



UNITED INDEPENDENT SCHOOL DISTRICT INFORMATIONAL ITEM

TOPIC: Review of LEGAL Policies in TASB Update 103

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

APPROVED FOR TRANSMITTAL TO SCHOOL BOARD: November 18, 2015

Review of LEGAL Policies in TASB Update 103.

See attached list.

Explanatory Notes

TASB Localized Policy Manual Update 103

District: United ISD

ATTN (NOTE) GENERAL INFORMATION ABOUT THIS UPDATE

Please note: Unless otherwise noted, references to legislative bills throughout these explanatory notes refer to bills from the 84th Regular Legislative Session. All referenced bills have already gone into effect unless otherwise noted.

A (LEGAL) BASIC DISTRICT FOUNDATIONS

We have revised the A section table of contents to add a new policy AF on innovation districts.

AF (LEGAL) INNOVATION DISTRICTS

This new code has been created to include provisions from HB 1842, which creates school districts of innovation.

To be a district of innovation, a school district must have an academic performance rating of at least acceptable. A district may initiate the process through a board resolution or petition from the district-level decision-making committee, followed by a PUBLIC HEARING and board vote. If the board votes to pursue the designation of innovation district, a committee must develop a LOCAL INNOVATION PLAN, which may include innovations in curriculum, instruction, governance, parent and community involvement, changes to the school day and year, budgetary issues, local accountability measures, and more. The plan must also identify Education Code requirements that inhibit innovation. The plan cannot seek exemption from certain parts of Chapter 11, state requirements for curriculum and graduation, or academic and financial accountability.

The board cannot approve the plan until it has been posted online for 30 days, the Commissioner has been notified, and the district-level decision-making committee has approved the plan by a majority vote. The board needs a two-thirds vote to approve the plan. The plan may have a TERM of up to five years, and it may be amended, rescinded, or renewed pursuant to the same procedures.

TERMINATION BY THE COMMISSIONER of the innovation district designation may occur if the district receives unacceptable academic or financial performance ratings for two consecutive years. The Commissioner must terminate the innovation district designation if the district receives unacceptable performance ratings for three consecutive years.

AIC (LEGAL) ACCOUNTABILITY
INVESTIGATIONS AND SANCTIONS

HB 1842 made numerous revisions to investigations and sanctions:

- In addition to on-site reviews previously addressed in law, TEA may conduct monitoring reviews, which can include desk reviews and random on-site visits, and TEA may now obtain information from any district employee and other persons as necessary. The Commissioner may convert a monitoring review to a special accreditation investigation at any time. See MONITORING REVIEWS AND ON-SITE INVESTIGATIONS on page 1.
- TEA must adopt written procedures for conducting SPECIAL ACCREDITATION INVESTIGATIONS that prevent a district or campus from screening information from district employees.
- The Commissioner's authority to impose INTERVENTIONS AND SANCTIONS was expanded to include action based on the results of a special accreditation investigation.

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- When a **CAMPUS INTERVENTION TEAM** is formed, the team must conduct a public meeting with relevant stakeholders for input on the targeted improvement plan.
- After a campus has two consecutive years of unacceptable performance, the Commissioner must order the campus to develop a **CAMPUS TURNAROUND PLAN** as described in the policy.
- If the campus continues to have poor performance for three years after submitting a campus turnaround plan, the Commissioner shall order closure or appointment of a board of managers for the district.
- If the Commissioner orders **CLOSURE** of a campus, the campus may be repurposed subject to specific requirements.
- A **BOARD OF MANAGERS** may be removed or replaced if the campus receives two more consecutive unacceptable ratings after appointment of the board of managers.
- Following removal of a board of managers, the Commissioner may appoint **ALTERNATIVE MANAGEMENT** consisting of a conservator or monitor and require the district to enter into a contract with a managing entity that meets specific requirements.
- There is a transition plan for application of the new interventions and sanctions. See **TRANSITIONAL INTERVENTIONS AND SANCTIONS**.
- A district with a student enrollment of more than 125,000 and less than 200,000 students that is operating under a turnaround plan and is located in a county with a population of more than two million may create a nonvoting student trustee position.

Also, at **BOARD OF MANAGERS**, HB 3106 allows the Commissioner to extend the appointment of a board of managers for an additional two years after the initial appointment expires.

BAA (LEGAL) BOARD LEGAL STATUS POWERS AND DUTIES

At **RESTRICTIONS ON BOARD POWERS AND DUTIES**, this legally referenced policy includes an existing prohibition against the board authorizing the use of district employees and other resources for design, construction, or renovation of real property not owned or leased by the district. There are several exceptions to this prohibition in the Education Code, to which we have added a reference.

BBA (LEGAL) BOARD MEMBERS ELIGIBILITY/QUALIFICATIONS

HB 484 added a requirement that a person must be registered to vote to qualify for an elected office. See **ELIGIBILITY**, item 6, and **REGISTERED VOTER**.

On page 1 we have removed Election Code provisions that allowed an individual who has been convicted of a felony to be a **QUALIFIED VOTER** under specific circumstances. Attorney General letter opinion 96-114 explained that those specific circumstances do not mitigate the blanket disqualification for convicted felons found in the **ELIGIBILITY** provisions of Election Code 141.001. Thus, an individual with a prior felony conviction from which the person has not been pardoned or otherwise released from the resulting disabilities is disqualified from serving as a school trustee.

In addition, several provisions have been simplified and the remainder of the policy has been amended for clarity.

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BBB **(LEGAL)** **BOARD MEMBERS**
ELECTIONS

In addition to revisions to improve organization, better reflect statutory wording, and delete unnecessary provisions, multiple bills affected this legally referenced policy on school board elections. Significant changes are described with the relevant bill number in parenthesis.

With some exceptions for districts that conduct elections on the May uniform election date, school districts that hold their elections on any uniform election date must use the county election precincts that are located within the school district territory as the precincts for the election. See **JOINT ELECTIONS** and **POLLING PLACES**. (HB 2027)

A call for an election held on a uniform election date must be made not later than 78 days prior to election day. The previous deadline was 71 days prior to the election. These same deadlines apply to an application for a place on the ballot. See **ELECTION ORDER** and **BALLOT CANDIDATE**. (SB 1703)

At **POSTING**, a district with a website must post notice of an election on the district's website. (HB 2721)

A candidate's **APPLICATION** must now include a public mailing address and any available e-mail address at which the candidate receives correspondence relating to the candidate's campaign. (SB 1073)

WRITE-IN CANDIDATES previously had different filing deadlines, depending on the relevant uniform election date; now there is a single deadline of the 74th day before election day. Deadlines to file an application for a place on a **SPECIAL ELECTION** were also revised. (SB 1703)

New provisions that reflect existing statutory language have also been added throughout this legally referenced policy.

BBC **(LEGAL)** **BOARD MEMBERS**
VACANCIES AND REMOVAL FROM OFFICE

We have made several changes to this legally referenced policy on board member vacancies and removal from office:

- The definition of residency has been replaced with a cross-reference to **BBA** for that information.
- At **APPOINTMENT**, we have deleted a provision that references the creation of a selection process for the appointment of a vacancy to ensure that the appointee is representative of the constituency. This provision is unnecessary since a board already has the authority to consider the makeup of the community in appointing members in addition to state law requirements for qualifying for office.
- Text at **SPECIAL ELECTION** has been adjusted to delete specific references to the deadlines for ordering an election, since those deadlines are included in **BBB(LEGAL)**.
- A provision requiring a board member to file the official **OATH** after election or appointment has been added.

New provisions that reflect existing statutory language have also been added throughout this legally referenced policy.

BBFA **(LEGAL)** **ETHICS**
CONFLICT OF INTEREST DISCLOSURES

Multiple bills affected this legally referenced policy on conflict disclosure requirements.

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HB 23 made significant changes to the CONFLICTS DISCLOSURE STATEMENT provisions in Chapter 176 of the Local Government Code by:

- Adding a requirement, under DEFINITION, for a local government officer to report a FAMILY RELATIONSHIP, within the third degree by blood and the second degree by marriage, with a vendor;
- Reducing the threshold for disclosing GIFTS from \$250 to \$100 in a 12-month period and deleting the exception that previously excluded gifts of lodging, transportation, or entertainment from reporting requirements;
- Replacing throughout Chapter 176 the term "person" with the term "vendor," a newly defined term;
- Adding a provision explaining when a person who is both a local governmental officer and a vendor must file the VENDOR QUESTIONNAIRE;
- Redefining "LOCAL GOVERNMENT OFFICER" to include a district agent, which is defined to include an employee who exercises discretion in the planning, recommending, selecting, or contracting of a vendor;
- Adding to the DUTIES OF A RECORDS ADMINISTRATOR a requirement for the administrator to make a list of the district's local government officers available; and
- Revising the VIOLATIONS provisions for failing to file a required conflicts disclosure statement to include graduated penalties based on the value of the underlying contract, the ability for the board to discipline an employee who knowingly fails to file, and the authorization for the board to declare a contract void if a vendor fails to file.

