

Localized Policy Manual

Update 84

West Orange-Cove CISD

Localized Update 84 includes redeveloped policies regarding special education, authority to dispose of property no longer needed by the district, transportation safety, and student cell phone use. The Update also addresses numerous other issues, including new material from commissioner rules regarding exemptions from student physical activity requirements; state assessments for limited English proficient students; courses for no pass, no play purposes; and dual language immersion programs.

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 84 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 84 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 84 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 at 800-580-7529 or 512-467-0222.

Regarding board action on Update 84 . . .

- Board action on Localized Update 84 must occur within a properly posted, open meeting of the board and may be addressed on the agenda posting as “Policy Update 84, 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 84, 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.
- An appropriate motion for board action on Localized Update 84 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 84 [with the following changes:]”
- The board’s action on Localized Update 84 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/analyst 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 84 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 84 policy changes should be inspected and revised by you as needed.

PLEASE NOTE: This Localized Update packet and the Update 84 **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

TASB Localized Policy Manual Update 84

District West Orange-Cove CISD

Code	Action To Be Taken	Note
BBB (LEGAL)	Replace policy	Revised policy
BJCF (LOCAL)	Replace policy	Revised policy
BQA (LEGAL)	Replace policy	Revised policy
BQB (LEGAL)	Replace policy	Revised policy
C (LEGAL)	Replace table of contents	Revised table of contents
CCA (LEGAL)	Replace policy	Revised policy
CDA (LEGAL)	Replace policy	Revised policy
CDA (LOCAL)	Replace policy	Revised policy
CE (LOCAL)	Replace policy	Revised policy
CI (LOCAL)	Replace policy	Revised policy
CNA (LEGAL)	Replace policy	Revised policy
CNA (LOCAL)	DELETE policy	See explanatory note
CNB (LEGAL)	Replace policy	Revised policy
CNC (LEGAL)	ADD policy	See explanatory note
CQ (LEGAL)	Replace policy	Revised policy
CV (LEGAL)	Replace policy	Revised policy
DBAA (LEGAL)	Replace policy	Revised policy
DEA (LEGAL)	Replace policy	Revised policy
DFAA (LEGAL)	Replace policy	Revised policy
DFBB (LOCAL)	Replace policy	Revised policy
DG (LEGAL)	Replace policy	Revised policy
E (LEGAL)	Replace table of contents	Revised table of contents
EEH (LOCAL)	Replace policy	Revised policy
EEL (LEGAL)	Replace policy	Revised policy
EGA (LEGAL)	Replace policy	Revised policy
EHAC (LEGAL)	Replace policy	Revised policy
EHBA (LEGAL)	Replace policy	Revised policy
EHBAA (LEGAL)	Replace policy	Revised policy
EHBAB (LEGAL)	Replace policy	Revised policy
EHBAC (LEGAL)	Replace policy	Revised policy
EHBAD (LEGAL)	Replace policy	Revised policy
EHBAE (LEGAL)	Replace policy	Revised policy

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EHBC (LEGAL)	Replace policy	Revised policy
EI (LEGAL)	Replace policy	Revised policy
EJ (LEGAL)	Replace policy	Revised policy
EKB (LEGAL)	Replace policy	Revised policy
EKBA (LEGAL)	ADD policy	See explanatory note
F (LEGAL)	Replace table of contents	Revised table of contents
FDB (LOCAL)	Replace policy	Revised policy
FFAA (LEGAL)	Replace policy	Revised policy
FFG (EXHIBIT)	Replace exhibit	Revised exhibit
FM (LEGAL)	Replace policy	Revised policy
FMH (LEGAL)	Replace policy	Revised policy
FNA (LEGAL)	Replace policy	Revised policy
FNCE (LOCAL)	ADD policy	See explanatory note
FOC (LEGAL)	Replace policy	Revised policy
FOF (LEGAL)	Replace policy	Revised policy
GA (LEGAL)	Replace policy	Revised policy
GBA (LEGAL)	Replace policy	Revised policy
GKB (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

To assist districts holding a SPECIAL ELECTION, we have added existing statutory provisions on this topic. We have also deleted the separate provision on the LOYALTY OATH and included a reference to it at APPLICATION, since the loyalty oath is a part of a candidate's application for a place on the ballot, not a separate requirement.

Also to provide further direction to districts during elections, we have added at BALLOT POSITION an existing statutory provision specifying how districts should determine the order of candidates' names on the ballot.

Finally, we have added a new provision from the Texas Administrative Code, effective January 3, 2008, clarifying that a NEWSLETTER of a public officer of a school district is not considered to be political advertising if the newsletter meets certain criteria. Similar text has been added to CCA(LEGAL), also included in this update.

BJCF (LOCAL) SUPERINTENDENT
NONRENEWAL

At item 12 in the list of REASONS for nonrenewal, we have made a technical change. The superintendent's contract may be nonrenewed for conviction of or deferred adjudication for certain offenses listed in the policy *or* (policy previously read *and*) for a conviction of a lesser included offense pursuant to a plea when the original charged offense is a felony.

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

We have added to this policy an existing statutory provision requiring the district-level planning and decision-making committee to be actively involved in establishing the ADMINISTRATIVE PROCEDURE defining roles and responsibilities regarding planning and decision-making at the district and campus levels.

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

We have added to this policy an existing statutory provision requiring the board to ensure that an ADMINISTRATIVE PROCEDURE defines the roles and responsibilities regarding planning and decision-making at the campus level.

C (LEGAL) BUSINESS AND SUPPORT SERVICES

The C section table of contents has been revised to reflect the addition of a new code, CNC, on Transportation Safety.

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CCA (LEGAL) LOCAL REVENUE SOURCES BOND ISSUES

Beginning on page 1 is a new provision from the Texas Administrative Code, effective January 3, 2008, providing that a NEWSLETTER of a public officer of a school district is not considered to be political advertising if the newsletter meets certain criteria. Similar text has been added to BBB(LEGAL), also included in this update.

CDA (LEGAL) OTHER REVENUES INVESTMENTS

A clarification has been made at PERSONAL INTEREST on page 3 to reflect the statutory requirement that a district investment officer must file with the school district board of trustees and the Texas Ethics Commission statements revealing:

- a personal business relationship with a business offering to engage in an investment transaction with the district; or
- a personal relationship to an individual seeking to sell an investment to the district.

We have also revised the policy throughout to specifically refer to school districts, in accordance with TASB policy style.

CDA (LOCAL) OTHER REVENUES INVESTMENTS

At BROKERS/DEALERS on page 3 we have updated a reference—replacing the National Association of Securities Dealers (NASD) with the Financial Industry Regulatory Authority (FINRA). Representatives of brokers/dealers must be in good standing with FINRA in order to handle district investments. Created in 2007 through the consolidation of NASD and the member regulation, enforcement, and arbitration functions of the New York Stock Exchange, FINRA is a non-governmental regulator of securities firms.

On page 4, we have deleted unnecessary detail regarding the PORTFOLIO REPORT to give districts more flexibility regarding the contents of the report. The portfolio report is an optional, comprehensive report on the investment program and activity presented annually to the board. If your district does not present such a report to the board, please contact your policy consultant to revise your policy.

We have retained, unchanged, the district's locally developed language at INTERNAL SERVICE FUNDS detailing the primary objectives for investment strategies for such funds.

CE (LOCAL) ANNUAL OPERATING BUDGET

The current Texas Education Code provision requiring districts to post a summary of the proposed budget online or, if the district has no Internet Web site, in the district's central administrative office, eliminates the need to include in local policy the text at AVAILABILITY OF PROPOSED BUDGET, which required the district to make the proposed budget available on request. Under current law, interested members of the public may access the summary of the proposed budget on the Internet.

If the district's FISCAL YEAR is not accurately reflected in the policy, please contact your policy consultant.

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CI (LOCAL) SCHOOL PROPERTIES DISPOSAL

Because the district's current policy was last revised in 1994, we would like to offer this greatly simplified policy language regarding disposal of school properties. This policy delegates to the superintendent or designee the authority to determine when property is no longer needed by the district and to dispose of that property. The text refers to disposal of "unnecessary" rather than "surplus" materials, equipment, and supplies to match the corresponding legal provision. In addition, the policy now requires the superintendent to obtain fair market value for such items, which better reflects the district's obligation for disposal to avoid potential gift of public funds complaints. When the unnecessary property has no value, the policy authorizes the superintendent to dispose of the property according to administrative discretion; the list of possible means for such disposal is not needed. Finally, we have deleted the requirement that all monies obtained from selling unnecessary property be deposited to the general fund as districts have flexibility where to deposit such monies.

If the Board does not delegate this authority to the superintendent or wishes to only delegate authority to the superintendent to dispose of property valued up to a certain amount, please contact your policy consultant.

CNA (LEGAL) TRANSPORTATION MANAGEMENT STUDENT TRANSPORTATION

Safety-related provisions on WIRELESS COMMUNICATION DEVICES, STUDENT SAFETY, SCHOOL BUS EMERGENCY EVACUATION TRAINING, and DISRUPTION OF TRANSPORTATION have been moved to CNC(LEGAL), a new code addressing various aspects of transportation safety. [See the explanatory note for CNC(LEGAL).]

At CRIMINAL HISTORY RECORD, beginning on page 5, we have added provisions regarding criminal history checks of individuals employed by an entity that contracts with the district. If a district contracts with a commercial company for transportation services, the company must comply with these provisions in addition to the criminal history record provisions already included in the policy from Texas Education Code section 22.084.

CNA (LOCAL) TRANSPORTATION MANAGEMENT STUDENT TRANSPORTATION

Because the district has chosen not to designate eligibility for transportation, we recommend deleting the policy at this code. If the district would like to designate transportation eligibility, please contact your policy consultant for appropriate language.

Along with the recoding of the transportation safety provisions from CNA(LEGAL) to CNC(LEGAL), we have deleted the text at SAFETY PRECAUTIONS. This information on school bus safety would be addressed more appropriately in school bus driver safety training and administrative procedures rather than board policy.

We recommend deletion of the district's locally developed language regarding HAZARDOUS AREAS, which would be more appropriately addressed and kept updated by board resolution. Please view CNA(EXHIBIT) in the *Regulations Resource Manual* through your myTASB account for more information.

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CNB (LEGAL) TRANSPORTATION MANAGEMENT DISTRICT VEHICLES

Provisions on SAFETY STANDARDS, SEAT BELTS, NOTICE OF ACCIDENTS, and ACCIDENT REPORTS have been moved to CNC(LEGAL), a new code addressing various aspects of transportation safety. [See the explanatory note for CNC(LEGAL).]

CNC (LEGAL) TRANSPORTATION MANAGEMENT TRANSPORTATION SAFETY

Safety-related provisions from CNA and CNB(LEGAL) have been moved to this new code for ease of reference. In addition, the text at NOTICE TO TEA, previously at CNB(LEGAL), has been revised to reflect new Texas Administrative Code provisions effective August 28, 2008. The rules provide guidance on which bus accidents the district needs to report.

CQ (LEGAL) ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

Effective September 1, 2008, House Bill 735 from the 80th Texas Legislature repealed provisions in the Texas Education Code that required districts to adopt an Internet use policy restricting minors' access to obscene material in order to receive Telecommunications Infrastructure Fund (TIF) grants. These Texas Education Code provisions are no longer needed in statute due to discontinuation of the TIF. Accordingly, we have deleted these provisions, formerly at STATE FUNDING, from this policy. Similar requirements from the Children's Internet Protection Act remain in the policy.

CV (LEGAL) FACILITIES CONSTRUCTION

At CRIMINAL HISTORY, beginning on page 3, we have added provisions regarding criminal history checks of individuals employed by an entity that contracts with the district. If a district contracts with an entity for construction services, the company must comply with certain criminal background check provisions as outlined in this material.

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

We have updated this code to reflect commissioner rules on criminal background checks, effective December 30, 2007. At NONCERTIFIED EMPLOYEES and SUBSTITUTE TEACHERS, we have added provisions from the rules clarifying that a noncertified employee or substitute teacher may begin working for the district once the information required to conduct a criminal history check has been sent to DPS and TEA. If the criminal history check reveals that the individual is not eligible for employment, however, the district must terminate employment, as reflected at EMPLOYMENT PENDING REVIEW. The definition of a substitute teacher has also been added from the rules. For clarity, we have revised several margin notes and added the cross-reference at NONCERTIFIED EMPLOYEES.

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DEA (LEGAL) COMPENSATION AND BENEFITS SALARIES AND WAGES

As described in correspondence from TASB Policy Service sent to the district in July 2008, shortly after Update 83 was mailed to districts the IRS issued updated guidance on its 409A rules regarding nonqualified deferred compensation plans and annualized pay. That guidance exempted most educators from the 409A rules and eliminated the need for policy provisions on this issue in school district policy manuals. As a result, we have deleted the text at ANNUALIZED COMPENSATION.

DFAA (LEGAL) PROBATIONARY CONTRACTS SUSPENSION/TERMINATION DURING CONTRACT

At HEARING, we have added a reference to suspension without pay to better track the statutory language. A probationary contract employee may request a hearing before an independent hearing examiner if the district notifies the employee of a proposed termination or suspension without pay.

DFBB (LOCAL) TERM CONTRACTS NONRENEWAL

At item 15 in the list of REASONS for nonrenewal, we have made a technical change. An employee's contract may be nonrenewed for conviction of or deferred adjudication for certain offenses listed in the policy *or* (policy previously read *and*) for a conviction of a lesser included offense pursuant to a plea when the original charged offense is a felony.

At SUPERINTENDENT'S RECOMMENDATION, we have removed the provision requiring the superintendent to submit evaluations for the board to consider when voting to propose nonrenewal. The law requires the board to consider the most recent evaluation, if relevant, before voting to nonrenew an employee's contract but does not require consideration of evaluations before voting to propose nonrenewal.

Other nonsubstantive changes have been made for clarity.

Please note: TASB Policy and Legal Services consider DFBB to be an employment policy that must be made available to educators pursuant to the Texas Education Code. Please distribute this revised policy in accordance with your current practice for distribution used at the beginning of the school year.

DG (LEGAL) EMPLOYEE RIGHTS AND PRIVILEGES

At WHISTLEBLOWER COMPLAINTS, beginning on page 2, we have added two Texas Government Code provisions addressing lawsuits by employees under the Whistleblower Act to explain the effect of timing on the employee's claim and to clarify that an employee's report does not insulate the employee from adverse action if the district has independent grounds for the action.

The first provision, at BURDEN OF PROOF, specifies that if an employee brings a whistleblower lawsuit, he or she will have the burden of proving that the district took an adverse personnel action against the employee because the employee made a report protected by the Whistleblower Act. If, however, the district took the adverse personnel action against the employee within 90 days of the employee's report, it is presumed that the district took that personnel action because the employee made the report. The second provision, at AFFIRMATIVE DEFENSE, explains that the district may provide evidence that it would have taken the adverse personnel action against the employee based on information not related to the report protected by the Whistleblower Act.

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E (LEGAL) INSTRUCTION

The E section table of contents has been updated to reflect the revised subtitle of EHBAB, ARD Committee and Individualized Education Program, and to include new code EKBA: State Assessments, LEP Students.

EEH (LOCAL) INSTRUCTIONAL ARRANGEMENTS HOMEBOUND INSTRUCTION

In the 2008–2009 Student Attendance Accounting Handbook (SAAH), TEA revised eligibility criteria for general education homebound instruction. A student is still eligible if confined for a minimum of four weeks, but the four weeks of confinement no longer have to be consecutive. We have revised the first sentence of this policy accordingly and have added a reference to the SAAH to identify where the homebound instruction criteria may be found.

EEL (LEGAL) INSTRUCTIONAL ARRANGEMENTS CONTRACTS WITH OUTSIDE AGENCIES

Detailed information on residential placements of STUDENTS WITH DISABILITIES has been deleted in favor of a cross-reference to EHBA, where provisions on placement of special education students in alternate settings are already found.

EGA (LEGAL) CURRICULUM DEVELOPMENT INNOVATIVE AND MAGNET PROGRAMS

Revisions to commissioner rules on innovative courses, magnet programs, and dual language immersion programs (DLIP) resulted in significant changes to this policy.

- At INNOVATIVE COURSES AND PROGRAMS, districts may now offer any state-approved innovative course without additional approval from the State Board of Education or the commissioner.
- At DUAL LANGUAGE IMMERSION PROGRAM (DLIP), provisions have been added to address goals, implementation rules, curriculum and enrollment requirements, staffing guidelines, and evaluation procedures to determine program impact.

