alternative education program in accordance with Education Code 37.006 during the preceding or current school year;
7. Has been expelled during the preceding or current school year;
8. Is currently on parole, probation, deferred prosecution, or other conditional release;
9. Was previously reported through the Public Education Information Management System (PEIMS) to have dropped out of school;
10. Is a student of limited English proficiency, as defined by Section 29.052;
11. Is in the custody or care of the Department of Family and Protective Services or has, during the current school year, been referred to the department by a school official, officer of the juvenile court, or law enforcement official;
12. Is homeless, as defined by 42 U.S.C. 11302 and its subsequent amendments [see FD]; or
13. Resided in the preceding school year or resides in the current school year in a residential placement facility in the District, including a detention facility, substance abuse treatment facility, emergency shelter, psychiatric hospital, halfway house, or foster group home.

Education Code 29.081(d)–(d-1)

LOCAL ELIGIBILITY
CRITERIA

In addition to students described above, a student who satisfies local eligibility criteria adopted by a Board may receive compensatory education services. The number of students receiving services under local eligibility criteria during a school year may not exceed ten percent of the number of students described above who received services from the District during the preceding school year. *Education Code 29.081(g)*

COMPENSATORY,
INTENSIVE, AND
ACCELERATED
INSTRUCTION

The District shall use student performance data from state basic skills assessment instruments and achievement tests to design and implement appropriate compensatory, intensive, or accelerated instructional services for students in the District's schools that enable

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	<p>the students to perform at grade level at the conclusion of the next regular school term. <i>Education Code 29.081(a)</i></p>
ACCELERATED INSTRUCTION	<p>The District shall provide accelerated instruction to enrolled students who have not performed satisfactorily on each section of the secondary exit-level assessment instrument or who are at risk of dropping out of school. <i>Education Code 29.081(b)</i></p>
EFFECTIVENESS	<p>The District shall evaluate and document the effectiveness of the accelerated instruction in reducing any disparity in performance on state assessment instruments or disparity in the rates of high school completion between students at risk of dropping out of school and all other District students. <i>Education Code 29.081(c)</i></p>
DROPOUT RECOVERY EDUCATION PROGRAMS	<p>The District may use a private or public community-based dropout recovery education program to provide alternative education programs for students at risk of dropping out of school. The programs must meet the criteria set forth at Education Code 29.081(e)(1)–(5).</p> <p>Students in attendance at a dropout recovery education program shall be included in the District’s average daily attendance for funding purposes.</p> <p><i>Education Code 29.081(f)</i></p>
COMMUNITIES IN SCHOOLS (CIS)	<p>An elementary or secondary school receiving funding under Education Code 33.156 shall participate in the Communities in Schools (CIS) program if the number of students enrolled in the school who are at risk of dropping out of school is equal to at least 10 percent of the number of students in average daily attendance at the school, as determined by TEA. <i>Education Code 33.157</i></p>
OPTIONAL EXTENDED-YEAR PROGRAM (OEYP)	<p>The District may set aside an amount from its compensatory education allotment or may apply to TEA for funding of an extended-year program, for a period not to exceed 30 instructional days for students:</p> <ol style="list-style-type: none">1. In kindergarten through grade 11, who are identified as not likely to be promoted to the next grade level for the succeeding school year; or2. In grade 12, who are identified as not likely to graduate from high school before the beginning of the succeeding school year. <p>A student who does not demonstrate proficiency in a subject area as determined by the District is also eligible for services.</p> <p>An optional extended year program (OEYP) may extend the day, the week, or the year to provide additional support and instruction</p>

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	<p>for eligible students. The program shall be conducted beyond the required instructional year, which may include intercessions for year round programs.</p>
POLICY	<p>If the District provides an OEYP, it shall adopt a policy designed to lead to immediate reduction and ultimate elimination of student retention.</p>
PROGRAM CRITERIA	<p>An OEYP must meet the requirements set forth at Education Code 29.082 and 19 TAC 105.1001.</p>
PROMOTION OF STUDENT	<p>A student who attends at least 90 percent of the program days and who satisfies the requirements for promotion at Education Code 28.021 shall be promoted or retained in accordance with Education Code 29.082(e).</p>
TRANSPORTATION	<p>The District shall provide transportation to each student who is required to attend a program under this section and who is eligible for regular transportation services. [See EIE and FDC]</p> <p><i>Education Code 29.082; 19 TAC 105.1001</i></p>
OPTIONAL FLEXIBLE YEAR PROGRAM (OFYP)	<p>The District may provide an optional flexible year program (OFYP) for students who did not or are not likely to perform successfully on state assessment instruments or who would not otherwise be promoted to the next grade level.</p>
PROGRAM CRITERIA	<p>An OFYP must meet the requirements set forth at Education Code 29.0821 and 19 TAC 129.1029.</p> <p><i>Education Code 29.0821; 19 TAC 129.1029</i></p>
OPTIONAL FLEXIBLE SCHOOL DAY PROGRAM (OFSDP)	<p>Notwithstanding Education Code 25.081 (school year) or 25.082 (school day) [see EB and EC], the District may apply to the Commissioner to provide a flexible school day program (OFSDP) for students.</p>
PROGRAM CRITERIA	<p>A district that meets application requirements may:</p> <ol style="list-style-type: none">1. Provide flexibility in the number of hours each day a student attends;2. Provide flexibility in the number of days each week a student attends; or3. Allow a student to enroll in less than or more than a full course load. <p>Except in the case of a course designed for a student who will be denied credit as a result of attendance requirements, a course offered in a program under this section must provide for at least the same number of instructional hours as required for a course of-</p>

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ferred in a program that meets the required minimum number of instructional days under Education Code section 25.081 and the required length of school day under Education Code section 25.082.

STUDENT
ELIGIBILITY

The District may provide an OFSDP for students who:

1. Have dropped out of school or are at risk of dropping out of school, as defined above at DEFINITION OF AT-RISK STUDENT;
2. Attend a campus that is implementing an innovative redesign of the campus or an early college high school under a plan approved by the Commissioner; or
3. As a result of attendance requirements under Education Code 25.092, will be denied credit for one or more classes in which the students have been enrolled.

A student who will be denied credit for one or more classes as a result of attendance requirements may enroll in a course in a OFSDP offered during the school year or during the period in which school is recessed for the summer to enable the student to earn class credit that the student would not otherwise be able to receive without retaking the class.

FUNDING

Funding for an optional flexible school day program shall be based on the number of instructional days in the District calendar and a seven-hour school day, but attendance may be cumulated over a school year, including any summer or vacation session. The attendance of students who accumulate less than the number of attendance hours required shall be proportionately reduced for funding purposes. The Commissioner may limit funding for the attendance of a student who will be denied credit as a result of attendance requirements to funding only for the attendance necessary for the student to earn class credit that the student would not otherwise be able to receive without retaking the class.

Education Code 29.0822

TUTORIAL SERVICES

The District may provide tutorial services at District schools. If the District provides tutorial services, it shall require a student whose grade in a subject for a reporting period is lower than the equivalent of 70 on a scale of 100 to attend tutorials.

The District may provide transportation services to accommodate students who are required to attend tutorials and who are eligible for regular transportation.

Education Code 29.084

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BASIC SKILLS
PROGRAMS

The District may apply to the Commissioner for funding of basic skills programs for students in grade 9 who are at risk of not earning sufficient credit or who have not earned sufficient credit to advance to grade 10 and who fail to meet minimum skills levels established by the Commissioner.

With the consent of a student's parent or guardian, the District may assign a student to the basic skills program.

A basic skills program may not exceed 210 instructional days and must meet the requirements set forth at Education Code 29.086.

Education Code 29.086

AFTER-SCHOOL AND
SUMMER INTENSIVE
MATHEMATICS AND
SCIENCE PROGRAMS

The District may provide an intensive after-school program or an intensive program during the period that school is recessed for the summer to provide mathematics and science instruction to:

1. Students who are not performing at grade level in mathematics or science to assist those students in performing at grade level;
2. Students who are not performing successfully in a mathematics course or science course to assist those students in successfully completing the course; or
3. Other students as determined by the District.

Before providing a program, the Board must adopt a policy for:

1. Determining student eligibility for participating in the program that:
 - a. Prescribes the grade level or course a student must be enrolled in to be eligible; and
 - b. Provides for considering teacher recommendations in determining eligibility;
2. Ensuring that parents of or persons standing in parental relation to eligible students are provided notice of the program;
3. Ensuring that eligible students are encouraged to attend the program;
4. Ensuring that the program is offered at one or more locations in the District that are easily accessible to eligible students; and
5. Measuring student progress on completion of the program.

Education Code 29.088, 29.090; 19 TAC 102.1041

SPECIAL PROGRAMS
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MENTORING
SERVICES PROGRAM

The District may provide a mentoring services program to students at risk of dropping out of school. The Board may arrange for any public or nonprofit community-based organization to come to the District's schools and implement the program.

The Board shall obtain the consent of a student's parent or guardian before allowing the student to participate in the program.

Education Code 29.089

ACCELERATED
READING
INSTRUCTION
PROGRAM

The District shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to each student in kindergarten, first grade, or second grade who is determined, on the basis of reading instrument results [see EKC], to be at risk for dyslexia or other reading difficulties. The District shall determine the form, content, and timing of the program.

The District shall provide additional reading instruction and intervention to each student given the seventh grade reading assessment [see EKC], as appropriate to improve the student's reading skills in the relevant areas identified through the assessment instrument.

LIMITATION

The District may implement an accelerated reading instruction program only if the Commissioner certifies that funds have been appropriated during a school year for administering the program.

Education Code 28.006(f), (g), (g-1), (k)

INTENSIVE PROGRAM
OF INSTRUCTION
STATE
ASSESSMENTS

The District shall offer an intensive program of instruction to a student who does not perform satisfactorily on a state assessment instrument.

The program shall be designed to:

1. Enable the student to:
 - a. To the extent practicable, perform at the student's grade level at the conclusion of the next regular school term; or
 - b. Attain a standard of annual growth specified by the District and reported by the District to TEA; and
2. If applicable, carry out the purposes of Education Code 28.0211.

GRADUATION
REQUIREMENTS

The District shall use funds appropriated by the legislature for an intensive program of instruction to plan and implement intensive instruction and other activities aimed at helping a student satisfy state and local high school graduation requirements.

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NO CAUSE OF
ACTION

The District's determination of the appropriateness of an intensive program of instruction for a student is final and does not create a cause of action.

Education Code 28.0213

Note: Only districts that identify 15 or more eligible students are required to provide prekindergarten programs.

TUITION-FREE	<p>The District shall offer prekindergarten classes if it identifies 15 or more eligible students who are at least four years of age. The District may offer prekindergarten if it identifies 15 or more eligible children who are at least three years of age.</p> <p>The District may not charge tuition for a prekindergarten program offered under these provisions.</p>
EXEMPTION	<p>The District may apply to the Commissioner for an exemption from the requirement that it provide a free prekindergarten program if the District would be required to construct classroom facilities in order to provide the program.</p>
DEFINITIONS	<p>In this section:</p> <ol style="list-style-type: none">1. "Child" includes a stepchild.2. "Parent" includes a stepparent.
ELIGIBILITY	<p>A child is eligible for enrollment in free prekindergarten if the child is at least three years of age and:</p> <ol style="list-style-type: none">1. Is unable to speak and comprehend the English language;2. Is educationally disadvantaged;3. Is homeless, as defined by federal law [see FD(LEGAL)], regardless of the residence of the child, of either parent of the child, or of the child's guardian or other person having lawful control;4. Is the child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority;5. Is the child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty; or6. Is or ever has been in the conservatorship of the Department of Family and Protective Services following an adversary hearing under Family Code 262.201. <p>A child who is eligible for enrollment under item 4 or 5 above remains eligible if the child's parent leaves the armed forces, or is no longer on active duty, after the child begins the prekindergarten class.</p>

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PREKINDERGARTEN

EHBG
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NOTICE The District shall develop a system to notify the population in the District with children who are eligible for enrollment in a free pre-kindergarten program of the availability of the program. The system must include public notices issued in English and Spanish.

HALF-DAY BASIS A free prekindergarten class shall be operated on a half-day basis.

TRANSPORTATION The District is not required to provide transportation for a prekindergarten class. If transportation is provided, it is included for funding purposes as part of the regular transportation system.

Education Code 29.153

TUITION-SUPPORTED OR DISTRICT-FINANCED The District may offer on a tuition basis or use District funds to provide:

1. An additional half-day of prekindergarten classes to children eligible for free prekindergarten; and
2. Half-day and full-day prekindergarten classes to children not eligible for free prekindergarten.

The District may not adopt a tuition rate that is higher than necessary to cover the added costs of the program, including any costs associated with collecting, reporting, and analyzing data under Education Code 29.1532(c) (regarding PEIMS data for prekindergarten programs). The District must submit its proposed tuition rate to the Commissioner for approval.

Education Code 29.1531

PROGRAM DESIGN The District's prekindergarten program shall be designed to develop skills necessary for success in the regular public school curriculum, including language, mathematics, and social skills. *Education Code 29.1532(a)*

DAILY PHYSICAL ACTIVITY The District shall require students in full-day prekindergarten to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year, as part of the District's physical education program or through structured activity during a campus's daily recess.

To the extent practicable, the District shall require a student enrolled in prekindergarten on less than a full-day basis to participate in the same type and amount of physical activity as a student enrolled in full-day prekindergarten.

If the District determines, for any particular grade level, that requiring moderate or vigorous daily physical activity is impractical due to scheduling concerns or other factors, the District may as an alternative require a student in that grade level to participate in mod-

erate or vigorous physical activity for at least 135 minutes during each school week.

The District must provide an exemption for a student who is unable to participate in the required physical activity because of illness or disability.

Education Code 28.002(l)

REPORT

The District shall report annually to TEA, on a form prescribed by the Commissioner, the strategies implemented by the District to increase community awareness of prekindergarten programs offered by the District. The report may be combined, at the discretion of the Commissioner, with another report that the District submits to TEA. TEA shall post the report on the TEA Web site.

Education Code 29.1534

PREKINDERGARTEN
EXPANSION GRANT

The District may use funds from grants administered by the Commissioner of Education to expand an existing half-day prekindergarten program to a full-day basis or to implement a prekindergarten program on a campus that does not have a prekindergarten program.

The District may use funds received under this program to employ teachers and other personnel for a prekindergarten program or to acquire curriculum materials or equipment, including computers, for use in prekindergarten programs.

The District may use funds granted under this program in contracting with another entity, including a private entity.

Education Code 29.155

READY TO READ
GRANT

A district that operates a prekindergarten program is eligible to apply for a Ready to Read grant if at least 75 percent of the children enrolled in the program are low-income students, as determined by Commissioner rule.

Grants shall be used to provide scientific, research-based prereading instruction for the purpose of directly improving prereading skills and for identifying cost-effective models for prereading intervention. Grants funds shall be used for:

1. Professional staff development in prereading instruction;
2. Prereading curriculum and materials;
3. Prereading skills assessment materials; and
4. Employment of prereading instructors.

Education Code 29.157

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STATEWIDE
INFORMATION
REFERRAL
NETWORK

The District shall provide the Texas Information and Referral Network with information regarding eligibility for and availability of child-care and education services for inclusion in the statewide information referral network. The District shall provide the information in a form determined by the executive commissioner of the Texas Health and Human Services Commission. *Gov't Code 531.0312*

“Child care and education services” includes child-care and education services provided by the District through a prekindergarten or after-school program. *Gov't Code 531.03131(a)*

Staff of the Texas Information and Referral Network shall send an electronic mail message to each appropriate entity containing the name of and contact information for each applicant and a description of the services for which the applicant is applying.

On receipt of such an electronic mail message, the District shall contact the applicant to verify information regarding the applicant's eligibility for available child-care and education services. On certifying eligibility, the District shall match the applicant with entities providing those services in the applicant's community, including local workforce development boards, local child-care providers, or a Head Start or Early Head Start program provider.

The District shall cooperate with the Texas Information and Referral Network as necessary in the administration of this project.

Gov't Code 531.0312(c)–(e)

SHARED SITE

Before establishing a new prekindergarten program, the District shall consider the possibility of sharing use of an existing Head Start or other child-care program site as a prekindergarten site. *Education Code 29.1533*

PRE-K LICENSING
STANDARDS

If the District contracts with a private entity to operate a prekindergarten program, the program shall comply at a minimum with the applicable child-care licensing standards adopted by the Texas Department of Family and Protective Services under Human Resources Code 42.042. *Education Code 29.1532(b)*

SPECIAL PROGRAMS
OTHER INSTRUCTIONAL INITIATIVES

EHBK
(LEGAL)

RECOGNITION DATES	The 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>

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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, the 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>
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 Constitu-

tion, 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)

"EDUCATION: GO GET IT" 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" 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. 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

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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

The 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, the 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

CPR INSTRUCTION

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

EXTENDED INSTRUCTIONAL PROGRAMS
COLLEGE COURSE WORK/DUAL CREDIT

EHDD
(LEGAL)

NOTICE TO PARENTS Each school year, the District shall notify the parent of each student enrolled in grade nine 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.

The District may provide the notice on the District's Internet Web site.

Education Code 28.010

**COLLEGE CREDIT
PROGRAM**

The 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. 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, the 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 credit hours the students have earned.