HB 3683 now requires ELECTRONIC FILING of a trustee financial statement with the Ethics Commission. See page 8.

HB 3680 makes confidential an electronic report or any financial statement data that is temporarily stored with the Ethics Commission pending official filing.

Changes to the SUBSTANTIAL INTEREST AFFIDAVIT provisions were made to better match legal sources and for clarification.

We have also added an existing statutory provision permitting a local public official to serve on the board of a private, nonprofit corporation if the official does not receive compensation. See PRIVATE CORPORATION.

The Texas Ethics Commission has posted updated Chapter 176 conflict of interest forms at https://www.ethics.state.tx.us/filinginfo/conflict_forms.htm.

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**BDF (LEGAL) BOARD INTERNAL ORGANIZATION
CITIZEN ADVISORY COMMITTEES**

SB 97 adds to the list of items that a district must publish in the student handbook and post on the district's website a statement as to whether the district has policies and procedures that prescribe penalties for the use of e-cigarettes. See PUBLIC STATEMENT, item 4.

BE (LEGAL) BOARD MEETINGS

Effective January 1, 2016, HB 283 requires a board for a school district that has a student enrollment of 10,000 or more to make a video and audio recording of reasonable quality of each regularly scheduled open meeting that is not a work session or a special called meeting. These districts must also make available an archived copy of the video and audio recording of each applicable meeting on the Internet. See VIDEO AND AUDIO RECORDING OF MEETING, beginning on page 8.

A conforming change was made at INTERNET BROADCAST on page 9.

**BJA (LEGAL) SUPERINTENDENT
QUALIFICATIONS AND DUTIES**

New provisions from SB 168 have been added at QUALIFICATIONS. The bill allows the Commissioner to waive the requirement for certification of a superintendent if requested by a district and prohibits a district from employing by contract a person who is not certified as a superintendent unless the person has a waiver. A school district that currently employs a person as a superintendent who does not hold a superintendent certificate must obtain a waiver from the Commissioner by October 1, 2015.

The statutory DUTIES of the superintendent were revised by HB 1706 to require the superintendent to deliver to TEA a copy of any report required by federal law, rule, or regulation. See item 13 on page 2.

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BQ (LEGAL) PLANNING AND DECISION-MAKING PROCESS

As reflected throughout this legally referenced policy, HB 2804 revised references to the "student achievement indicators" and "student achievement indicator system" to remove the word "student." This change reflects the legislature's philosophy that everyone at a district is accountable for achievement, not just students.

CBB (LEGAL) STATE AND FEDERAL REVENUE SOURCES FEDERAL

Revisions to this legally referenced policy on state and federal revenue sources are based on revised federal regulations governing all federal grants and awards, known as the new EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS (EDGAR).

Highlights of the EDGAR provisions have been included in the policy for ease of reference and access to relevant legal citations. Districts should visit TEA's grants website for the full text of the law and other essential information:

http://tea.texas.gov/Finance_and_Grants/Grants/Administering_a_Grant/The_New_EDGAR/

Topics addressed in the policy include general compliance standards, conflicts of interest and mandatory disclosures, general procurement standards, suspension and debarment, financial management and internal controls, and remedies for noncompliance. References and citations have also been added for direct grant programs, state-administered programs, and the General Education Provision Act.

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CCA (LEGAL) LOCAL REVENUE SOURCES
BOND ISSUES

New material on CAPITAL APPRECIATION BONDS (CAB) from HB 114 has been added to this policy. A district may not issue CABs secured by ad valorem taxes except in limited circumstances and must comply with extensive requirements when issuing CABs. Other details included in this policy address limits on the use of CAB proceeds and caps on the total amount of these bonds.

As reflected on page 3 at CALL FOR ELECTION, bond elections must be ordered not later than the 78th day before election day, regardless of the uniform election date on which the election will be held. This change is from SB 1703.

CCG (LEGAL) LOCAL REVENUE SOURCES
AD VALOREM TAXES

As reflected at CALL FOR ELECTION, SB 1703 requires that tax ratification elections be ordered not later than the 78th day before election day, regardless of the uniform election date on which the election will be held. (SB 1703)

We have adjusted provisions and added a reference to statute for revised deadlines for INSTALLMENT PAYMENTS in accordance with HB 1933.

We have also removed details on ADDITIONAL PENALTIES that may be imposed when a district contracts with a private attorney for collection of delinquent taxes.

CDA (LEGAL) OTHER REVENUES
INVESTMENTS

HB 870 reduces the hours of required ONGOING training from ten to eight hours for the district's chief financial officer and investment officer.

CE (LEGAL) ANNUAL OPERATING BUDGET

SB 810 added an exception to the prohibition against a school district using district resources for improvements to real property not owned or leased by the district. The exception permits a district and a municipality that are located in the same county as the district to contract for the district to contribute district resources to pay a portion of the costs of the design, improvement, or construction of an instructional facility, stadium, or other athletic facility owned by, on the property of, or under the control of the municipality. The full statutory text for this exception has been added at CX(LEGAL), below. In this legally referenced policy, we have revised the citations at USE OF DISTRICT RESOURCES to refer to the new exception and, as a result of SB 1296, at PUBLICATION OF ADOPTED BUDGET to reflect the transfer of a provision from Education Code Chapter 39 to Chapter 44.

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CFC (LEGAL) ACCOUNTING
AUDITS

Amended rules, effective March 10, 2015, clarify AUDIT REQUIREMENTS AND PROCEDURES for hiring an independent auditor to conduct an audit and give an opinion on the district's annual financial and compliance report. The rules require a school district to hire at its own expense an INDEPENDENT AUDITOR and sets forth the criteria for the independent auditor and the associated certified public accountancy (CPA) firm. TEA may require a district to select a new audit firm if TEA finds that the firm or quality of the work does not meet the required standards.

CH (LEGAL) PURCHASING AND ACQUISITION

New vendor disclosure requirements from HB 1295 have been added at DISCLOSURE OF INTERESTED PARTIES on page 3. A district may not enter into a contract that requires board action or a vote before the contract may be signed or that is valued at \$1 million or more unless the business entity entering into the contract submits to the district a disclosure of interested parties along with the signed contract. The disclosure will be on a form developed by the Texas Ethics Commission, and the district must submit all completed disclosures to the Texas Ethics Commission within 30 days of receipt.

SB 1281 clarifies that a school district can participate in a COOPERATIVE PURCHASING PROGRAM through an interlocal agreement with another local government of this state or another state. See page 10.

CHE (LEGAL) PURCHASING AND ACQUISITION
VENDOR RELATIONS

As described at BBFA(LEGAL) and DBD(LEGAL), HB 23 made significant changes to the conflict of interest provisions in Chapter 176 of the Local Government Code.

Relevant DEFINITIONS have been added, which expand the disclosure requirements for relationships between a vendor and a local governmental officer.

The changes also add a requirement for vendors to report a family relationship, within the third degree by blood and the second degree by marriage, with a local government officer. Other provisions address the requirement for a vendor to file an updated disclosure after an event that would make a previous disclosure incomplete or inaccurate, filing requirements when a vendor is also a local government officer, and the validity of a contract if a vendor fails to file a disclosure as required by law.

CHG (LEGAL) PURCHASING AND ACQUISITION
REAL PROPERTY AND IMPROVEMENTS

Not later than February 1 of each year, a school district must submit to the comptroller a report containing records and other specified information for the purpose of providing the comptroller with information needed to maintain the comptroller's eminent domain database. A school district's initial report is due February 1, 2016, and a district has a continuing obligation to submit any changes to the information within 90 days of the change. A district that fails to submit reports as required is subject to penalties allowed by law. Failure to report or late submission does not affect a district's authority to exercise the power of eminent domain. This change at REPORTING TO COMPTROLLER on pages 2 and 3 is from SB 1812.

A sample report will be included in the next update to the *TASB Regulations Resource Manual*.

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CI (LEGAL) SCHOOL PROPERTIES DISPOSAL

Provisions from HB 473 prohibit a school district from selling or transferring a marked patrol car or other law enforcement vehicle to the public unless the district removes any equipment or insignia that could mislead a reasonable person to believe that the vehicle is a law enforcement motor vehicle. The bill also prohibits such sales to a security services contractor who is regulated by the Texas Department of Public Safety, unless the district removes each emblem or insignia that identifies the vehicle as a law enforcement motor vehicle. See SALE OR TRANSFER OF LAW ENFORCEMENT VEHICLES.