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

New commissioner rules regarding EXEMPTIONS from physical activity requirements have been incorporated into this policy. Exemptions are allowed for middle school students participating in structured extracurricular activities certified by the board of trustees if the student provides proof of participation in the activity. The rules provide a definition of “structured activity,” which has been included in the policy. Please note that because of changes to the Texas Administrative Code included at Update 83, the district is no longer required to include a list of exemptions in local board policy.

At PARENTING AWARENESS PROGRAM, we have included the required elements of such a program as specified in State Board of Education rules, effective April 27, 2008. Instruction in parenting awareness must include, at a minimum, parenting skills and responsibilities, relationship skills, and skills relating to the prevention of family violence.

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EHBA (LEGAL) SPECIAL PROGRAMS SPECIAL EDUCATION

Revisions to the IDEA regulations in state and federal law have resulted in reworking at Update 84 of all the special education policies, including EHBA.

We have moved provisions on RELATED SERVICES for special education students, such as transportation and developmental, corrective, and other supportive services, from EHBAC(LEGAL) to this code because related services are part of a district's obligation to provide a free appropriate public education to special education students.

Because they addressed obligations of TEA rather than the school district, we have deleted provisions on transferring assistive technology devices when a special education student no longer attends school in the district that purchased the device.

We have streamlined the provisions at EXTENDED SCHOOL YEAR (ESY) SERVICES since the details of these provisions are included in State Board rules.

Citations throughout the policy have been updated. [See the explanatory note for EHBAC(LEGAL).]

EHBAA (LEGAL) SPECIAL EDUCATION IDENTIFICATION, EVALUATION, AND ELIGIBILITY

Changes to this policy on the initial identification of students for special education include:

- A new format to list the groups of children for whom the district must engage in the CHILD FIND process.
- At PRIVATE SCHOOL STUDENTS, a school district's obligation to consult with private schools is now limited to those private schools located within the district's boundaries. Previously, a district's obligation depended on whether the parent of a student enrolled in a private school lived within the district.
- The ages of students addressed at PRESCHOOL STUDENTS have been clarified to include students who are at least three and younger than six.
- At CONSENT FOR INITIAL EVALUATION, we have reworded the first paragraph. A district must make reasonable efforts to obtain consent for the evaluation. By law, the consent is not required to be in writing, although obtaining written consent is advisable. We have deleted a provision addressing a parent's revocation of consent, which is no longer found in the regulations.
- A provision at PSYCHOLOGICAL EXAMINATIONS directs districts to obtain parental consent for additional examinations or tests needed for the evaluation.
- We have deleted the section FIRST-TIME REFERRALS, which dealt with development of the IEP rather than the initial evaluation for special education services.
- We have added a provision requiring parental consent for REEVALUATIONS unless the district took reasonable measures to obtain consent and the parent failed to respond.

Throughout the policy, we have made revisions for clarity and to better track statutory or regulatory language.

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

The new IDEA regulations resulted in numerous changes to this policy on IEPs and ARD committees, including:

- Clarification that the RESPONSIBILITIES OF THE ARD COMMITTEE include disciplinary changes in placement and development of accelerated instruction.
- Additional requirements regarding the COMMITTEE MEMBERS for children with auditory or visual impairments, with limited English proficiency, or who are enrolled in career and technology education.
- At MEMBERSHIP FOR TRANSITION MEETINGS, a requirement that a district obtain parental consent, or consent from the student if the student is an adult, for a representative of another agency to attend an ARD committee meeting at which transition services will be discussed.
- At PARENT INVOLVEMENT, districts must send parents notice of any meetings early enough to ensure that they have an opportunity to attend. If neither parent can attend, the district must use ALTERNATE MEANS OF MEETING PARTICIPATION, such as individual or conference calls.
- At MEETINGS, we have added a statement requiring the ARD committee to determine a child's placement once a year.
- New requirements for the INDIVIDUALIZED EDUCATION PROGRAM (IEP) include a statement as to why a child cannot take the regular state assessment test and why the alternative assessment selected is appropriate for the child.
- Extensive amendments to the strategies that the ARD committee must consider for a student with AUTISM/PERVASIVE DEVELOPMENTAL DISORDER.

Throughout the policy, we have made revisions to better track statutory and regulatory language. For clarity, we have also adjusted the subtitle, ARD Committee and Individualized Education Program.

EHBAC (LEGAL) SPECIAL EDUCATION STUDENTS IN NONDISTRICT PLACEMENT

This policy on special education students in nondistrict placement has been revised as follows:

- We have moved provisions on related services for special education students, such as transportation and developmental, corrective, and other supportive services, from this policy to EHBA(LEGAL) because related services are part of a district's obligation to provide a free appropriate public education to special education students. [See the explanatory note for EHBA(LEGAL).]
- We have added margin notes and text regarding students in PRIVATE SCHOOL to clarify a district's obligations in each of three circumstances: when the public school district places a child in private school, when a parent places in private school a disabled child who is then referred to the public school district for evaluation, and when a parent places a child in private school after the child has received services from the district.
- We have expanded provisions regarding a district's development of the INDIVIDUALIZED SERVICES PLAN (ISP) and decisions about the services that it will provide to students enrolled in private schools.

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- At RESPONSIBLE DISTRICT is an exception to the general rule that the school district in which the private school is located is obligated to provide services. When a student's parents choose dual enrollment in both public and private school, the district where the student resides must provide the services.
- The details on the responsibilities of districts when students are placed in RESIDENTIAL FACILITIES have been deleted and replaced by a cite to the Texas Administrative Code.
- A provision at IN-STATE TRANSFERS, requiring a district that negotiated a residential contract to continue to pay for the contract for the remainder of the school year after a student moves to another district, has been deleted from the regulations and the policy.

Throughout the policy, we have made revisions for clarity and to better track statutory and regulatory language.

EHBAD (LEGAL) SPECIAL EDUCATION TRANSITION SERVICES

The new IDEA regulations added more detail about transition planning as reflected at INDIVIDUAL TRANSITION PLANNING. Beginning with the IEP in effect when a student turns 16, the IEP must include measurable post-secondary goals and a list of transition services needed to assist the student in reaching the goals. Previously, certain transition service obligations began when a student turned 14.

EHBAE (LEGAL) SPECIAL EDUCATION PROCEDURAL REQUIREMENTS

For this policy on special education procedural requirements, we have:

- Reorganized the text at PROCEDURAL SAFEGUARDS to reflect the organization and language of the new regulations;
- Added a definition of parental CONSENT;
- Added a provision allowing ELECTRONIC DELIVERY OF NOTICES;
- At PRIOR NOTICE AND CONSENT, added the requirement for a district to provide written notice to parents before the district changes or refuses to change the identification, evaluation, or educational placement of a child or the provision of FAPE to the child and added a list of information that must be included in the notice.
- Deleted language at CONSENT TO SERVICES that no longer appears in the regulations.
- Added parental consent provisions for reevaluations and additional examinations or tests at CONSENT TO REEVALUATION and PSYCHOLOGICAL EXAMINATIONS AND TESTS.
- Revised the COMPLAINT PROCEDURES to reflect the one-year time period for parental complaints as provided by state law.
- Updated the 'STAY PUT' provisions to reflect that during a proceeding to challenge a disciplinary change of placement or manifestation determination, the district is not required to keep the child in the current educational placement.
- Added provisions on the RESOLUTION PROCESS, under which a district must convene a meeting with the parent who filed the due process complaint and the IEP team to attempt to resolve the dispute without a hearing.

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Throughout the policy, we have made revisions for clarity and to better track statutory and regulatory language.

EHBC (LEGAL) SPECIAL PROGRAMS COMPENSATORY/ACCELERATED SERVICES

On page 2, we have added provisions on DROPOUT PREVENTION STRATEGIES passed by the 80th Texas Legislature and with details from commissioner rules. A district with a high dropout rate must submit to TEA a dropout strategy plan that describes how the district will use its compensatory education and high school allotments to work on strategies for dropout prevention.

In anticipation of new commissioner rules on COMMUNITIES IN SCHOOLS (CIS) programs, we have added the Texas Education Code requirement for a district to participate in a CIS program if the district has at least ten percent of its students at risk of dropping out of school and receives funding for CIS programs.

Revised Texas Administrative Code provisions are reflected at OPTIONAL EXTENDED-YEAR PROGRAM. The provisions clarify student eligibility and provide a definition of an extended year program.

EI (LEGAL) ACADEMIC ACHIEVEMENT

We have revised this policy at ATTENDANCE FOR CREDIT to reflect the statutory option for a student to earn credit in accordance with a principal's plan. If a district offers this option, a student may be given credit for a course by completing a plan approved by the school's principal that provides for the student to meet the instructional requirements of the class.

EJ (LEGAL) ACADEMIC GUIDANCE PROGRAM

At NOTICE OF GRANT PROGRAMS and NOTATION ON TRANSCRIPT OR DIPLOMA, we have revised the text to better match the statutory language.

EKB (LEGAL) TESTING PROGRAMS STATE ASSESSMENT

Provisions on state assessment testing for limited English proficiency students have been moved to EKBA, a new code created for that topic.

EKBA (LEGAL) STATE ASSESSMENT LEP STUDENTS

This new code includes provisions on state assessment testing for limited English proficiency students that were previously at EKB. Changes to the provisions are from recently revised commissioner rules, effective May 11, 2008:

- At SECOND AND THIRD YEARS, the rules state that if an immigrant LEP student achieves an "advanced high" rating on the English language proficiency assessment in reading during the first school year of enrollment in U.S. schools, the student is not eligible for an exemption in the second or third school years. The rule previously referred to the reading proficiency test in English.

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- For LEP STUDENTS IN SPECIAL EDUCATION, the rules specify that the ARD committee and the LPAC must work together regarding the selection of assessments and appropriate accommodations and exemption from the English language proficiency assessment.

F (LEGAL) STUDENTS

The F section table of contents has been revised to reflect a subtitle change at FNCE, now Telecommunications/Electronic Devices.

FDB (LOCAL) ADMISSIONS INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

We have replaced the previous text on transfers related to bullying with a **Note** referencing transfer provisions that may apply in certain circumstances, such as when a student is a victim of bullying, attends a persistently dangerous school, or becomes a victim of a violent criminal offense or sexual assault. No other changes have been made to this entirely locally developed policy.

FFAA (LEGAL) WELLNESS AND HEALTH SERVICES PHYSICAL EXAMINATIONS

At PHYSICAL FITNESS ASSESSMENT, we have listed the factors on which districts must assess students' physical fitness, which include aerobic capacity; body composition; and muscular strength, endurance, and flexibility. These factors come from commissioner rules, effective December 18, 2007.

FFG (EXHIBIT) STUDENT WELFARE CHILD ABUSE AND NEGLECT

This exhibit has been updated to reflect a new Internet address for the Child Protective Services (CPS) division of the Texas Department of Family and Protective Services.

FM (LEGAL) STUDENT ACTIVITIES

Effective June 23, 2008, the commissioner adopted new rules defining EXEMPT COURSES for purposes of no pass, no play. Exempt courses include AP and International Baccalaureate courses in all disciplines; high school/college concurrent enrollment classes in the areas of English language arts, languages other than English, mathematics, science, and social studies; and certain other listed courses. Districts may also identify additional honors courses in these subject areas as long as they identify such courses before the beginning of the semester. Please note that the district is no longer required to indicate in local board policy which courses will be exempt.

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FMH (LEGAL) STUDENT ACTIVITIES COMMENCEMENT

We have revised this policy as a result of recent litigation in the *Does 1-7 v. Round Rock Independent School District* case. At issue in that case was a district policy allowing graduating seniors to vote on whether to have a student read a prayer at commencement. The federal district court judge refused to dismiss the lawsuit brought against the district, finding that the policy was an impermissible majoritarian election on religion. We have not cited this case in the policy because it does not have statewide application. Its outcome, however, influenced us to make revisions to this policy. At SCHOOL-SPONSORED SPEECH, we have provided more detail on *Santa Fe Independent School District v. Doe*, the United States Supreme Court case relied upon in the *Round Rock* case regarding majoritarian elections on religion. In addition, we have moved to the **Note** information about *Jones v. Clear Creek Independent School District*, a 1992 Fifth Circuit Court of Appeals case that approved a policy allowing a graduating class to select a student volunteer to deliver nonproselytizing invocations. Although not expressly overruled, *Jones* has been called into question by the *Santa Fe* and *Round Rock* cases.

If you have questions about the applicability of the *Round Rock* case to your district, please contact TASB Legal Services or the district's attorney.

At PRIVATE STUDENT SPEECH, we have repeated a provision from FNA(LEGAL) requiring a district to adopt a policy establishing a limited public forum for student speakers.

FNA (LEGAL) STUDENT RIGHTS AND RESPONSIBILITIES STUDENT EXPRESSION

At FREEDOM OF SPEECH, we have added a recently decided Fifth Circuit Court of Appeals case, *Ponce v. Socorro*, which held that when a student threatens violence against a student body or school, that speech is not protected by the First Amendment and school officials may take disciplinary action without having to show a reasonable belief that disruption would occur as a result of the speech.

At PRAYER AT SCHOOL ACTIVITIES, we have added a cross-reference to FMH for provisions on invocations and benedictions at commencement.

FNCE (LOCAL) STUDENT CONDUCT TELECOMMUNICATIONS/ELECTRONIC DEVICES

Districts are required to have a local board policy if they confiscate telecommunications devices, which are defined by law, and if they either charge a fee for the student or parent to obtain release of the device or dispose of the device. This recommended policy provides that the district may confiscate telecommunications devices used in violation of applicable campus rules. Once confiscated, devices will be returned to the student or parent, as designated in the student handbook, for a fee. If the student or parent fails to retrieve the device, the device will be disposed of after the district provides the notice required by law. This text provides maximum flexibility for individual campuses to determine confiscation and fee rules. For example, some campuses may allow students to retrieve confiscated devices and pay the fee, while other campuses may require the student's parent to do so. The district may also wish to develop administrative procedures to guide staff in this area.

Because districts are not authorized to charge a fee for the return of confiscated devices falling outside the definition of "telecommunications devices," we have added a separate provision on OTHER ELECTRONIC DEVICES referring to rules in the student handbook.

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If your district either does not charge a fee for the return of confiscated telecommunications devices or does not dispose of telecommunications devices that it confiscates, please contact your policy consultant.

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

On page 4, we have included an additional provision at PROCESS FOR REMOVAL. After the principal issues a DAEP placement order, district policy may permit the student to APPEAL the decision to the board or designee. The decision by the board or designee is final and may not be appealed. The **TASB Model Student Code of Conduct** permits appeals to the board through FNG(LOCAL), the student and parent grievance policy, but specifies that disciplinary consequences will not be deferred pending the outcome of an appeal. If the district's board-adopted Student Code of Conduct includes this provision, no additional local policy is needed.

At PLACEMENT OF YOUNGER STUDENTS on page 3, we have deleted a provision prohibiting placement of elementary school students in a DAEP with non-elementary students. This provision is already included at FOCA(LEGAL), which addresses operation of DAEPs.

FOF (LEGAL) STUDENT DISCIPLINE
 STUDENTS WITH DISABILITIES

Extensive changes to this policy on student discipline of students with disabilities are based on the new IDEA regulations:

- Beginning on page 1, the district's obligations when a student is removed from his or her current placement are dependent on the length of removal. For each type of removal, we have included the district's requirements on providing services during removal.
 - Removal for ten days or less is still permissible, as are additional periods of removal for ten days or less for separate incidents of misconduct as long as the removals are not a change in placement.
 - Districts still must conduct a manifestation determination when a change in placement occurs, but the guidance on when a change in placement occurs has been revised. When there are a series of removals, the district determines whether the pattern of removals is a change in placement. Parents can challenge the determination through due process and litigation.
- If the conduct was a manifestation of the student's disability, the district may still remove the student to an interim alternative setting if SPECIAL CIRCUMSTANCES exist (see page 4). These include weapons and drug offenses, and when the student has inflicted serious bodily injury on someone else. These terms are defined in federal law and thus have been deleted from the policy.
- Beginning on page 6, text at BEHAVIOR MANAGEMENT TECHNIQUES has been rearranged for clarity.
- Text at RESTRAINT, on page 7, has been streamlined by deleting the list of conduct that is not considered restraint and the list of documentation requirements. This information is in the Texas Administrative Code as cited in the policy.

In addition, the material at STUDENTS WITH DISABILITIES UNDER SECTION 504 on page 1 has been simplified, and other clarifications to reflect revised regulatory language have been made throughout the policy.

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

Two existing state law provisions regarding access to programs, services, and activities have been added to this policy. The first provision, at NONDISCRIMINATION, prohibits an officer or employee of the district from refusing facility use, program participation, or benefits to individuals based on race, religion, color, sex, or national origin. The second provision, at INDIVIDUALS WITH DISABILITIES, STATE PROHIBITION, similarly prohibits discrimination based on disability.