The 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**

The 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

EXTENDED INSTRUCTIONAL PROGRAMS
COLLEGE COURSE WORK/DUAL CREDIT

EHDD
(LEGAL)

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 the 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

The District may enter into an agreement with a public college to form a dual credit partnership. *19 TAC Ch. 4, Subch. D*

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)

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 a student to be considered a full-time student in average daily attendance. [See FEB] *Education Code 42.005*

PARTNERSHIP
AGREEMENT

The Board of the 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

CERTAIN ACADEMIES

The 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*

EXTENDED INSTRUCTIONAL PROGRAMS
DISTANCE LEARNING

EHDE
(LEGAL)

DISTANCE LEARNING

Credit toward state graduation requirements may be granted for distance learning courses only as follows:

1. Students may earn course credit through distance learning technologies, such as satellite, Internet, two-way videoconferencing, and instructional television.
2. The distance learning courses must include the state-required essential knowledge and skills for such a course.

19 TAC 74.23

STATE 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 the District or open-enrollment charter school.

Education Code 30A.001(4)

A qualifying district may provide an electronic course through the state virtual school network to students enrolled in that district or students enrolled in another district or open-enrollment charter school. *Education Code Ch. 30A*

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 state virtual school network. *Education Code 30A.006*

ACADEMIC ACHIEVEMENT
GRADING/PROGRESS REPORTS TO PARENTS

EIA
(LEGAL)

GRADING POLICY The District shall adopt a grading policy, including provisions for the assignment of grades on class assignments and examinations, before each school year. The 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

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 The Board shall adopt a policy that:

1. Provides for a conference between parents and teachers;
2. Requires the 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 the 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:

ACADEMIC ACHIEVEMENT
GRADING/PROGRESS REPORTS TO PARENTS

EIA
(LEGAL)

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)

Note: See DGBA and FNG for provisions regarding finality of grades.

NOTICE OF
PERFORMANCE
RATING

The first written notice of a student's performance that the 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 GND] *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

ACADEMIC ACHIEVEMENT
GRADING/PROGRESS REPORTS TO PARENTS

EIA
(LOCAL)

RELATION TO
ESSENTIAL
KNOWLEDGE AND
SKILLS

The District shall establish instructional objectives that relate to the essential knowledge and skills for grade-level subjects or courses. These objectives shall address the skills needed for successful performance in the next grade or next course in a sequence of courses.

Assignments, tests, projects, classroom activities, and other instructional activities shall be designed so that the student's performance indicates the level of mastery of the designated District objectives. The student's mastery level shall be a major factor in determining the grade for a subject or course.

GUIDELINES FOR
GRADING

The Superintendent or designee shall ensure that each campus or instructional level develops guidelines for teachers to follow in determining grades for students. These guidelines shall ensure that grading reflects a student's relative mastery of an assignment and that a sufficient number of grades are taken to support the grade average assigned. Guidelines for grading shall be clearly communicated to students and parents.

In accordance with grading guidelines, a student shall be permitted a reasonable opportunity to redo an assignment or retake a test for which the student received a failing grade.

ATTENDANCE

Regular attendance is an academically related factor that can affect the determination of a student's grade. Students shall be permitted to make up assignments and tests after absences.

WAIVERS

Waivers from the grading policy may be pursued with TEA or the Board so that schools may pilot alternative grading systems.

ONGOING FEEDBACK

Throughout the six weeks, students should know how well they are doing; there should be no surprises on the report card. Evaluative feedback shall be as immediate as possible, ongoing through the grading period, and not delayed until the sixth week. Some major grades shall be given in earlier weeks to minimize dramatic drops in the grading during the final weeks.

NOTICE TO PARENTS

Teachers shall have a conference with parents as needed and shall send out written notice to parents every three weeks of a student's performance in each class or subject. At the end of the third week of the grading period, parents shall be notified if the student's grade is below 75 in regular courses and below 80 in kindergarten-grade 8, GT/Pre-AP classes, or 80 in grades 9-12 Pre-AP and AP classes. These reports shall be mailed to the student's home and provide for the signature of the student's parent and shall be returned to the District.

ACADEMIC ACHIEVEMENT
GRADING/PROGRESS REPORTS TO PARENTS

EIA
(LOCAL)

ACADEMIC
DISHONESTY

Students found to have engaged in academic dishonesty shall be subject to disciplinary penalties and grade penalties on assignments or tests. Academic dishonesty includes cheating or copying the work of another student, plagiarism, and unauthorized communication between students during an examination. The determination that a student has engaged in academic dishonesty shall be based on the judgment of the classroom teacher or the professional employee, taking into consideration written materials, observation, or information from students.

RETEACHING

The purpose of ongoing evaluation is to determine the student's mastery of instructional objectives as they are taught or shortly afterwards. If a student in the class fails to master the objective, the objective should be retaught in class using a different method.

Reteaching is defined as another presentation of content, usually to provide an additional opportunity for a student to learn. Implementation of the District procedure for reteaching does not have to be detailed or prescriptive. Reteaching may vary from subject to subject or from class to class, even from student to student. It may be as simple as repeating the concept. If the student still does not understand the concept, the teacher might use different materials or modalities to present the concept again. If the initial instruction was primarily visual, the reteaching activity might be manipulative; if the teacher used the deduction approach initially, the reteaching activity might use an inductive approach, thus allowing the student to gain a new perspective on the task.

Reteaching is an integral part of the lesson cycle and may occur in many different situations such as during direct teaching as a teacher checks for understanding; guided practice as a teacher monitors; or during independent practice as students work individually or in cooperative learning groups.

Teachers shall plan for reteaching at the same time they plan initial instruction, thereby ensuring that alternative instructional strategies are immediately available when needed. Planning for reteaching may or may not be written and should not require excessive time or documentation. If initial reteaching efforts are unsuccessful, the more complex process of remediation may be necessary. Remediation implies analysis of the learning task and further diagnosis of a student's needs, including the identification of deficient prerequisite skills. Remediation may occur in many different situations.

Reteaching, to ensure that students master the material, may include but shall not be limited to the following:

ACADEMIC ACHIEVEMENT
GRADING/PROGRESS REPORTS TO PARENTS

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(LOCAL)

1. The student may be required to correct or rework unsatisfactory assignments; the grade earned shall replace the original grade.
2. The student may be required to retake a major examination; the grade earned shall replace the original grade.
3. The teacher may require the student to attend a tutorial program or remedial classes. Cocurricular or extracurricular activities shall not interfere with the requirement to attend these activities.
4. The teacher may assign additional work on a particular unit for the student to complete.
5. The teacher may work with small groups during class time while other students work independently.

SPECIAL EDUCATION
STUDENTS

Special education students are to be graded on the basis of the level specified in the individualized education program (IEP). The report card shall indicate the level on which the grade is based. If a special education student working below grade level consistently receives grades equivalent to an A or B, it is possible that the student should be working on a higher level and/or the pace of instruction should be increased.

CONVERSION SCALE

The grade conversion scale for all grade levels shall be as follows:

90 – 100	=	A
80 – 89	=	B
75 – 79	=	C
70 – 74	=	D
69 and below	=	F
90 – 100	=	Excellent
75 – 89	=	Satisfactory
70 – 74	=	Needs Improvement
69 and below	=	Unsatisfactory

TRANSFER STUDENTS

Transfer students with letter grades that have pluses and minuses shall be converted to District numerical grades using the following scale:

A+ = 98	C+ = 79	F = 69 and below
A = 95	C = 77	
A- = 92	C- = 75 (lowest "C" allowed)	
B+ = 88	D+ = 74	
B = 85	D = 72	
B- = 82	D- = 70	

ACADEMIC ACHIEVEMENT
GRADING/PROGRESS REPORTS TO PARENTS

EIA
(LOCAL)

HOMEWORK	Homework assignments shall be meaningful and an extension of classroom instruction that should be taken seriously by the student. The teacher shall examine and correct the homework. It shall be emphasized to students that homework is a contributing factor in learning.
MAKEUP WORK	<p>It is the student's responsibility to schedule a makeup test just as it is his or her responsibility to complete make-up work after absences. Except for extenuating circumstances such as a prolonged illness, makeup work and tests shall be completed within the same number of school days as days absent after the student's return to class. Failure to do so shall result in a zero grade. Extenuating circumstances must be approved by the principal.</p> <p>A student may make up work in essential knowledge and skills and other course requirements and earn a passing grade for the semester under extenuating circumstances that are approved by the principal.</p>
ROUTINE	Students shall receive credit for satisfactory makeup work after an absence, including absences as a result of suspension, but shall receive a zero for any assignment or test not made up within the allotted time.
IN-DEPTH	Teacher(s) may assign additional work to ensure that students who have been absent have sufficient opportunity to master the essential knowledge and skills to meet subject or course requirements. The assignments shall be based on the instructional objectives for the subject or course and may provide greater depth of subject matter than routine makeup work.
UNEXCUSED ABSENCES	Students shall receive credit for satisfactory makeup work after an unexcused absence. However, the highest grade for satisfactory makeup work shall be a grade of 70.
INCOMPLETE GRADES	<p>Incomplete grades must be removed as soon as possible, and it is the student's responsibility to complete all requirements for a permanent grade. Incomplete grades shall be removed within five school days after the grading period except for extenuating circumstances that have been approved in writing by the principal.</p> <p>Students who have not completed required work prior to the end of the six weeks due to an excused absence shall not be given a failing grade. Instead, they shall receive an "incomplete" and be allowed a designated time to complete the work. Students with an "incomplete" grade are ineligible to participate in extracurricular activities until the "I" is replaced with a passing grade, but they are entitled to the seven-day pre-suspension period (popularly known as the "seven-day grace period").</p>

ACADEMIC ACHIEVEMENT
GRADING/PROGRESS REPORTS TO PARENTS

EIA
(LOCAL)

ELEMENTARY GRADE PRE-K	<p>The District shall use the grading designations of “excellent,” “satisfactory,” “needs improvement,” or “unsatisfactory” for determining student progress and reporting to parents at the prekindergarten level.</p> <p>Since many prekindergarten skills are of an observable nature, sufficient observation should be indicated in the gradebook to warrant the grade given on the report card.</p>
ELEMENTARY GRADE K	<p>The District shall use the grading designations of a check mark for mastery and an “X” for nonmastery or “N/A” for not assessed at this time for determining student progress in the content areas and reporting to parents at the kindergarten level.</p> <p>The District shall use the grading designations of “excellent,” “satisfactory,” “needs improvement,” or “unsatisfactory” for determining student progress in work habits, conduct, physical education and fine arts and reporting to parents at the kindergarten level.</p> <p>Since many kindergarten skills are of an observable nature, sufficient observation should be indicated in the gradebook to warrant the grade given on the report card.</p>
GRADE 1 FIRST SIX WEEKS	<p>The following procedure shall be used in grade 1 for reporting to parents and recording grades on the permanent record. For the first six-week period, the following grading system shall be used for all subjects including conduct and work habits.</p> <p>E = Excellent S = Satisfactory N = Needs Improvement U = Unsatisfactory</p>
REMAINDER OF SCHOOL YEAR	<p>E, S, N, and U grading designations shall be used for the remainder of the school year in science, social studies, fine arts, physical education, health, handwriting, conduct, and work habits in the first grade.</p> <p>Beginning with the second six-week period and continuing throughout the year, numerical grades shall be given in language arts and mathematics in grade 1.</p>
GRADES 2–5 FOUNDATION	<p>In grades 2–3, numerical grades shall be used to indicate student progress in language arts, mathematics, science, and social studies. In grades 4 and 5, numerical grades shall be used to indicate student progress in reading, language arts, spelling, mathematics, science, and social studies. The actual grades earned are to be recorded by the teacher.</p>
ENRICHMENT	<p>Teachers responsible for fine arts, health, physical education, conduct, and work habits shall use “excellent,” “satisfactory,” “needs</p>

ACADEMIC ACHIEVEMENT
GRADING/PROGRESS REPORTS TO PARENTS

EIA
(LOCAL)

	improvement,” and “unsatisfactory” grades for the entire school year in grades 2–5.
GRADES 2–4 HANDWRITING	Teachers responsible for handwriting shall use “excellent,” “satisfactory,” “needs improvement,” and “unsatisfactory” grades for the entire school year in grades 2–4.
GRADE 5 HANDWRITING	For handwriting, student progress shall be indicated by “satisfactory” and “unsatisfactory.”
GRADES 1–5 NUMBER OF GRADES REPORTING	In grades 1–5, a minimum of nine grades per six-week period should be recorded in all subject areas. Students who receive grades below 50 on any work, daily or major test, shall have those grades recorded in the teacher grade book. Students not showing mastery must go through the reteaching process. No grade lower than 50 shall be recorded on the report card for any of the six-week periods. The six-week grade shall be determined by the following: 75 percent ongoing evaluation 25 percent major tests (magazine, chapter, unit)
MIDDLE SCHOOL GRADES 6, 7, 8	The six-week grade shall be determined on a minimum of 12 grades calculated in the following manner: 40 percent average daily grades 60 percent assessment
SECONDARY GRADES 9–12	Long-term projects, such as research papers, shall be graded at various stages of completion rather than only giving a grade for the final project. Each teacher shall develop a clearly defined grading procedure. A copy shall be distributed to students at the beginning of each course so they are aware of the way in which they will be evaluated.
NONWRITTEN WORK	With grades on nonwritten work (project, speech, group work), the teacher shall share clearly defined evaluative criteria with students before the exercise. These criteria shall serve as documentation, which is essential in a parent conference.
SIX-WEEK GRADE	The six-week grade shall be determined on a minimum of 12 grades with the following requirements: The average of all major assessments shall be weighted 60 percent. The average of all daily grades shall be weighted 40 percent.

ACADEMIC ACHIEVEMENT
GRADING/PROGRESS REPORTS TO PARENTS

EIA
(LOCAL)

	<p>Three of the 12 grades shall represent major assessments such as unit exams, projects, major papers, and the like.</p> <p>Ongoing evaluation shall represent homework, study guides, quizzes, daily participation, and the like.</p>
SEMESTER EXAM GRADES 9–12	<p>The purpose of the semester exam is to determine, in a formal way, the mastery and retention of instructional objectives. While all objectives are tested by ongoing evaluations, only the major ones, especially those basic to the future success of the student, shall be included in the semester exam. Teachers shall follow the semester exam schedule provided by the principal. The semester exam is counted as 20 percent of the semester grade.</p>
REPORTING GRADES 6–12	<p>Students who receive grades below 50 on any work, daily or major test, shall have those grades recorded in the teacher grade book. No grade lower than 50 shall be recorded on the report card for the first, second, fourth, and fifth six-week periods. During the third and sixth six-week periods, the actual grade earned by the student shall be entered on his or her report card at the end of each grading period.</p>
DROPPING COURSES	<p>Schedule changes should be made the week prior to the beginning of each semester. Necessary changes in courses may be made within the first five school days of a semester without the grade appearing on the transcript. The staff may change achievement levels in courses as needed. Students shall be responsible for making up work missed on essential knowledge and skills and objectives for the new course.</p> <p>In extenuating circumstances, the principal may allow a student to drop a course after five days. Students dropping a course after the second week, however, shall receive a failing grade in the course dropped and shall receive a failing grade for the new course for that semester.</p>
CHANGING FAILING GRADES	<p>The only situations in which a student's originally recorded failing grade may be changed to passing and the student's extracurricular eligibility restored are as follows: [See FNG(LEGAL)]</p> <ol style="list-style-type: none">1. There was a mechanical error in averaging or recording the original grade.2. The teacher's grading procedure violated either local policy or state rule, and the student would have received a passing grade if the correct procedure had been followed.

ACADEMIC ACHIEVEMENT
CLASS RANKING

EIC
(LEGAL)

AUTOMATIC
ADMISSION TO
INSTITUTION OF
HIGHER EDUCATION

Each general academic teaching institution [see Education Code 61.003(3)] shall admit an applicant for admission as an undergraduate student if the applicant:

1. Graduated with a grade point average in the top ten percent of the student's high school graduating class in one of the two school years preceding the academic year for which the applicant is applying for admission [see CLASS RANK, below];
2. Graduated from a public high school in Texas accredited by a generally recognized accrediting organization;
3. Successfully completed the Recommended or Advanced/Distinguished Achievement High School Program, or satisfied ACT's College Readiness Benchmarks on the ACT assessment applicable to the applicant or earned on the SAT assessment a score of at least 1,500 out of 2,400 or the equivalent; and
4. Submitted an application before the institution's application filing deadline.

Education Code 51.803(a); 19 TAC 5.5(b)

EXCEPTION

Beginning with admissions for the 2011–12 academic year, the University of Texas at Austin (UT) is not required to offer admission to applicants who qualify for automatic admission in excess of the number required to fill 75 percent of the university's enrollment capacity designated for first-time resident undergraduate students in an academic year.

If the number of applicants who apply to UT for admission in the next academic year and who qualify for automatic admission exceeds 75 percent of UT's enrollment capacity, UT shall, not later than September 15, provide to each district, for dissemination to high school juniors and their parents, notice of which percentile ranks of high school seniors who qualify for automatic admission are anticipated to be offered admission during the next school year.