CKE (LEGAL) SAFETY PROGRAM/RISK MANAGEMENT
SECURITY PERSONNEL

Multiple bills affected this legally referenced policy on security personnel. Significant changes are described with the relevant bill number in parenthesis.

A district with 30,000 or more students that commissions a school police officer or at which a school resource officer (SRO) provides law enforcement must adopt a policy requiring the officer or SRO to complete the model training curriculum for school district peace officers and SROs that the Texas Commission on Law Enforcement (TCOLE) will develop. See TRAINING in Section I, pertaining to peace officers, and Section IV, pertaining to SROs. (HB 2684) Recommended changes to CKE(LOCAL) to comply with this requirement are included in this update; see below.

Policy is required if a law enforcement agency operates a BODY-WORN CAMERA program. The policy must ensure that a body-worn camera is activated only for a law enforcement purpose and must address specific topics. The policy may not require an officer to keep a body-worn camera activated for the entire period of the officer's shift, and the policy must be consistent with the Federal Rules of Evidence and the Texas Rules of Evidence.

Before a law enforcement agency may operate a body-worn camera program, the agency must provide training to officers and any other personnel who will come into contact with data from the cameras. Peace officers equipped with a body-worn camera must act consistent with the agency's policy and the Occupations Code. (SB 158)

A law enforcement agency must file reports with the attorney general and post the reports on the agency's website if there is an OFFICER-INVOLVED INJURY OR DEATH, in which an officer discharges a firearm causing injury or death to another, or another person discharges a firearm and causes injury or death to an officer. (HB 1036)

Because of legislation authorizing open carry of handguns, effective January 1, 2016, a license to carry a concealed handgun will be called a license to carry a handgun, and language has been adjusted as appropriate throughout the policy. (HB 910, effective January 1, 2016)

As reflected in Section II on SCHOOL MARSHALS, upon request of a parent, a district must provide the parent written notice indicating whether any district employee is currently appointed as a school marshal. (SB 996)

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

HB 1474 changes the payment of a school district's instructional materials allotment from an annual payment to a payment each biennium. See FUNDING on page 1 and ORDER OF PURCHASE and INSTRUCTIONAL MATERIALS ACCOUNT on page 4.

CO (LEGAL) FOOD SERVICES MANAGEMENT

A recent federal rule requires districts to ensure that newly hired school nutrition program directors meet hiring standards and that new and existing directors complete minimum annual training and education requirements as described in federal law. See MINIMUM STANDARDS FOR SCHOOL NUTRITION PROGRAM DIRECTORS.

To allow greater flexibility, amended Texas Department of Agriculture rules, effective June 28, 2015, repealed state provisions on deep-fat fryers, prohibitions on soft drinks, and time and place restrictions on competitive foods. A new provision from the amended rules allows schools to establish EXEMPT FUND-RAISERS for up to six days per year at each campus. Any local school district regulations must be consistent with federal law.

A new local policy requirement at INSUFFICIENT MEAL CARD BALANCE is from HB 3562. This bill requires a district that allows students to use a prepaid meal card or account to adopt a grace period policy for use of the cards or accounts. The policy:

- Must allow a student with an insufficient or exhausted balance to continue to use the meal card or account by accumulating a negative balance or otherwise receiving an extension of credit from the district;
- Must require parental notification of the exhausted balance;
- May include provisions for a repayment schedule on the account balance; and
- May not require payment of a fee or interest in connection with meals purchased during the grace period.

Recommendations to satisfy this policy requirement are included at CO(LOCAL), below.

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

As authorized by HB 1305, on a campus-by-campus basis a district may choose to participate in the national school BREAKFAST PROGRAM or in a locally funded and developed program to provide free meals, including breakfast and lunch. See EHBC, below, for changes to the way the number of educationally disadvantaged students is determined.

**CQA (LEGAL) TECHNOLOGY RESOURCES
DISTRICT, CAMPUS, AND CLASSROOM WEBSITES**

Several new items have been added to the list of REQUIRED INTERNET POSTINGS:

- HB 2721 requires posting of election notices (item 2).
- HB 283, effective January 1, 2016, requires a district with a student enrollment of 10,000 or more to post the archived recording or a link to the recording of its meetings (item 7).
- HB 114 requires posting of certain information about capital appreciation bonds (item 8).
- Existing law requires posting of the transition and employment guide for students enrolled in special education programs and their parents (item 15).
- HB 1559 explains that a district must post information regarding local programs and services available to assist homeless students (item 17).

CR (LEGAL) INSURANCE AND ANNUITIES MANAGEMENT

We have updated the provision at DESIGNATED BROKER OF RECORD to reflect the current competitive procurement threshold of \$50,000.

CV (LEGAL) FACILITIES CONSTRUCTION

Reflected on page 7, HB 2049 adds new provisions on CONTRACTS FOR ENGINEERING OR ARCHITECTURAL SERVICES. A contract provision is void and unenforceable if it provides that an engineer or architect must indemnify the district or defend a party against claims based on the fault of the school district, its agent, or its employee. A contract may provide for the reimbursement of a school district's reasonable attorney's fees in proportion to the engineer's or architect's liability and may require that the engineer or architect name the district as an additional insured under the engineer's or architect's general liability insurance policy.

District contracts for engineering or architectural services must include the STANDARD OF CARE as described in the policy.

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

HB 2634 prohibits a school district's architect or engineer or any entity related to the engineer or architect from serving as the district's construction manager-at-risk and deletes a provision that once allowed the architect or engineer to do so under certain conditions. See ARCHITECT/ENGINEER, beginning on page 1.

CX (LEGAL) RENTING OR LEASING FACILITIES FROM OTHERS

On page 1 at DESIGN OR CONSTRUCTION OF AN INSTRUCTIONAL OR ATHLETIC FACILITY, we have added from SB 810 a new exception to the prohibition against school districts using district resources for improvements to real property not owned or leased by the district. A district and a municipality that are located in the same county as the district may contract for the district to contribute district resources to pay a portion of the costs of the design, improvement, or construction of an instructional facility, stadium, or other athletic facility owned by, on the property of, or under the control of the municipality. The district and municipality must enter into a written agreement authorizing the district to use the facility.

D (LEGAL) PERSONNEL

We have revised the D section table of contents to add a new policy, DHB, on reports to the State Board for Educator Certification.

**DBA (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CREDENTIALS AND RECORDS**

A change at PROFESSIONAL PERSONNEL, CERTIFICATE is from SB 1309, which clarifies that a person is not required to hold a Junior Reserve Officer Training Corps (JROTC) SBEC certificate to be a JROTC instructor.

HB 2205 establishes new criteria for issuance of a SCHOOL DISTRICT TEACHING PERMIT. If a person will teach only noncore academic career and technical education courses, a school board may issue a permit even if the person does not have a baccalaureate degree. However, the superintendent must certify the person's qualifications to the board. The board does not need to obtain approval from the Commissioner to issue a permit but is required to send the Commissioner written notice identifying the person, the course the person will teach, and the person's qualifications to teach the course. Other changes at this section are to better reflect statutory wording.

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

HB 1783 requires a superintendent to provide SBEC NOTIFICATION that a certified educator has a criminal record unless the superintendent learned about the criminal record from the criminal history clearinghouse established by the Texas Department of Public Safety (DPS). This will avoid a superintendent reporting information to TEA that TEA has already received from DPS.

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

Changes regarding **COST OF TESTING** are from SB 1574 and address accidental exposure of emergency personnel and first responders to the blood or body fluids of a patient. SB 1574 adds testing for HIV and any other reportable disease and revises the list of applicable individuals by deleting specific references to firefighters and peace officers and including emergency response employees and volunteers.

**DBD (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CONFLICT OF INTEREST**

HB 23 made significant changes to the **CONFLICTS DISCLOSURE STATEMENT** provisions in Chapter 176 of the Local Government Code by:

- Deleting existing provisions that authorized a district to extend the Chapter 176 requirements to employees with authority to approve contracts for the district; and
- Broadening the disclosure requirements as described at BBFA(LEGAL), above, the key provisions of which are also included in this legally referenced policy for employee conflicts of interest.

The Texas Ethics Commission has posted updated Chapter 176 conflict of interest forms at:
https://www.ethics.state.tx.us/filinginfo/conflict_forms.htm.

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DEA (LEGAL) COMPENSATION AND BENEFITS
 COMPENSATION PLAN

HB 2974 modifies the method for determining the HEALTH INSURANCE CONTRIBUTIONS surcharge imposed on a district that hires a retiree. Under former law, a district was responsible for a health insurance surcharge in the amount of the state's contribution toward the employee and family's health insurance (the difference between the full premium and the specific employee's contribution). This bill provides that TRS will now determine the amount of the health insurance surcharge, taking into consideration the amount of the state's contribution.