GBA (LEGAL) PUBLIC INFORMATION PROGRAM ACCESS TO PUBLIC INFORMATION

To better reflect current law regarding whether district policymaking is considered INFORMATION EXCEPTED FROM PUBLIC DISCLOSURE (beginning on page 5), we have revised items 6 and 12. Item 6 lists the exception for drafts and working papers involved in preparation of proposed legislation. This exception has not been interpreted to apply to district policymaking. At item 12, however, we have added information from a Texas Supreme Court case concluding that communications related to a governmental agency's policymaking are excepted from public disclosure under that statutory provision.

GKB (LEGAL) COMMUNITY RELATIONS ADVERTISING AND FUND RAISING IN THE SCHOOLS

House Bill 412, passed by the 80th Texas Legislature and effective September 1, 2007, amended the provision at OUTDOOR ADVERTISING. It is now an offense if a person allows advertising in violation of the outdoor advertising rules found in Chapter 391 of the Transportation Code to occur on property owned by the person.

GKG (LEGAL) COMMUNITY RELATIONS SCHOOL VOLUNTEER PROGRAM

A provision giving immunity to individuals who volunteer to assist with EXTRACURRICULAR ACTIVITIES has been added. These individuals are not liable for civil damages arising from complying with or failing to comply with extracurricular safety provisions as listed in the Education Code unless the individual acts willfully or is wantonly negligent.

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NUMBER AND TERM	<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>
METHOD OF ELECTION	<p>Election of Trustees is at large in accordance with Texas law. <i>Education Code 11.057(b)</i></p>
AT LARGE	
CHANGING METHOD OF ELECTION	<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.</p> <hr/> <p>Note: <i>For additional information regarding the legal requirements of changing the method of election, see this policy code in the TASB Policy Reference Manual.</i></p> <hr/>
NOTICE TO VOTER REGISTRAR	<p>A district that changes its boundaries or the boundaries of districts used to elect members to the board shall not later than the 30th day after the date the change is adopted:</p> <ol style="list-style-type: none">1. Notify the voter registrar of the county in which the area subject to the boundary change is located of the adopted boundary change; and2. 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. <p><i>Election Code 42.0615</i></p>
FILING INFORMATION	<p>An application may not be filed earlier than the 30th day before the date of the filing deadline.</p>
GENERAL ELECTION	<p>An application of a candidate for a place on the ballot 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.</p> <p><i>Education Code 11.055(a), (c); Election Code 144.005</i></p>
SPECIAL ELECTION	<p>An application may not be filed before the election is ordered.</p> <p>A candidate's application for a place on a special election ballot must be filed not later than:</p>

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1. 5:00 p.m. of the 67th 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 authority ordering the election, 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)

WRITE-IN
CANDIDACY

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

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. *Election Code 31.0021, 141.031, 141.039*

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*

BALLOT POSITION

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

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GENERAL ELECTION DATE	Election of Trustees of the District shall be on the May uniform election date. <i>Election Code 41.001</i>
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>
JOINT ELECTIONS ADMINISTRATOR	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>
ELECTION ORDER	<p>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. <i>Election Code 3.005</i></p> <p>Each election order must state the date of the election, the offices or measures to be voted on, the location of the main early voting polling place, the dates and hours for early voting, the dates and hours of any Saturday and Sunday early voting, and the early voting clerk's official mailing address. The Board shall retain the election 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> <p>Failure to order a general election does not affect the validity of the election. <i>Election Code 3.007</i></p>
ELECTION NOTICE	Notice of the election shall be published at least once, not earlier than the 30th day or later than the tenth day before election day, in a newspaper published within a district's boundaries or in a newspaper of general circulation in a district if none is published within the district's boundaries. <i>Election Code 4.003(a)(1)</i>

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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 the main early voting polling place, the dates and hours for early voting, the dates and hours of any Saturday and Sunday early voting, and the early voting clerk's official mailing address. 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. *Election Code 4.004, 4.005, 66.058(a), 83.010, 85.004, 85.007*

The Board shall also deliver notice of the election to the county clerk of each county in which a district is located not later than the 60th day before election day. *Election Code 4.008*

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

POSTING

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. *Election Code 4.003(b), 4.005*

POLITICAL
ADVERTISING

No officer or employee of the District shall 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. *Election Code 255.003*

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

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- c. Does not support or oppose a candidate for nomination or election to a public office or office of political party, a political party, or a public officer.

1 TAC 26.2

ELECTIONEERING	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. <i>Education Code 11.169</i>
BALLOT, ELECTION OFFICIALS, AND POLLING PLACES	<p>The ballot shall be printed in the form required by law. The Board shall appoint election judges, set the maximum number of election clerks, and designate polling places. Each polling place shall be accessible to and usable by the elderly and physically handi-capped. <i>Election Code 32.005(a), 32.033(a), 43.004, 43.034, 52.061–.064, 52.069, 52.093–.094; Education Code 11.058(g)</i></p> <p>If a district holds an election on the November uniform election date, the district shall follow procedures from the secretary of state and designate as the polling places for the election the regular county polling places in the county election precincts that contain territory from the district. <i>Election Code 42.002(a)(5), 42.0621, 43.004(b)</i></p>
POSTING SIGNS AT POLLING PLACES 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 AT POLLING PLACES 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; or2. The use of election equipment necessary for the conduct of the election. <p><i>Election Code 61.013</i></p>
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. <i>Election Code 31.0055, 62.0115</i>

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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 MACHINES
AND PUNCH-CARD
BALLOTS

Effective January 1, 2006, 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

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)*

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

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- b. For each portion of the District located in a different county, to be considered a separate political subdivision.

Election Code 61.013

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. *1 TAC 81.55 [See GA]*

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. *Education Code 11.056*

ELECTION OF
UNOPPOSED
CANDIDATE

The Board may declare each unopposed candidate elected to the office if:

1. Each candidate for an office that is to appear on the ballot is unopposed, and
2. No proposition is to appear on the ballot.

Election Code 2.051

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. A copy of the order or ordinance must be posted on election day at each polling place that would have been used in the election. *Election Code 2.052, 2.053(a), (b)*

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. *Election Code 81.001*

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.

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;

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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

CERTIFICATE OF
ELECTION

After the completion of a canvass, the presiding officer shall prepare a certificate of election for each candidate who is elected to an office for which the official result is determined by that authority's canvass. A certificate of election must contain:

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

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

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

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

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

Election Code 67.016, 67.017, 212.0331

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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. <i>Election Code 2.053(c)</i>
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>
DETERMINATION OF RESULTS	The candidates receiving the highest number of votes shall fill the positions the terms of which are normally expiring. <i>Education Code 11.057</i>
TIE VOTES SECOND ELECTION	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. Not later than the fifth day after the automatic recount is completed or the final canvass following the automatic recount is completed, if applicable, the Board shall order the second election. This election shall be held not less than 20 nor more than 30 days after the automatic recount is completed or the final canvass following the automatic recount is completed, if applicable. Notice of the second election shall be given in the same manner as for the first election. Only the names of the tying candidates shall be printed on the ballot; write-in votes shall not be permitted. <i>Election Code 2.002(a)–(e)</i>
CASTING LOTS	The tying candidates may agree to cast lots to resolve the tie. The agreement shall be filed with the Board, and the Board President shall supervise the casting of lots. <i>Election Code 2.002(f)</i>
WITHDRAWAL OF CANDIDATE	A tying candidate may resolve the tie by filing with the Board a written statement of withdrawal signed and acknowledged by the candidate. On receipt of the statement of withdrawal, the remaining candidate is the winner, and a second election or casting of lots is not held. <i>Election Code 2.002(g)</i>
RECOUNT	<p>If a tie vote is not resolved by casting lots or by a candidate withdrawing, an automatic recount shall be conducted in accordance with Election Code Chapter 216. <i>Election Code 2.002(i)</i></p> <p>The cost of the recount shall be paid by the District. <i>Election Code 216.005(b)</i></p>
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>

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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:

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 Texas secretary of state.
6. The speaker of the house of representatives.
7. The lieutenant governor of Texas.
8. The governor of Texas.
9. A legislator or retired legislator.
10. The attorney general.

Gov't Code 602.002, 602.006

VOTING RIGHTS ACT

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)*

SUPERINTENDENT
NONRENEWAL

BJCF
(LOCAL)

REASONS

The Board's decision not to renew the Superintendent's contract shall not be based on the Superintendent's exercise of rights guaranteed by the Constitution, or based unlawfully on race, color, religion, sex, national origin, disability, or age. Reasons for the non-renewal of the Superintendent's contract shall be:

1. Deficiencies pointed out in evaluations, supplemental memoranda, or other communications.
2. Failure to fulfill duties or responsibilities.
3. Incompetency or inefficiency in the performance of duties.
4. Insubordination or failure to comply with Board directives.
5. Failure to comply with Board policies or administrative regulations.
6. Failure of the District to make measurable progress towards the goals stated in the District improvement plan. [See BQ]
7. Conducting personal business during school hours when it results in neglect of duties.
8. Drunkenness or excessive use of alcoholic beverages; or possession, use, or being under the influence of alcohol or alcoholic beverages while on school property, while working in the scope of the employee's duties, or while attending any school- or District-sponsored activity.
9. The illegal possession, use, manufacture, or distribution of a controlled substance, a drug, a dangerous drug, hallucinogens, or other substances regulated by state statutes.
10. Failure to meet the District's standards of professional conduct.
11. Failure to report to the Board any arrest, indictment, conviction, no contest or guilty plea, or other adjudication for any felony, any crime involving moral turpitude, or other offense listed at DH(LOCAL).
12. Conviction of or deferred adjudication for any felony, any crime involving moral turpitude, or other offense listed at DH(LOCAL); or conviction of a lesser included offense pursuant to a plea when the original charged offense is a felony. [See DH]
13. Failure to comply with reasonable District requirements regarding advanced coursework or professional improvement and growth.

SUPERINTENDENT
NONRENEWAL

BJCF
(LOCAL)

14. Disability, not otherwise protected by law, that prevents the Superintendent from performing the essential functions of the job.
15. Any activity, school-connected or otherwise, that, because of publicity given it or knowledge of it among students, faculty, or community, impairs or diminishes the Superintendent's effectiveness in the District.
16. Any breach by the Superintendent of an employment contract or any reason specified in the Superintendent's employment contract.
17. Failure to maintain an effective working relationship, or maintain good rapport, with parents, the community, staff, or the Board.
18. Assault on a person on school property or at a school-related function, or on an employee, student, or student's parent regardless of time or place.
19. Use of profanity in the course of performing any duties of employment, whether on or off school premises, in the presence of students, staff, or members of the public, if reasonably characterized as unprofessional.
20. Falsification of records or other documents related to the District's activities.
21. Falsification or omission of required information on an employment application.
22. Misrepresentation of facts to the Board or other District officials in the conduct of District business.
23. Failure to fulfill requirements for Superintendent certification.
24. Failure to fulfill the requirements of a deficiency plan under an Emergency Permit or a Special Assignment Permit.
25. Any attempt to encourage or coerce a child to withhold information from the child's parent or from other District personnel.
26. Any reason constituting good cause for terminating the contract during its term.

NOTICE

If the Board determines that the Superintendent's contract should be considered for nonrenewal, the Board shall deliver to the Superintendent by hand or certified mail, return receipt requested, written notice of the proposed nonrenewal. This notice shall contain the hearing procedures and shall be delivered not later than the 30th day before the last day of the contract term.

SUPERINTENDENT
NONRENEWAL

BJCF
(LOCAL)

REQUEST FOR
HEARING

If the Superintendent desires a hearing after receiving notice of the proposed nonrenewal, the Superintendent shall notify the Board in writing and file a written request with the Commissioner for an independent hearing examiner not later than the 15th day after receiving the notice of proposed action.

HEARING
EXAMINER

The hearing shall be conducted by an independent hearing examiner in accordance with the process described at BJCF(EXHIBIT).

BOARD DECISION

Following the hearing, the Board shall take appropriate action in accordance with BJCF(EXHIBIT).

NO HEARING

If the Superintendent fails to request a hearing, the Board shall take the appropriate action and notify the Superintendent in writing of that action not later than the 30th day after the date the notice of proposed nonrenewal was sent.

PLANNING AND DECISION-MAKING PROCESS
DISTRICT-LEVEL

BQA
(LEGAL)

PROCESS

The Board shall establish a procedure under which meetings are held regularly by the District-level planning and decision-making committee that includes representative professional staff, parents of students enrolled in the District, business representatives, and community members. The committee shall include a business representative, without regard to whether the representative resides in the District or whether the business the person represents is located in the District. The Board, or the Board's designee, shall periodically meet with the District-level committee to review the District-level committee's deliberations. *Education Code 11.251(b)*

ADMINISTRATIVE
PROCEDURE

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

COMMITTEE

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

Board policy must provide procedures for:

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

Education Code 11.251(e)

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

DEFINITIONS

For purposes of establishing the composition of committees:

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

PLANNING AND DECISION-MAKING PROCESS
DISTRICT-LEVEL

BQA
(LEGAL)

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

Education Code 11.251(c)

CONSULTATION

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

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. *Education Code 11.252(a)* [See BQ]

DROPOUT
PREVENTION REVIEW

The District-level planning and decision-making committee shall analyze information related to dropout prevention, including:

1. The results of the audit of dropout records required by Education Code 39.055;
2. Campus information related to graduation rates, dropout rates, high school equivalency certificate rates, and the percentage of students who remain in high school more than four years after entering grade level 9;
3. The number of students who enter a high school equivalency certificate program and:
 - a. Do not complete the program,
 - b. Complete the program but do not take the high school equivalency examination, or
 - c. Complete the program and take the high school equivalency examination but do not obtain a high school equivalency certificate;
4. For students enrolled in grade levels 9 and 10, information related to academic credit hours earned, retention rates, and placements in disciplinary alternative education programs and expulsions under Chapter 37; and
5. The results of an evaluation of each school-based dropout prevention program in the District.

The District-level planning and decision-making committee shall use the information reviewed under this policy in developing District improvement plans.

PLANNING AND DECISION-MAKING PROCESS
DISTRICT-LEVEL

BQA
(LEGAL)

Education Code 11.255

CAMPUS INCENTIVE
PLAN

The District-level planning and decision-making committee must approve a campus incentive plan developed by each campus-level planning and decision-making committee or other campus-level decision-making body. The campus incentive plan must be submitted by the District on behalf of an eligible campus.

The Texas Education Agency may consider for approval only a campus incentive plan developed, approved, and submitted in accordance with Education Code 21.654 and 19 TAC 102.1071. [See BQB]

Education Code 21.654; 19 TAC 102.1071(c)

PUBLIC MEETINGS

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

PLANNING AND DECISION-MAKING PROCESS
CAMPUS-LEVEL

BQB
(LEGAL)

	<p>The District shall maintain current policies and procedures to ensure that effective planning and site-based decision making occur at each campus to direct and support the improvement of student performance for all students. <i>Education Code 11.253(a)</i></p>
COMMITTEES	<p>The District's policy and procedures shall establish campus-level planning and decision-making committees as provided by Education Code 11.251(b)–(e). <i>Education Code 11.253(b)</i></p>
CONSULTATION	<p>A principal shall regularly consult the campus-level committee in the planning, operation, supervision, and evaluation of the campus educational program. <i>Education Code 11.253(h)</i></p>
RESPONSIBILITIES	<p>In accordance with the administrative procedures established under Education Code 11.251(b), the campus-level committee shall be involved in decisions in the areas of planning, budgeting, curriculum, staffing patterns, staff development, and school organization. <i>Education Code 11.253(e)</i></p>
CAMPUS IMPROVEMENT PLAN	<p>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 with respect to the academic excellence indicators [see GND] and any other appropriate performance measures for special needs populations. <i>Education Code 11.253(c)</i> [See BQ]</p>
STAFF DEVELOPMENT	<p>The campus-level committee must approve the portions of the campus plan addressing campus staff development needs.</p> <p>The above paragraphs do not create a new cause of action or require collective bargaining.</p> <p><i>Education Code 11.253(e), (f)</i></p>
DROPOUT PREVENTION REVIEW	<p>Each campus-level planning and decision-making committee for a junior, middle, or high school campus shall analyze information related to dropout prevention, including:</p> <ol style="list-style-type: none">1. The results of the audit of dropout records required by Education Code 39.055;2. Campus information related to graduation rates, dropout rates, high school equivalency certificate rates, and the percentage of students who remain in high school more than four years after entering grade level 9;3. The number of students who enter a high school equivalency certificate program and:<ol style="list-style-type: none">a. Do not complete the program,

PLANNING AND DECISION-MAKING PROCESS
CAMPUS-LEVEL

BQB
(LEGAL)

- b. Complete the program but do not take the high school equivalency examination, or
 - c. Complete the program and take the high school equivalency examination but do not obtain a high school equivalency certificate;
4. For students enrolled in grade levels 9 and 10, information related to academic credit hours earned, retention rates, and placements in disciplinary alternative education programs and expulsions under Chapter 37; and
5. The results of an evaluation of each school-based dropout prevention program in the District.