Education Code 51.803(a-1)–(a-2)

CURRICULUM
REQUIREMENTS

An applicant who does not satisfy the curriculum requirements for the Recommended or Advanced/Distinguished Achievement High School Program is considered to have satisfied those requirements if the student completed the portion of the Recommended or Advanced curriculum that was available to the student but was unable to complete the remainder solely because the necessary courses were unavailable to the student at the appropriate times in the student's high school career as a result of course scheduling, lack of enrollment capacity, or another cause not within the student's con-

ACADEMIC ACHIEVEMENT
CLASS RANKING

EIC
(LEGAL)

trol. A student's transcript or diploma must, not later than the student's junior year, indicate the student's progress toward satisfying the curriculum requirements [see EI]. *Education Code 51.803(b), (c)*

SIGNS TO BE
POSTED

The Board shall require each high school in the District to post appropriate signs in each counselor's office, in each principal's office, and in each administrative building indicating the substance of the automatic admission provisions above. *Education Code 28.026*

DISSEMINATION

To assist in dissemination of information regarding the automatic admissions program, the District shall:

1. Require that each high school counselor and class advisor be provided a detailed explanation of the substance of the program;
2. Provide each student, at the time the student first registers for one or more classes required for high school graduation, with a written notification, using the appropriate form adopted by the Commissioner, of the substance of the program;
3. Require that each high school counselor and senior class advisor explain to eligible students the substance of the program;
4. Require that, at the beginning of grades 10 and 11, a certified counselor explain the requirements of automatic admission to a general academic teaching institution to each student who has a grade point average in the top 25 percent of the student's high school class [see EJ]; and
5. Not later than the 14th day after the last day of classes for the fall semester or an equivalent date in the case of a school operated on a year-round system, provide each eligible senior student and each junior student who has a grade point average in the top ten percent of the student's high school class, and the student's parent or guardian, with a written notification, using the appropriate form adopted by the Commissioner, of the student's eligibility with a detailed explanation in plain language of the substance of the program.

Education Code 28.026, 33.007(c)

CLASS RANK

High school rank for students seeking automatic admission to a general teaching institution on the basis of their class rank is determined and reported as follows:

ACADEMIC ACHIEVEMENT
CLASS RANKING

EIC
(LEGAL)

1. Class rank shall be based on the end of the eleventh grade, middle of the twelfth grade, or at high school graduation, whichever is most recent at the application deadline.
2. The top ten percent of a high school class shall not contain more than ten percent of the total class size.
3. The student's rank shall be reported by the applicant's high school or District as a specific number out of a specific number total class size.
4. Class rank shall be determined by the Texas school or school district from which the student graduated or is expected to graduate.

19 TAC 5.5(d)

CERTAIN
PROGRAMS

If the program meets the requirements of Education Code 51.8045, the Board may treat a high school magnet program, academy, or other special program conducted by the District at a high school attended by high school students who are not in the special program as an independent high school with its own graduating class for purposes of Education Code 51.803 and 51.804 only (top ten percent rule). *Education Code 51.8045*

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, the 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 (l); 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 the student's grade placement committee (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.

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, the District shall make public the requirements for student advancement under Education Code 28.021. *Education Code 28.021(e)*

RETENTION

The 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)*

ACADEMIC ACHIEVEMENT
RETENTION AND PROMOTION

EIE
(LEGAL)

GRADE
ADVANCEMENT
TESTING

The 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 the automatic retention component, if the following two criteria are met:

1. The student is enrolled in a District or charter school on any day between January 1 and April 15 of the school year during which the grade advancement test is administered; and
2. The student is eligible for enrollment in a Texas public school (as defined by legal residence in the state) during the week of the first general grade advancement test administration as established in the assessment calendar by the Commissioner.

An eligible student who does not meet the criteria specified above but enrolls in the District at any time after the week of the first general grade advancement test administration is subject to all grade advancement requirements except for automatic retention and shall not be automatically retained if the student does not demonstrate proficiency on any of the grade advancement tests.

The District must provide the student with the other required services in the overall system of support for student academic achievement, including the opportunity to test, access to accelerated instruction, and the formation of a GPC.

19 TAC 101.2003(b), (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

TEST SCHEDULE

TEA shall provide three opportunities per year for the tests required for grade advancement. The Superintendent shall establish procedures to ensure that:

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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)

The 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

The 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 the 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

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 district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area. 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. *Education Code 28.0211(a-1)*

UNSATISFACTORY
PERFORMANCE
ON GRADE
ADVANCEMENT TESTS

The 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, the District shall provide the student with accelerated instruction in the applicable subject area. Accelerated instruction should be consistent with previous diagnostic testing and intervention activities, if any, the student has received. 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.

Accelerated instruction required after the first and second testing opportunities should be designed to address student needs to the greatest extent possible before the next testing opportunity.

Accelerated instruction shall be based on the following:

1. Assessment of specific student needs, which may include, as appropriate, the following: teacher observations and evaluations; academic progress reports; previous identification of student needs and corresponding interventions; and performance on previous assessment instruments in the applicable subject.
2. Best instructional practices identified through research.

Education Code 28.0211(c); 19 TAC 101.2013(a)–(b), (e)

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. The 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. The 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)*

The District must accommodate the request of an out-of-District student to participate in any established, on-campus summer accelerated 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. *19 TAC 101.2013(d)*

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NOTICE TO
PARENTS OF
PERFORMANCE
AND ACCELERATED
INSTRUCTION

In addition to providing the accelerated instruction, the 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 the 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

The 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 test required for grade advancement the next year. The Superintendent shall establish the instruments/procedures to be used to make this determination; however, in the case of students in grade 2, it must include the results of the reading inventory required by Education Code 28.006. This notice shall be provided before the end of the school year preceding the grade advancement requirements. *19 TAC 101.2009(b)*

AFTER FIRST
TESTING
OPPORTUNITY
NOTICE

The District shall notify the parent or guardian of a student who has failed to demonstrate proficiency on the first administration of a grade advancement test. This notification should be made within five working days of the District's receipt of student test results from this administration. This notice shall include the student's test results, a description of the District's grade advancement policy, the 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 the District's receipt of student test results for the second administration of the test required for grade advancement, the District shall notify the campus principal of 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 test results. This notice shall include a de-

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GRADE
PLACEMENT
COMMITTEE

scription 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)*

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.

Decisions by the GPC shall be made on an individual student basis to ensure the most effective way 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 test 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). The District may accept a parent's or guardian's written designation of another person to serve on the GPC for all purposes. The 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, the District may use other methods to ensure parent participation, including individual or conference telephone calls. The 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. If the parent or guardian is unavailable, the remaining members of the GPC must convene as required by law and take any actions required.

Education Code 28.0211(c); 19 TAC 101.2007(a), (b)

ALTERNATE
ASSESSMENT

For the third testing opportunity, the Board may choose to use a state-approved alternate assessment instead of the statewide assessment instrument. If the 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

The 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 a test required for grade advancement and is thereby automatically retained at the same grade level. Within five working days of receipt of student test results for this administration, the District shall notify the campus principal of 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 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. The 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.

The review and decision of the GPC must be appropriately documented as meeting the standards adopted by the Board. These standards may include the following:

1. Evidence of satisfactory student performance, including grades, portfolios, work samples, local assessments, previous state assessments, and individual reading and mathematics diagnostic tests or inventories;
2. Improvement in student test performance over the three testing opportunities;
3. Extenuating circumstances that may have adversely affected the student's participation in instruction, the student's participation in the required assessments, or the student's participation in accelerated instruction; and
4. Consideration of whether the student was not enrolled in a Texas public school for part of the school year.

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)*

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

The District shall determine a student's previous testing history and, if applicable, the accelerated instructional program he or she has received. *19 TAC 101.2003(h)*

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 the

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	District's ability to appropriately place such a student. <i>19 TAC 101.2007(h)</i> [See FDA]
LIMITED ENGLISH PROFICIENT (LEP) STUDENTS	The language proficiency assessment committee (LPAC) shall determine appropriate assessment and acceleration options for a limited English proficient (LEP) student who is administered a grade advancement test in English or Spanish. The GPC for a LEP student shall make its decisions in consultation with a member of the student's LPAC. <i>19 TAC 101.2003(e)</i>
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. The student's admission, review, and dismissal (ARD) committee shall determine appropriate assessment and acceleration options for the student. <i>Education Code 28.0211(i); 19 TAC 101.2003(d), (f)</i>
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. <i>Education Code 28.021(b); 19 TAC 101.2003(g)</i> [See policies at EHB, EKB, and FB]
AGE-APPROPRIATE ASSIGNMENT	The 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, the 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. <i>19 TAC 101.2019(b)</i>
TRANSPORTATION TO ACCELERATED INSTRUCTION PROGRAMS	The 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. <i>Education Code 28.0211(j); 19 TAC 101.2013(c)</i>
OPTIONAL EXTENDED-YEAR PROGRAM	<p>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. <i>19 TAC 105.1001</i> [See EHBC]</p> <p>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</p>

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 the 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]

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CURRICULUM MASTERY	Promotion and course credit shall be based on mastery of the curriculum. Expectations and standards for promotion shall be established for each grade level, content area, and course and shall be coordinated with compensatory/accelerated services. [See EHBC]
STANDARDS FOR MASTERY	<p>In addition to the factors in law that must be considered for promotion, mastery shall be determined as follows:</p> <ol style="list-style-type: none">1. Course assignments and unit evaluation shall be used to determine student grades in a subject. An average of 70 or higher shall be considered a passing grade.2. Mastery of the skills necessary for success at the next level shall be validated by assessments that may either be incorporated into unit or final examinations or may be administered separately. Mastery of at least 70 percent of the objectives shall be required.
GRADES 1–8	In grades 1–8, promotion to the next grade level shall be based on an overall average of 70 on a scale of 100 based upon course-level, grade-level standards (essential knowledge and skills) for all subject areas and a grade of 70 or above in language arts, reading, and mathematics.
GRADES 9–12	Grade-level advancement for students in grades 9–12 shall be earned by course credits. [See EI]
STUDENTS WITH DISABILITIES	Promotion standards and appropriate assessment and acceleration options, as established by individualized education programs (IEP) or grade-level classification of students eligible for special education, shall be determined by the ARD committee.
LIMITED ENGLISH PROFICIENCY STUDENTS	<p>In assessing students of limited English proficiency for mastery of the essential knowledge and skills, the District shall be flexible in determining methods to allow the students to demonstrate knowledge or competency independent of their English language skills in the following ways:</p> <ol style="list-style-type: none">1. Assessment in the primary language.2. Assessment using ESL methodologies.3. Assessment with multiple varied instruments. [See EHBE]
STUDENT SUCCESS INITIATIVE	In addition to local standards for mastery and promotion, students in grades 5 and 8 must meet the passing standard on an applicable assessment instrument in the subjects required under state law in order to be promoted to the next grade.
DEFINITION OF 'PARENT'	For purposes of this policy and decisions related to the student success initiative, a student's "parent" shall be defined to include

either of the student's parents or guardians; a person designated by the parent, by means of a Power of Attorney, to have responsibility for the student in all school-related matters (see FD); a surrogate parent acting on behalf of a student with a disability; a person designated by the parent or guardian to serve on the grade placement committee (GPC) for all purposes; or in the event that a parent, guardian, or designee cannot be located, a person designated by the Superintendent or designee to act on behalf of the student. [See EIE(LEGAL)]

NO ALTERNATE
ASSESSMENT
INSTRUMENT

The District shall use only the statewide assessment instrument for the third testing opportunity.

STANDARDS FOR
PROMOTION UPON
APPEAL

If a parent initiates an appeal of his or her child's retention following the student's failure to demonstrate proficiency after the third testing opportunity, the GPC shall review all facts and circumstances in accordance with law and shall apply the following standards in deciding to promote or retain the student:

1. Evidence of satisfactory student performance, including grades, portfolios, work samples, local assessments, previous state assessments, or individual reading or mathematics diagnostic tests or inventories, as appropriate;
2. Improvement in student test performance over the three testing opportunities;
3. Extenuating circumstances that may have adversely affected the student's participation in instruction, required assessments, or accelerated instruction; and
4. Consideration of whether a student was not enrolled in a Texas public school for part of the school year.

The student shall not be promoted unless:

1. All members of the GPC agree that the student is likely to perform on grade level if given additional accelerated instruction during the following school year in accordance with the educational plan developed by the GPC; and
2. The student completes accelerated instruction in the subject area for which the student failed to demonstrate proficiency before placement in the next grade level.

Whether the GPC decides to promote or to retain a student in this manner, the committee shall determine an accelerated instruction plan for the student for the following school year, providing for interim reports to the student's parent and opportunities for the parent to consult with the teacher or principal as needed. The principal or

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designee shall monitor the student's progress during the following school year to ensure that he or she is progressing in accordance with the plan.

TRANSFER
STUDENTS

When a student transfers into the District having failed to demonstrate proficiency on applicable assessment instruments after two testing opportunities, a GPC shall convene for that student. The GPC shall review any available records of decisions regarding testing and accelerated instruction from the previous district and determine an accelerated instruction plan for the student.

If a parent initiates an appeal for promotion when a student transfers into the District having failed to demonstrate proficiency after three testing opportunities, the GPC shall review any available records of decisions regarding testing, accelerated instruction, retention, or promotion from the previous district and issue a decision in accordance with the District's standards for promotion.

ASSIGNMENT OF
RETAINED STUDENTS

In the event a student is not promoted to the next grade level, the District shall nevertheless assign the student to an age-appropriate campus, unless:

1. The student's parent requests that the student be assigned to the same or a similar campus setting; or
2. The student's GPC determines that it would be in the student's best interest to be assigned to the same or a similar campus setting. Criteria to be considered for this decision may include:
 - a. Recommendations from the student's teachers.
 - b. Observed social and emotional development of the student.

REDUCING STUDENT
RETENTION

The District shall establish procedures designed to reduce retaining students at a grade level, with the ultimate goal being elimination of the practice of retaining students. [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, the 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

The 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

DIPLOMA /
TRANSCRIPT /
CERTIFICATE OF
COURSEWORK
COMPLETION

Graduates of each high school are awarded the same type of diploma. The academic achievement record (transcript), rather than the diploma, records individual accomplishments, achievements, and courses completed and displays appropriate graduation seals. *19 TAC 74.41(a), 74.51(a), 74.61(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 nine, as determined by the 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.

A student's IEP developed under Education Code 29.005 [see EH-BAB] may be used as the student's PGP.

In addition, the District is encouraged to establish for each student entering grade nine 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

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 the 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 74.41(b), 74.51(b), 74.61(b)

Note: For current state graduation requirements, see Education Code 28.025 and <http://www.tea.state.tx.us/rules/tac/chapter074/index.html>.

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MINIMUM HIGH
SCHOOL PROGRAM

The District shall ensure that each student entering the ninth grade in the 2004–05 school year and thereafter 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 District.

A student agreeing to take courses under the Minimum High School Program may, upon request, resume taking courses under the Recommended High School Program.

NOTICE

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, the 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.

Education Code 28.025(b), (b-6), (b-8); 19 TAC 74.51(d), 74.52.–.54, 74.61(c)

REQUIREMENTS

A student must earn at least 22 credits to complete the Minimum High School Program. A student must demonstrate proficiency in the program requirements listed at 19 TAC 74.11. *19 TAC 74.42, 74.52*

RECOMMENDED
HIGH SCHOOL
PROGRAM

A student entering 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 Education Code 28.025. *Education Code 28.025; 19 TAC 74.63*

ADVANCED /
DISTINGUISHED
ACHIEVEMENT
HIGH SCHOOL
PROGRAM

A student entering 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 Education Code 28.025. *Education Code 28.025; 19 TAC 74.64*

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CURRICULUM MAY NOT VARY The 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 74.43(d), 74.44(e), 74.53(d), 74.54(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 74.41(g), 74.51(h)*

READING The 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 74.41(d), 74.51(e), 74.61(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)*

PHYSICAL EDUCATION SUBSTITUTIONS The Board may allow a student to substitute certain physical activities for the required credits of physical education, including the one-half credit of Foundations of Personal Fitness. The substitutions must be based on the physical activity involved in drill team, marching band, and cheerleading during the fall semester; Junior Reserve Officer Training Corps (JROTC); athletics; Dance I-IV; and two- or three-credit career and technology work-based training courses. *19 TAC 74.11(d)(7)(A)*

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(LEGAL)

PRIVATE OR COMMERCIALY SPONSORED PHYSICAL ACTIVITY PROGRAMS	The District, with the approval of the Commissioner, may allow a student to comply with the curriculum requirements for the required physical education credit by participating in a private or commercially sponsored physical activity program provided on or off a school campus and outside the regular school day. <i>Education Code 28.002(b-10)</i>
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 TAC 74.26. <i>19 TAC 74.11(f), 74.51(f), 74.61(f)</i> [See EEJA, EEJB, EEJC, EHDE, and EI]
GRADUATION OF SPECIAL EDUCATION STUDENTS	A student receiving special education services may graduate and be awarded a regular high school diploma if:
COMPLETION OF GENERAL EDUCATION REQUIREMENTS	<ol style="list-style-type: none">1. The student has satisfactorily completed the state's or District's (whichever is greater) minimum curriculum and credit requirements applicable to students in general education for graduation under the Recommend or Advanced/Distinguished Achievement Programs, including satisfactory performance on the exit-level assessment instrument; or2. The student has satisfactorily completed the state's or District's (whichever is greater) minimum curriculum 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 admission, review, and dismissal (ARD) committee shall determine whether satisfactory performance on a required state assessment shall also be required for graduation. <p><i>19 TAC 89.1070(b)</i></p>
COMPLETION OF IEP	A student receiving special education services may also graduate and receive a regular high school diploma when the student's ARD committee has determined that the student has successfully completed: <ol style="list-style-type: none">1. The student's IEP;2. One of the following conditions, consistent with the student's IEP:<ol style="list-style-type: none">a. Full-time employment, based on the student's abilities and local employment opportunities, in addition to suffi-

cient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the District;

- b. Demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the 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;
3. The state's or District's (whichever is greater) minimum credit requirements for students without disabilities; and
4. The state's or District's minimum curriculum requirements to the extent possible with modifications/substitutions only when it is determined necessary by the ARD committee for the student to receive an appropriate education.

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.