DEAA (LEGAL) COMPENSATION PLAN
 INCENTIVES AND STIPENDS

A new provision at ACHIEVEMENT ACADEMY STIPENDS is based on SBs 925, 934, and 972. These bills require the Commissioner of Education to establish literacy achievement academies, mathematics achievement academies, and reading-to-learn academies for teachers. From funds appropriated for that purpose, a teacher who attends one of these academies is entitled to receive a stipend in the amount determined by the Commissioner. The stipend is not considered in determining whether a school district is paying the teacher the state minimum monthly salary.

At the same margin note, HB 18 requires the Center for Teaching and Learning at UT Austin to create postsecondary education and career counseling academies for middle school and high school counselors and other postsecondary advisers. The Center may pay a stipend from appropriated funds to participating educators. The stipend is not considered in determining whether a school district is paying the participating individual the state minimum monthly salary.

DEAB (LEGAL) COMPENSATION PLAN
 WAGE AND HOUR LAWS

Existing federal provisions on breaks for nursing mothers have been moved without revision to DG(LLEGAL) on employee rights and privileges. See below.

DEC (LEGAL) COMPENSATION AND BENEFITS
 LEAVES AND ABSENCES

HB 2398 made significant changes to truancy provisions. See FEA and FED(LLEGAL), below. A new provision from the bill added to this legally referenced policy provides that an employer may not terminate the employment of a permanent employee because the employee was required to attend a truancy court hearing with his or her child. See ATTENDANCE AT TRUANCY HEARING on page 4.

DECA (LEGAL) LEAVES AND ABSENCES
 FAMILY AND MEDICAL LEAVE

In June 2015, the U.S. Supreme Court ruled in *Obergefell v. Hodges* that same-sex couples have a fundamental right to marry and that a state must license a marriage between two people of the same sex and recognize a marriage between two people of the same sex that was lawfully performed in another state. Now that same-sex marriage is legal throughout the U.S., a district must treat a same-sex spouse as an employee's spouse for any benefits, regardless of where the couple was married.

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As a result of the *Obergefell* ruling, a federal district court in Texas dissolved an injunction that had delayed implementation of Department of Labor rules defining "spouse" under the Family and Medical Leave Act (FMLA) to include those in same-sex marriages. The Department of Labor's new definition of "SPOUSE" has been incorporated into this legally referenced policy and conforming changes have been made throughout. The effect of the new definition of "spouse" is that district employees in same-sex marriages can now take FMLA leave to care for their spouses or family members.

Please note: TASB Legal Services has an e-Source article, "Same-Sex Marriage and School District Employees," explaining the effect of the *Obergefell* decision on school districts in Texas.

DECB (LEGAL) LEAVES AND ABSENCES MILITARY LEAVE

As reflected on page 2 at STATE LEAVE FOR MEMBER OF MILITARY OR RESCUE TEAM, HB 445 requires a district to provide written notice of the number of workdays of paid leave to which an employee is entitled each fiscal year under state law as a member of the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team. Upon request, a district must provide the employee a statement of the number of workdays the employee used for paid military leave during the fiscal year.

Please note: The TASB HR Services 2015 Model Employee Handbook includes provisions that satisfy this notice requirement.

DF (LEGAL) TERMINATION OF EMPLOYMENT

The following changes were made to this legally referenced policy on termination of employment:

- Provisions detailing the circumstances when a superintendent must file reports to SBEC were revised and moved to DHB, a new code created to include all relevant material on reports to SBEC. A cross-reference to DHB has been added as a reminder that a report may be required in the case of an educator's termination.
- A new Labor Code provision from SB 664 has been added on page 4. This bill allows a district to discharge a contract employee if the district determines that the employee engaged in FALSIFICATION OF A MILITARY RECORD.

DFE (LEGAL) TERMINATION OF EMPLOYMENT RESIGNATION

Provisions detailing the circumstances when a superintendent must file a report with SBEC in the case of an educator's resignation were revised and moved to DHB, a new code created to include all relevant material on reports to SBEC. A cross-reference to DHB has been added at REPORT TO SBEC.

HB 1783 revised the standard for when a superintendent must complete an INVESTIGATION regarding an educator's alleged abuse or other unlawful act with a minor even though the educator has resigned. Previous law referred to an investigation based on "reasonable cause to believe" that the educator may have engaged in the conduct; the new provision refers to "evidence that" the educator may have engaged in the conduct.

DG (LEGAL) EMPLOYEE RIGHTS AND PRIVILEGES

The following changes were made to this legally referenced policy on employee rights and privileges:

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- Pursuant to HB 1783, a school district employee has the **RIGHT TO REPORT A CRIME** the employee witnessed at school to any peace officer with authority to investigate the crime. A district is prohibited from adopting a policy requiring an employee to report a crime witnessed at the school only to certain persons or peace officers or to refrain from reporting a crime witnessed at the school.
- Existing federal provisions on **BREAKS FOR NURSING MOTHERS—NONEXEMPT EMPLOYEES** were moved without revision from DEAB(LLEGAL), above.
- New provisions from HB 786 provide that a district employee has a **RIGHT TO EXPRESS BREAST MILK** at the employee's workplace. A district, as a public employer, must develop a written policy on the expression of breast milk by employees, which must state that the district will support the practice of expressing breast milk and make reasonable accommodations for the needs of employees who express breast milk. The district must provide a reasonable amount of break time for an employee to express breast milk each time the employee has the need to express the milk and must provide a place, other than a multiple-user bathroom, that is shielded from view and free from intrusion from other employees and the public where the employee can express breast milk. A district may not suspend or terminate the employment of, or otherwise discriminate against, an employee because the employee has asserted her right to express breast milk. However, the bill does not create a private or state cause of action against a public employer. Please note, the *TASB HR Services 2015 Model Employee Handbook* includes provisions to satisfy the requirement for a written policy.

DH (LEGAL) EMPLOYEE STANDARDS OF CONDUCT

Provisions detailing the circumstances when a superintendent must file a report with SBEC were revised and moved to DHB, a new code created to include all relevant material on reports to SBEC.

Revisions at **TOBACCO AND E-CIGARETTES** are from SB 97, which requires a school district to prohibit anyone from using e-cigarettes at a school-related or school-sanctioned activity on or off school property.

SB 339 prohibits a district from enacting, adopting, or enforcing a rule or regulation that prohibits the possession of **LOW-THC CANNABIS** as authorized by Chapter 487 of the Health and Safety Code, which permits prescriptions for low-THC (non-intoxicating) cannabis in limited circumstances. Local policy recommendations regarding SB 339 are included at DH(LOCAL), below.

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DHB (LEGAL) EMPLOYEE STANDARDS OF CONDUCT
REPORTS TO STATE BOARD FOR EDUCATOR CERTIFICATION

This new code has been added to include all relevant provisions on reports to SBEC and is organized into major sections describing when reports are required, what constitutes reportable misconduct, deadlines to report, contents of the report, and sanctions for failure to report. The material at this code was moved from DH, DF, and DFE and modified as a result of HB 1783.

Changes at REPORT REQUIRED include the following:

- A superintendent must provide notice to SBEC if an educator has a CRIMINAL HISTORY record that the district obtained through a means other than the criminal history clearinghouse established by the Texas Department of Public Safety (DPS). This avoids a superintendent reporting information to TEA that TEA has already received from DPS.
- A superintendent must report a termination or resignation when there is "evidence," rather than a "determination," of misconduct.

The list of REPORTABLE MISCONDUCT was modified to include new statutory wording that was previously only in state rule requiring a report if there is evidence that the educator was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or a minor.

The superintendent's DEADLINE TO REPORT was changed to not later than seven days from the date the superintendent "knew about" the reportable incident. Previous law required a report within seven days of when the superintendent "first learned about" the reportable incident.

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**DIA (LEGAL) EMPLOYEE WELFARE
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND
RETALIATION**

New provisions from HB 1151 have been added on page 2. The new law prohibits sexual HARASSMENT OF UNPAID INTERNS. An employer commits an unlawful employment practice if sexual harassment of an unpaid intern occurs and the employer knew or should have known that the conduct was occurring and failed to take appropriate corrective action.

See DIA(LOCAL), below, for local policy recommendations as a result of this bill.

**DMA (LEGAL) PROFESSIONAL DEVELOPMENT
REQUIRED STAFF DEVELOPMENT**

The following changes were made to this legally referenced policy on staff development:

- HB 2186 requires that staff development for educators include SUICIDE PREVENTION training that must be provided on an annual basis as part of new employee orientation and on a schedule adopted by TEA rule to existing employees.
- Existing provisions addressing training of teachers, counselors, principals, and other appropriate personnel on MENTAL HEALTH, SUBSTANCE ABUSE PREVENTION, AND SUICIDE PREVENTION have been repeated from FFB(LEGAL), not included in this update.