Each campus-level planning and decision-making committee shall use the information reviewed under this policy in developing District or campus improvement plans.

Education Code 11.255

PROCESS

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

ADMINISTRATIVE
PROCEDURE

The Board shall also 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. *Education Code 11.251(d)*

SELECTION OF
COMMITTEES

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

Board policy must provide procedures for:

1. The selection of parents to the campus-level committees.

PLANNING AND DECISION-MAKING PROCESS
CAMPUS-LEVEL

BQB
(LEGAL)

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

Education Code 11.251(e)

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

DEFINITIONS

For purposes of establishing the composition of committees:

1. A person who stands in parental relation to a student is considered a parent.
2. A parent who is an employee of the District is not considered a parent representative on the committee.
3. A parent is not considered a representative of community members on the committee.
4. Community members must reside in the District and must be at least 18 years of age.

Education Code 11.251(c)

PRINCIPAL
PERFORMANCE
INCENTIVES

A performance incentive awarded to a principal shall be distributed to the principal's school. The campus-level committee shall determine the manner in which the performance incentive shall be distributed and used, in accordance with Education Code 39.094(a).
Education Code 21.357(c)

CAMPUS INCENTIVE
PLAN

A campus-level decision-making body, such as the campus-level planning and decision-making committee, for each eligible campus that intends to participate in the campus incentive plan program shall develop a campus incentive plan for the campus that:

1. Is designed to reward teachers who have a positive impact on improving student achievement;
2. Meets all program guidelines adopted by the Commissioner of Education under Education Code 21.652; and
3. Describes how grant funds will be distributed.

Education Code 21.654

A campus incentive plan must be developed by each campus-level decision-making body, approved by its District-level committee, and submitted by the District on behalf of an eligible campus. The campus-level body developing the plan should be composed of individuals representing a diverse and broad mix of teachers, in-

PLANNING AND DECISION-MAKING PROCESS
CAMPUS-LEVEL

BQB
(LEGAL)

cluding representation from different grade levels and subject areas. The District may choose to provide guidance to campuses in the creation of plans.

The Texas Education Agency may consider for approval only a campus incentive plan developed, approved, and submitted in accordance with Education Code 21.654 and 19 TAC 102.1071. A campus that has implemented an approved incentive plan may choose to renew its plan, should it be eligible for funding in subsequent years, for up to three years after the first year of implementation.

In accordance with Education Code 21.655, each eligible campus whose campus incentive plan is approved is entitled to a grant award in an amount determined by the Commissioner of Education. Award amounts may vary from one year to the next.

19 TAC 102.1071(c)–(d)

PUBLIC MEETING

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

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

SECTION C: BUSINESS AND SUPPORT SERVICES

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

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

SECTION C: BUSINESS AND SUPPORT SERVICES

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

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

SECTION C: BUSINESS AND SUPPORT SERVICES

CPAC	Telephone
CPC	Records Management
CQ	ELECTRONIC COMMUNICATION AND DATA MANAGEMENT
CR	INSURANCE AND ANNUITIES MANAGEMENT
CRA	Property Insurance
CRB	Liability Insurance
CRD	Health and Life Insurance
CRE	Workers' Compensation
CRF	Unemployment Insurance
CRG	Deferred Compensation and Annuities
CS	FACILITY STANDARDS
CT	FACILITIES PLANNING
CV	FACILITIES CONSTRUCTION
CVA	Competitive Bidding
CVB	Competitive Sealed Proposals
CVC	Design-Build Contracts
CVD	Construction Manager-Agent
CVE	Construction Manager-At-Risk
CVF	Job Order Contracts
CW	NEW FACILITIES
CX	RENTING OR LEASING FACILITIES FROM OTHERS

LOCAL REVENUE SOURCES
BOND ISSUES

CCA
(LEGAL)

BONDS AND BOND
TAXES

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

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

INSTRUCTIONAL
FACILITY
ALLOTMENT

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

EXISTING DEBT
ALLOTMENT

Each district is guaranteed certain state funding to pay the principal and interest on eligible bonds under Education Code Chapter 46, Subchapter B. Bonds are eligible if the District made payments on the bonds during the 2006–07 school year or taxes levied to pay the principal and interest on the bonds were included in the District's audited debt service collections for that school year, and the District does not receive state assistance under the Instructional Facilities Allotment for payment of the principal and interest on the bonds. *Education Code 46.032, 46.033; 19 TAC 61.1035*

POLITICAL
ADVERTISING

No officer or employee of the District shall 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. *Election Code 255.003*

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;

LOCAL REVENUE SOURCES
BOND ISSUES

CCA
(LEGAL)

- b. Does not advocate passage or defeat of a measure; and
- c. Does not support or oppose a candidate for nomination or election to a public office or office of political party, a political party, or a public officer.

1 TAC 26.2

ELECTIONEERING	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. <i>Education Code 11.169</i>
ELECTIONS	<p>No bonds shall be issued or taxes levied unless approved by a majority of the qualified voters of the District who vote at an election held for such purpose. The election shall be called by Board resolution, which shall set the date, polling places, and propositions to be voted on.</p> <p>The election shall be held on a uniform election date.</p> <p>Except for elections held on a uniform election date or in an emergency situation approved by the governor, elections may not be held within 30 days before or after the date of the general election for state and county officers, general primary election, or runoff primary election.</p> <p><i>Education Code 45.003(a); Election Code 41.001(a), (c) [See BBB]</i></p>
CALL FOR ELECTION	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. <i>Election Code 3.005</i>
NOTICE OF ELECTION	<p>Notice of each election shall be published not earlier than the 30th day or later than the tenth day before election day in a newspaper of general circulation in the District or a newspaper of general circulation in the territory if none is published in the District. The person responsible for giving the notice must retain a copy of the published notice that contains the name of the newspaper and the date of publication.</p> <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>
POSTING	In addition, notice of the election, which must include the location of each polling place, must be posted not later than the 21st day before election day on the bulletin board used for posting notices of Board meetings. The person posting the notice shall make a re-

LOCAL REVENUE SOURCES
BOND ISSUES

CCA
(LEGAL)

cord 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.

Election Code 4.003(a)(1), (b), (c), 4.004, 4.005

PRECLEARANCE
REQUIRED

A bond election is subject to federal preclearance requirements to the extent that the District makes changes in the practices or procedures to be followed. Any discretionary setting of the date for a bond election or scheduling of events leading up to or following a bond election is subject to the preclearance requirement. *28 CFR 51.17* [See BBB]

NEW DEBT

Before issuing bonds, the District must demonstrate to the attorney general that, with respect to the proposed issuance, the District has a projected ability to pay the principal of and interest on the proposed bonds and all previously issued bonds, other than bonds authorized to be issued at an election held on or before April 1, 1991, and issued before September 1, 1992, from a tax at a rate not to exceed \$0.50 per \$100 of valuation.

CURRENT TAXABLE
VALUE

The District may demonstrate the ability to comply by using the most recent taxable value of property in the District, combined with state assistance to which the District is entitled under Chapter 42 or 46 that may be lawfully used for the payment of bonds.

FUTURE TAXABLE
VALUE

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

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

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

Education Code 45.0031

PROPOSITIONS

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

LOCAL REVENUE SOURCES
BOND ISSUES

CCA
(LEGAL)

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

Education Code 45.003(b)

REFUNDING BONDS
AUTHORITY

The Board is authorized to refund or refinance all or any part of any of its outstanding bonds and interest thereon, payable from ad valorem taxes, by issuing refunding bonds payable from ad valorem taxes in accordance with legal requirements for the issuance. *Education Code 45.004; Gov't Code Chapter 1207*

INSTRUCTIONAL
FACILITIES
REFUNDING BONDS

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

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

Education Code 46.007

AUTHORIZED
UNISSUED BONDS

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

GUARANTEED BONDS

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

1. The name of the District and the principal amount of the bonds to be issued;

LOCAL REVENUE SOURCES
BOND ISSUES

CCA
(LEGAL)

2. The name and address of the financial institution designated by the District as its agent for payment of principal and interest for guaranteed bonds; and
3. The maturity schedule, estimated interest rate, and date of the bonds.

Education Code 45.051, 45.052, 45.054, 45.055

An application must be accompanied by a fee set by rule of the State Board in an amount designed to cover the costs of administering the guarantee program. *Education Code 45.055(c)*

USE OF BOND
PROCEEDS FOR
UTILITIES

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

Education Code 45.101

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

WRITTEN POLICIES

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

1. A list of the types of authorized investments in which the District's funds may be invested;
2. The maximum allowable stated maturity of any individual investment owned by the District;
3. For pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date of the portfolio;
4. Methods to monitor the market price of investments acquired with public funds; and
5. A requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis.

Gov't Code 2256.005(b)

ANNUAL REVIEW

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

ANNUAL AUDIT

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

INVESTMENT
STRATEGIES

As part of the investment policy, the Board shall adopt a separate written investment strategy for each of the funds or group of funds under the Board's control. Each investment strategy must describe the investment objectives for the particular fund under the following priorities in order of importance:

1. Understanding of the suitability of the investment to the financial requirements of the District;

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

Gov't Code 2256.005(d)

INVESTMENT
OFFICER

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

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

INVESTMENT
TRAINING
INITIAL

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

WITHIN A TWO-
YEAR PERIOD

The treasurer or chief financial officer and the investment officer must also attend an investment training session not less than once in a two-year period and receive not less than ten hours of instruction relating to investment responsibilities under the Public Funds Investment Act from an independent source approved by the Board

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or a designated investment committee advising the investment officer. If the District has contracted with another investing entity to invest the District's funds, this training requirement may be satisfied by having a Board officer attend four hours of appropriate instruction in a two-year period. *Gov't Code 2256.008(a), (b)*

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

STANDARD OF
CARE

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

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

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

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

Gov't Code 2256.006

PERSONAL
INTEREST

A District investment officer who has a personal business relationship with a business organization offering to engage in an investment transaction with the District shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree by affinity or consanguinity, as determined by Government Code Chapter 573, to an individual seeking to sell an investment to the investment officer's District shall file a statement disclosing that relationship. A required statement must be filed with the Board and with the Texas Ethics Commission. For purposes of this policy, an investment officer has a personal business relationship with a business organization if:

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

Gov't Code 2256.005(i)

QUARTERLY
REPORTS

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

1. Contain a detailed description of the investment position of the District on the date of the report;
2. Be prepared jointly and signed by all District investment officers.
3. Contain a summary statement for each pooled fund group (i.e., each internally created fund in which one or more accounts are combined for investing purposes). The report must be prepared in compliance with generally accepted accounting principles and must state:
 - a. Beginning market value for the reporting period;
 - b. Additions and changes to the market value during the period;
 - c. Ending market value for the period; and
 - d. Fully accrued interest for the reporting period.
4. State the book value and market value of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested.
5. State the maturity date of each separately invested asset that has a maturity date.
6. State the account or fund or pooled group fund in the District for which each individual investment was acquired.

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7. State the compliance of the investment portfolio of the District as it relates to the District's investment strategy expressed in the District's investment policy and relevant provisions of Government Code, Chapter 2256.

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

Gov't Code 2256.023

SELECTION OF
BROKER

The Board or a designated investment committee, shall, at least annually, review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with the District. *Gov't Code 2256.025*

AUTHORIZED
INVESTMENTS

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

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

The following investments are authorized:

1. Obligations, including letters of credit, of the United States or its agencies and instrumentalities; direct obligations of the state of Texas or its agencies and instrumentalities; collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States; other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the state of Texas, the United States, or their respective agencies and instrumentalities; ob-

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ligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent; and bonds issued, assumed, or guaranteed by the state of Israel. *Gov't Code 2256.009(a)*

The following investments are not authorized:

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

Gov't Code 2256.009(b)

2. Certificates of deposit or share certificates issued by a depository institution that has its main office or a branch office in Texas that is guaranteed or insured by the FDIC or its successor or the National Credit Union Share Insurance Fund or its successor and is secured by obligations described in item 1 above, including mortgage-backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates (but excluding those mortgage-backed securities described in Section 2256.009[b]) or secured in any other manner and amount provided by law for the deposits of the investing entity. *Gov't Code 2256.010(a)*

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

- a. The funds are invested by the District through a depository institution that has its main office or a branch office in this state and that is selected by the District;
- b. The depository institution selected by the District arranges for the deposit of the funds in certificates of de-

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posit in one or more federally insured depository institutions, wherever located, for the account of the District;

- c. The full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States;
- d. The depository institution selected by the District acts as custodian for the District with respect to the certificates of deposit issued for the account of the District entity; and
- e. At the same time that the funds are deposited and the certificates of deposit are issued for the account of the District, the depository institution selected by the District receives an amount of deposits from customers of other federally insured depository institutions, wherever located, that is equal to or greater than the amount of the funds invested by the District through the depository institution.

Gov't Code 2256.010(b)

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

- 3. Fully collateralized repurchase agreements that have a defined termination date, are secured by obligations of the United States or its agencies and instrumentalities, are pledged to the District, held in the District's name, and deposited with the District or a third party selected and approved by the Board, and placed through a primary government securities dealer, as defined by the Federal Reserve or a financial institution doing business in Texas. The term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered. Money received by the District under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement. *Gov't Code 2256.011*
- 4. A securities lending program if:
 - a. The value of securities loaned is not less than 100 percent collateralized, including accrued income, and the loan allows for termination at any time;

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- b. The loan is secured by:
 - (1) Pledged securities described by Government Code 2256.009;
 - (2) Pledged irrevocable letters of credit issued by a bank that is organized and existing under the laws of the United States or any other state and continuously rated by at least one nationally recognized investment rating firm at not less than A or its equivalent; or
 - (3) Cash invested in accordance with Government Code 2256.009, 2256.013, 2256.014, or 2256.016;
- c. The terms of the loan require that the securities being held as collateral be pledged to the investing entity, held in the investing entity's name, and deposited at the time the investment is made with the entity or with a third party selected by or approved by the investing entity; and
- d. The loan is placed through a primary government securities dealer or a financial institution doing business in this state.

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

Gov't Code 2256.0115

- 5. Banker's acceptance, with a stated maturity of 270 days or fewer from the date of issuance that will be liquidated in full at maturity, which is eligible for collateral for borrowing from a Federal Reserve Bank, and is accepted by a bank meeting the requirements of Government Code 2256.012(4). *Gov't Code 2256.012*
- 6. Commercial paper that has a stated maturity of 270 days or fewer from the date of issuance and is rated not less than A-1 or P-1 or an equivalent rating by at least two nationally recognized credit rating agencies or by one nationally recognized credit rating agency provided the commercial paper is fully secured by an irrevocable letter of credit issued by a bank organized and existing under United States law or the law of any state. *Gov't Code 2256.013*
- 7. No-load money market mutual funds that:
 - a. Are registered with and regulated by the Securities and Exchange Commission;

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- b. Provide the District with a prospectus and other information required by the Securities and Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.);
- c. Have a dollar-weighted average stated maturity of 90 days or fewer; and
- d. Include in their investment objectives the maintenance of a stable net asset value of \$1 for each share.

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

- 8. No-load mutual funds that:
 - a. Are registered with the Securities and Exchange Commission;
 - b. Have an average weighted maturity of less than two years;
 - c. Are invested exclusively in obligations approved by Government Code Chapter 2256, Subchapter A, regarding authorized investments (Public Funds Investment Act);
 - d. Are continuously rated by at least one nationally recognized investment rating firm of not less than AAA or its equivalent; and
 - e. Conform to the requirements in Government Code Section 2256.016(b) and (c) relating to the eligibility of investment pools to receive and invest funds of investing entities.

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

Gov't Code 2256.014

- 9. A guaranteed investment contract, as an investment vehicle for bond proceeds, if the guaranteed investment contract:
 - a. Has a defined termination date.
 - b. Is secured by obligations described by Government Code Section 2256.009(a)(1), excluding those obliga-

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tions described by Section 2256.009(b), in an amount at least equal to the amount of bond proceeds invested under the contract.

- c. Is pledged to the District and deposited with the District or with a third party selected and approved by the District.