19 TAC 89.1070(c), (h)

AGING OUT

A student receiving special education services may also graduate and receive a regular high school diploma upon the ARD committee's determination that the student no longer meets age eligibility requirements and has completed the requirements specified in the IEP. *19 TAC 89.1070(d)*

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 and who will remain in school to complete their education do not have to be evaluated. *19 TAC 89.1070(e), (f)*

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

ACADEMIC ACHIEVEMENT
GRADUATION

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(LEGAL)

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]

ACADEMIC ACHIEVEMENT
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(LOCAL)

GRADE 9 BEFORE THE 2007–08 SCHOOL YEAR The following graduation requirements shall apply to students who entered grade 9 before the 2007–08 school year.

MINIMUM PROGRAM The District requires completion of 3 credits in addition to those required by the state for graduation under the Minimum Program. The additional credits shall be electives.

RECOMMENDED PROGRAM The District requires completion of 1 credit in addition to those required by the state for graduation under the Recommended Program. The additional credit shall be an elective.

ADVANCED / DISTINGUISHED ACHIEVEMENT PROGRAM The District requires completion of 1 credit in addition to those required by the state for graduation under the Advanced/Distinguished Achievement Program. The additional credit shall be an elective.

BEGINNING WITH GRADE 9 IN THE 2007–08 SCHOOL YEAR Application of the following graduation requirements began with students who entered grade 9 in the 2007–08 school year.

MINIMUM PROGRAM The District requires completion of 3 credits in addition to those required by the state for graduation under the Minimum Program. The additional credits shall be electives.

RECOMMENDED PROGRAM The District requires no additional credits for graduation under the Recommended Program beyond those mandated by the state.

ADVANCED / DISTINGUISHED ACHIEVEMENT PROGRAM The District requires no additional credits for graduation under the Advanced/Distinguished Achievement Program beyond those mandated by the state.

PHYSICAL EDUCATION SUBSTITUTIONS The District shall allow students to substitute certain physical activities for the required credits of physical education. Such substitution shall be based on the physical activity involved in the courses listed for this purpose in state rules. [See EIF(LEGAL)]

NO OTHER PHYSICAL ACTIVITY PROGRAMS The District shall not award state graduation credit for physical education for private or commercially sponsored physical activity programs conducted either on or off campus. [See also EHAC]

READING CREDITS The District shall offer up to 3 credits of reading for state graduation credit. The Superintendent or designee shall be responsible for establishing procedures to assess individual student needs and evaluate student progress and shall monitor instructional activities to ensure that student needs are met. Students shall be identified as eligible to earn reading credit based on:

1. Recommendation by a teacher or counselor.
2. Scores on assessment instruments and/or achievement tests.

ACADEMIC GUIDANCE PROGRAM

EJ
(LEGAL)

HIGHER EDUCATION
COUNSELING

Each counselor at an elementary, middle, or junior high school shall advise students and their parents or guardians regarding the importance of higher education, coursework designed to prepare students for higher education, and financial aid availability and requirements.

During the first school year a student is enrolled in high school, and again during a student's senior year, a counselor shall provide information about higher education to the student and the student's parent or guardian. The information must cover:

1. The importance of higher education;
2. The advantages of completing the recommended or advanced high school program;
3. The disadvantages of taking courses to prepare for a high school equivalency examination relative to the benefits of taking courses leading to a high school diploma;
4. Financial aid eligibility;
5. Instruction on how to apply for federal financial aid;
6. The center for financial aid information established under Education Code 61.0776;
7. The automatic admission of certain students to general academic teaching institutions as provided by Education Code 51.803;
8. The eligibility and academic performance requirements for the TEXAS Grant; and
9. The availability of programs in the District 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.

AUTOMATIC
ADMISSION

At the beginning of grades 10 and 11, a certified counselor shall explain the requirements of automatic admission to a general academic teaching institution to each student who has a grade point average in the top 25 percent of the student's high school class. [See EIC]

Education Code 33.007; 19 TAC 61.1071

NOTICE OF GRANT
PROGRAMS

In a manner that assists the District in implementing the District improvement plan, the District shall notify students in middle school, junior high school, and high school and those students' teachers, counselors, and parents of:

ACADEMIC GUIDANCE PROGRAM

EJ
(LEGAL)

1. The TEXAS Grant and the Teach for Texas Grant programs;
2. The eligibility requirements of each program;
3. The need for students to make informed curriculum choices to be prepared for success beyond high school; and
4. Sources of information on higher education admissions and financial aid.

NOTATION ON
TRANSCRIPT OR
DIPLOMA

The District shall ensure that each student's official transcript or diploma indicates whether the student has completed or is on schedule to complete:

1. The recommended or advanced high school curriculum; or
2. For a district that is covered by Education Code 56.304(f)(1) (unavailability of courses), the required portion of the recommended or advanced high school curriculum offered at the district's high school.

The District must include this information on the student's transcript not later than the end of the student's junior year.

Education Code 56.308

TESTING PROGRAMS

EK
(LEGAL)

LOCAL ACHIEVEMENT
TESTING

In addition to the state-administered assessment instruments, the District may adopt and administer criterion-referenced or norm-referenced assessment instruments, or both, at any grade level. A locally adopted norm-referenced assessment instrument must be economical, nationally recognized, and state-approved.

For purposes of this provision, "assessment instrument" means a District-commissioned achievement test, either nationally normed or criterion-referenced, that is group administered and reported publicly (such as to the Board) in the aggregate.

A company or organization scoring an assessment instrument shall send test results to the District for verification. The District shall have 90 days to verify the accuracy of test data and report the results to the Board.

The company or organization shall provide test results in electronic form to the District and to TEA. If the District develops its own assessment instrument, it must report the results in electronic form to TEA.

The District shall follow procedures for test security and confidentiality set forth in 19 TAC Chapter 101, Subchapter C. [See EKB] The District may not use the same form of an assessment instrument for more than three years.

Education Code 39.026, 39.032; 19 TAC 101.101

In any subject area for which a state assessment is administered, the District may not administer locally required assessments designed to prepare students for state assessments to any student on more than ten percent of the instructional days in any school year. A campus-level planning and decision-making committee may limit the administration of locally required assessments to ten percent or a lower percentage of the instructional days in any school year. This prohibition does not apply to the administration of college preparation assessments, advanced placement tests, international baccalaureate examinations, or state assessments. *Education Code 39.0262*

COLLEGE
PREPARATION
ASSESSMENTS

The following provisions apply only if the legislature appropriates funds for these purposes.

Each school year, and at state cost, the District shall administer an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument:

1. To students in the spring of the eighth grade, for the purpose of diagnosing the academic strengths and deficiencies of students before entrance into high school; and

TESTING PROGRAMS

EK
(LEGAL)

2. To students in the tenth grade, for the purpose of measuring a student's progress toward readiness for college and the workplace.

High school students, in the spring of the eleventh grade or during the twelfth grade, may select and take once, at state cost, one of the valid, reliable, and nationally norm-referenced assessment instruments used by colleges and universities as part of their undergraduate admissions processes. A high school student is not prohibited from taking a test more than once, at the student's own expense.

TEA shall:

1. Select and approve vendors of the specific assessment instruments administered under this section; and
2. Pay all fees associated with the administration of the assessment instrument, and the Commissioner shall reduce the total amount of state funds allocated to the District from any source in the same manner described for a reduction in allotments under Education Code 42.253.

Education Code 39.0261

HOME-SCHOOLED
STUDENTS

The following provisions apply to a home-schooled student entitled under Education Code 25.001 to attend school in the District.

The District shall permit a home-schooled student to participate in an administration of the PSAT/NMSQT or a college advanced placement test offered by the District.

"Home-schooled student" means a student who predominantly receives instruction in a general elementary or secondary education program that is provided by the parent, or a person standing in parental authority, in or through the child's home.

FEES

The District shall require a home-schooled student to pay the same fee to participate in such a test that a student enrolled in the District is required to pay.

NOTICE

The District shall post on an Internet Web site maintained by the District the date the PSAT/NMSQT will be administered and the date any college advanced placement tests will be administered. The notice must state that the PSAT/NMSQT or the advanced placement test is available for home-schooled students eligible to attend school in the District and describe the procedures for a home-schooled student to register for the test.

A district that does not maintain an Internet Web site must publish the notice in a newspaper in the District. If a newspaper is not pub-

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lished in the District, the District shall provide for the publication of notice in at least one newspaper in the county in which the District's central administrative office is located.

The required notice must be posted or published at the same time and with the same frequency with which the information is provided to a student who attends a District school.

Education Code 29.916

TESTING PROGRAMS
STATE ASSESSMENT

EKB
(LEGAL)

STATE ASSESSMENT
OF ACADEMIC SKILLS

Every student receiving instruction in the essential knowledge and skills shall take the appropriate criterion-referenced tests, as required by Education Code 39.023(a), (b), (c), (l), and 39.027(e) [see ALL STUDENTS, 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 exit-level test [see EXIT-LEVEL TESTING, below]. *Education Code 39.025(b); 19 TAC 101.7(a)*

LIMITED ENGLISH
PROFICIENCY (LEP)
STUDENTS

In grades 3–12, a limited English proficiency (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 TAC Chapter 101, subchapter AA. *19 TAC 101.5(d)* [See EKBA]

ADMINISTRATION

The District shall follow the test administration procedures established by TEA in the applicable test administration materials. The 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 the District's or cam-

pus'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 the District or campus to be closed or that would cause a small percentage 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 the 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

The 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 PROGRAMS
STATE ASSESSMENT

EKB
(LEGAL)

- ALL STUDENTS All students, except students who are exempt, shall be assessed in:
1. Mathematics, annually in grades 3 through 7 without the aid of technology and in grades 8 through 11 with the aid of technology on any assessment instruments that include algebra;
 2. Reading, annually in grades 3–9;
 3. Writing, including spelling and grammar, in grades 4 and 7;
 4. English language arts in grade 10;
 5. Social studies in grades 8 and 10; and
 6. Science in grades 5, 8, and 10.

Education Code 39.023(a)

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 the 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 admission, review, and dismissal (ARD) committee shall determine the allowable accommodations and shall document them in the student's individualized education program (IEP).

19 TAC 101.29; Education Code 39.023(n)

EXIT-LEVEL TESTING A student may not receive a high school diploma until the student has performed satisfactorily on the secondary TAKS exit-level assessment for English language arts, mathematics, social studies, and science. 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 testing requirement. *Education Code 39.025(a)–(a-2); 19 TAC 101.5(e)*

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.

19 TAC 101.7(a), 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 TAC 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 the 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, the 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(c-1); 19 TAC 101.4001, 101.4003, 101.4005

RETAKES

An eligible student or out-of-school individual who has not met graduation requirements may retest on a schedule determined by the Commissioner. A student who has been denied a diploma because the student failed to meet standards of performance on any sections of the instrument may retake the sections each time the instrument is administered. *Education Code 39.025(b); 19 TAC 101.7(a)(2), (d)*

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 committee. *Education Code 39.023(b); 19 TAC 101.5(c)*

MILITARY
DEPENDENTS

If the student is a military dependent, the District shall accept:

1. Exit or end-of-course 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]

REPORTING RESULTS
TO THE PUBLIC

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 the Board, after receipt from TEA. The information shall not contain the names of individual students or teachers. *Education Code 39.030(b)*

TO THE BOARD

The Superintendent shall accurately report all test results with appropriate interpretations to the Board according to the schedule in the applicable test administration materials.

TESTING PROGRAMS
STATE ASSESSMENT

EKB
(LEGAL)

TO PARENTS AND STUDENTS	<p>The District shall notify each of its students and his or her parent or guardian of test results, observing confidentiality requirements stated at CONFIDENTIALITY. 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>
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>
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 materials. 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:</p> <ol style="list-style-type: none"><li data-bbox="560 1572 1170 1604">1. Duplicating secure examination materials;<li data-bbox="560 1625 1333 1656">2. Disclosing the contents of any portion of a secure test;<li data-bbox="560 1677 1357 1751">3. Providing, suggesting, or indicating to an examinee a response or answer to a secure test item or prompt;<li data-bbox="560 1772 1422 1839">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.

The 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

STATE ASSESSMENT
LEP STUDENTS

EKBA
(LEGAL)

LANGUAGE
PROFICIENCY
ASSESSMENT
COMMITTEE (LPAC)

The language proficiency assessment committee (LPAC) [see EHBE] shall select the appropriate assessment option for each limited English proficiency (LEP) student. Assessment decisions must be made on an individual student basis in accordance with administrative procedures established by TEA. The LPAC must document the reason for any postponement or exemption in the student's permanent record file. The District shall make a reasonable effort to determine a student's previous testing history.
19 TAC 101.1003

ENGLISH LANGUAGE
PROFICIENCY TESTS

In kindergarten through grade 12, LEP students shall be administered state-identified English language proficiency assessments annually in listening, speaking, reading, and writing to fulfill the state requirements for the assessment and federal requirements under the No Child Left Behind Act. *19 TAC 101.1001*

EXEMPTIONS

Certain immigrant LEP students who have had inadequate schooling outside the United States may be eligible for an exemption from the assessment during a period not to exceed their first three school years of enrollment in United States schools.

An LEP student whose parent or guardian has declined bilingual education/ESL services is not eligible for an exemption.

DEFINITIONS

"Immigrant" is defined as a student who has resided outside the 50 United States for at least two consecutive years.

"Recent immigrant" means an immigrant who first enrolls in United States schools no more than 12 months before the administration of the test from which the postponement is sought.

"Recent unschooled immigrant" means an immigrant who initially enrolled in a school in the United States not more than 12 months before the date of the administration of an assessment and who, as a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum determined by the LPAC.

FEDERAL
ACCOUNTABILITY
TESTING

Exempt students shall be administered assessments in subjects and grades required by federal law and regulations as delineated in the test administration materials. Exempt students assessed only for federal accountability purposes shall not be subject to the grade advancement requirements under the Student Success Initiative [see EIE].

EXIT-LEVEL
ASSESSMENT

LEP students are not eligible for an exemption from the exit-level assessment on the basis of limited English proficiency. However, LEP students who are recent immigrants may postpone one time the initial administration of the exit-level test. *19 TAC 101.1005*

STATE ASSESSMENT
LEP STUDENTS

EKBA
(LEGAL)

FIRST YEAR

An immigrant LEP student may be administered an accommodated or alternative assessment instrument or may be granted an exemption from or a postponement of the administration of the state assessment for up to one year after initial enrollment in a school in the United States if the student has not demonstrated proficiency in English as determined by the assessment system developed to evaluate academic progress of an LEP student.

SUBSEQUENT
YEARS

An immigrant LEP student may be administered an accommodated or alternative assessment instrument or may be granted an exemption from or a postponement of the administration of the state assessment for up to:

1. An additional two years if the student received the one-year exemption and is a recent unschooled immigrant or is in a grade for which no assessment instrument in the primary language of the student is available; or
2. An additional four years if the student received the one-year exemption and the student's initial enrollment in a school in the United States was as an unschooled asylee or refugee.

The LPAC must determine that the student lacks the academic language proficiency in English necessary for an assessment in English to measure the student's academic progress in a valid, reliable manner.

DEFINITION

"Unschooled asylee or refugee" means a student who:

1. Initially enrolled in a school in the United States as:
 - a. An asylee as defined by 45 CFR 400.41; or
 - b. A refugee as defined by 8 U.S.C. 1101;
2. Has a visa issued by the United States Department of State with a Form I-94 Arrival/Departure record, or a successor document, issued by the United States Citizenship and Immigration Services that is stamped with "Asylee," "Refugee," or "Asylum"; and
3. As a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum prescribed under Education Code 28.002, as determined by the language proficiency assessment committee established under Education Code 29.063.

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

In grades 2–12, an immigrant LEP student who achieves a rating of advanced high on the state-administered English language profi-

ciency assessment in reading during the student's first school year of enrollment in United States schools is not eligible for an exemption in the second or third school year of enrollment in United States schools. An immigrant LEP student who achieves a rating of advanced or advanced high on this assessment during the student's second school year of enrollment in United States schools is not eligible for an exemption in the third school year of enrollment in United States schools. *Education Code 39.027(e); 19 TAC 101.1007*

ASSESSMENT IN
SPANISH

If a Spanish-version assessment is available, an immigrant student is not eligible for an LEP exemption and must take the assessment in either English or Spanish unless the LPAC makes the determinations at 19 TAC 101.1007(b)(4).

An LEP student may be administered a Spanish version of the assessment for a maximum of three years. If the LEP student is an immigrant, the number of LEP exemptions and administrations of the assessment in Spanish must not exceed three.

The District may administer the assessment in Spanish to a student who is not identified as LEP but who participates in a two-way bilingual program if the LPAC determines the assessment in Spanish is the most appropriate measure of the student's academic progress. The student may not be administered the Spanish-version assessment for longer than three years.

Education Code 39.023(l), (m); 19 TAC 101.1007

LEP STUDENTS IN
SPECIAL EDUCATION

The ARD committee, in conjunction with the LPAC, shall make decisions regarding the selection of assessments and appropriate accommodations for LEP students who receive special education services. *19 TAC 1001.1009(b)*

An LEP student who receives special education services may be exempted from the English language proficiency assessments only if the ARD committee, in conjunction with the LPAC, determines that these assessments cannot provide a meaningful measure of the student's annual growth in English language proficiency for reasons associated with the student's disability. *19 TAC 101.1009(c)*

The provisions at EXEMPTIONS apply to the assessment and the state's general assessments of academic skills. *19 TAC 101.1009(d)*

An LEP student who receives special education services and whose parent or guardian has declined bilingual services is not eligible for an exemption on the basis of limited English proficiency. *19 TAC 101.1009(e)*

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.