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- An outdated provision on training deadlines for existing employees was removed at CHILD ABUSE AND MALTREATMENT.

DNB (LEGAL) PERFORMANCE APPRAISAL
EVALUATION OF OTHER PROFESSIONAL EMPLOYEES

This legally referenced policy on evaluation of professional employees has been updated to better reflect statutory wording, delete outdated provisions, and add an existing statutory provision on PRINCIPAL AP- PRAISAL.

EB (LEGAL) SCHOOL YEAR

Provisions at LENGTH OF SCHOOL YEAR have been revised based on HB 2610, which changes the requirement of 180 instructional days to 75,600 instructional minutes, including intermissions and recesses. A district may add minutes to the end of normal school hours as necessary to compensate for minutes of instruction lost due to school closures.

HB 2610 also prohibits a district from scheduling the LAST DAY OF SCHOOL before May 15, with an exception for districts that do not offer kindergarten through grade 12 and whose prospective or former students generally attend school in another state for the grade levels that the district does not offer.

EC (LEGAL) SCHOOL DAY

At LENGTH AND SCHEDULE, HB 2610 defines a day of instruction as 420 minutes of instruction.

HB 4 permits a district to participate in a grant for a high-quality prekindergarten program, which must be offered free of tuition or fees. A district participating in the PREKINDERGARTEN GRANT PROGRAM is entitled to receive half-day funding for each enrolled and eligible student. See EHBG, below, for additional details.

EEB (LEGAL) INSTRUCTIONAL ARRANGEMENTS
CLASS SIZE

A district participating in the HIGH-QUALITY PREKINDERGARTEN GRANT PROGRAM authorized by HB 4 must attempt to maintain an average ratio of not less than one certified teacher or teacher's aide for each 11 students.

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TASB Policy Service has revised its sample administrative regulation to include parental notice and additional review opportunities. Policy Service also has sample local policy text available if your district wishes to include a dedicated public comment period prior to board adoption of instructional materials. Contact your policy consultant for a copy of these materials.

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

Starting with the 2015–16 school year, districts must provide to students, at least once in seventh or eighth grade, INSTRUCTION IN HIGH SCHOOL, COLLEGE, AND CAREER PREPARATION. The instruction must cover personal graduation plans, the distinguished level of achievement, each endorsement, college readiness standards, and potential career choices and the necessary education for those careers. The instruction may be part of an existing class, or the district may create a new elective. This change is from HB 18.

**EHAD (LEGAL) BASIC INSTRUCTIONAL PROGRAM
ELECTIVE INSTRUCTION**

HB 3987 allows a school district to establish a SCHOOL-BASED SAVINGS PROGRAM as outlined in the policy in order to facilitate personal financial literacy instruction and increase awareness on saving for higher education. This program may be offered in conjunction with the personal financial literacy course offered under Education Code 28.0021.

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

Changes to this legally referenced policy are from SB 1259.

A REGULAR EDUCATION TEACHER who serves on a student's admission, review, and dismissal (ARD) committee must, to the extent practicable, be responsible for implementing a portion of the student's individualized education program (IEP).

The definition of "INDIVIDUALIZED EDUCATION PROGRAM" (IEP) was revised to clarify that it must include the decisions of the ARD committee that are discussed at each meeting and, in addition to the previous requirements, must include the meeting date; the name, position, and signature of each committee member participating in the meeting; and an indication of whether the student's parents, the adult student, if applicable, and the administrator agreed or disagreed with the committee's decisions. Each committee member who disagrees is entitled to include a written statement in the IEP.

A district must also develop a process for a teacher who instructs a student with a disability in a regular classroom setting to provide input in the development of the student's IEP. See TEACHER REQUEST TO REVIEW IEP on page 10.

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

HB 1305 revises how the number of educationally disadvantaged students is determined. Under previous law, the number of educationally disadvantaged students was based on the number of students enrolled in the National School Lunch Program (NSLP) in the previous year. So that districts that develop a local program are not penalized in funding, HB 1305 now allows a district to use the number of students eligible for free and reduced-price meals under the NSLP rather than the number of students actually enrolled. See COMPENSATORY EDUCATION ALLOTMENT on page 1. In addition, a district can include a student who is in full-time attendance in the TxVSN under certain circumstances.

HB 2660 addresses the Commissioner's calculation of ADA for students served in an OPTIONAL FLEXIBLE SCHOOL DAY PROGRAM. The Commissioner must ensure that FUNDING for attendance is based on the same instructional hour requirements as the regular program, rather than a full-time equivalent student basis that requires six hours of student contact time to qualify for a full day of attendance.

As provided by HB 1613, a student in a college prep math or English course under Education Code 28.014 (which is a course developed with a higher education partner to assist 12th-grade students who do not yet meet college readiness standards) who satisfies the college readiness benchmarks of the Texas Success Initiative (TSI) assessment is exempt from the relevant END-OF-COURSE EXAM. A student who does not meet the college readiness benchmarks of the TSI assessment may retake the relevant assessment or take the appropriate EOC exam.

**EHBE (LEGAL) SPECIAL PROGRAMS
BILINGUAL EDUCATION/ESL**

At PERSONNEL, details on certification requirements for bilingual and dual language programs have been added from HB 218, with different certification requirements for assignment to the different types of programs.

With dual-language immersion/one-way or two-way models, a district may assign different teachers for the language other than English component and for the English language component.

**EHBG (LEGAL) SPECIAL PROGRAMS
PREKINDERGARTEN**

Statutory provisions on the HIGH-QUALITY PREKINDERGARTEN GRANT PROGRAM authorized by HB 4 have been added. A district that meets program standards may choose to participate in the program, which must be offered free of tuition or fees.

Each eligible enrolled student who is four years old on September 1 of the year the student begins the program qualifies for additional FUNDING. Funds may be used only to improve the prekindergarten program.

Grant recipients must:

- Use TEA curriculum standards (not Common Core);
- Measure student progress on recommended standards;
- Starting with the 2016–17 school year, employ teachers who are SBEC certified and meet other specific qualifications;
- Attempt to maintain an average ratio of one certified teacher or aide for each 11 students; and

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- Develop and implement a family engagement plan to promote family involvement and positive attitudes toward education. The plans must be based on strategies established by TEA.

See CURRICULUM AND TEACHER REQUIREMENTS and FAMILY ENGAGEMENT PLAN.

At PROGRAM EVALUATION, grant recipients must select methods of measuring student progress and must report data to parents. If a district decides to use a diagnostic instrument to measure progress, it must be selected from a TEA-approved list.

Grant recipients can contract with ELIGIBLE PRIVATE PROVIDERS to provide prekindergarten services under certain conditions.

EHBK (LEGAL) SPECIAL PROGRAMS
 OTHER INSTRUCTIONAL INITIATIVES

At MANDATORY RECOGNITION DATES, HYDROCEPHALUS AWARENESS MONTH was moved from October to September. (HB 1052)

Two new OPTIONAL RECOGNITION DATES were added: January is HUMAN TRAFFICKING PREVENTION MONTH (HB 2290), while February 19 is IWO JIMA DAY (SB 961). Both may be regularly observed through appropriate activities in public schools.

EHBL (LEGAL) SPECIAL PROGRAMS
 HIGH SCHOOL EQUIVALENCY

Pursuant to HB 2398, a student is eligible to participate in a High School Equivalency Program if a court under the Family Code, rather than the Code of Criminal Procedure, orders a student to participate in a prep class for or to take the high school equivalency examination. See STUDENT ELIGIBILITY, item 1.

EHDC (LEGAL) ALTERNATIVE METHODS FOR EARNING CREDIT
 CREDIT BY EXAMINATION WITHOUT PRIOR INSTRUCTION

The minimum score needed for a student in grades 6 and above to receive credit by examination is now a scaled score of 50, rather than 60, on a CLEP exam. This change is reflected at GRADES 6–12 and is from SB 453.

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

HBs 505 and 2812 repealed a provision that prohibited a student from enrolling in more than three courses for dual credit at a college if the college did not have a service area that includes the student's high school.

New provisions from HB 18 require a course for joint high school and college credit to be taught by a QUALIFIED INSTRUCTOR, as described in the policy.

Pursuant to rules and criteria set by the Commissioner, HB 2812 allows districts to include in ADA students who attend approved off-campus instructional programs. See ATTENDANCE ACCOUNTING beginning on page 3.