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

To be eligible as an authorized investment:

- a. The Board must specifically authorize guaranteed investment contracts as eligible investments in the order, ordinance, or resolution authorizing the issuance of bonds.
- b. The District must receive bids from at least three separate providers with no material financial interest in the bonds from which proceeds were received.
- c. The District must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received.
- d. The price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested.
- e. The provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

Gov't Code 2256.015

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

CHANGE IN LAW

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

SELLERS OF
INVESTMENTS

A written copy of the investment policy shall be presented to any person offering to engage in an investment transaction with the District or to an investment management firm under contract with

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the District to invest or manage the District's investment portfolio. For purposes of this section, a business organization includes investment pools and an investment management firm under contract with the District to invest or manage the District's investment portfolio. The qualified representative of the business organization offering to engage in an investment transaction with the District shall execute a written instrument in a form acceptable to the District and the business organization substantially to the effect that the business organization has:

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

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

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

DONATIONS

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

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

ELECTRONIC FUNDS
TRANSFER

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

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INVESTMENT
AUTHORITY

The Superintendent or other person designated by Board resolution shall serve as the investment officer of the District and shall invest District funds as directed by the Board and in accordance with the District's written investment policy and generally accepted accounting procedures. All investment transactions except investment pool funds and mutual funds shall be executed on a delivery versus payment basis.

APPROVED
INVESTMENT
INSTRUMENTS

From those investments authorized by law and described further in CDA(LEGAL), the Board shall permit investment of District funds in only the following investment types, consistent with the strategies and maturities defined in this policy:

1. Obligations of, or guaranteed by, governmental entities as permitted by Government Code 2256.009.
2. Certificates of deposit and share certificates as permitted by Government Code 2256.010.
3. Fully collateralized repurchase agreements permitted by Government Code 2256.011.
4. A securities lending program as permitted by Government Code 2256.0115.
5. Banker's acceptances as permitted by Government Code 2256.012.
6. Commercial paper as permitted by Government Code 2256.013.
7. No-load money market mutual funds and no-load mutual funds as permitted by Government Code 2256.014.
8. A guaranteed investment contract as an investment vehicle for bond proceeds, provided it meets the criteria and eligibility requirements established by Government Code 2256.015.
9. Public funds investment pools as permitted by Government Code 2256.016.

SAFETY AND
INVESTMENT
MANAGEMENT

The main goal of the investment program is to ensure its safety and maximize financial returns within current market conditions in accordance with this policy. Investments shall be made in a manner that ensures the preservation of capital in the overall portfolio, and offsets during a 12-month period any market price losses resulting from interest-rate fluctuations by income received from the balance of the portfolio. No individual investment transaction shall be undertaken that jeopardizes the total capital position of the overall portfolio.

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LIQUIDITY AND
MATURITY

Any internally created pool fund group of the District shall have a maximum dollar weighted maturity of 180 days. The maximum allowable stated maturity of any other individual investment owned by the District shall not exceed one year from the time of purchase. The Board may specifically authorize a longer maturity for a given investment, within legal limits.

The District's investment portfolio shall have sufficient liquidity to meet anticipated cash flow requirements.

DIVERSITY

The investment portfolio shall be diversified in terms of investment instruments, maturity scheduling, and financial institutions to reduce risk of loss resulting from overconcentration of assets in a specific class of investments, specific maturity, or specific issuer.

MONITORING MARKET
PRICES

The investment officer shall monitor the investment portfolio and shall keep the Board informed of significant declines in the market value of the District's investment portfolio. Information sources may include financial/investment publications and electronic media, available software for tracking investments, depository banks, commercial or investment banks, financial advisors, and representatives/advisors of investment pools or money market funds. Monitoring shall be done monthly or more often as economic conditions warrant by using appropriate reports, indices, or benchmarks for the type of investment.

FUNDS / STRATEGIES

Investments of the following fund categories shall be consistent with this policy and in accordance with the strategy defined below.

OPERATING FUNDS

Investment strategies for operating funds (including any commingled pools containing operating funds) shall have as their primary objectives safety, investment liquidity, and maturity sufficient to meet anticipated cash flow requirements.

AGENCY FUNDS

Investment strategies for agency funds shall have as their objectives safety, investment liquidity, and maturity sufficient to meet anticipated cash flow requirements.

DEBT SERVICE
FUNDS

Investment strategies for debt service funds shall have as their objective sufficient investment liquidity to timely meet debt service payment obligations in accordance with provisions in the bond documents. Maturities longer than one year are authorized provided legal limits are not exceeded.

CAPITAL PROJECTS

Investment strategies for capital project funds shall have as their objective sufficient investment liquidity to timely meet capital project obligations. Maturities longer than one year are authorized provided legal limits are not exceeded.

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INVESTMENTS

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(LOCAL)

INTERNAL SERVICE FUNDS	Investment strategies for internal service funds shall have as their primary objective safety, investment liquidity, and maturity sufficient to meet anticipated cash flow requirements.
SAFEKEEPING AND CUSTODY	The District shall retain clearly marked receipts providing proof of the District's ownership. The District may delegate, however, to an investment pool the authority to hold legal title as custodian of investments purchased with District funds by the investment pool.
BROKERS / DEALERS	Prior to handling investments on behalf of the District, brokers/dealers must submit required written documents in accordance with law. [See SELLERS OF INVESTMENTS, CDA(LEGAL)] Representatives of brokers/dealers shall be registered with the Texas State Securities Board and must have membership in the Securities Investor Protection Corporation (SIPC), and be in good standing with the Financial Industry Regulatory Authority (FINRA).
SOLICITING BIDS FOR CD'S	In order to get the best return on its investments, the District may solicit bids for certificates of deposit in writing, by telephone, or electronically, or by a combination of these methods.
INTEREST RATE RISK	<p>To reduce exposure to changes in interest rates that could adversely affect the value of investments, the District shall use final and weighted-average-maturity limits and diversification.</p> <p>The District shall monitor interest rate risk using weighted average maturity and specific identification.</p>
INTERNAL CONTROLS	<p>A system of internal controls shall be established and documented in writing and must include specific procedures designating who has authority to withdraw funds. Also, they shall be designed to protect against losses of public funds arising from fraud, employee error, misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by employees and officers of the District. Controls deemed most important shall include:</p> <ol style="list-style-type: none">1. Separation of transaction authority from accounting and recordkeeping and electronic transfer of funds.2. Avoidance of collusion.3. Custodial safekeeping.4. Clear delegation of authority.5. Written confirmation of telephone transactions.6. Documentation of dealer questionnaires, quotations and bids, evaluations, transactions, and rationale.7. Avoidance of bearer-form securities.

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These controls shall be reviewed by the District's independent auditing firm.

PORTFOLIO REPORT

In addition to the quarterly report required by law and signed by the District's investment officer, a comprehensive report on the investment program and activity shall be presented annually to the Board.

ANNUAL OPERATING BUDGET

CE
(LOCAL)

FISCAL YEAR	The District shall operate on a fiscal year beginning July 1 and ending June 30.
BUDGET PLANNING	Budget planning shall be an integral part of overall program planning so that the budget effectively reflects the District's programs and activities and provides the resources to implement them. In the budget planning process, general educational goals, specific program goals, and alternatives for achieving program goals shall be considered, as well as input from the District- and campus-level planning and decision-making committees. Budget planning and evaluation are continuous processes and shall be a part of each month's activities.
BUDGET MEETING	<p>The annual public meeting to discuss the proposed budget and tax rate shall be conducted as follows:</p> <ol style="list-style-type: none">1. The Board President shall request at the beginning of the meeting that all persons who desire to speak on the proposed budget and/or tax rate sign up on the sheet provided.2. Prior to the beginning of the meeting, the Board may establish time limits for speakers.3. Speakers shall confine their remarks to the appropriation of funds as contained in the proposed budget and/or the tax rate.4. No officer or employee of the District shall be required to respond to questions from speakers at the meeting.
AUTHORIZED EXPENDITURES	The adopted budget provides authority to expend funds for the purposes indicated and in accordance with state law, Board policy, and the District's approved purchasing procedures. The expenditure of funds shall be under the direction of the Superintendent or designee who shall ensure that funds are expended in accordance with the adopted budget.
BUDGET AMENDMENTS	The Board shall amend the budget when a change is made increasing any one of the functional spending categories or increasing revenue object accounts and other resources.

SCHOOL PROPERTIES DISPOSAL

CI
(LOCAL)

The Superintendent or designee is authorized to declare District materials, equipment, and supplies to be unnecessary and shall dispose of unnecessary materials, equipment, and supplies for fair market value. If the unnecessary property has no value, the Superintendent or designee may dispose of such property according to administrative discretion.

Items obtained as federal surplus shall be managed according to federal regulations.

TRANSPORTATION MANAGEMENT
STUDENT TRANSPORTATION

CNA
(LEGAL)

DEFINITIONS

For purposes of this policy:

1. "Bus" means a motor vehicle used to transport persons and designed to accommodate more than ten persons, including the driver.
2. "Passenger car" refers to a motor vehicle, other than a motor-cycle, used to transport persons and designed to accommodate ten or fewer passengers.
3. "Passenger van" means a motor vehicle, other than a motor-cycle or passenger car, used to transport persons and designed to transport 15 or fewer passengers, including the driver.
4. "School activity bus" means a bus designed to accommodate more than 15 passengers, including the operator, that is owned, operated, rented, or leased by the District and is used to transport public school students on a school-related activity trip, other than on routes to and from school. The term does not include a chartered bus, a bus operated by a mass transit authority, or a school bus.
5. "School bus" means a motor vehicle that was manufactured in compliance with the federal motor vehicle safety standards for school buses in effect on the date of manufacture and that is used to transport preprimary, primary, or secondary students to and from school or on a school-related activity trip other than on routes to and from school. The term does not include a school-chartered bus or a bus operated by a mass transit authority.
6. "Motor bus" means a vehicle designed to transport more than 15 passengers, including the driver.

Education Code 34.003; Trans. Code 541.201

AUTHORITY

The District may establish and operate an economical public school transportation system in the District or outside the District, if the District enters into an interlocal contract as provided by Government Code Chapter 791. For that part of the system that the District operates directly, it shall employ bus drivers certified by the Department of Public Safety. *Education Code 34.007*

TRANSPORTATION
FUNDING FOR
ELIGIBLE STUDENTS

If the District operates a transportation system, the District is entitled to a state transportation allotment. The allotted funds are based on the cost of providing transportation services to students who live two or more miles from the school they attend. The Commissioner of Education cannot reduce the allotment because the District provides transportation for an eligible student to and from a child-care facility instead of the student's residence, if the

TRANSPORTATION MANAGEMENT
STUDENT TRANSPORTATION

CNA
(LEGAL)

transportation is provided within the approved routes of the District for the school the student attends. *Education Code 42.155*

The Board may require payment of a reasonable fee for transportation to and from school of a student who lives within two miles of the school the student attends. However, the Board may not charge a fee for transportation for which the District receives a transportation allotment under Education Code 42.155(d). *Education Code 11.158.*

HAZARDOUS
CONDITIONS

The District may apply to the Commissioner of Education for an additional amount of up to ten percent of its regular transportation allotment to be used for the transportation of students living within two miles of the school they attend who would be subject to hazardous traffic conditions if they walked to school. The Board shall provide to the Commissioner the definition of hazardous conditions applicable to the District and shall identify the specific hazardous areas for which the allocation is requested. A hazardous condition exists where no walkway is provided and students must walk along or cross a freeway or expressway, an underpass, an overpass or a bridge, an uncontrolled major traffic artery, an industrial or commercial area, or another comparable condition. *Education Code 42.155(d)*

BUS OPERATION

A person may not operate a school bus if:

1. The door of the school bus is open; or
2. The number of passengers on the bus is greater than the manufacturer's design capacity for the bus.

Trans. Code 545.426

TRANSPORTING
STUDENTS TO
SCHOOL

School buses or mass transit authority buses shall be used for the transportation of students to and from schools on routes having ten or more students. Passenger cars may be used on routes having fewer than ten students. *Education Code 34.003(a)*

DESIGNATION OF
CHILD-CARE
FACILITY OR
GRANDPARENT'S
RESIDENCE

The Board, after determining eligibility for transportation services, shall allow a parent to designate a child-care facility or the residence of a grandparent of the child instead of the child's residence as the regular location for purposes of obtaining transportation under the system to and from the child's school. Either designated location must be an approved stop on an approved route. *Education Code 34.007(b)(2)*

"Child-care facility" means a facility licensed, certified, or registered by the Department of Family and Protective Services to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adop-

TRANSPORTATION MANAGEMENT
STUDENT TRANSPORTATION

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tion to the owner or operator of the facility for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers. *Human Resources Code 42.002(3)*

TRANSPORTATION
TO A HIGHER
PERFORMING
SCHOOL

The District shall provide or pay for the transportation of a student to a higher-performing public school operated by another district, if the District is identified for corrective action, or to another public school within the District if the student's school:

1. Has been identified for school improvement;
2. Has failed to make adequate yearly progress by the end of the first full school year after identification for school improvement;
3. Has had corrective action implemented by the District for failure to make adequate yearly progress by the end of the second full school year after identification for school improvement; or
4. Has failed to make adequate yearly progress after one full school year of corrective action.

No Child Left Behind Act of 2001, 20 U.S.C. 6316(b)(9)

TRANSPORTATION
OF HOMELESS
STUDENTS

As a condition of receiving funds under the McKinney-Vento Homeless Education Assistance Improvements Act, the District shall adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, at the request of the homeless liaison) to and from the school of origin, as follows:

1. If the homeless child lives in the district in which the school of origin is located, the district of origin will provide the child's transportation to and from the school of origin.
2. If the homeless child lives in a district other than that in which the school of origin is located, the district of origin and the district where the homeless child is living shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the districts are unable to agree, the responsibility and costs shall be shared equally.

McKinney-Vento Homeless Education Assistance Improvements Act of 2001, Secs. 722, 725; 42 U.S.C. 11432(g)(1)(J)(iii)(I), (II)
[See FDC]

SCHOOL
ACTIVITIES

When transporting students in connection with school activities other than on routes to and from school:

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STUDENT TRANSPORTATION

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1. Only school buses or motor buses may be used to transport 15 or more students; and
2. Passenger cars or passenger vans may be used to transport fewer than 15 students.

Education Code 34.003(b)(1), (2)

The operator of a passenger car or passenger van used to transport students to school or to a school activity shall ensure that the number of passengers does not exceed the designed capacity of the vehicle and that each passenger is secured by a safety belt.

Education Code 34.003(c)

ACCELERATED
INSTRUCTION
PROGRAMS

The District shall provide students required to attend the accelerated programs described in policy code EIE with transportation to those programs if the programs occur outside of regular school hours. *Education Code 28.0211(j)*

TRANSPORTATION
COMPANY OR
SYSTEM

The Board may contract for all or any part of its public school transportation with a mass transit authority or commercial transportation company, provided that the authority or commercial transportation company:

1. Requires its school bus drivers to have the qualifications required by and be certified in accordance with standards established by the Department of Public Safety;
2. Transports 15 or more students only in school buses or mass transit authority buses that meet or exceed safety standards for school buses established under Education Code 34.002;
3. Conducts all the following education programs with Board approval:
 - a. A program to inform the public that public school students will be riding on the authority's or company's buses;
 - b. A program to educate drivers of the buses to be used under the contract of the special needs and problems of public school students riding on the buses; and
 - c. A program to educate public school students on bus riding safety and any special considerations arising from the use of the authority's or company's buses.

The Board may supplement the state transportation cost allotment with local funds necessary to provide complete transportation services.

Education Code 34.008

TRANSPORTATION MANAGEMENT
STUDENT TRANSPORTATION

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CRIMINAL HISTORY
RECORD

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)*

Criminal history record information obtained by the District shall not be released or disclosed to any person, other than the individual who is the subject of the information, the Texas Education Agency, the State Board for Educator Certification, or the chief personnel officer of a public or commercial transportation company with which the District contracts to provide transportation services to students. *Gov't Code 411.097*

COMMERCIAL
TRANSPORTATION
COMPANY

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 information indicating that a person it employs or intends to employ has been convicted of a felony or a misdemeanor involving moral turpitude, the company may not, without the permission of the Board, employ that person to drive or to serve as a bus monitor or bus aide on a bus on which students are transported. If the commercial transportation company obtains the criminal history record information, the District is not required to do the same. *Education Code 22.084(c), (d)*

EMPLOYED
BEFORE
JANUARY 1, 2008

An entity that contracts with the District to provide services 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) [see DBAA] if:

1. The employee has continuing duties related to the contracted services; and

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STUDENT TRANSPORTATION

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2. The employee has direct contact with students.

The entity shall certify to the District that it received all of the criminal history record information required above.

The District may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person described above.

Education Code 22.0834(g)–(i)

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 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 shall obtain all criminal history record information that relates to a person described above through the criminal history clearinghouse as provided by Government Code 411.0845. The entity shall certify to the District that the entity has received all criminal history record information relating to the person.