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SECTION F: STUDENTS

FH	STUDENT VOLUNTEERS
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FOCA	Disciplinary Alternative Education Program Operations
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FOE	Emergency and Alternative Placement
FOF	Students with Disabilities
FP	STUDENT FEES, FINES, AND CHARGES

EQUAL EDUCATIONAL OPPORTUNITY

FB
(LEGAL)

NONDISCRIMINATION	<p>The District shall provide equal opportunities to all individuals within its jurisdiction or geographic boundaries. <i>Education Code 1.002(a)</i></p> <p>No officer or employee of the District shall, when acting or purporting to act in an official capacity, refuse to permit any student to participate in any school program because of the student's race, religion, color, sex, or national origin. <i>Civ. Prac. & Rem. Code 106.001</i></p> <p>The District may not deny services to any individual eligible to participate in its special education program, but it shall provide individuals with disabilities special educational services as authorized by law. <i>Education Code 1.002(b)</i></p>
FEDERAL FUNDING RECIPIENTS	<p>No person shall be excluded from participation in, denied the benefits of, or subjected to discrimination by any district that receives federal financial assistance, on the basis of any of the following protected characteristics:</p> <ol style="list-style-type: none"><li data-bbox="557 892 690 934">1. Sex.<li data-bbox="557 945 1015 987">2. Race, color, or national origin.<li data-bbox="557 997 1432 1071">3. Disability, or relationship or association with an individual with a disability. [See EHB, EHBA series, and GA] <p><i>20 U.S.C. 1681 (Title VI); 42 U.S.C. 2000d (Title IX); 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act); 29 U.S.C. 794 (Section 504); 42 U.S.C. 12132 (Americans with Disabilities Act [ADA])</i></p>
HARASSMENT	<p>Sexual harassment of students is discrimination on the basis of sex under Title IX. <i>Franklin v. Gwinnett County Schools, 503 U.S. 60 (1992)</i> [See also DIA and FFH]</p>
HUMAN RIGHTS COORDINATOR	<p>The District shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, and the ADA. The District shall notify all students and employees of the name, office address, and telephone number of the employee(s) so designated.</p>
GRIEVANCE PROCEDURES	<p>The District shall adopt and publish grievance procedures for prompt and equitable resolution of student complaints alleging discrimination under these statutes. [See FNG]</p> <p><i>34 CFR 106.8 (Title IX); 34 CFR 104.7 (Section 504)</i></p>
RETALIATION	<p>The District shall not coerce, intimidate, threaten, retaliate against, or interfere with any person who attempts to assert a right protected by the above laws or cooperates with investigation and enforcement proceedings under these laws. <i>34 CFR 100.7(e) (Title VI), 104.61 (Section 504), 106.71 (Title IX)</i></p>

EQUAL EDUCATIONAL OPPORTUNITY

FB
(LEGAL)

STUDENTS WITH
LEARNING
DIFFICULTIES

The Texas Education Agency shall produce and provide to school districts a written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education. The explanation must state that a parent is entitled at any time to request an evaluation of the parent's child for special education services under Education Code 29.004. Each school year, each district shall provide the written explanation to a parent of each district student by including the explanation in the student handbook or by another means. *Education Code 26.0081*

SECTION 504

DEFINITIONS

'STUDENT WITH A
DISABILITY'

A "student with a disability" is one who has a physical or mental impairment that substantially limits one or more of the student's major life activities, has a record of having such an impairment, or is being regarded as having such an impairment.

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

A student meets the requirement of being "regarded as" having an impairment if the student establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. This provision does not apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of 6 months or less.

'MAJOR LIFE
ACTIVITIES'

"Major life activities" include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. "Major life activity" also includes the operation of major bodily functions, including functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

29 U.S.C. 705; 42 U.S.C. 12102

EQUAL EDUCATIONAL OPPORTUNITY

FB
(LEGAL)

FREE APPROPRIATE
PUBLIC EDUCATION
(FAPE)

The District shall provide a free appropriate public education to each qualified student with a disability within the District's jurisdiction, regardless of the nature or severity of the student's disability.

A student with a disability is "qualified" if he or she is between the ages of three and 21, inclusive. *28 CFR 35.104(l)(2)*

An appropriate education is the provision of regular or special education and related services that are:

1. Designed to meet the student's individual educational needs as adequately as the needs of students who do not have disabilities are met; and
2. Based on adherence to procedures that satisfy federal requirements for educational setting, evaluation and placement, and procedural safeguards, as set forth below.

34 CFR 104.33(b)

Implementation of an individualized education program (IEP) under IDEA is one means for providing FAPE. *34 CFR 104.33(b)(2)*

Note: See EHBA series for policies regarding the provision of special education to students with disabilities under IDEA who require special education in order to benefit from a free appropriate public education.

EDUCATIONAL
SETTING

The District shall place a student with a disability in the regular educational environment, unless the District demonstrates that education in the regular environment with the use of supplemental aids and services cannot be achieved satisfactorily. *34 CFR 104.34(a)*

In providing or arranging for nonacademic and extracurricular services and activities, the District shall ensure that a student with a disability participates with students who do not have disabilities to the maximum extent appropriate to the needs of the student with a disability. *34 CFR 104.34(b), 104.37*

EVALUATION AND
PLACEMENT

The District shall establish standards and procedures for the evaluation and placement of persons who, because of disability, need or are believed to need special education and related services. The District shall conduct an evaluation before the initial placement, or any significant change in placement, of the student. *34 CFR 104.35*

MILITARY
DEPENDENTS

In compliance with the requirements of Section 504, and with Title II of the Americans with Disabilities Act (42 U.S.C. Sections 12131–12165), the District shall make reasonable accommodations and

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(LEGAL)

	<p>modifications to address the needs of incoming military dependents with disabilities, subject to an existing Section 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the District from performing subsequent evaluations to ensure appropriate placement of the student. <i>Education Code 162.002 art. V, § C</i> [See FDD]</p>
PROCEDURAL SAFEGUARDS	<p>The District shall establish a system of procedural safeguards with respect to the identification, evaluation, and educational placement of persons who need or are believed to need special instruction or related services.</p> <p>The system shall include notice, an opportunity for the student's parent or guardian to examine relevant records, an impartial hearing with the opportunity for participation by the student's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of IDEA is one means of meeting this requirement. <i>34 CFR 104.36</i></p>
HOMELESS CHILDREN	<p>The District shall adopt policies and practices to ensure that homeless children are not stigmatized or segregated on the basis of their homeless status. [See EHBD and FDC]</p>
LIAISON	<p>The District shall designate an appropriate staff person as the District liaison for homeless children. The District shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaison. [See FFC]</p> <p><i>No Child Left Behind Act of 2001, 42 U.S.C. 11432(g)(1)(J)(i), (ii)</i></p>
RELIGIOUS FREEDOM	<p>The District may not substantially burden a student's free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. <i>Civ. Prac. & Rem. Code 110.003</i> [See also DAA and GA]</p>
DISCRIMINATION ON THE BASIS OF SEX	<p>No person in the United States shall, on the basis of sex, be excluded from participation in, denied the benefits of, or be subjected to discrimination by any district receiving federal financial assistance. <i>20 U.S.C. 1681(a)</i></p> <p>The District shall not provide any course or otherwise carry out any of its educational programs or activities separately on the basis of sex, or require or refuse participation therein on the basis of sex, including health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses. <i>34 CFR 106.34</i></p>
SEPARATE FACILITIES	<p>The District may provide separate toilet, locker room, and shower facilities on the basis of sex, but the facilities provided for one sex</p>

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	shall be comparable to the facilities provided for the other sex. <i>34 CFR 106.33</i>
HUMAN SEXUALITY CLASSES	Portions of classes in elementary and secondary school that deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.
VOCAL MUSIC ACTIVITIES	The District may make requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex. <i>34 CFR 106.34</i>
SINGLE-SEX PROGRAMS	The District shall not, on the basis of sex, exclude any student from admission to an institution of vocational education or any other school or educational unit operated by the District unless the District otherwise makes available to the student, pursuant to the same policies and criteria of admission, comparable courses, services, and facilities. <i>34 CFR 106.35</i>
PREGNANCY AND MARITAL STATUS	A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex. <i>34 CFR 106.40</i> [See FND]
PHYSICAL EDUCATION CLASSES	The District may group students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.
SKILLS ASSESSMENT	Where use of a single standard of measuring skill or progress in physical education classes has an adverse effect on members of one sex, the District shall use appropriate standards that do not have such effect.
CONTACT SPORTS	The District may separate students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact. <i>34 CFR 106.34</i>
ATHLETIC PROGRAMS	The District shall not discriminate, on the basis of sex, in interscholastic or intramural athletics or provide any such athletics separately on such basis.
SINGLE-SEX TEAMS	The District may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but not for members of the other sex, and athletic opportunities for members of that sex have previously been

limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport.

EQUAL ATHLETIC
OPPORTUNITIES

A district that operates or sponsors interscholastic or intramural athletics shall provide equal athletic opportunity for members of both sexes. The following factors shall be considered in determining whether the District provides equal athletic opportunities:

1. Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;
2. Provision of equipment and supplies;
3. Scheduling of games and practice time;
4. Travel and per diem allowance;
5. Opportunity to receive coaching and academic tutoring;
6. Assignment and compensation of coaches and tutors;
7. Provision of locker rooms and practice and competitive facilities;
8. Provision of medical and training facilities and services;
9. Provision of housing and dining facilities and services; and
10. Publicity.

34 CFR 106.41

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GENERAL ELIGIBILITY The Board or its designee shall admit into the public schools of the 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. The 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), (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.

20 U.S.C. 6399

- 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

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(LEGAL)

as, a regular sleeping accommodation for human beings.

Education Code 25.001(b); 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

The 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. The Board or its designee shall establish minimum proof of residency acceptable to the District. The Board or its designee may make reasonable inquiries to verify a person's eligibility for admission. When admission is sought under item 4 above, the Board shall determine whether an applicant qualifies as a resident of the District and may adopt reasonable

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guidelines for making that determination as necessary to protect the best interest of students. *Education Code 25.001(c), (d)*

The District may withdraw any student who ceases to be a resident. *Daniels v. Morris, 746 F.2d 271 (5th Cir. 1984)*

ILLEGAL ALIENS

Denying enrollment 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

The 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 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 extra-curricular, civic, social, or recreational activities, including athletic activities.

The authorization agreement must conform to the requirements of Family Code Chapter 34.

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

ADMISSIONS

FD
(LEGAL)

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 the 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 the 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 the school or outside the 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 The 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 the District. *Education Code 25.003*

TEXAS YOUTH COMMISSION A school-age child of an employee of the Texas Youth Commission (TYC) residing in an adjacent district may attend school in the 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 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. The 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), (b)

The 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 the 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)

CHILD IN FPS
POSSESSION

The District shall enroll a child without the required documentation if the Department of Family and Protective Services (FPS) has taken possession of the child. FPS shall ensure that the required documentation is furnished to the 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, the 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 the 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), (c)

ADMISSIONS

FD
(LEGAL)

- 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, the 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 the 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 the District may charge [see FDA] or the amount the District has budgeted per student as maintenance and operating expense, whichever is greater. *Education Code 25.001(h)*

The 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)*

ADMISSIONS

FD
(LEGAL)

PLACEMENT OF
TRANSFERS
CREDITS AND
RECORDS

The 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 the District's discretion. Transfer students shall not be prohibited from attending school pending receipt of transcripts or academic records from the district the student previously attended. *19 TAC 74.26(a)(1)*

The 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 educational programs. *Education Code 30.104*

The 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. The 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 the 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 the 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

ADMISSIONS

FD
(LEGAL)

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 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]

ADMISSIONS
MILITARY DEPENDENTS

FDD
(LEGAL)

DEFINITIONS	
ACTIVE DUTY	“Active duty” means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211.
CHILDREN OF MILITARY FAMILIES	“Children of military families” means a school-aged child, enrolled in kindergarten through twelfth grade, in the household of an active duty member.
DEPLOYMENT	“Deployment” means the period one month prior to the service members’ departure from their home station on military orders through six months after return to their home station.
TRANSITION	“Transition” means: <ol style="list-style-type: none">1. The formal and physical process of transferring from school to school; or2. The period of time in which a student moves from one school in the sending state to another school in the receiving state.
UNIFORMED SERVICES	“Uniformed services” means the Army, Navy, Air Force, Marine Corps, Coast Guard, as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.
VETERAN	“Veteran” means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable. <i>Education Code 162.002 art. II, §§ A–B, D, Q–S</i>
APPLICABILITY	Education Code Chapter 162 shall apply to the children of: <ol style="list-style-type: none">1. Active duty members of the uniformed services, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211;2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.
EXCEPTIONS	Education Code Chapter 162 shall not apply to the children of: <ol style="list-style-type: none">1. Inactive members of the national guard and military reserves;2. Members of the uniformed services now retired, except as provided above;

3. Veterans of the uniformed services, except as provided above; and
4. Other U.S. Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

Education Code 162.002 art. III, §§ A, C

ELIGIBILITY FOR
ENROLLMENT

Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law, shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

CONTINUED
ATTENDANCE

A transitioning military child, placed in the care of a non-custodial parent or other person standing *in loco parentis* who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which the child was enrolled while residing with the custodial parent.

Education Code 162.002 art. VI, § A

EDUCATION RECORDS
UNOFFICIAL
RECORDS

In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial education records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records, the District shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

OFFICIAL RECORDS

Simultaneous with the enrollment and conditional placement of the student, the District shall request the student's official education record from the sending district. Upon receipt of this request, the sending district will process and furnish the official education records to the District within ten days.

Education Code 162.002 art. IV, §§ A–B

TUITION

The District shall be prohibited from charging tuition to:

1. A transitioning military child placed in the care of a non-custodial parent or other person standing *in loco parentis* who lives in a jurisdiction other than that of the custodial parent; or
2. A student who is domiciled in another state and resides in military housing that is located in the District but is exempt from taxation by the District.

Education Code 25.004, 162.002 art. VI, § A

GRADE-LEVEL
PLACEMENT

Students shall be allowed to continue their enrollment at grade level in the District commensurate with their grade level, including kindergarten, from the sending district at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level shall be eligible for enrollment in the next highest grade level in the District, regardless of age. A student transferring after the start of the school year shall enter the District on his or her validated level from an accredited school in the sending state. *Education Code 162.002 art. IV, § D*

COURSE PLACEMENT

When the student transfers before or during the school year, the District shall initially honor placement of the student in educational courses based on the student's enrollment in the sending district and/or educational assessments conducted at the sending district if the courses are offered. Course placement includes but is not limited to honors, international baccalaureate, advanced placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the District from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s).

EDUCATIONAL
PROGRAM
PLACEMENT

The District shall initially honor placement of the student in educational programs based on current educational assessments conducted at the sending district or participation/placement in like programs in the sending state. Such programs include, but are not limited to:

1. Gifted and talented programs; and
2. English as a second language (ESL).

This does not preclude the District from performing subsequent evaluations to ensure appropriate placement of the student.

WAIVERS

District administrative officials shall have flexibility in waiving course/program prerequisites, or other preconditions for placement in courses/programs offered in the District.

Education Code 162.002 art. V, §§ A–B, D

Other Related Policies:

EHBAB — INDIVIDUALIZED EDUCATION PROGRAM (IEP)
AND ARDS

EIF — GRADUATION

West Orange-Cove CISD
181906

ADMISSIONS
MILITARY DEPENDENTS

FDD
(LEGAL)

EKB — STATE ASSESSMENT

FB — EQUAL EDUCATIONAL OPPORTUNITY

FEA — COMPULSORY ATTENDANCE

FFAB — IMMUNIZATIONS

FL — STUDENT RECORDS

FM — STUDENT ACTIVITIES

ADMISSIONS
SCHOOL SAFETY TRANSFERS

FDE
(LEGAL)

SCHOOL SAFETY
CHOICE OPTION

TEA shall establish and implement a statewide policy requiring that a student be allowed to attend a safe public elementary or secondary school within the District, including a public charter school, if the student:

1. Attends a persistently dangerous public elementary or secondary school, as defined by TEA; or
2. Becomes a victim of a violent criminal offense, as determined by state law, while in or on the grounds of the public elementary or secondary school that the student attends.

No Child Left Behind Act of 2001, 20 U.S.C. 7912

SEXUAL ASSAULT
TRANSFER

For the purposes of the following provisions:

1. "Assailant" means a student who has been adjudicated for continuous sexual abuse of a young child or children, sexual assault, or aggravated sexual assault if the assault was committed against another student who, at the time of the offense, was assigned to the same campus as the assailant, regardless of whether the conduct occurred on or off of school property.
2. "Victim" means the victim of the sexual assault.

TRANSFER OF
VICTIM

On the request of a parent or other person with authority to act on behalf of the victim of the sexual assault, the Board shall transfer the victim to:

1. A District campus other than the campus to which:
 - a. The victim was assigned at the time the conduct occurred;
 - b. The assailant is assigned, if the assailant has been assigned to a different campus since the conduct occurred;or
2. A neighboring school district, if there is only one campus in the District serving the grade level in which the victim is enrolled.

The transfer must be to a campus or school district, as applicable, agreeable to the parent or other person with authority to act on the victim's behalf.

TRANSFER OF
ASSAILANT

If the victim does not wish to transfer to another campus or district, the Board shall transfer the assailant to:

1. A District campus other than the campus to which the victim is assigned; or

2. The District's disciplinary alternative education program or juvenile justice alternative education program, if there is only one campus in the District serving the grade level in which the assailant is enrolled. [See FOC]

To the extent permitted under federal law [see FL], the District shall notify the parent or other person with authority to act on behalf of the victim of the campus or program to which the assailant is assigned.