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**EHDE (LEGAL) ALTERNATIVE METHODS FOR EARNING CREDIT
DISTANCE LEARNING**

Amended rules on the TEXAS VIRTUAL SCHOOL NETWORK (TxVSN) effective April 7, 2015, have been added to this legally referenced policy on distance learning.

The rules clarify that a Texas school district may provide an electronic course through the TxVSN to a student who resides in Texas and is enrolled in a school other than a public school district or charter school. See STATEWIDE COURSE CATALOG PROVIDER ELIGIBILITY on page 3.

The amendments also update and clarify the GENERAL REQUIREMENTS for entities serving as TxVSN course providers. Providers must:

- Provide the receiver district with written notice of a student's performance at least once every 12 weeks and once every three weeks if the student's performance is unsatisfactory; and
- Meet all reporting requirements established by the TxVSN.

Requirements for receiver districts were added, including when a receiver district must award credit to a student who successfully completes a course through the TxVSN. See RECEIVER DISTRICT REQUIREMENTS on page 4.

At COURSE COST, beginning on page 9, the rules explain that a district may decline to pay the course costs for a student who chooses to enroll in more than three year-long courses during a school year. A student may enroll in additional courses at the student's expense.

Course providers shall maintain records documenting that EDUCATORS OF ELECTRONIC COURSES through the TxVSN have valid Texas educator certification credentials appropriate for the assignment and that the provider has conducted and maintained records on background checks.

EI (LEGAL) ACADEMIC ACHIEVEMENT

At ACADEMIC ACHIEVEMENT RECORD, HB 181 deletes the requirements for districts to put information on student diplomas about endorsements, performance acknowledgments, and the distinguished level of achievement.

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

HB 1993 allows a district that sends required PROGRESS REPORTS to parents electronically to permit a parent to sign the notices electronically, as long as the district retains a record verifying the parent's acknowledgment of the required notice. A district that accepts electronic signatures must continue to offer parents the option to provide a handwritten signature.

**EIF (LEGAL) ACADEMIC ACHIEVEMENT
GRADUATION**

An exception to the graduation requirements for the foundation high school program added by SB 149 allow a student to receive a diploma using the INDIVIDUAL GRADUATION COMMITTEE (IGC) process.

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For each 11th- and 12th-grade student who has not passed up to two end-of-course (EOC) exams, a school district must establish an IGC at the end of or after the student's 11th-grade year to determine whether the student is eligible to graduate. The committee's composition is detailed in the policy. The district must provide timely NOTICE to a parent of the time, place, and purpose of the IGC meeting. To graduate, a student must complete the CURRICULUM REQUIREMENTS for the relevant graduation program and the ADDITIONAL REQUIREMENTS TO GRADUATE recommended by the IGC, which must include remediation and, for each course in which the student failed the EOC exam, a project or portfolio showing proficiency. In determining whether a student is qualified to graduate, the IGC must consider the factors listed in statute and any other academic information designated for consideration by the board. The committee's vote must be unanimous.

A reference to EKB regarding English language learners who have failed to achieve satisfactory performance on EOC exams has been added on page 4 .

Revised Commissioner rules reflecting changes from SB 149 have been added. The rules align graduation requirements for students receiving special education services with changes to the state's assessment requirements for students in general education and specify that a student receiving special education services who has not passed up to two EOC assessments may graduate if all other requirements are met and may receive endorsements if graduating under the foundation high school program. The student's ARD committee determines whether a student is required to achieve satisfactory performance on an EOC assessment to graduate. See Section VI, GRADUATION OF STUDENTS RECEIVING SPECIAL EDUCATION SERVICES.

An existing statutory provision permitting dual credit courses to satisfy graduation requirements has been added at COLLEGE COURSES on page 9.

On page 12, HB 181 deletes the requirements for districts to put information on student diplomas about PERFORMANCE ACKNOWLEDGMENTS and allows a student to receive an acknowledgment for earning:

- A certain score on a "nationally norm-referenced" college preparation or college admission exam (previous law listed the specific exams); or
- A state-recognized industry certification (previous law only included nationally and internationally recognized certifications).

Several expired provisions referring to the previous graduation programs have been deleted.

If a homeless student in the 11th or 12th grade transfers to a different district and does not meet the new district's graduation requirements, this bill requires the previous district to allow the student to graduate if he or she meets the graduation requirements of the previous district. This change from SB 1494 has been added at Section VIII of the policy, on pages 21 and 22.

EK (LEGAL) TESTING PROGRAMS

Rather than reducing a district's Foundation School Program allotment to pay for COLLEGE PREPARATION ASSESSMENTS administered in applicable grades, HB 743 provides that TEA will reimburse a district from appropriated funds, if any, for all fees associated with the administration of the tests.

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EKB (LEGAL) TESTING PROGRAMS
STATE ASSESSMENT

At ASSESSMENT REQUIREMENTS FOR GRADUATION, HB 2349 clarifies that a student must meet satisfactory performance on end-of-course (EOC) exams only for the courses in which the student is enrolled and for which an EOC exam is administered. Existing text from Commissioner rules has been added to explain state assessment requirements for students who had CREDITS EARNED PRIOR TO ENROLLMENT or who completed a course prior to the 2011–12 spring assessment administration.

Information about the INDIVIDUAL GRADUATION COMMITTEE (IGC) process for students who have failed to pass not more than two EOCs has also been added from SB 149. Revised Commissioner rules reflecting changes from SB 149 have been added. The rules include specific provisions addressing the IGC process for ENGLISH LANGUAGE LEARNERS and assessment requirements for students who are currently receiving SPECIAL EDUCATION services or who have been dismissed from a special education program. See EIF(LEGAL), above, for more information.

HB 2349 repealed the requirement that a student who appeared unlikely to pass all required EOCs on completion of 11th grade be enrolled in a college prep course with a test that could substitute as the EOC. (College prep courses under Education 28.014 for seniors who are not college-ready are still in place.)

We have deleted an expired statutory provision on instructional materials provisions.

FD (LEGAL) ADMISSIONS

SB 206 clarifies that the entitlement for a STUDENT IN FOSTER CARE to continue in enrollment on a tuition-free basis at the school the student was attending applies to a student whether the child's relocation is because of an initial placement or a change in placement. This entitlement continues even if state conservatorship ends.

The addition of a citation to Education Code Chapter 29, Subchapter E-1 at FOUNDATION SCHOOL PROGRAM reflects that HB 4 provides funding for a student enrolled in a high-quality prekindergarten grant program. See EHBG(LEGAL), above, for more information.

FDC (LEGAL) ADMISSIONS
HOMELESS STUDENTS

Each campus within a district with 3,000 or more students and located in a county with a population of at least 50,000 that maintains an Internet website must post on the website information regarding local programs and services available to assist homeless students in a format and style that is easily understandable by students or parents. A school district is not liable for any harm to a student that results in connection with a local homeless program or service advertised on a school's website. This change is from HB 1559. See WEBSITE INFORMATION ON LOCAL PROGRAMS.

FEA (LEGAL) ATTENDANCE
COMPULSORY ATTENDANCE

HB 2398, which made significant changes to the truancy laws, prompted revisions throughout this legally referenced policy on compulsory attendance.

- The bill extends COMPULSORY ATTENDANCE through age 18, rather than through age 17.

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- At VOLUNTARY ENROLLMENT OF STUDENTS 19 AND OVER, a student who voluntarily attends or enrolls after his or her 19th (rather than 18th) birthday is required to attend school for the entire period the program of instruction is offered. HB 2398 adds a requirement for the district to send the student notice after the student's third unexcused absence stating that the student's enrollment can be revoked. HB 2398 continues to allow a school district to revoke the enrollment of a voluntarily enrolled student if the person has more than five unexcused absences in a semester, except now the district may not revoke enrollment on a day on which the student is physically present at school. As an alternative to revoking enrollment, a district may impose a behavior improvement plan.
- HB 2398 removes the criminal offense of Failure to Attend School for students under Education Code 25.094 and adds an option to refer a student in a civil case to specific TRUANCY COURTS. In the WARNING NOTICE that must be issued at the beginning of each school year, a district must explain that if a student is absent from school on ten or more days or parts of days within a six-month period, the student is subject to referral to truancy court. Parents remain subject to criminal prosecution.
- If a student is absent on three or more days or parts of days within a four-week period, the NOTICE OF ABSENCES to the parent must explain that the student is subject to the imposition of TRUANCY PREVENTION MEASURES.
- At STUDENT LIABILITY, "truant conduct" is defined as failing to attend on ten or more days or parts of days within a six-month period, and no longer includes failing to attend on three or more days or parts of days within a four-week period. Likewise, truancy is no longer considered conduct indicating a need for supervision under the Family Code.
- Based on the definition of "child" to mean a person who is 12 years of age or older and younger than 19 years of age, a district cannot file a referral against a student age 19 or older.
- As with the previous AFFIRMATIVE DEFENSE for the offense of failure to attend, a student has an affirmative defense to an allegation of truant conduct if the student can show that the absence was or should have been excused or was involuntary.
- As described at DISTRICT COMPLAINT OR REFERRAL, after ten or more unexcused absences within a six-month period, a district must refer a student to truancy court and may file a complaint against the student's parent.