The District may obtain the criminal history record information of a person to whom this section applies through the criminal history clearinghouse as provided by Government Code 411.0845.

Education Code 22.0834(a)–(e)

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

CAREER AND
TECHNOLOGY
PROGRAM

The District shall be reimbursed the cost of transporting career and technology program students to another campus within the District, to another secondary public school or an area career and technology school, or to an approved postsecondary institution under a contract for instruction approved by TEA. *Education Code 42.155(f)*

TRANSPORTATION MANAGEMENT
DISTRICT VEHICLES

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AUTHORIZATION TO
PURCHASE OR LEASE
VEHICLES

The District may purchase school motor vehicles through the comptroller or through competitive bidding. *Education Code 34.001(a)* [See CH]

Each contract proposed to be made by the District for the purchase or lease of one or more school buses must be submitted to competitive bidding when the contract is valued at \$20,000 or more. *Education Code 44.031(l)*

When a contract for the purchase of school buses is valued at \$20,000 or more, the contract must be made either through competitive bidding or by purchasing the buses through the comptroller. *Atty. Gen. Op. LO-98-063 (1998)*

PAYMENT

If the Board is unable to pay immediately for a vehicle, it may, subject to the provisions of law, issue time warrants in amounts sufficient to make such payments. *Education Code 34.005*

The Board may issue bonds to purchase new school buses. *Education Code 45.001* [See CCA]

NEW VAN
PURCHASES OR
LEASES

A school system may not purchase or lease a new 15-passenger van if it will be used significantly by, or on behalf of, the school system to transport preprimary, primary, or secondary school students to or from school or an event related to school, unless the 15-passenger van complies with the motor vehicle standards prescribed for school buses and multi-function school activity buses under federal law. This provision does not apply in some limited circumstances, including the purchase or lease of a 15-passenger van under a contract executed before August 10, 2005, the date of enactment of this provision. *49 U.S.C. 30112*

MAINTENANCE

School buses operated by the District shall be maintained and inspected as required by the Transportation Code. *Trans. Code Chapter 548*

CONTRACTS FOR
USE, ACQUISITION,
OR LEASE OF
SCHOOL BUS

The Board may contract with any person for use, acquisition, lease, or lease with option or options to purchase school buses, if the Board determines such a contract to be economically advantageous to the District. Such a contract may have any lawful term of not less than two or more than ten years. Competitive bidding requirements apply to each contract for the purchase or lease of a school bus, including a lease with an option to purchase, when the contract is valued at \$20,000 or more. A school bus that is leased or leased with an option to purchase must meet or exceed safety standards set out in Education Code 34.002. *Education Code 34.009, 44.031(l)* [See CH]

REGISTRATION

District-owned vehicles used exclusively for the District are exempt from the state registration fee; however, they shall be registered in

TRANSPORTATION MANAGEMENT
DISTRICT VEHICLES

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accordance with general statutes relating to motor vehicle registration. *Trans. Code 502.202*

IDENTIFICATION

Exempt license plates shall not be issued to vehicles unless the applicant for registration certifies in writing that the name of the District is printed on each side of the vehicle, in letters that are at least two inches high or in an emblem that is at least 100 square inches in size. The letters or emblem must be of a color sufficiently different from the body of the vehicle to be clearly legible from a distance of 100 feet. *Trans. Code 502.2015*

MAINTENANCE

School buses operated by the District shall be maintained and inspected as required by the Transportation Code. *Trans. Code Chapter 548*

SCHOOL BUS
ADVERTISING

The exterior of a school bus may not bear advertising or another paid announcement directed at the public if the advertising or announcement distracts from the effectiveness of required safety-warning equipment. A school bus that violates this section or rules adopted under this section shall be placed out of service until it complies. *Trans. Code 547.701(d)*

ADVERTISING
RULES

The District may allow advertisements on school buses in accordance with rules adopted by the Texas Department of Public Safety (DPS) at 37 TAC 14.61–14.67. The rules apply to all school buses used to transport preprimary, primary, and secondary public school students. *37 TAC 14.62*

‘ADVERTISEMENT’

For purposes of this policy, “advertisement” means any communication brought to the attention of the public by paid announcement or in return for public recognition in connection with an event or offer or sale of a product or service, except for a single-line listing of a carrier name or manufacturer logo approved by the Texas Department of Public Safety. *37 TAC 14.61(1)*

MATERIAL AND
LOCATION

Advertisements must be of a material and in a location specified in the rules. *37 TAC 14.63–14.65*

ANNUAL NOTICE

Each September, districts involved in an advertising program shall provide to the School Bus Transportation Safety Unit at DPS written notification of the number of school buses operated by or for the District that display exterior advertising or another paid announcement. *37 TAC 14.67(a)(1), (b)*

DELIVERY OF
NOTICE

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 14.67(d)*

TRANSPORTATION MANAGEMENT
DISTRICT VEHICLES

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NONSCHOOL USE	<p>The Board may contract with nonschool organizations for use of school buses. <i>Education Code 34.010(a)</i></p> <p>The Board may provide services for the maintenance and operation of buses used by nonschool organizations in accordance with the contracts for such use. <i>Education Code 34.010</i></p>
SALE OF BUSES	<p>If the District so requests, the comptroller shall dispose of a school bus, but the District is not required to dispose of a bus through the comptroller. <i>Education Code 34.006</i></p>

TRANSPORTATION MANAGEMENT
TRANSPORTATION SAFETY

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SAFETY STANDARDS	<p>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. <i>Education Code 34.002; Trans. Code 547.102; 37 TAC 14.51, 14.52</i></p>
STUDENT SAFETY PROHIBITIONS	<p>The District may not require or allow a child to stand on a moving bus or passenger van. <i>Education Code 34.004</i></p> <p>An operator of a school bus, while operating the bus, shall prohibit a passenger from:</p> <ol style="list-style-type: none">1. Standing in the bus; or2. Sitting:<ol style="list-style-type: none">a. On the floor of the bus, orb. In any location on the bus that is not designed as a seat. <p><i>Trans. Code 545.426</i></p>
SEAT BELTS POLICY	<p>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. <i>Education Code 34.013</i></p>
FUNDING	<p>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.</p> <p>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.</p> <p><i>Education Code 34.014</i></p>
SCHOOL BUS EMERGENCY EVACUATION TRAINING	<p>Pursuant to the safety standards established by DPS under Education Code 34.002, the District shall conduct a training session for students and teachers concerning procedures for evacuating a school bus during an emergency. The District shall conduct the school bus emergency evacuation training at least twice each school year, with one training session occurring in the fall and one training session occurring in the spring. A portion of the training</p>

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session must occur on a school bus and the training session must last 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.

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

A person may not use a wireless communication device while operating a passenger bus with a minor passenger on the bus except in case of emergency or if the passenger bus is not in motion.

Trans. Code 545.425

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 14.67(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 14.67(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 14.67(d)

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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.

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TRANSPORTATION SAFETY

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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)

ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

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PEIMS	<p>The District shall participate in the Public Education Information Management System (PEIMS) and through that system shall provide information required for the administration of the Foundation School Program and of other appropriate provisions of the Education Code. The PEIMS data standards, established by the Commissioner, shall be used by the District to submit information. <i>Education Code 42.006; 19 TAC 61.1025</i></p>
CHILDREN'S INTERNET PROTECTION ACT	<p>Under the Children's Internet Protection Act (CIPA), the District must, as a prerequisite to receiving universal service discount rates, implement certain Internet safety measures and submit certification to the Federal Communications Commission (FCC). <i>47 U.S.C. 254</i> [See UNIVERSAL SERVICE DISCOUNTS, below, for details]</p> <p>Districts that do not receive universal service discounts but do receive certain federal funds under the Elementary and Secondary Education Act (ESEA) must, as a prerequisite to receiving these funds, implement certain Internet safety measures and submit certification to the Department of Education (DOE). <i>20 U.S.C. 6777</i> [See ESEA FUNDING, below, for details]</p>
DEFINITIONS	<p>"Harmful to minors" means any picture, image, graphic image file, or other visual depiction that:</p> <ol style="list-style-type: none">1. Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;2. Depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and3. Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors. <p><i>47 U.S.C. 254(h)(7)(G); 20 U.S.C. 6777(e)(6)</i></p> <p>"Technology protection measure" means a specific technology that blocks or filters Internet access. <i>47 U.S.C. 254(h)(7)(I)</i></p>
UNIVERSAL SERVICE DISCOUNTS	<p>An elementary or secondary school having computers with Internet access may not receive universal service discount rates unless the District implements an Internet safety policy, submits certifications to the FCC, and ensures the use of computers with Internet access in accordance with the certifications. <i>47 U.S.C. 254(h)(5)(A); 47 CFR 54.520</i></p> <p>"Universal service" means telecommunications services including Internet access, Internet services, and internal connection services</p>

ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

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and other services that are identified by the FCC as eligible for federal universal service support mechanisms. *47 U.S.C. 254(c)(3), (h)(5)(A)(ii)*

INTERNET SAFETY
POLICY

The District shall adopt and implement an Internet safety policy that addresses:

1. Access by minors to inappropriate matter on the Internet and the World Wide Web;
2. The safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;
3. Unauthorized access, including "hacking," and other unlawful activities by minors on-line;
4. Unauthorized disclosure, use, and dissemination of personal identification information regarding minors; and
5. Measures designed to restrict minors' access to materials harmful to minors.

47 U.S.C. 254(l)

PUBLIC HEARING

The District shall provide reasonable public notice and hold at least one public hearing or meeting to address the proposed Internet safety policy. *47 U.S.C. 254(h)(5)(A), (l)(1)*

'INAPPROPRIATE
FOR MINORS'

A determination regarding what matter is inappropriate for minors shall be made by the Board or designee. *47 U.S.C. 254(l)(2)*

TECHNOLOGY
PROTECTION
MEASURE

In accordance with the appropriate certification, the District shall operate a technology protection measure that protects minors against access to visual depictions that are obscene, child pornography, or harmful to minors; and protects adults against access to visual depictions that are obscene or child pornography. *47 U.S.C. 254(h)(5)(B), (C)*

MONITORED USE

In accordance with the appropriate certification, the District shall monitor the on-line activities of minors. *47 U.S.C. 254(h)(5)(B)*

CERTIFICATIONS
TO THE FCC

To be eligible for universal service discount rates, the District shall certify to the FCC, in the manner prescribed at 47 CFR 54.520, that:

1. An Internet safety policy has been adopted and implemented.
2. With respect to use by minors, the District is enforcing the Internet safety policy and operating a technology protection measure during any use of the computers.

ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

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3. With respect to use by adults, the District is enforcing an Internet safety policy and operating a technology protection measure during any use of the computers, except that an administrator, supervisor, or other person authorized by the District may disable the technology protection measure during use by an adult to enable access for bona fide research or other lawful purpose.

47 U.S.C. 254(h)(5); 47 CFR 54.520

ESEA FUNDING

Federal funds made available under Title II, Part D of the ESEA for an elementary or secondary school that does not receive universal service discount rates may not be used to purchase computers used to access the Internet, or to pay for direct costs associated with accessing the Internet unless the District:

1. Has in place a policy of Internet safety for minors that includes the operation of a technology protection measure that protects against access to visual depictions that are obscene, child pornography, or harmful to minors and enforces the operation of the technology protection measure during any use by minors of its computers with Internet access; and
2. Has in place a policy of Internet safety that includes the operation of a technology protection measure that protects against access to visual depictions that are obscene or child pornography; and enforces the operation of the technology protection measure during any use of its computers with Internet access.

The District may disable the technology protection measure to enable access to bona fide research or for another lawful purpose.

CERTIFICATION TO
DOE

The District shall certify its compliance with these requirements to the DOE as part of the annual application process for each program funding year under the ESEA.

20 U.S.C. 6777

TRANSFER OF
EQUIPMENT TO
STUDENTS

The District may transfer to a student enrolled in the District:

1. Any data processing equipment donated to the District, including equipment donated by a private donor, a state eleemosynary institution, or a state agency under Government Code 2175.128;
2. Any equipment purchased by the District; and
3. Any surplus or salvage equipment owned by the District.

Education Code 32.102(a)

ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

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Before transferring data processing equipment to a student, the District must:

1. Adopt rules governing transfers, including provisions for technical assistance to the student by the District;
2. Determine that the transfer serves a public purpose and benefits the District; and
3. Remove from the equipment any offensive, confidential, or proprietary information, as determined by the District.

Education Code 32.104

DONATIONS

The District may accept:

1. Donations of data processing equipment for transfer to students; and
2. Gifts, grants, or donations of money or services to purchase, refurbish, or repair data processing equipment.

Education Code 32.102(b)

USE OF PUBLIC FUNDS

The District may spend public funds to:

1. Purchase, refurbish, or repair any data processing equipment transferred to a student; and
2. Store, transport, or transfer data processing equipment under this policy.

Education Code 32.105

ELIGIBILITY

A student is eligible to receive data processing equipment under this policy only if the student does not otherwise have home access to data processing equipment, as determined by the District. The District shall give preference to educationally disadvantaged students. *Education Code 32.103*

RETURN OF EQUIPMENT

Except as provided below, a student who receives data processing equipment from the District under this policy shall return the equipment to the District not later than the earliest of:

1. Five years after the date the student receives the equipment;
2. The date the student graduates;
3. The date the student transfers to another district; or
4. The date the student withdraws from school.

ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

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If, at the time the student is required to return the equipment, the District determines that the equipment has no marketable value, the student is not required to return the equipment.

Education Code 32.106

UNIFORM
ELECTRONIC
TRANSACTIONS ACT

The District may agree with other parties to conduct transactions by electronic means. Any such agreement or transaction must be done in accordance with the Uniform Electronic Transactions Act.
Business and Commerce Code Chapter 43

FACILITIES CONSTRUCTION

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(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> <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> <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 \$25,000	<p>All District contracts valued at \$25,000 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]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]

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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. <i>Education Code 44.035(a)</i>
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. <i>Education Code 44.031(g)</i>
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. <i>Education Code 44.035(b)</i>
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. <i>Education Code 44.035(c)</i>
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. <i>Gov't Code 2252.904</i>
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. <i>Local Gov't Code 395.022</i>

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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 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)*

CRIMINAL HISTORY

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*

EMPLOYED
BEFORE
JANUARY 1, 2008

An entity that contracts with the District to provide services 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

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subject to a national criminal history record information review under Education Code 22.0834(b) [see DBAA] if:

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

The entity shall certify to the District that it received all of the criminal history record information required above.

The District may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person described above.

Education Code 22.0834(g)–(i)

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 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 shall obtain all criminal history record information that relates to a person described above through the criminal history clearinghouse as provided by Government Code 411.0845. The entity shall certify to the District that the entity has received all criminal history record information relating to the person.

The District may obtain the criminal history record information of a person to whom this section applies through the criminal history clearinghouse as provided by Government Code 411.0845.

Education Code 22.0834(a)–(e)

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

RIGHT TO WORK

While engaged in awarding a contract or overseeing procurement or construction for a public work or public improvement, the District:

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3. May not consider whether a vendor is a member of or has another relationship with any organization; and
4. 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 architect registered in accordance with Occupations Code, Title 6, Chapter 1051, shall prepare architectural plans and specifications for:

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.

The District may comply with this requirement by choosing a registered architect or a registered professional engineer as the prime design professional for a building construction, alteration, or addition project.

Occupations Code 1051.703; 22 TAC 1.212

REGISTERED
ENGINEER

Electrical or mechanical engineering plans, specifications, and estimates for a District construction project whose contemplated cost at completion is more than \$8,000 and that involves public health, welfare, or safety must be prepared by a registered professional engineer, and the engineering construction executed under the supervision of such an engineer. *Occupations Code 1001.053; Atty. Gen. Op. C-791 (1966)*

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*

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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 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)*

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FAILURE TO OBTAIN PAYMENT BOND	<p>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. <i>Gov't Code 2253.027</i></p>
NO BOND FOR DESIGN SERVICES ONLY	<p>A payment or performance bond is not required for, and may not provide coverage for, the portion of a design-build contract that includes design services only. <i>Education Code 44.036(j)</i> [See CVC for more information on design/build contracts, including bond amounts]</p>
BOND FOR INSURED LOSS	<p>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:</p> <ol style="list-style-type: none">1. A performance bond for the benefit of the District, as described above; and2. 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. <p>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.</p>
EXCEPTION TO BOND REQUIREMENT	<p>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.</p> <p><i>Gov't Code 2253.022</i></p>
OUT-OF-STATE BIDDERS	<p>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. <i>Gov't Code 2252.001, 2252.002</i></p>

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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 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

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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 contractor and regardless of whether that person has employees. This includes, but is not limited to, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity furnishing persons to perform services on the contract. Services include, but are not limited to, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to a project. Services do not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

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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)*

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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, informations, 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
PENDING REVIEW

After the required information is submitted, the person may begin employment, but that employment is conditional upon the review of

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	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.
CRIMINAL HISTORY	A student teacher may not perform any student teaching until:

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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 obtained from DPS may not be released or disclosed to any person except the individual who is the subject of the information, TEA, or SBEC. It is an offense to knowingly or intentionally:

1. Disclose CHRI to a person who is not entitled to the information; or
2. Provide a copy of an individual's CHRI to the individual or any other person.