Education Code 25.034 [see FDB] does not apply to a transfer under this provision.

The District is not required to provide transportation to a student who transfers to another campus or district under this provision.

Education Code 25.0341

SAFE SCHOOLS DATA The Superintendent or designee shall ensure that the District complies with TEA guidelines for the collection and maintenance of data regarding:

1. Mandatory expellable offenses committed at school or at a school-related or school-sponsored activity, on or off school property [see FOD], and
2. Any student who becomes a victim of one of the following violent criminal offenses, as defined by the Penal Code, while in or on the grounds of the school the student attends:
 - a. Attempted murder;
 - b. Indecency with a child;
 - c. Aggravated kidnapping;
 - d. Assault resulting in bodily injury or aggravated assault;
 - e. Sexual assault or aggravated sexual assault; or
 - f. Aggravated robbery.

SCHOOL SAFETY TRANSFERS The parent of a student who becomes a victim of a violent criminal offense as described above or who is assigned to a campus identified by TEA as persistently dangerous shall be offered a transfer to a safe public or charter school within the District.

For each transfer requested, the District shall explore transfer options, as appropriate. Options may include a transfer agreement with another school district.

FROM A PERSISTENTLY DANGEROUS SCHOOL The parent of a student attending a school identified as persistently dangerous shall be provided notification of his or her right to request a transfer. Notification shall occur at least 14 days prior to the start of the school year or, for a student enrolling subsequently, upon the student's enrollment.

The parent must submit to the Superintendent or designee an application for transfer. The Superintendent or designee shall complete the transfer prior to the beginning of the school year, if applicable, or within 14 calendar days of the request for a subsequently enrolling student.

Any transfer arranged for a student from a campus identified by TEA as persistently dangerous shall be renewed so long as the campus from which the student transferred retains that designation.

ADMISSIONS
SCHOOL SAFETY TRANSFERS

FDE
(LOCAL)

The District shall maintain, in accordance with the District's record retention schedule, documentation of notification to parents of the transfer option, transfer applications submitted, and action taken.

FOR A VICTIM OF A
VIOLENT CRIMINAL
OFFENSE

Within 14 calendar days after a violent criminal offense described above occurs in or on the grounds of the school the student attends, the District shall notify the parent of a student who is a victim of the offense of the parent's right to request a transfer. The parent must submit to the Superintendent or designee an application for transfer. The Superintendent or designee shall approve or disapprove the request within 14 calendar days of its submission.

Any transfer arranged for a student who was a victim of a violent crime as described above shall be renewed so long as the threat to the student exists at the campus to which the student would typically be assigned.

For each offense, the District shall maintain for at least five years documentation of the nature and date of the offense, notification to the parent of the transfer option, transfer applications submitted, action taken, and other relevant information regarding the offense.

ADDITIONAL
TRANSFER OPTIONS

In circumstances described by Education Code 25.0341, a parent of a student who has been the victim of a sexual assault, regardless of whether the offense occurred on or off school property, may request a transfer of the parent's child or the student assailant from the same campus. [See also FDA and FDB]

ATTENDANCE
COMPULSORY ATTENDANCE

FEA
(LEGAL)

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 eighteenth birthday shall attend school each school day for the entire period the program of instruction is offered. The 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.

The Board may adopt a policy requiring the student to attend school until the end of the school year. If the 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 the 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]

ATTENDANCE
COMPULSORY ATTENDANCE

FEA
(LEGAL)

- 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 the 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)

- c. Has established a residence separate and apart from the student's parent, guardian, or other person having lawful control of the student; or
 - d. Is homeless as defined by 42 U.S.C. 11302.
 - 7. HIGH SCHOOL REPLACEMENT PROGRAMS The student is enrolled in the Texas Academy of Leadership in the Humanities or Texas Academy of Mathematics and Science.
 - 8. 16-YEAR-OLD IN GED PROGRAM OR JOB CORPS The student is at least 16 years old and is attending a course of instruction to prepare for the high school equivalency examinations, if:
 - a. The student is recommended to take the course by a public agency that has supervision or custody of the student under a court order; or
 - b. The student is enrolled in a Job Corps training program under the Workforce Investment Act of 1998, 29 U.S.C. 2801.
 - 9. OTHER EXEMPTION The student is specifically exempted under another law.
Education Code 25.086
- EXCUSED ABSENCES FOR COMPULSORY ATTENDANCE DETERMINATIONS
- The District shall excuse a student from attending school for the following purposes:
- 1. RELIGIOUS HOLY DAYS 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.
 - 2. COURT APPEARANCES 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.
 - 3. CITIZENSHIP PROCEEDINGS Appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship, including travel for this purpose.
 - 4. Taking part in a United States naturalization oath ceremony, including travel for this purpose.
 - 5. ELECTION CLERKS Serving as an election clerk, including travel for this purpose.

ATTENDANCE
COMPULSORY ATTENDANCE

FEA
(LEGAL)

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. "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

The 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)

TAPS AT MILITARY
FUNERAL

In addition, the 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.

MAKE-UP WORK

The student shall be allowed a reasonable time to make up school work missed on the days described above. If the student satisfactorily completes the work, the days of absence shall be counted as days of compulsory attendance. The student shall not be penalized for the absence.

Education Code 25.087(c)

OTHER EXCUSED
ABSENCES

TEMPORARY
ABSENCES

A person required to attend school may be excused for temporary absence resulting from any cause acceptable to the teacher, principal, or Superintendent of the school in which the person is enrolled. *Education Code 25.087(a)*

ATTENDANCE
COMPULSORY ATTENDANCE

FEA
(LEGAL)

SPECIAL EDUCATION MATTERS	Students may be excused for special education assessment procedures and for special education-related services. <i>19 TAC 129.21(l)</i>
MILITARY DEPENDENTS	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 [See FDD]</i>
NOTICES TO PARENTS WARNING NOTICE	The 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.
NOTICE OF ABSENCES	<p>The 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. <p>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.</p> <p><i>Education Code 25.095</i></p>
NON-ATTENDANCE PARENT LIABILITY	<p>A parent or person standing in parental relation commits an offense if:</p> <ol style="list-style-type: none">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

ATTENDANCE
COMPULSORY ATTENDANCE

FEA
(LEGAL)

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 the District to determine whether to excuse the absence for another purpose.

Education Code 25.093

STUDENT LIABILITY

A student who is required to attend school under the compulsory attendance laws and fails to attend school on ten or more days or parts of days within a six-month period in the same school year 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 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), (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)*

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.

ATTENDANCE
COMPULSORY ATTENDANCE

FEA
(LEGAL)

A decision by the court to excuse an absence for this purpose does not affect the ability of the District to determine whether to excuse the absence for another purpose.

Education Code 25.094(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, the 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 the District that does not comply with these requirements.

The 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

ATTENDANCE
COMPULSORY ATTENDANCE

FEA
(LOCAL)

Students in violation of the compulsory attendance law shall be reported to the District attendance officer, who may institute court action as provided by law.

STUDENTS AGE 18
AND OVER

A student who voluntarily attends school after the student's 18th birthday shall be required to attend school until the end of the school year.

HIGHER EDUCATION
VISITS

A student shall be excused for up to two days during the student's junior year and up to two days during the student's senior year to visit an accredited institution of higher education. A student shall be required to submit verification of such visits in accordance with administrative regulations.

WITHDRAWAL FOR
NONATTENDANCE

The District may initiate withdrawal of a student under the age of 18 for nonattendance under the following conditions:

1. The student has been absent ten consecutive school days; and
2. Repeated efforts by the attendance officer and/or principal to locate the student have been unsuccessful.

For withdrawal of students 18 or older, see FEA(LEGAL).

STUDENTS IN
HOMESCHOOLS

When the District becomes aware that a student is being or will be homeschooled, the Superintendent or designee may request in writing a letter of notification from the parents of their intention to homeschool using a curriculum designed to meet basic education goals of reading, spelling, grammar, mathematics, and a study of good citizenship.

If the parents refuse to submit a letter of notification or if the District has evidence that the school-age child is not being homeschooled within legal requirements, the District may investigate further and, if warranted, shall pursue legal action to enforce the compulsory attendance law.

RECORDS	<p>The District shall maintain records to reflect the average daily attendance (ADA), as required by the Commissioner. The Superintendent, principals, and teachers are responsible to the Board and the state to maintain accurate, current attendance records. <i>19 TAC 129.21(a)</i></p> <p>Districts shall use the student attendance accounting standards established by the Commissioner to maintain records and make reports on student attendance and student participation in special programs. The official standards are described in TEA's <i>Student Attendance Accounting Handbook</i>. <i>19 TAC 129.1023-.1025</i></p> <p>The Superintendent is responsible for the safekeeping of attendance records and reports. The Superintendent may determine whether the properly certified attendance records or reports for the school year are to be filed in the central office or properly stored on the respective school campuses of the District. Regardless of where such records are filed or stored, they must be readily available for audit by TEA. <i>19 TAC 129.21(m)</i></p>
MINIMUM ENROLLMENT	<p>A student must be enrolled for at least two hours to be considered in membership for one half day, and for at least four hours to be considered in membership for one full day.</p>
FULL-DAY STUDENTS	<p>Students enrolled on a full-day basis may earn one full day of attendance each school day.</p>
HALF-DAY STUDENTS	<p>Students enrolled on a half-day basis may earn only one half day attendance each school day. Attendance is determined for these pupils by recording absences in a period during the half day they are scheduled to be present.</p>
ALTERNATIVE ATTENDANCE ACCOUNTING PROGRAM	<p>Students who are enrolled in and participating in an alternative attendance accounting program approved by the Commissioner shall earn attendance according to the statutory and rule provisions applicable to that program.</p>
ATTENDANCE FOR STATE FUNDING PURPOSES	<p>Attendance for all grades shall be determined by the absences recorded in the second or fifth period of the day, unless the District has obtained permission from TEA for an alternate period to record absences, unless the Board adopts a policy for recording absences in an alternate period or hour, or unless the students for which attendance is being taken are enrolled in and participating in a Commissioner-approved alternative attendance accounting program.</p> <p>The established period in which absences are recorded may not be changed during the school year.</p>

Students absent during the daily period selected by the District for taking attendance shall be counted absent for the entire day, unless the students are enrolled in and participating in a Commissioner-approved alternative attendance accounting program. Students present at the time attendance is taken shall be counted present for the entire day, unless the students are enrolled in and participating in a Commissioner-approved alternative attendance accounting program.

19 TAC 129.21(h)-(i)

A student in a disciplinary alternative education program shall be counted in computing the average daily attendance of students in the District for the student's time in actual attendance in the program. *Education Code 37.008(f)*

EXCEPTIONS

A student not actually on campus when attendance is taken may be considered in attendance for Foundation School Program purposes if:

BOARD-
APPROVED
ACTIVITIES

1. The student is participating in a Board-approved activity under the direction of a member of the District's professional staff, or an adjunct staff member who has a bachelor's degree and is eligible for participation in TRS. [See FM]

MENTORSHIPS

2. The student is participating in a mentorship approved by District personnel to serve as one or more of the advanced measures needed to complete the Advanced/Distinguished Achievement Program outlined in 19 TAC Chapter 74.

MEDICAID
STUDENTS

3. The student is Medicaid-eligible and participating in the Early and Periodic Screening, Diagnosis, and Treatment Program. Such students may be excused for up to one day at any time without loss of ADA.

RELIGIOUS HOLY
DAYS

4. The student is observing religious holy days, including days of travel to or from a site where the student will observe 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. [See FEA]

COURT
APPEARANCE

5. The student is attending a required court appearance, including travel for that purpose. 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. [See FEA]

ATTENDANCE
ATTENDANCE ACCOUNTING

FEB
(LEGAL)

- | | |
|---------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| CITIZENSHIP
PROCEEDINGS | 6. The student is appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship, including travel for that purpose. [See FEA] |
| | 7. The student is taking part in a United States naturalization oath ceremony, including travel for that purpose. [See FEA] |
| ELECTION
CLERKS | 8. The student is serving as an election clerk, including travel for that purpose. [See FEA] |
| HEALTH-CARE
APPOINTMENTS | 9. The student is temporarily absent as a result of a documented appointment with a health-care professional during regular school hours, 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. [See FEA] |
| CAMPUS VISITS | 10. The student is visiting 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:

a. 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

b. The District adopts:

(1) A policy to determine when an absence will be excused for this purpose; and

(2) A procedure to verify the student's visit at the institution of higher education. [See FEA] |
| DROPOUT
RECOVERY
EDUCATION
PROGRAM | 11. The student is in attendance at a dropout recovery education program. |
| TAPS AT
MILITARY
FUNERAL | 12. The student is sounding "Taps" at a military honors funeral held in this state for a deceased veteran, provided that the student is enrolled in grade 6 or higher. |

Education Code 25.087, 29.081(e); 19 TAC 129.21

ATTENDANCE
ATTENDANCE ACCOUNTING

FEB
(LEGAL)

DISASTERS

The Commissioner shall adjust the average daily attendance of the District all or part of which is located in an area declared a disaster area by the governor under Government Code Chapter 418 if the District experiences a decline in average daily attendance that is reasonably attributable to the impact of the disaster.

The Commissioner shall make the adjustment required by this section for the two-year period following the date of the governor's initial proclamation or executive order declaring the state of disaster.

Education Code 42.0051

PARENTAL CONSENT
TO LEAVE CAMPUS

Before the District or a charter school may count a student in attendance under this section or in attendance when the student was allowed to leave campus during any part of the school day, the District or charter school shall adopt a policy addressing parental consent for a student to leave campus and distribute the policy to staff and to all parents of students in the District or charter school.

19 TAC 129.21(d)

ATTENDANCE
ATTENDANCE FOR CREDIT

FEC
(LOCAL)

ATTENDANCE
COMMITTEES

The Board shall establish an attendance committee or as many committees as necessary for efficient implementation of Education Code 25.092.

The Superintendent or designee shall make the specific appointments in accordance with legal requirements.

PARENTAL NOTICE
OF EXCESSIVE
ABSENCES

A student and the student's parent or guardian shall be given written notice prior to and at such time when a student's attendance in any class drops below 90 percent of the days the class is offered.

METHODS FOR
REGAINING CREDIT

When a student's attendance drops below 90 percent but remains at least at 75 percent of the days the class is offered, the student may earn credit for the class by completing a plan approved by the principal. This plan must provide for the student to meet the instructional requirements of the class as determined by the principal.

If the student fails to successfully complete the plan, or when a student's attendance drops below 75 percent of the days the class is offered, the student, parent, or representative may request award of credit by submitting a written petition to the appropriate attendance committee.

Petitions for credit may be filed at any time the student receives notice but, in any event, no later than 30 days after the last day of classes.

The attendance committee shall review the student's entire attendance record and the reasons for absences and shall determine whether to award credit. The committee may also, whether a petition is filed or not, review the records of all students whose attendance drops below 90 percent of the days the class is offered.

Students who have lost credit because of excessive absences may regain credit by fulfilling the requirements established by the attendance committee.

PERSONAL ILLNESS

When a student's absence for personal illness exceeds five consecutive days, the principal or attendance committee may require that the student present a statement from a physician or health clinic verifying the illness or condition that caused the student's extended absence from school as a condition of classifying the absence as one for which there are extenuating circumstances.

If a student has established a questionable pattern of absences, the principal or attendance committee may require that a student present a physician's or clinic's statement of illness after a single day's absence as a condition of classifying the absence as one for which there are extenuating circumstances.

ATTENDANCE
ATTENDANCE FOR CREDIT

FEC
(LOCAL)

GUIDELINES ON
EXTENUATING
CIRCUMSTANCES

The attendance committee shall adhere to the following guidelines to determine attendance for credit:

DAYS OF
ATTENDANCE

1. All absences shall be considered in determining whether a student has attended the required percentage of days. If makeup work is completed satisfactorily, absences for the following reasons shall be considered days of attendance for this purpose:
 - a. Religious holy days;
 - b. Required court appearances;
 - c. Activities related to obtaining U.S. citizenship;
 - d. Serving as an election clerk;
 - e. Visiting an institution of higher education [see FEA]; and
 - f. Health-care appointments.

[See FEB]

TRANSFERS /
MIGRANT
STUDENTS

2. A transfer or migrant student incurs absences only after his or her enrollment in the District.

BEST INTEREST
STANDARD

3. In reaching consensus regarding a student's absences, the committee shall attempt to ensure that its decision is in the best interest of the student.
4. The Superintendent or designee shall develop administrative regulations addressing the committee's documentation of the decision.

DOCUMENTATION

5. The committee shall consider the acceptability and authenticity of documented reasons for the student's absences.

CONSIDERATION OF
CONTROL

6. The committee shall consider whether the absences were for reasons out of the student's or parent's control.

STUDENT'S
ACADEMIC RECORD

7. The committee shall consider whether or not the student has completed assignments, mastered the essential knowledge and skills, and maintained passing grades in the course or subject.

INFORMATION
FROM STUDENT OR
PARENT

8. The student or parent shall be given an opportunity to present any information to the committee about the absences and to discuss ways to earn or regain credit.

ATTENDANCE
ATTENDANCE FOR CREDIT

FEC
(LOCAL)

IMPOSING
CONDITIONS FOR
AWARDING CREDIT

The committee may impose any of the following conditions for receiving credit lost because of excessive absences:

1. Completing additional assignments, as specified by the committee or teacher.
2. Attending tutorial sessions as scheduled, which may include Saturday classes or before- and after-school programs.
3. Maintaining the attendance standards for the rest of the semester.
4. Taking an examination to earn credit. [See EEJA]
5. Attending a flexible school day program.
6. Attending summer school.