On page 4 at CHILDREN IN CONSERVATORSHIP OF DFPS, revisions from SB 206 clarify that absences are excused for compulsory attendance purposes when the Department of Family and Protective Services determines and documents that the absences are because the student is participating in an activity required under a court-ordered service plan or any other court-ordered activity, provided it is not practicable to schedule the student's participation in the activity outside of school hours.

For a side-by-side comparison of the truancy laws before and after HB 2398 and a memo on truancy prevention measures, see TASB Legal Services' *The Principal's Guide to Truancy*, available on eSource at: https://www.tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Students/documents/principals_guide_to_truancy_aug15.pdf.

Explanatory Notes

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Also based on the above change to the age of compulsory attendance, we have revised the district's provisions at WITHDRAWAL FOR NONATTENDANCE to make them applicable to students under the age of 19 and adjusted the reference to FEA(LLEGAL) for withdrawal of students age 19 or older.

For better context of the district's local provisions on EXCUSED ABSENCES for HIGHER EDUCATION VISITS and EARLY VOTING OR ELECTION CLERKS, we have added an acknowledgment that these absences are in addition to the excused absences required by law.

Please note: We have retained the district's locally developed text at WITHDRAWAL FOR NONATTENDANCE regarding the attendance review committee's consideration of each case on an individual basis.

FEB (LEGAL) ATTENDANCE
ATTENDANCE ACCOUNTING

At CHILDREN IN CONSERVATORSHIP OF DFPS, revisions from SB 206 clarify that a student not on campus during the time when attendance is taken is still considered to be in attendance for funding purposes if the Department of Family and Protective Services determines and documents that the absences are because the student is participating in an activity required under a court-ordered service plan or any other court-ordered activity, provided it is not practicable to schedule the student's participation in the activity outside of school hours.

FED (LEGAL) ATTENDANCE
ATTENDANCE ENFORCEMENT

As described above at FEA(LLEGAL), HB 2398 made significant changes to the truancy laws:

- As described at DISTRICT COMPLAINT OR REFERRAL, after ten or more unexcused absences within a six-month period, a district must refer a student to truancy court and may file a complaint against the student's parent. However, a district may delay the referral of a student or choose not to refer the student if the truancy prevention measures that the district is applying to the student are succeeding and it is in the best interest of the student to delay or not make the referral.
- A district cannot file a truancy referral if the student's truancy is the result of pregnancy, being in foster care, homelessness, or being the principal income earner for the student's family.

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- A court will dismiss a complaint or referral that does not meet the FILING REQUIREMENTS.
- Provisions on EXPUNCTION OF RECORDS have also been added.
- The bill amends the POWERS AND DUTIES of an attendance officer, including a PEACE OFFICER serving as an attendance officer, by removing the authority of an officer to take a student into custody with the permission of the parent or pursuant to a court-ordered legal process.
- The bill adds TRUANCY PREVENTION MEASURES that must be applied prior to referral to court for truant conduct. A school district must refer the student to counseling, mediation, mentoring, a teen-court program, or other in-school or out-of-school service aimed at addressing the truancy or must impose either a behavior improvement plan or school-based community service. A district is required to offer counseling to a student who is truant because of pregnancy, being in the state foster program, homelessness, or being the principal income earner for the student's family.
- HB 2398 also requires a school district to employ a TRUANCY PREVENTION FACILITATOR OR JUVENILE CASE MANAGER or designate an existing district employee or juvenile case manager to serve in the role. Existing provisions allowing a district, on approval of the school board, to employ or jointly employ a juvenile case manager were revised to permit a district to jointly contribute to the costs when another entity employs the case manager.

For a side-by-side comparison of the truancy laws before and after HB 2398 and a memo on truancy prevention measures, see TASB Legal Services' *The Principal's Guide to Truancy*, available on eSource at: https://www.tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Students/documents/principals_guide_to_truancy_aug15.pdf.

Additional resources will be included in the next update to the *TASB Regulations Resource Manual*.

FFAC (LEGAL) WELLNESS AND HEALTH SERVICES MEDICAL TREATMENT

Over-the-counter topical SUNSCREEN PRODUCTS may be used by a student on school property or at a school-related event as permitted by SB 265. The bill does not waive any immunity from liability or create any liability or cause of action against a school district, its board of trustees, or its employees.

At MAINTENANCE AND ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS, on page 5, SB 66 addresses school district administration of district-provided epinephrine auto-injectors to individuals reasonably believed to be experiencing anaphylaxis on a school campus, at an off-campus school event, or while in transit to or from a school event.

A district that chooses to authorize trained volunteers and school personnel, defined to include employees and board members, to administer epinephrine auto-injectors as permitted by SB 66 must adopt a policy that meets certain requirements and must provide written NOTICE TO PARENTS before the policy is implemented and before the start of each school year. The policy is required to provide that authorized and trained school personnel and volunteers may administer epinephrine to a person who is reasonably believed to be experiencing anaphylaxis on a school campus; SB 66 gives the district a choice whether trained individuals may do so at an off-campus school event or while in transit to or from a school event.

Each district that has an epinephrine policy must require that each campus have one or more authorized and trained school personnel or volunteers present to administer an epinephrine auto-injector during all hours the campus is open. Epinephrine auto-injectors must be stored in a secure location and be easily accessible.

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The campus must file **REPORTS** within ten days of a trained individual administering epinephrine. Information on **TRAINING** requirements and the authority of a physician to provide the district with a **STANDING ORDER** for epinephrine has also been included. A district may accept **GIFTS, GRANTS, AND DONATIONS** to implement its program.

This bill provides **IMMUNITY FROM LIABILITY**, both civil and criminal, or disciplinary action for a person who in good faith takes, or fails to take, any action under an epinephrine auto-injector policy.

See **FFAC(LOCAL)**, below, for information on local policy addressing this new law.

**FFAF (LEGAL) WELLNESS AND HEALTH SERVICES
CARE PLANS**

As reflected at **STUDENTS AT RISK FOR ANAPHYLAXIS**, if a district adopts a policy to authorize administration of epinephrine auto-injectors as permitted by SB 66 [see **FFAC(LEGAL)**, above], the district is not required to adopt and administer a policy for the care of students with a diagnosed food allergy as otherwise required by law. Because the policies address different issues, however, TASB Policy Service recommends that districts retain existing policy on the care of students with diagnosed food allergies.

**FFD (LEGAL) STUDENT WELFARE
STUDENT INSURANCE**

HB 744 extends the coverage of insurance that school districts may obtain for students participating in athletic competitions or school-sponsored activities by deleting the requirement that the school-sponsored activity must occur on a school campus. See **PURCHASING INSURANCE**.

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

In accordance with SB 219, we have:

- Revised terminology to refer to a "person with a disability" rather than "disabled persons" [see **ABUSE OF PERSONS WITH DISABILITIES** and **ADULT VICTIMS OF ABUSE**]; and
- Amended the list of entities to which a report of abuse or neglect may be made to delete the reference to an agency designated by the court to be responsible for the protection of children [see **TO WHOM REPORTED**].

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The offense of COERCION was amended by HB 1783 to apply to a "public servant, including a school administrator" rather than to an "employee."

If the Department of Family and Protective Services conducts an INVESTIGATION of child abuse or neglect involving a district employee, the department shall, on request, provide a copy of the completed report of the investigation to the school board, the superintendent, and the principal. This is required by SB 206.

**FNCD (LEGAL) STUDENT CONDUCT
TOBACCO USE AND POSSESSION**

Revisions at USE OR POSSESSION BY STUDENTS are from SB 97, which requires a school district to prohibit students from smoking, using, or possessing e-cigarettes at a school-related or school-sanctioned activity on or off school property. A definition of e-cigarette is included.

**FNCG (LEGAL) STUDENT CONDUCT
WEAPONS**

Revisions throughout this legally referenced policy on weapons are from SB 107. This bill deleted from statute the detailed list of prohibited weapons in lieu of references to Penal Code sections 46.02 (UNLAWFUL CARRYING OF WEAPONS) and 46.05 (PROHIBITED WEAPONS), which are included in the policy. As a result of these changes, a student is subject to mandatory expulsion only for possession of an "illegal knife," a knife with a blade over five and a half inches, and not for shorter knives.