Gov't Code 411.085(a), 411.097(d)

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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 CH, CNA, and CV.

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
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 in-

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	<p>formation review, that the employee or applicant has been convicted of an offense described above.</p>
OPTIONAL TERMINATION	<p>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).</p> <p><i>Education Code 22.085 [See DF]</i></p>
CONSUMER CREDIT REPORTS DEFINITIONS	<p>"Adverse action" includes a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee.</p> <p>"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.</p> <p>"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.</p> <p><i>15 U.S.C. 1681a</i></p>
OBTAINING REPORTS	<p>The District may not procure a consumer report for employment purposes unless:</p> <ol style="list-style-type: none">1. The District has provided the applicant or employee a written disclosure that a consumer report may be obtained for employment purposes; and2. The applicant or employee has authorized in writing the procurement of the consumer report.
ADVERSE ACTION	<p>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.</p> <p><i>15 U.S.C. 1681b(b)(2)</i></p>
DISPOSAL OF RECORDS	<p>The District must properly dispose of a consumer report by taking reasonable measures to protect against unauthorized access to or use of the information.</p> <p>"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.</p>

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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
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

COMPENSATION AND BENEFITS
SALARIES AND WAGES

DEA
(LEGAL)

STATE FUNDING

Subject to Education Code 42.2516(g) and (h) (regarding reduction in state aid for certain districts), the District is entitled to state revenue necessary to provide the District with an amount equal to \$2,500 for each classroom teacher, full-time librarian, full-time counselor, and full-time school nurse employed by the District and entitled to the state minimum salary. *Education Code 42.2516(b)(2)*

The District is entitled to state aid in an amount equal to the sum of:

1. \$500 for each full-time District employee, other than administrators or employees subject to the minimum salary schedule; and
2. \$250 for each part-time District employee, other than administrators.

Education Code 42.2513

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" 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" means an educator who provides full-time library services and holds the relevant certificate from SBEC.

"Counselor" means an educator who provides full-time counseling and guidance services and holds the relevant certificate from SBEC.

"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.

COMPENSATION AND BENEFITS
SALARIES AND WAGES

DEA
(LEGAL)

“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.

19 TAC 153.1022(a)

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. *Education Code 21.402(a), 21.403(c); 19 TAC 153.1022*

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.

“Gross monthly salary” includes the amount the teacher or librarian received as a career ladder supplement under Section 16.057, as that section existed January 1, 1993.

Education Code 21.402(f), 21.403(d)

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:

LEVEL TWO
EDUCATORS

1. Placement on the minimum salary schedule at the step above the step on which the teacher would otherwise be placed, if the teacher or librarian received a career ladder supplement for level two of the career ladder on August 31, 1993; or

LEVEL THREE
EDUCATORS

2. Placement on the minimum salary schedule at the step two steps above the step on which the teacher would otherwise be placed, if the teacher or librarian received a career ladder supplement for level three of the career ladder on August 31, 1993.

Education Code 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:

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

COMPENSATION AND BENEFITS
SALARIES AND WAGES

DEA
(LEGAL)

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

Education Code 22.107

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* [See CE]

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 21.103*

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 21.106*

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 21.105*

DEFINITION

For purposes of the designation of compensation as health care supplementation, "employee" means an active, contributing member of TRS who:

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); and
4. Is not an individual performing personal services for the District as an independent contractor.

Education Code 22.101(2)

COMPENSATION AND BENEFITS
SALARIES AND WAGES

DEA
(LEGAL)

FAIR LABOR STANDARDS ACT	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>
MINIMUM WAGE	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>
COMPENSATORY TIME	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.
ACCRUAL	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.
PAYMENT FOR ACCRUED TIME	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 29 U.S.C. 207(o)(4).
USE	<p>An employee who has requested the use of compensatory time shall be permitted to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the District.</p> <p>The Fair Labor Standards Act does not prohibit the District from compelling the use of accrued compensatory time.</p> <p><i>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)</i></p>
EXEMPT EMPLOYEES	The minimum wage and overtime provisions do not apply to any employee employed in a bona fide executive, administrative, or professional capacity, including academic administrative personnel or teachers in elementary or secondary schools. <i>29 U.S.C. 213(a)(1)</i>
SALARY BASIS	To qualify as an exempt executive, administrative, or professional employee, the employee must be compensated on a salary basis.

COMPENSATION AND BENEFITS
SALARIES AND WAGES

DEA
(LEGAL)

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 employees on a salary basis.

SAFE HARBOR
POLICY

If the District has a clearly communicated policy that prohibits improper pay deductions and includes a complaint mechanism, reimburses 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 541.600, .602(a), .603

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.

COMPENSATION AND BENEFITS
SALARIES AND WAGES

DEA
(LEGAL)

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
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

PROBATIONARY CONTRACTS
SUSPENSION/TERMINATION DURING CONTRACT

DFAA
(LEGAL)

DISCHARGE

Any probationary contract employee may be discharged at any time for good cause as determined by the Board. "Good cause" is the failure to meet the accepted standards of conduct for the profession as generally recognized and applied in similarly situated school districts in this state. *Education Code 21.104(a)*

Note: See DF regarding circumstances in which a certified employee's dismissal must be reported to the State Board for Educator Certification (SBEC).

SUSPENSION

The District may, for good cause as defined above, suspend an employee without pay in lieu of discharge. The period of suspension may not extend beyond the end of the current school year. *Education Code 21.104(b)*

NOTICE

Before any probationary contract employee is dismissed or suspended without pay for good cause, the employee shall be given reasonable notice in writing of the charges against him or her and an explanation of the District's evidence, set out in sufficient detail to fairly enable the employee to show any error that may exist. *Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532, (1985)*

HEARING

If a probationary contract employee who has received notice of proposed termination or suspension without pay desires a hearing before an independent hearing examiner, the employee must file a written request with the Commissioner not later than the 15th day after the date the employee receives notice of the proposed termination or suspension without pay. The employee must provide the District with a copy of the request and must provide the Commissioner with a copy of the notice.

The parties may agree in writing to extend by not more than ten days the deadline for requesting a hearing.

Education Code 21.251, 21.253 [See DFD]

TERM CONTRACTS
NONRENEWAL

DFBB
(LOCAL)

REASONS

The recommendation to the Board and its decision not to renew a contract under this policy shall not be based on an employee's exercise of Constitutional rights or based unlawfully on an employee's race, color, religion, sex, national origin, disability, or age. Reasons for proposed nonrenewal of an employee's term contract shall be:

1. Deficiencies pointed out in observation reports, appraisals or evaluations, supplemental memoranda, or other communications.
2. Failure to fulfill duties or responsibilities.
3. Incompetency or inefficiency in the performance of duties.
4. Inability to maintain discipline in any situation in which the employee is responsible for the oversight and supervision of students.
5. Insubordination or failure to comply with official directives.
6. Failure to comply with Board policies or administrative regulations.
7. Excessive absences.
8. Conducting personal business during school hours when it results in neglect of duties.
9. Reduction in force because of financial exigency or program change. [See DFF]
10. A decision by a campus intervention team under Education Code 39.1324 that the employee not be retained at a reconstituted campus.
11. Drunkenness or excessive use of alcoholic beverages; or possession, use, or being under the influence of alcohol or alcoholic beverages while on school property, while working in the scope of the employee's duties, or while attending any school- or District-sponsored activity.
12. The illegal possession, use, manufacture, or distribution of a controlled substance, a drug, a dangerous drug, hallucinogens, or other substances regulated by state statutes.
13. Failure to meet the District's standards of professional conduct.
14. Failure to report any arrest, indictment, conviction, no contest or guilty plea, or other adjudication for any felony, any crime involving moral turpitude, or other offense listed at DH(LOCAL). [See DH]

15. Conviction of or deferred adjudication for any felony, any crime involving moral turpitude, or other offense listed at DH(LOCAL); or conviction of a lesser included offense pursuant to a plea when the original charged offense is a felony.
[See DH]
16. Failure to comply with reasonable District requirements regarding advanced coursework or professional improvement and growth.
17. Disability, not otherwise protected by law, that prevents the employee from performing the essential functions of the job.
18. Any activity, school-connected or otherwise, that, because of publicity given it, or knowledge of it among students, faculty, and community, impairs or diminishes the employee's effectiveness in the District.
19. Any breach by the employee of an employment contract or any reason specified in the employee's employment contract.
20. Failure to maintain an effective working relationship, or maintain good rapport, with parents, the community, or colleagues.
21. A significant lack of student progress attributable to the educator.
22. Behavior that presents a danger of physical harm to a student or to other individuals.
23. Assault on a person on school property or at a school-related function, or on an employee, student, or student's parent regardless of time or place.
24. Use of profanity in the course of performing any duties of employment, whether on or off school premises, in the presence of students, staff, or members of the public, if reasonably characterized as unprofessional.
25. Falsification of records or other documents related to the District's activities.
26. Falsification or omission of required information on an employment application.
27. Misrepresentation of facts to a supervisor or other District official in the conduct of District business.
28. Failure to fulfill requirements for certification, including passing certification examinations required by state law for the employee's assignment.

TERM CONTRACTS
NONRENEWAL

DFBB
(LOCAL)

29. Failure to achieve or maintain "highly qualified" status as required for the employee's assignment.
30. Failure to fulfill the requirements of a deficiency plan under an Emergency Permit, a Special Assignment Permit, or a Temporary Classroom Assignment Permit.
31. Any attempt to encourage or coerce a child to withhold information from the child's parent or from other District personnel.
32. Any reason that makes the employment relationship void or voidable, such as a violation of federal, state, or local law.
33. Any reason constituting good cause for terminating the contract during its term.

RECOMMENDATIONS
FROM
ADMINISTRATION

Administrative recommendations for renewal or proposed nonrenewal of professional employee contracts shall be submitted to the Superintendent. Each administrator's recommendation for nonrenewal shall be accompanied by copies of all pertinent information necessary to a decision to recommend proposed nonrenewal. The final decision on the administrative recommendation to the Board on each employee's contract rests with the Superintendent.

SUPERINTENDENT'S
RECOMMENDATION

The Superintendent shall prepare lists of employees whose contracts are recommended for renewal or proposed nonrenewal by the Board. Supporting documentation, if any, and reasons for the recommendation shall be submitted for each employee recommended for proposed nonrenewal. The Board shall consider such information, as appropriate, in support of recommendations for proposed nonrenewal and shall then act on all recommendations.

NOTICE OF
PROPOSED
RENEWAL OR
NONRENEWAL

The Superintendent shall deliver to the employee by hand or certified mail, return receipt requested, written notice of proposed renewal or nonrenewal not later than the 45th day before the last day of instruction required in the contract. If the notice of proposed nonrenewal does not contain a statement of the reason or all of the reasons for the proposed action, and the employee requests a hearing, the District shall give the employee notice of all reasons for the proposed nonrenewal a reasonable time before the hearing. The initial notice or any subsequent notice shall contain the hearing procedures.

REQUEST FOR
HEARING

If the employee desires a hearing after receiving the notice of proposed nonrenewal, the employee shall notify the Board in writing not later than the 15th day after the date the employee received the notice of proposed nonrenewal. When a timely request for a hearing on a proposed nonrenewal is received by the Board President, the hearing shall be held not later than the 15th day after receipt of the request, unless the parties mutually agree to a delay.

TERM CONTRACTS
NONRENEWAL

DFBB
(LOCAL)

The employee shall be given notice of the hearing date as soon as it is set.

HEARING
PROCEDURE

Unless the employee requests that the hearing be open, the hearing shall be conducted in closed meeting with only the members of the Board, the employee, the Superintendent, their representatives, and such witnesses as may be called in attendance. Witnesses may be excluded from the hearing until called to present evidence. The employee and the administration may choose a representative. Notice, at least five days in advance of the hearing, shall be given by each party intending to be represented, including the name of the representative. Failure to give such notice may result in postponement of the hearing.

The conduct of the hearing shall be under the Board President's control and shall generally follow the steps listed below:

1. After consultation with the parties, the Board President shall impose reasonable time limits for presentation of evidence and closing arguments.
2. The hearing shall begin with the administration's presentation, supported by such proof as it desires to offer.
3. The employee may cross-examine any witnesses for the administration.
4. The employee may then present such testimonial or documentary proof, as desired, to offer in rebuttal or general support of the contention that the contract be renewed.
5. The administration may cross-examine any witnesses for the employee and offer rebuttal to the testimony of the employee's witnesses.
6. Closing arguments may be made by each party.

A record of the hearing shall be made so that a certified transcript can be prepared, if required.

BOARD DECISION

The Board may consider only evidence presented at the hearing. After all the evidence has been presented, if the Board determines that the reasons given in support of the recommendation to not renew the employee's contract are lawful, supported by the evidence, and not arbitrary or capricious, it shall so notify the employee by a written notice not later than the 15th day after the date on which the hearing is concluded. This notice shall also include the Board's decision on renewal, which decision shall be final.

EMPLOYEE RIGHTS AND PRIVILEGES

DG
(LEGAL)

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.

EMPLOYEE RIGHTS AND PRIVILEGES

DG
(LEGAL)

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

EMPLOYEE RIGHTS AND PRIVILEGES

DG
(LEGAL)

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

EMPLOYEE RIGHTS AND PRIVILEGES

DG
(LEGAL)

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)*

EMPLOYEE RIGHTS AND PRIVILEGES

DG
(LEGAL)

'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:

EMPLOYEE RIGHTS AND PRIVILEGES

DG
(LEGAL)

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

EMPLOYEE RIGHTS AND PRIVILEGES

DG
(LEGAL)

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)

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

SECTION E: INSTRUCTION

EA	INSTRUCTIONAL GOALS AND OBJECTIVES
EB	SCHOOL YEAR
EC	SCHOOL DAY
ED	ORGANIZATION OF INSTRUCTION
EE	INSTRUCTIONAL ARRANGEMENTS
EEA	Grouping for Instruction
EEB	Class Size
EEC	Scheduling for Instruction
EED	Student Schedules
EEH	Homebound Instruction
EEJ	Individualized Learning
EEJA	Credit by Examination With Prior Instruction
EEJB	Credit by Examination Without Prior Instruction
EEJC	Correspondence Courses
EEL	Contracts with Outside Agencies
EEP	Lesson Plans
EF	INSTRUCTIONAL RESOURCES
EFA	Instructional Materials Selection and Adoption
EFAA	Textbook Selection and Adoption
EFB	Library Media Programs
EFC	Community Instructional Resources
EFD	Field Trips
EFE	Copyrighted Material
EFF	Instructional Television
EG	CURRICULUM DEVELOPMENT
EGA	Innovative and Magnet Programs
EH	CURRICULUM DESIGN
EHA	Basic Instructional Program
EHAA	Required Instruction (All Levels)
EHAB	Required Instruction (Elementary)
EHAC	Required Instruction (Secondary)
EHAD	Elective Instruction
EHB	Special Programs
EHBA	Special Education
EHBAA	Identification, Evaluation, and Eligibility
EBBAB	ARD Committee and Individualized Education Program
EBBAC	Students in Non-District Placement

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

SECTION E: INSTRUCTION

EHBAD	Transition Services
EHBAE	Procedural Requirements
EHBB	Gifted and Talented Students
EHBC	Compensatory/Accelerated Services
EHBD	Federal Title I
EHBE	Bilingual Education/ESL
EHBF	Career and Technology Education
EHBG	Prekindergarten
EBH	Other Special Populations
EHBI	Adult and Community Education
EHBK	Other Instructional Initiatives
EHBL	High School Equivalency
EHD	Extended Instructional Programs
EHDA	Summer School
EHDB	Travel Study
EHDC	Honors
EHDD	College Course Work/Dual Credit
EHDE	Distance Learning
EI	ACADEMIC ACHIEVEMENT
EIA	Grading/Progress Reports to Parents
EIAA	Examinations
EIAB	Makeup Work
EIB	Homework
EIC	Class Ranking
EID	Honor Rolls
EIE	Retention and Promotion
EIF	Graduation
EJ	ACADEMIC GUIDANCE PROGRAM
EK	TESTING PROGRAMS
EKB	State Assessment
EKBA	LEP Students
EKC	Reading Assessment
EKD	Mathematics Assessment
EL	CHARTER CAMPUS OR PROGRAM
EM	MISCELLANEOUS INSTRUCTIONAL POLICIES
EMA	Academic Freedom
EMB	Teaching About Controversial Issues
EMD	Ceremonies and Observances
EMG	Animals in the School
EMI	Study of Religion