In all cases, the student must also earn a passing grade in order to receive credit.

APPEAL PROCESS

A parent or student may appeal the decision of the attendance committee in accordance with FNG(LOCAL) beginning at Level Three.

WELLNESS AND HEALTH SERVICES
IMMUNIZATIONS

FFAB
(LEGAL)

IMMUNIZATION
REQUIREMENTS

Each student shall be fully immunized against diphtheria, rubeola (measles), rubella, mumps, tetanus, and poliomyelitis. The Texas Department of State Health Services (TDSHS) may modify or delete any of these immunizations or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school. *Education Code 38.001(a), (b)*

TDSHS requires students in kindergarten through twelfth grade to have the following additional vaccines, according to the immunization schedules set forth in department regulations: pertussis, hepatitis B, hepatitis A (for students attending schools in high incidence geographic areas as designated by the department), and varicella (chickenpox).

TDSHS requires students in seventh through twelfth grade to have the meningococcal vaccine, according to the immunization schedules set forth in department regulations.

25 TAC 97.63(2)(B)

Note: For immunization requirements, see TDSHS's Web site at <http://www.dshs.state.tx.us/immunize/docs/school/6-14.pdf>. For TDSHS's recommended immunization schedule, see http://www.dshs.state.tx.us/immunize/Schedule/schedule_child.shtm

Under Health and Safety Code Chapter 81, Subchapter E, additional vaccinations may be required by TDSHS and/or the local health authority in specific situations under the mechanism of a control order containing control measures. *25 TAC 97.72*

IMMUNIZATION
AWARENESS
PROGRAM

A district that maintains an Internet Web site shall post prominently on the Web site:

1. A list, in English and Spanish, of:
 - a. The immunizations required by TDSHS for admission to public school;
 - b. Any immunizations or vaccines recommended for public school students by TDSHS. The list must include the influenza vaccine, unless TDSHS requires the influenza vaccine for admission to public school; and
 - c. Health clinics in the District that offer the influenza vaccine, to the extent those clinics are known to the District; and
2. A link to the TDSHS Internet Web site where a person may obtain information relating to the procedures for claiming an exemption from the immunization requirements. The link

WELLNESS AND HEALTH SERVICES
IMMUNIZATIONS

FFAB
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must be presented in the same manner as the information provided under paragraph 1.

Education Code 38.0181

APPLICABILITY The vaccine requirements apply to all students entering, attending, enrolling in, and/or transferring to the District. *25 TAC 97.61(a)*

EXCEPTIONS Immunization is not required for admission to the District:

1. If the student submits to the admitting official:

MEDICAL
REASONS

a. An affidavit or a certificate signed by the student's physician (M.D. or D.O.) who is duly registered and licensed to practice medicine in the United States and who has examined the student.

The affidavit or certificate must state that, in the physician's opinion, the immunization required is medically contraindicated or poses a significant risk to the health and well-being of the student or any member of the student's household. Unless it is written in the statement that a lifelong condition exists, the exemption statement is valid for only one year from the date signed by the physician.

OR

REASONS OF
CONSCIENCE

b. An affidavit signed by the student or, if a minor, the student's parent or guardian stating that the student declines immunization for reasons of conscience, including a religious belief. The affidavit will be valid for a two-year period.

The affidavit must be on a form obtained from the TDSHS and must be submitted to the admitting official not later than the 90th day after the date the affidavit is notarized.

A student who has not received the required immunizations for reasons of conscience may be excluded from school in times of emergency or epidemic declared by the commissioner of public health.

or

MILITARY DUTY

2. If the student can prove that he or she is a member of the armed forces of the United States and is on active duty.

Education Code 38.001(c), (c-1), (f); Health and Safety Code 161.004(a), (d)(2), 161.0041; 25 TAC 97.62

WELLNESS AND HEALTH SERVICES
IMMUNIZATIONS

FFAB
(LEGAL)

PROVISIONAL ADMISSION	A student may be provisionally admitted or enrolled if the student has begun the required immunizations. The student must have an immunization record that indicates the student has received at least one dose of each age-appropriate vaccine specified in the regulations.
COMPLETION OF VACCINATIONS	To remain enrolled, the student must continue to receive the necessary immunizations as rapidly as medically feasible. The student must complete the required subsequent doses in each vaccination series on schedule and provide acceptable evidence of vaccination to the District.
REVIEW OF STATUS	A school nurse or school administrator shall review the immunization status of a provisionally enrolled student every 30 days to ensure continued compliance in completing the required doses of vaccination. If, at the end of the 30-day period, a student has not received a subsequent dose of vaccine, the student is not in compliance and the District will exclude the student from school attendance until the required dose is administered.
HOMELESS STUDENT	A student who is homeless, as defined in the McKinney-Vento Homeless Education Act, shall be admitted temporarily for 30 days if acceptable evidence of vaccination is not available. The school shall promptly refer the student to appropriate public health programs to obtain the required vaccinations. [See FD and FDC]
TRANSFER STUDENTS	A student can be enrolled provisionally for no more than 30 days if he or she transfers from one Texas school to another, and is awaiting the transfer of the immunization record.
MILITARY DEPENDENTS	<p>A military dependent can be enrolled provisionally for no more than 30 days if the student transfers from one school to another and is awaiting the transfer of the immunization record. [See FDD]</p> <p>The collection and exchange of information pertaining to immunizations shall be subject to confidentiality provisions prescribed by federal law.</p> <p><i>Education Code 38.001(e), 162.002 art. IV, § C; 25 TAC 97.66, 97.69; Atty. Gen. Op. GA-178 (2004)</i></p>
EVIDENCE OF IMMUNIZATION	<p>A student shall show acceptable evidence of vaccination before entry, attendance, or transfer to the District. 25 TAC 97.63(2)</p> <p>Vaccines administered after September 1, 1991, shall include the month, day, and year each vaccine was administered. The following documentation is acceptable:</p>

WELLNESS AND HEALTH SERVICES
IMMUNIZATIONS

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1. Documentation of vaccines administered that includes the signature or stamp of the physician or his or her designee, or public health personnel;
2. An official immunization record generated from a state or local health authority, such as a registry; or
3. A record received from school officials including a record from another state.

25 TAC 97.68

Serologic confirmations of immunity to measles, rubella, mumps, hepatitis A, hepatitis B, or varicella are acceptable. Evidence of measles, rubella, mumps, hepatitis A, hepatitis B, or varicella illnesses must consist of a valid laboratory report that indicates either confirmation of immunity or infection.

A written statement from a parent, legal guardian, managing conservator, school nurse, or physician attesting to a child's positive history of varicella disease (chickenpox) or varicella immunity is acceptable in lieu of a vaccine record for that disease. [See the form on TDSHS's Web site at <http://www.dshs.state.tx.us/immunize/docs/c-9.pdf>].

25 TAC 97.65

IMMUNIZATION
RECORDS

Not later than the 30th day after a parent or other person with legal control of a student under a court order enrolls the student in the District, the parent or other person, or the District in which the student most recently attended school, shall furnish to the District a record showing that the student has the required immunizations. *Education Code 25.002(a)(3), (a-1)*

Each district shall keep an individual immunization record during the period of attendance for each student admitted. The records shall be sufficient for a valid audit to be completed. The records shall be open for inspection at all reasonable times by TEA, local health departments, or the TDSHS. *Education Code 38.002(a); 25 TAC 97.67*

TRANSFER OF
RECORDS

Each district shall cooperate in transferring students' immunization records to other schools. Specific approval from students, parents, or guardians is not required before transferring those records. *Education Code 38.002(b)*

ANNUAL REPORT

Districts shall submit annual reports of the immunization status of students, in a format prescribed by TDSHS, to monitor compliance with immunization requirements. All districts shall submit the report

WELLNESS AND HEALTH SERVICES
IMMUNIZATIONS

FFAB
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at the time and in the manner indicated in the instructions printed on the form. *Education Code 38.002(c); 25 TAC 97.71*

CONSENT TO
IMMUNIZATION

In addition to persons authorized to consent to immunization under Family Code Chapters 151 (parents) and 153 (conservators), the following persons may consent to the immunization of a child:

1. A guardian of the child; and
2. A person authorized under the law of another state or a court order to consent for the child.

Family Code 32.101(a)

The district in which the child is enrolled may give consent to the immunization if:

1. The persons listed above are not available; and
2. The district has written authorization to consent from a person listed above.

Family Code 32.101(b)(5)

The District may not consent for the child if it has actual knowledge that a person listed above has:

1. Expressly refused to give consent to the immunization;
2. Been told not to consent for the child; or
3. Withdrawn a prior written authorization for the District to consent.

Family Code 32.101(c)

DUTY TO PROVIDE
INFORMATION

A district that consents to immunization of a child shall provide the health-care provider with sufficient and accurate health history and other information as set forth in Family Code 32.101(e).

FORM OF CONSENT

Consent to immunization must meet the requirements of Family Code 32.002(a). [See FFAC] The District has the responsibility to ensure that the consent, if given, is an informed consent. The District is not required to be present when the immunization is requested if a consent form has been given to the health-care provider. *Family Code 32.101(f), 32.102*

LIABILITY

A district consenting to immunization of a child is not liable for damages arising from an immunization administered to a child authorized under Family Code Subchapter B except for injuries resulting from the district's own acts of negligence. *Family Code 32.103*

STUDENT WELFARE
CHILD ABUSE AND NEGLECT

FFG
(LEGAL)

ANTIVICTIMIZATION PROGRAM	The District shall provide child abuse antivictimization programs in elementary and secondary schools. <i>Education Code 38.004</i>
DUTY TO REPORT BY ANY PERSON	Any person who has cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as required by law. <i>Family Code 261.101(a)</i>
BY A PROFESSIONAL	Any professional who has cause to believe that a child has been or may be abused or neglected shall make a report as required by law. The report must be made within 48 hours after the professional first suspects abuse or neglect. A professional may not delegate to or rely on another person to make the report. A "professional" is a person who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, and juvenile detention or correctional officers. <i>Family Code 261.101(b)</i>
PSYCHOTROPIC DRUGS AND PSYCHOLOGICAL TESTING	An employee may not use or threaten to use the refusal of a parent, guardian, or managing or possessory conservator to administer or consent to the administration of a psychotropic drug to a child, or to consent to any other psychiatric or psychological testing or treatment of the child, as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal: <ol style="list-style-type: none">1. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child. <i>Education Code 26.0091; Family Code 261.111(a)</i> [See FFAC]
CONTENTS OF REPORT	The report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect. The person making the report shall identify, if known: <ol style="list-style-type: none">1. The name and address of the child;2. The name and address of the person responsible for the care, custody, or welfare of the child; and3. Any other pertinent information concerning the alleged or suspected abuse or neglect. <i>Family Code 261.103, 261.104</i>

STUDENT WELFARE
CHILD ABUSE AND NEGLECT

FFG
(LEGAL)

TO WHOM REPORTED If the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to the Texas Department of Family and Protective Services (DFPS), unless the report is made under item 3, below, or the report involves a juvenile justice program or facility [see JJAEPS, below].

All other reports shall be made to:

1. Any local or state law enforcement agency;
2. The DFPS, including a local office where available;
3. The state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred; or
4. The agency designated by the court to be responsible for the protection of children.

Family Code 261.103; 19 TAC 61.1051(a)(1)

JJAEPS

Any report of alleged abuse, neglect, or exploitation in a juvenile justice program or facility shall be made to the Texas Juvenile Probation Commission and a local law enforcement agency for investigation. The term "juvenile justice program" includes a juvenile justice alternative education program. *Family Code 261.405(a)(2)(A), (b)*

IMMUNITY FROM
LIABILITY

A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from any civil or criminal liability that might otherwise be incurred or imposed. *Family Code 261.106*

The District may not suspend or terminate the employment of, or otherwise discriminate against, a professional who makes a good faith report of abuse or neglect. *Family Code 261.110* [See DG]

CRIMINAL OFFENSES

FAILURE TO
REPORT

A person commits a class A misdemeanor if he or she has cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect and knowingly fails to report it as provided by law. *Family Code 261.109*

Failure to report child abuse or neglect violates the Educator's Code of Ethics and may result in sanctions against an educator's certificate, as addressed in 19 TAC 249. *19 TAC 61.1051*

FALSE REPORT

A person commits an offense if, with the intent to deceive, the person knowingly makes a report of abuse and neglect that is false.

STUDENT WELFARE
CHILD ABUSE AND NEGLECT

FFG
(LEGAL)

	<p>The offense is a state jail felony, except that it is a felony of the third degree if the person has previously been convicted of the offense. <i>Family Code 261.107(a)</i></p>
COERCION	<p>An employee who coerces another into suppressing or failing to report child abuse or neglect to a law enforcement agency commits a Class C misdemeanor offense. <i>Penal Code 39.06</i></p>
CONFIDENTIALITY	<p>A report of alleged or suspected abuse or neglect and the identity of the person making the report is confidential and not subject to release under Government Code Chapter 552 (Public Information Act). Such information may be disclosed only for purposes consistent with federal or state law or under rules adopted by an investigating agency. <i>Family Code 261.201</i></p> <p>Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only to a law enforcement officer for the purposes of a criminal investigation of the report, or as ordered by a court under Family Code 261.201. <i>Family Code 261.101(d)</i></p>
INVESTIGATIONS REPORTS TO DISTRICT	<p>If the DFPS initiates an investigation and determines that the abuse or neglect involves an employee of a public primary or secondary school, and that the child is a student at the school, the department shall orally notify the Superintendent of the district in which the employee is employed. <i>Family Code 261.105(d)</i></p> <p>The DFPS shall send a written report of its investigation, as appropriate, to the school principal, unless the principal is alleged to have committed the abuse or neglect, to the Board, and to the Superintendent. The report shall be edited to protect the identity of the person who made the report. <i>Family Code 261.406(b)</i></p>
INTERVIEW OF STUDENT	<p>The investigating agency shall be permitted to interview the child at any reasonable time and place, including at the child's school. <i>Family Code 261.302(b)</i> [See GRA]</p>
INTERFERENCE WITH INVESTIGATION	<p>A person may not interfere with an investigation of a report of child abuse or neglect conducted by the DFPS. <i>Family Code 261.303(a)</i></p>
REPORTING POLICY	<p>The Board shall establish and annually review policies for reporting child abuse and neglect. The policies shall follow the requirements of Family Code Chapter 261.</p> <p>The policies must require every school employee, agent, or contractor who suspects child abuse or neglect to submit a written or oral report to at least one of the authorities listed above (see TO WHOM REPORTED) within 48 hours or less, as determined by the Board, after learning of facts giving rise to the suspicion.</p>

The policies must also be consistent with 40 TAC Chapter 700 regarding investigations by the DFPS, including regulations governing investigation of abuse by school personnel and volunteers.

19 TAC 61.1051 [See GRA]

The policies must notify school personnel of the following:

1. Penalties under Penal Code 39.06 (misuse of official information), Family Code 261.109 (failure to report), and 19 TAC 249 (actions against educator's certificate) for failure to submit a required report of child abuse or neglect;
2. Prohibitions against interference with an investigation of a report of child abuse or neglect, including:
 - a. The prohibition, under Family Code 261.302 and 261.303, against denying an investigator's request to interview a student at school; and
 - b. The prohibition, under Family Code 261.302, against requiring the presence of a parent or school administrator during an interview by an investigator.
3. Immunity provisions applicable to a person who reports child abuse or neglect or otherwise assists an investigation in good faith;
4. Confidentiality provisions relating to a report of suspected child abuse or neglect;
5. Any disciplinary action that may result from noncompliance with the District's reporting policy;
6. The prohibition under Education Code 26.0091 (see PSYCHOTROPIC DRUGS AND PSYCHOLOGICAL TESTING, above); and
7. The current toll-free number for the DFPS.

The policies must not require that school personnel report suspicions of child abuse or neglect to a school administrator before making a report to one of the agencies listed above.

19 TAC 61.1051

ANNUAL
DISTRIBUTION AND
STAFF
DEVELOPMENT

The policies shall be distributed to all personnel at the beginning of each school year and shall be addressed in staff development programs at regular intervals determined by the Board. *19 TAC 61.1051(b)*

ABUSE OF DISABLED
PERSONS

A person having cause to believe that a disabled person over the age of 18 or who has had the disabilities of minority removed is in

a state of abuse, neglect, or exploitation shall report the information immediately to the DFPS.

A person commits a class A misdemeanor if the person has cause to believe that a disabled person has been abused, neglected, or exploited or is in a state of abuse, neglect, or exploitation and knowingly fails to report.

A person filing a report or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of his or her petition, report, testimony, or participation, unless the person acted in bad faith or with a malicious purpose.

Human Resources Code 48.051, 48.052, 48.054

STUDENT ACTIVITIES

FM
(LEGAL)

APPLICABILITY OF UIL
RULES AND DISTRICT
POLICIES

A student enrolled in the 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 the Board. *Education Code 33.081(b)* [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. *Education Code 33.203(a)*

NOTICES

Each school that offers an extracurricular athletic activity shall:

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.

Education Code 33.207(b), 33.208

SAFETY TRAINING

The District shall provide training to students participating in athletic extracurricular activities related to:

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.

The training may be conducted by the District, the American Red Cross, the American Heart Association, or a similar organization, or by the UIL.

Education Code 33.202(d), (e)

RECORDS

The 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.

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(LEGAL)

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

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)(e)

STUDENT ACTIVITIES

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(LEGAL)

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. 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.