SB 473 creates an exception from sections of the PROHIBITED WEAPONS offense if the individual has registered the weapon or firearm with the National Firearms Registration and Transfer Record maintained by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, or the weapon or firearm is classified as a curio or relic by the U.S. Department of Justice.

**FNF (LEGAL) STUDENT RIGHTS AND RESPONSIBILITIES
INTERROGATIONS AND SEARCHES**

School administrators frequently ask about their authority to search a student's cell phone. New provisions from HB 1396 do not address a school administrator's authority to search a student's cell phone but do clarify this issue when a peace officer is conducting the search. The bill provides that a peace officer may not search a person's cellular telephone or other wireless communications device pursuant to a lawful arrest of the person without obtaining a warrant, subject to several exceptions.

FO (LEGAL) STUDENT DISCIPLINE

Existing statutory provisions have been added beginning on page 5 of this legally referenced policy to reflect the option provided by law for the district to permit the use of CORPORAL PUNISHMENT as a disciplinary technique and the legal standard for a teacher or administrator's use of force against a student. The district's FO(LOCAL) continues to reflect the board's decision to prohibit the use of corporal punishment in the district.

SB 107 creates the position of CAMPUS BEHAVIOR COORDINATOR (CBC). Each campus must designate a CBC, which may be the principal of the campus or any other campus administrator selected by the principal.

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The CBC is responsible for maintaining student discipline and implementing any duties assigned by law and as established by campus or district policy. Unless otherwise provided by campus or district policy, SB 107 requires the CBC to perform the duties imposed on a campus principal under Education Code Chapter 37 and permits the CBC to exercise a power granted by a campus principal or other campus administrator under Chapter 37.

In addition, a CBC must provide written notice to a parent when a student is placed into in-school or out-of-school suspension, DAEP, expelled, placed in a JJAEP, or is taken into custody by law enforcement.

If the CBC has not made contact with the parent by telephone or in person by 5 pm of the first business day after the day the disciplinary action was taken, the CBC must mail written notice to the parent. If the CBC is unavailable or unable to provide the required notice, the principal or designee is required to provide the notice.

For further information, see the TASB Policy Service *2015 Model Student Code of Conduct*.

FOA (LEGAL) STUDENT DISCIPLINE
REMOVAL BY TEACHER OR BUS DRIVER

At **INFORMAL REMOVAL**, a teacher referring a student out of the classroom for misconduct must now make that referral directly to the campus behavior coordinator (CBC) in accordance with SB 107. The CBC shall respond with appropriate discipline techniques and, if the student's behavior does not improve, must employ alternative discipline management techniques, including any progressive interventions as permitted by the district's student code of conduct.

The CBC is required to consider self-defense and the other **MITIGATING FACTORS** listed in statute prior to ordering suspension.

As explained in the note at bottom of page 1, a power granted to a campus principal under Chapter 37 may be exercised by the CBC.

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

SB 107 revises the **PROCESS FOR REMOVAL** when a teacher removes a student from class. Pursuant to the bill, the campus behavior coordinator (CBC) or other appropriate administrator must schedule the conference with the parents and teacher.

The CBC is required to consider self-defense and the other **MITIGATING FACTORS** listed in statute prior to ordering removal to a DAEP.

A reference to the CBC has also been added at **APPEAL**.

FOD (LEGAL) STUDENT DISCIPLINE
EXPULSION

Revisions at **MANDATORY EXPULSION** on page 1 are from SB 107. This bill deleted from statute the detailed list of prohibited weapons in lieu of references to Penal Code sections 46.02 (unlawful carrying of weapons) and 46.05 (prohibited weapons), which are included in full at FNCG(LEGAL). As a result of these changes, a student is subject to mandatory expulsion only for possession of an "illegal knife," a knife with a blade over five and a half inches, and not for shorter knives.

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Existing text from the federal Gun-Free Schools Act that creates an exception for having a firearm at a school if it is for an approved district activity was added at FEDERAL FIREARM PROVISION.

SB 107 revises how EXPULSION PROCEEDINGS are handled and requires the board or board's designee to consider self-defense and the other MITIGATING FACTORS listed in statute prior to ordering expulsion.

Revisions at DUE PROCESS are to better track existing statutory language.

GA (LEGAL) ACCESS TO PROGRAMS, SERVICES, AND ACTIVITIES

SB 2065 addresses RELIGIOUS FREEDOM. If a religious organization, an employee of such an organization, or a clergy or minister exercises the right not to provide marriage-related services because of a sincerely held religious belief, the district may not penalize or withhold benefits or privileges from the organization or individual.

GBA (LEGAL) PUBLIC INFORMATION PROGRAM ACCESS TO PUBLIC INFORMATION

Multiple bills affected this legally referenced policy on access to public information. Significant changes are described with the relevant bill number in parenthesis.

With some exceptions, a recording from a BODY-WORN CAMERA is public information. (SB 158)

Information that is a student record is confidential and excepted from required disclosure. STUDENT RECORDS are records as defined by FERPA and also include information in a record of an applicant for admission to an educational institution, including a transfer applicant. The applicant for admission or the applicant's parent or guardian is entitled to access the information provided by the applicant. (HB 4046)

A person is limited to four attempts to pass an EDUCATOR CERTIFICATION EXAM, therefore the provision referring to additional attempts has been deleted. (HB 2205)

Upon a parent's request, a district must disclose whether any employee has been appointed a school marshal. The district may not disclose a SCHOOL MARSHAL's IDENTITY. (SB 996)

E-mail addresses or personal phone numbers of ELECTION JUDGES AND CLERKS are confidential and do not constitute public information under the Public Information Act, subject to certain exceptions. (HB 2160)

GBAA (LEGAL) INFORMATION ACCESS REQUESTS FOR INFORMATION

HB 685 provides that an officer for public information for the district may comply with a request for public information by referring a requestor to an exact Internet location or URL address on a website maintained by the district and accessible to the public if the requested information is identifiable and readily available on that website. The district must provide notice that the requestor may inspect the information or receive copies by mail. See LOCATION OF ACCESS on page 3.

If a requestor sends a request for public information by e-mail, the district may also send by e-mail any REQUESTS TO NARROW OR CLARIFY the original request. This change is from HB 2134.

Explanatory Notes

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GKA (LEGAL) COMMUNITY RELATIONS
CONDUCT ON SCHOOL PREMISES

Revisions at TOBACCO AND E-CIGARETTES are from SB 97, which requires a school district to prohibit anyone from using e-cigarettes at a school-related or school-sanctioned activity on or off school property and makes conforming changes to the related CRIMINAL PENALTY.

Because of HB 910 authorizing open carry of handguns in a shoulder or belt holster by a licensed individual, **effective January 1, 2016**, a license to carry a concealed handgun will be called a license to carry a handgun and has been adjusted as appropriate throughout the policy. Also as a result of the new legislation, we have added on page 6 a new TRESPASS provision on OPEN CARRY OF A HANDGUN, which is similar to the existing trespass provision on concealed handguns. Text at INTERSCHOLASTIC EVENTS and BOARD MEETINGS has been updated to include references to the new open carry law.

SB 273 provides that a district may not post a sign prohibiting a handgun license holder from having a concealed handgun on the premises or other place owned or leased by the district, unless license holders are prohibited from carrying a handgun on the premises or other place by state law. See UNAUTHORIZED NOTICE on page 6.

On page 7, SB 273 revises the provisions that apply to a license holder having a handgun at BOARD MEETINGS. The bill provides that a license holder commits an offense if the holder intentionally, knowingly, or recklessly carries a handgun in the room or rooms where a meeting of a governmental entity is held if the meeting is an open meeting subject to the Open Meetings Act.

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**GNC (LEGAL) RELATIONS WITH EDUCATIONAL ENTITIES
 COLLEGES AND UNIVERSITIES**

The types of INSTRUCTIONAL PARTNERSHIPS WITH COMMUNITY COLLEGE DISTRICTS were revised by state rule to include college preparatory programs for high school students.

A school district located wholly or partly in Harris County may enter into a DROPOUT RECOVERY PROGRAM articulation agreement with a college district located wholly or partly in Harris County. This change is from SB 1004.

**GRC (LEGAL) RELATIONS WITH GOVERNMENTAL ENTITIES
 EMERGENCY MANAGEMENT**

New provisions from SB 1574 beginning on page 4 require a district that employs or uses the services of an emergency response employee (including a peace officer) or volunteer to nominate a designated INFECTION CONTROL OFFICER and an alternate designated infection control officer to be responsible for certain activities in the event of a potential exposure of an emergency response employee or any other employee to a reportable disease. The district must notify local health authorities or health-care facilities of the district's designated infection control officer or alternate officer.