Health and Safety Code 768.001(6), 768.003

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, regardless of the location at which the course is provided. *Education Code 33.087*

MILITARY
DEPENDENTS

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. *Education Code 162.002 art. VI, § B* [See FDD]

SUSPENSION FROM
EXTRACURRICULAR
ACTIVITIES

A student shall be suspended from participation in any extracurricular activity sponsored or sanctioned by the District or the UIL after a grade evaluation period in which the student received a grade low-

STUDENT ACTIVITIES

FM
(LEGAL)

er than the equivalent of 70 on a scale of 100 in any academic class other than a course described below at EXEMPT COURSES.

LENGTH OF
SUSPENSION

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.

GRADE
EVALUATION
PERIOD

“Grade evaluation period” means:

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.

Education Code 33.081(c)

SCHOOL WEEK

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. *19 TAC 76.1001(b)*

EXEMPT COURSES

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. *Education Code 33.081(d-1)*

The following are honors classes for purposes of eligibility to participate in extracurricular activities:

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 the 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, the 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)

STUDENT ACTIVITIES

FM
(LEGAL)

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 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 the Board. If sanctioned by resolution of the 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 the 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, the 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.

STUDENT ACTIVITIES

FM
(LEGAL)

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

DURING THE
SCHOOL WEEK

Limitations on practice, rehearsal, and student participation during the school week shall be as follows:

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, the 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. The 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.

STUDENT ACTIVITIES

FM
(LEGAL)

4. The 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

The District shall maintain an accurate record of extracurricular absences for each student in the District each school year. *19 TAC 76.1001(c)*

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). *Education Code 26.008(a)*

ANONYMOUS
EVALUATION

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. The 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. *Byard v. Clear Creek Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 020-R5-1001 (June 17, 2002)*

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. *Education Code 26.009(b)(2)*

DISCRIMINATORY
CLUB

An extracurricular activity sponsored or sanctioned by the 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 ACTIVITIES

FM
(LEGAL)

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, the 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

STUDENT CONDUCT
WEAPONS

FNCG
(LEGAL)

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)*

Penal Code 46.05(a)

STUDENT DISCIPLINE

FO
(LEGAL)

STUDENT CODE OF
CONDUCT

The Board shall adopt a Student Code of Conduct for the District, with the advice of its District-level committee. The Student Code of Conduct must contain all of the following:

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 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]), the 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 the 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 the Student Code of Conduct is promulgated, any change or amendment shall be approved by the 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, the 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, the 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. The District may not unreasonably deny the request. Notwithstanding this requirement, the 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 the 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, the 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. The District may provide the opportunity by any method available, including a correspondence course, distance learning, or summer school. <i>Education Code 37.021</i>
CORPORAL PUNISHMENT	Reasonable corporal punishment is not prohibited in order to preserve an effective educational environment, free from disruption.

STUDENT DISCIPLINE

FO
(LEGAL)

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>
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 teacher or administrator reasonably believes the force is necessary, to further the purpose of education or to maintain discipline in a group. <i>Penal Code 9.62</i></p>
VIDEOTAPES AND RECORDINGS	<p>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. <i>Education Code 26.009(b)(1)</i> [See FNG]</p>
REPORTS	<p>The District shall annually report to the Commissioner:</p>
DISCIPLINARY ALTERNATIVE EDUCATION PROGRAMS	<ol style="list-style-type: none">1. For each placement in DAEP:<ol style="list-style-type: none">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:<ol style="list-style-type: none">(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

STUDENT DISCIPLINE

FO
(LEGAL)

- EXPULSIONS
- d. The number of placements that were inconsistent with the guidelines on length of placement in the Student Code of Conduct.
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;
 - (2) The student was placed in a DAEP; or
 - (3) The student was not placed in a juvenile justice or other DAEP; 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
(EXHIBIT)

The following are felony offenses listed in Title 5 of the Penal Code, Offenses Against the Person.

Section 19.02: Murder

Section 19.03: Capital Murder

Section 19.04: Manslaughter

Section 19.05: Criminally Negligent Homicide

Section 20.02: Unlawful Restraint (if [1] the person restrained was younger than 17 years of age, [2] the actor recklessly exposes the victim to a substantial risk of serious bodily injury, [3] he actor restrains an individual the actor knows is a public servant while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty, or [4] the actor while in custody restrains any other person)

Section 20.03: Kidnapping

Section 20.04: Aggravated Kidnapping

Section 20.05: Unlawful Transport

Section 20A.02: Trafficking of Persons

Section 21.02: Continuous Sexual Abuse of Young Child or Children

Section 21.11: Indecency with a Child

Section 21.12: Improper Relationship between Educator and Student

Section 21.15: Improper Photography or Visual Recording

Section 22.01: Assault (if the actor intentionally, knowingly, or recklessly causes bodily injury to [1] a person the actor knows is a public servant while the public servant is lawfully discharging an official duty, or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant; [2] a person the actor knows is a security officer [see Occupations Code 1702.002, 1702.221] while the person is performing a duty as a security officer; [3] a person the actor knows is emergency services personnel while the person is providing emergency services; [4] a person who contracts with the government to perform a service at a correctional facility [see Penal Code 1.07(a)(14)] or a secure correctional or detention facility for juveniles [see Family Code 51.102(13), (14)]; and [5] under certain circumstances, a family member)

Section 22.011: Sexual Assault

Section 22.02: Aggravated Assault

Section 22.021: Aggravated Sexual Assault

Section 22.04: Injury to a Child, Elderly Individual, or Disabled Individual

Section 22.041: Abandoning or Endangering a Child

STUDENT DISCIPLINE
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC
(EXHIBIT)

Section 22.05: Deadly Conduct (if the person knowingly discharges a firearm at or in the direction of one or more individuals or in the direction of a habitation, building, or vehicle and is reckless as to whether the habitation, building, or vehicle is occupied)

Section 22.07: Terroristic Threat (if the actor threatens to commit any offense involving violence to any person or property with intent to: [1] prevent or interrupt the occupation or use of a building, room, place, or conveyance if the prevention or interruption causes pecuniary loss to the owner of \$1,500 or more; [2] cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service; [3] place the public or a substantial group of the public in fear of serious bodily injury; or [4] influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision)

Section 22.08: Aiding Suicide (if the conduct causes suicide or attempted suicide that results in serious bodily injury)

Section 22.09: Tampering with Consumer Product

Section 22.11: Harassment by Persons in Certain Correctional Facilities or of Public Servant

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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). <i>Education Code 37.007(e)(2), (h)</i>
OVERAGE STUDENTS	A person who is 21 years of age or older and is admitted by the 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, the District shall revoke the student's admission. <i>Education Code 25.001(b-1)</i>
MANDATORY EXPULSION SCHOOL RELATED	<p>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:</p> <ol style="list-style-type: none">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; or3. 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. <p><i>Education Code 37.007(a)</i></p>
EXCEPTION	<p>A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:</p> <ol style="list-style-type: none">1. At an approved target range facility that is not located on a school campus; and2. 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. <p>This section does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored</p>

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shooting sports competition or a shooting sports educational activity.

Education Code 37.007(k)

RETALIATION

The 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 the 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, the 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. The 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. The 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. The 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

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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 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)

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

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2. Possession of a firearm, as defined by 18 U.S.C. sec. 921 [see FEDERAL FIREARM PROVISION, above].

Education Code 37.007(b)

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 the 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)*

CRIMINAL MISCHIEF

The 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, the District shall refer the student to the authorized officer of the juvenile court. *Education Code 37.007(f)*

PERSISTENT
MISBEHAVIOR IN
DAEP

A student who continues to engage in serious or persistent misbehavior that violates the District's Student Code of Conduct while placed in a DAEP may be removed from class and expelled.

If the student is expelled, the 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)

PROPERTY OR
ACTIVITIES OF
ANOTHER DISTRICT

The 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)

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EXPULSION
PROCEEDINGS
DUE PROCESS

Before a student may be expelled, the 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 the 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.

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 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 37.009(h)

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NOTICE OF
EXPULSION ORDER

TO PARENT OR
GUARDIAN

The 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), (h)*

TO COURT

Not later than the second business day after the date an expulsion hearing is held, the 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 the 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), (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 the Board or its designee to the juvenile board's designated representative. The notification shall be made not later than two business days following the 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 the 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*

TO STAFF

In addition to providing any notice required under Code of Criminal Procedure 15.27 [see GRA], the 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

STUDENT DISCIPLINE
EXPULSION

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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 the 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 the 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 the District DAEP as a condition of probation.

EXCEPTION

A court may order a student to attend a regular classroom, a regular campus, or the 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, the 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]

STUDENT DISCIPLINE
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CONTRACTING FOR SERVICES	<p>The 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.</p> <p><i>Education Code 37.011(l)</i></p>
RETURN TO CLASS EARLY / PERMISSIVE REQUIRED	<p>On the recommendation of the placement review committee, or on its own initiative, the District may readmit an expelled student while the student is completing any court disposition requirements.</p> <p>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 department, the District may not refuse to admit the student if the student meets the requirements for admission. [See FD] The District may place the student in a DAEP.</p> <p>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.</p> <p><i>Education Code 37.010(f)</i></p>
EXPELLED FROM ANOTHER DISTRICT	<p>If a student has been expelled from another school district, the expelling district shall provide to the district in which the student enrolls a copy of the expulsion order and the referral to the authorized officer of the juvenile court. The 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.</p>
OUT-OF-STATE EXPULSION	<p>The District may take any of the above actions if the student was expelled by a district in another state if:</p> <ol style="list-style-type: none">1. The out-of-state district provides a copy of the expulsion order; and2. The grounds for the expulsion are also grounds for expulsion in the district in which the student is enrolling. <p><i>Education Code 37.010(g)</i></p> <p>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:</p> <ol style="list-style-type: none">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.

PUBLIC INFORMATION PROGRAM
ACCESS TO PUBLIC INFORMATION

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- 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 the Board or for the Board and to which the Board has a right of access. *Gov’t Code 552.002(a)*
- AVAILABILITY Public information is available, at a minimum, to the public during the District’s normal business hours. *Gov’t Code 552.021*
- INFORMATION THAT MUST BE DISCLOSED Unless they are expressly confidential under other law, categories of public information that are not excepted from required disclosure under this policy include:
1. A completed report, audit, evaluation, or investigation made of, for, or by the 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 the 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 the Board.
 5. All working papers, research material, and information used to estimate the need or expenditure of public funds or taxes by the Board, on completion of the estimate.
 6. A description of the 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 the 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 the 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.

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12. A policy statement or interpretation adopted or issued by the Board.
13. Administrative manuals and instructions to staff that affect a member of the public.
14. Information regarded as open to the public under the 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 the Board is a party.

A court in this state may not order the Board or the 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 551.0225, 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, telephone number, 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)

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PEACE OFFICERS / SECURITY OFFICERS EMPLOYED BY THE DISTRICT	District-held information relating to the home address, home telephone number, 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. <i>Gov't Code 552.117</i>
ALL OFFICERS	District-held information relating to the home address, home telephone number, 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. <i>Gov't Code 552.1175</i>
NOTICE TO REQUESTOR	<p>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. The District may also redact information that must be withheld under Government Code 552.1175 without requesting an attorney general decision.</p> <p>If the District redacts information under either of these provisions, the District shall provide the following information to the requestor on a form prescribed by the attorney general:</p> <ol style="list-style-type: none">1. A description of the redacted or withheld information;2. A citation to Government Code 552.024 or 552.1175, as applicable; and3. Instructions regarding how to request a decision from the attorney general regarding whether the redacted information is excepted from required disclosure. <p><i>Gov't Code 552.024(c-2), 552.1175(h)</i></p>
EVALUATIONS	A document evaluating the performance of a teacher or administrator is confidential. <i>Education Code 21.355</i>
EDUCATOR CERTIFICATION EXAM	The results of an educator certification examination are confidential and are not subject to disclosure, unless: <ol style="list-style-type: none">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

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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 the 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.

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 the 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 the District by a person who has a contractual relationship with the District or by the contractor's agent;
2. Provided to the 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 the District in the course of negotiating the terms of a contract or potential contract; or
4. Provided to the District on a letterhead, coversheet, printed document, or other document made available to the public.

The 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

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)*

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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

The 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*

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 the 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 the 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 the 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. The 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, 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 the Board must give public notice of the name or names of the fi-

nalists 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;
 - b. A motor vehicle title or registration issued by an agency of this state; or
 - c. A personal identification document issued by an agency of this state 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.

Gov't Code 552.130

25. An informer's name or information that would substantially reveal the identity of an informer, unless:
- a. 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
 - b. The informer planned, initiated, or participated in the possible violation.

"Informer" means a student or former student or an employee or former employee of the 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 the District for research purposes, if the book or publication is commercially available to the public. The District is not required to make copies of commercially available information, but the District shall allow the inspection of infor-

mation 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 the Board and a business prospect that the Board seeks to have locate, stay, or expand in or near the 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 the 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 the Board; or
- b. By another person, if the financial or other incentive may directly or indirectly result in the expenditure of public funds by the 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 Government 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 the District or of a contractor of the District is vulnerable to unauthorized access or harm, including an assessment of the extent to which the District's or contractor's electronically stored information containing sensitive or criti-

cal information is vulnerable to alteration, damage, erasure, or inappropriate use.

The 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 the District on or after September 1, 2003. The record is confidential for the 75 years following the date it comes into the possession of the 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. The 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

32. Certain District investment information, as specified by Government Code 552.143, is not public information and is exempted from disclosure. *Gov't Code 552.143*

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

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	2. Notice Regarding Public Information	
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**SECTION I: OFFICER FOR PUBLIC INFORMATION AND
REQUIRED NOTICES**

OFFICER FOR PUBLIC
INFORMATION

The Superintendent shall be the 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

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 the 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

The 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*

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	<p>It shall be the policy of the District to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested. <i>Gov't Code 552.228</i></p>
TREATMENT OF REQUESTS	<p>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. <i>Gov't Code 552.222(a)-(b), 552.223-.224</i></p>
LOCATION OF ACCESS	<p>An officer for public information complies with a request for public information by:</p> <ol style="list-style-type: none">1. Providing the information for inspection or duplication in the District's offices (see TIME FOR EXAMINATION, below); or2. 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). <p>The PIA does not authorize a requestor to remove an original copy of a public record from the office of the District.</p> <p><i>Gov't Code 552.221(b), 552.226</i></p>
TIME FOR RESPONSE	<p>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. The District may not automatically withhold for ten business days public information not excepted from disclosure.</p> <p>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.</p> <p>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 reason-</p>

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able 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. The District shall provide a copy in the requested medium:

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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 the 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. The 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

The 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.

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RESPONSE TIME WHEN PROGRAMMING OR MANIPULATION IS REQUIRED	The 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	<p>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:</p> <ol style="list-style-type: none">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; or2. Wants the information in the form in which it is available. <p>If a requestor does not make a timely written statement, the requestor is considered to have withdrawn the request for information.</p>
PROCESSING OF REQUESTS	<p>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. The District shall maintain a readily accessible file containing all written statements issued concerning requests for information that require programming or manipulation of data.</p> <p><i>Gov't Code 552.231</i></p>
REPETITIOUS OR REDUNDANT REQUESTS	<p>If the 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:</p> <ol style="list-style-type: none">1. Respond to the request for information as set forth below, at PROCEDURES; or2. 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. <p><i>Gov't Code 552.232(a)</i></p> <p>These provisions do not apply to information not previously furnished to a requestor. The 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 re-</p>

quest, in the same manner as any other request for public information. *Gov't Code 552.232(d)*

PROCEDURES

The 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 the 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

The District must submit the request to the attorney general not later than the tenth business day after receiving the written request. If the 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), 552.302

The 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)*

Except as set forth at Government Code section 552.301(g), the 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. *Gov't Code 552.301(f)*

STATEMENT TO
REQUESTOR

If the 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 the 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 the 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)

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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), the 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. The 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 the 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 information 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, 552.262(a)

ATTORNEY GENERAL'S RULES The 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)]

The 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.

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tion. However, the 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

The 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 the 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

The 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, the 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. The 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 the 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 the 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

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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 the 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 the 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)*

UNPAID AMOUNTS The officer for public information or agent may require a deposit or bond for payment of unpaid amounts the requestor owes the 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)*

DOCUMENTATION OF UNPAID AMOUNTS The 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 The 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 the 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 the District for public dissemination. If the cost of the publication is not determined by state law, the 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, the 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)*

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CONFIDENTIAL
INFORMATION

If a page contains confidential information that must be edited from the record before the information can be made available for inspection, the 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 the 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 the 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, the 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 the 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, the District may impose charges.

If the 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

The 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 the 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

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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 the 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, the 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 the 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

The 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.

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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 the 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

The 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, 552.353(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, the District may not appeal the decision of the court. This prohibition does not affect the right of a parent to appeal the decision. If the District does not bring suit within the period established, the District shall comply with the decision of the attorney general.

Education Code 26.0085

COMMUNITY RELATIONS
SCHOOL VOLUNTEER PROGRAM

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(LEGAL)

The District shall develop a volunteer program. In developing the program, the District shall consider volunteers a resource that requires advance planning and preparation for effective use. If practicable, the District shall include volunteers in addition to paid staff in planning the implementation of the program. *Gov't Code 2109.003*

PROGRAM
REQUIREMENTS AND
GUIDELINES

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 the 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 the 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 the District or shared services arrangement if the person:

COMMUNITY RELATIONS
SCHOOL VOLUNTEER PROGRAM

GKG
(LEGAL)

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 District employee while on a school campus; or
3. Is volunteering for a single event on the school campus.

The 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 the 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

The 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 the 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 the 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 FAA(H)] unless the act or omission is willfully or wantonly negligent. *Education Code 33.211*

COMMUNITY RELATIONS
SCHOOL VOLUNTEER PROGRAM

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(LEGAL)

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*