INSTRUCTIONAL ARRANGEMENTS
HOMEBOUND INSTRUCTION

EEH
(LOCAL)

GENERAL EDUCATION	<p>Consistent with TEA's Student Attendance Accounting Handbook (SAAH), a student to be confined for a minimum of four weeks to a hospital or homebound for medical reasons specifically documented by a physician licensed to practice in the United States may be eligible for general education homebound services. The parent's request for services shall be made through the principal in accordance with TEA's SAAH and administrative procedures.</p> <p>The principal or designee shall convene a placement committee composed of at least a campus administrator, a teacher of the student, and the parent or guardian of the student to consider the necessity of providing general education homebound instruction to the student. If the committee determines that such instruction is appropriate, the committee shall determine the type and amount of instruction to be provided and, when the student is able to return to the regular educational setting, the length of the transition period based on current medical information.</p>
SPECIAL EDUCATION	<p>For special education students, the ARD committee shall determine the type and amount of instruction to be provided and, when the student is able to return to the regular educational setting, the length of the transition period based on current medical information.</p>
DOCUMENTATION OF SERVICES	<p>The District shall maintain, in accordance with administrative procedures, full documentation about students receiving homebound services.</p>

INSTRUCTIONAL ARRANGEMENTS
CONTRACTS WITH OUTSIDE AGENCIES

EEL
(LEGAL)

CAREER AND
TECHNOLOGY
EDUCATION

The Board may contract with another public school district, public or private post-secondary institution, or trade or technical school that is regulated by the state, as designated in the state plan for career and technology education, to provide career and technology classes for District students. *Education Code 29.184(a)* [See EHBF]

In addition, the Board may develop and offer a program that provides a rigorous course of study consistent with the required curriculum and under which a student may receive specific education in a career and technology profession. *Education Code 29.187* [See also CRB and EHBF]

STUDENTS WITH
DISABILITIES

The District may contract with a public or private facility, institution, or agency inside or outside of Texas for the provision of services to students with disabilities. *Education Code 29.008(a)* [See EHBA]

EDUCATIONAL
SERVICES

The Board may contract with a public or private entity for that entity to provide educational services for the District. *Education Code 11.157*

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)*

DRIVER TRAINING
SCHOOLS

A District school may enter into an agreement with a licensed driver training school to allow the driver training school to conduct a driver training course at the public school for public school students. *Education Code Title 5, Chapter 1001*

MILITARY
INSTRUCTION

The Board may contract with the proper governmental agency with respect to the teaching of courses in military training, and it may execute, as principal or surety, a bond to secure the contracts to procure arms, ammunition, animals, uniforms, equipment, supplies, means of transportation, or other needed property. *Education Code 29.901*

Note: This provision applies only to those districts in which military instruction is conducted under state or federal law requiring a district to give bond or otherwise indemnify this state, the United States, or any authorized agency for the care, safekeeping, and return of property furnished.

CURRICULUM DEVELOPMENT
INNOVATIVE AND MAGNET PROGRAMS

EGA
(LEGAL)

INNOVATIVE
COURSES AND
PROGRAMS

The District may offer innovative courses to enable students to master knowledge, skills, and competencies not included in the essential knowledge and skills of the required curriculum.

To request approval for an innovative course from the SBOE or the Commissioner, the District must submit a request for approval at least six months before planned implementation. The request must address the elements listed at 19 TAC 74.27(3).

With the approval of the Board, the District may offer, without modifications, any state-approved innovative course.

19 TAC 74.27

MAGNET SCHOOLS
OR PROGRAMS

The District may operate a magnet program, academy, or other innovative program to serve student populations with specialized interests and aptitudes. *19 TAC 74.27(b)*

DUAL LANGUAGE
IMMERSION
PROGRAM (DLIP)

The District may adopt a dual language immersion program for students enrolled in elementary school grades. *Education Code 28.005(c), 28.0051(c)*

A “dual language immersion program” is an educational approach in which students learn two languages in an instructional setting that integrates subject content presented in English and another language. Models vary depending on the amount of each language used for instruction at each grade level. The program must be based upon instruction that adds to the student’s first language.

GOALS

The primary goals of a DLIP are:

1. The development of fluency and literacy in English and another language for all students, paying special attention to limited English proficient (LEP) students participating in the program;
2. The integration of English speakers and language minority students for academic instruction, in accordance with the program design and model selected by the Board. Whenever possible, 50 percent of the students in a program should be dominant English speakers and 50 percent of the students should be native speakers of the other language at the beginning of the program;
3. The promotion of bilingualism, biliteracy, cross-cultural awareness, and high academic achievement; and
4. The initial preparation of students to be economically competent, multi-literate citizens in an international community.

IMPLEMENTATION

Program implementation should:

CURRICULUM DEVELOPMENT
INNOVATIVE AND MAGNET PROGRAMS

EGA
(LEGAL)

5. Begin at prekindergarten, kindergarten, or grade 1, as applicable;
6. Continue without interruption incrementally through the elementary grades; and
7. Consider expansion to middle school and high school whenever possible.

CURRICULUM

A DLIP must address all curriculum requirements specified at 19 TAC Chapter 74, subchapter A (required curriculum). The program must be developmentally appropriate and based on current best practices research. The program shall use state-adopted instructional materials as specified in 19 TAC 89.1210.

A DLIP shall be a full-time program of academic instruction in English and another language. A minimum of 50 percent of instructional time must be provided in the language other than English.

A district serving LEP students in a DLIP must meet the requirements of Education Code 29.051 and 19 TAC Chapter 89, subchapter BB relating to education of LEP students.

ENROLLMENT

Student enrollment in a DLIP is optional. The program must fully disclose candidate selection criteria and ensure that access to the program is not based on race, creed, color, religious affiliation, age, or handicapping condition. The District must obtain written parental approval for student participation in the program sequence and model established by the District.

A district implementing a DLIP must develop a policy on enrollment and continuation for students in the program. The policy must address:

1. Eligibility criteria;
2. Program purpose;
3. Grade levels in which the program will be implemented;
4. Support of program goals; and
5. Expectations for students and parents.

LEP STUDENTS

The minimum enrollment requirement of LEP students in a DLIP should be the lesser of 30 percent of the students in the class, or all LEP students served in that grade at that campus.

STAFFING

A DLIP must be staffed with certified teachers able to deliver high-level academic instruction in English as a second language and the assigned language of instruction.

CURRICULUM DEVELOPMENT
INNOVATIVE AND MAGNET PROGRAMS

EGA
(LEGAL)

EVALUATION AND
RECOGNITION

The District must offer professional development programs for DLIP teachers that incorporate second language acquisition methods that are developmentally, affectively, linguistically, and cognitively appropriate.

A district implementing a DLIP must conduct annual formative and summative evaluations collecting a full range of data to determine program impact on student academic success.

An exceptional DLIP may be recognized by the Board using the following criteria:

1. The District must exceed the minimum requirements stated in 19 TAC 89.1605.
2. The District must be rated at least acceptable in the state accountability system.
3. The District must not be identified for any stage of intervention for the District's bilingual and/or English as a second language program under the performance-based monitoring system.
4. The District must meet the Adequate Yearly Progress participation and performance criteria for the LEP student group under No Child Left Behind regulations.

A student participating in a DLIP may be recognized by the program and the Board using the following criteria:

1. The student must meet or exceed statewide student assessment passing standards in all subject areas at the appropriate grade level;
2. The student must meet or exceed expected levels of language proficiency on a recognized language proficiency test from the list of tests approved by the Commissioner.

Education Code 28.0051; 19 TAC 89.1601–.1613

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (SECONDARY)

EHAC
(LEGAL)

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

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (SECONDARY)

EHAC
(LEGAL)

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

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*

6. Physical education — Foundations of Personal Fitness and at least two of the following:
 - a. Adventure/Outdoor Education;

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (SECONDARY)

EHAC
(LEGAL)

- b. Aerobic Activities;
 - c. Individual Sports; or
 - d. Team Sports.
7. Health education — Health I.
- Beginning with the 2008–09 school year, 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.
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 Publish-

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (SECONDARY)

EHAC
(LEGAL)

ing, 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)(2)*

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)*

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 High School Programs include a research writing component. *19 TAC 74.3(b)(5)*

PARENTING
AWARENESS
PROGRAM

The District shall incorporate instruction in parenting awareness into any course meeting a requirement for a health education credit, using the materials approved by the SBOE for this purpose. 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.

The District may add elements at its discretion but must include the following areas of instruction:

1. Parenting skills and responsibilities, including child support;
2. Relationship skills, including money management, communication, and marriage preparation; and
3. Skills relating to the prevention of family violence, only if the District's high schools do not have a family violence program.

BASIC INSTRUCTIONAL PROGRAM
REQUIRED INSTRUCTION (SECONDARY)

EHAC
(LEGAL)

If the required high school health education credit is to be earned through a course taken before grade 9, the materials and parenting awareness instruction must be incorporated into that course or, at the District's discretion, may be incorporated into another course available to all students in grades 9–12.

19 TAC 74.35

Note: The policies in the EHBA series are statements of principles governing special education programs for Texas school districts. In no way are these policies intended to cover the entire scope and detail involved in administering any special education program.

NONDISCRIMINATION

No qualified student with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any District service, program, or activity. *42 U.S.C. 12132; 29 U.S.C. 794(a); 34 CFR 104.4(a)* [See also FB]

FREE APPROPRIATE
PUBLIC EDUCATION
(FAPE)

Eligible students with disabilities shall enjoy the right to a free appropriate public education, which may include instruction in the regular classroom, instruction through special teaching, or instruction through approved contracts. Instruction shall be supplemented by the provision of related services when appropriate. *Education Code 29.003(a)*

“Free appropriate public education” (FAPE) means special education and related services that:

1. Have been provided at public expense, under public supervision and direction, and without charge;
2. Meet standards set out by TEA;
3. Include an appropriate preschool, elementary school, or secondary school education; and
4. Are provided in conformity with the student’s individualized education program (IEP).

20 U.S.C. 1401(9); 34 CFR 300.13; 34 CFR 300.17

LEAST RESTRICTIVE
ENVIRONMENT

The District shall ensure that, to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, shall be educated with children who are not disabled. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment shall occur only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. *20 U.S.C. 1412(a)(5); 34 CFR 300.114(a)(2)*

DISCIPLINE

All disciplinary actions regarding students with disabilities shall be in accordance with federal requirements, Education Code Chapter 37, and 19 TAC 89.1053. *19 TAC 89.1050(g)* [See FOF]

SPECIAL PROGRAMS
SPECIAL EDUCATION

EHBA
(LEGAL)

PLACEMENT OPTIONS

Instructional arrangements/settings shall be based on the individual needs and IEPs of eligible students receiving special education services. Placement options include:

1. Mainstream: providing services in a regular classroom;
2. Homebound: providing services at home or hospital bedside;
3. Hospital class: providing services in a classroom, hospital facility, or residential care and treatment facility not operated by the District;
4. Speech therapy: providing speech therapy services in a regular education classroom or other setting;
5. Resource room/services: providing services in a setting other than the regular classroom for less than 50 percent of the regular school day;
6. Self-contained (mild, moderate, or severe) regular campus: providing services to a student who is in a self-contained program for 50 percent or more of the regular school day on a regular school campus;
7. Off home campus: providing services in an interdistrict program, through District personnel at a nondistrict facility, or at a District campus that provides only special education and related services.
8. Nonpublic day school: providing services through a contractual agreement with a nonpublic school for special education;
9. Vocational adjustment class/program: providing services to a student who is placed on a job with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP;
10. Residential care and treatment facility (not District resident): providing services to students who reside in care and treatment facilities and whose parents do not reside within the boundaries of the District;
11. State school for persons with mental retardation: providing services to a student who resides at a state school when the services are provided at the state school location; or
12. Other program options, including contracts with other districts and programs approved by TEA.

19 TAC 89.63(c), (f)

SPECIAL PROGRAMS
SPECIAL EDUCATION

EHBA
(LEGAL)

SHARED SERVICES
ARRANGEMENTS

The District may enter into a written contract to jointly operate its special education program. The contract must be approved by the Commissioner. *Education Code 29.007*

RELATED SERVICES
DEFINITION

“Related services” means transportation, and such developmental, corrective, and other supportive services as may be required to assist a child with a disability to benefit from special education, including the early identification and assessment of disabling conditions in children.

The term includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive FAPE as described in the child's IEP, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that medical services shall be for diagnostic and evaluation purposes only.

The term does not include a medical device that is surgically implanted, the optimization of the device's functioning, or the replacement of such device.

20 U.S.C. 1401(26); 34 CFR 300.34

TRANSPORTATION

The District shall provide special transportation with federal funds only when the ARD committee determines that the condition of the student warrants the service in order for the student to receive the special education and related services (if any) set forth in the IEP. *19 TAC 89.1096(e)*

EXTENDED
SCHOOL YEAR
(ESY) SERVICES

The District shall ensure that extended school-year (ESY) services are available as necessary to provide a student with a disability with FAPE.

ESY services must be provided only if the ARD committee determines, on an individual basis, that the services are necessary for FAPE. The District may not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of ESY services.

34 CFR 300.106; 19 TAC 89.1065

SPECIAL EDUCATION
IDENTIFICATION, EVALUATION, AND ELIGIBILITY

EHBAA
(LEGAL)

CHILD FIND

The District shall ensure that all children residing within the District who have disabilities, regardless of the severity of their disabilities, and who are in need of special education and related services are identified, located, and evaluated. This requirement applies to:

1. Homeless children;
2. Children who are wards of the state;
3. Children attending private schools;
4. Highly mobile children (including migrant children); and
5. Children who are suspected of being in need of special education but who are advancing from grade to grade.

20 U.S.C. 1412(a)(3)(A); 34 CFR 300.111(a)(1)(i), (c)

PRIVATE SCHOOL
STUDENTS

The District shall conduct a timely and meaningful consultation with private school representatives regarding the child find process and the provision of special education and related services to children enrolled in private schools in the District.

The District shall undertake activities similar to those undertaken for public school children and shall complete the child find process for children enrolled in private schools in a time period comparable to that for other students attending public schools in the District.

20 U.S.C. 1412(a)(10)(A)(ii)–(iv) [See EHBAC regarding students in nondistrict placement]

PRESCHOOL
STUDENTS

The District shall develop a system to notify District residents with children who are at least three and younger than six and who are eligible for enrollment in a special education program of the availability of the program. *Education Code 29.009*

REFERRALS

Referral of students for a full and individual initial evaluation for possible special education services shall be a part of the District's overall general education referral or screening system. Either a parent, TEA, another state agency, or the District may initiate a request for an initial evaluation.

Before referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students. If a student continues to experience difficulty in the general classroom after the provision of interventions, District personnel must refer the student for a full and individual initial evaluation.

20 U.S.C. 1414(a)(1); 34 CFR 300.301; 19 TAC 89.1011

NOTICE OF RIGHTS

A reasonable time before the District proposes or refuses to initiate the identification, evaluation, or educational placement of a student

SPECIAL EDUCATION
IDENTIFICATION, EVALUATION, AND ELIGIBILITY

EHBAA
(LEGAL)

or the provision of a free appropriate public education (FAPE) to a student, the District shall provide written notice to the student's parent or guardian. *20 U.S.C. 1415(b)(3); 34 CFR 300.503* [See EHBAE]

INITIAL EVALUATION

The District shall conduct a full and individual initial evaluation before the initial provision of special education and related services. *20 U.S.C. 1414(a)(1)(A)*

The District shall ensure that evaluations of children who transfer from one district to another in the same academic year are coordinated with the children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations. *20 U.S.C. 1414(b)(3)(D)*

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. *20 U.S.C. 1414(a)(1)(E)*

CONSENT FOR
INITIAL
EVALUATION

Before the District conducts an initial evaluation, it shall make reasonable efforts to obtain informed parental consent.

If the parent does not provide consent for an initial evaluation, or if the parent fails to respond to a request to provide consent, the District may, but is not required to, pursue the initial evaluation by utilizing due process procedures [see EHBAE], except to the extent inconsistent with state law relating to such parental consent.

Parental consent to initial evaluation shall not be construed as consent for placement for special education and related services.

20 U.S.C. 1414(a)(1)(D); 34 CFR 300.300

WARDS OF THE
STATE

If the child is a ward of the state and is not residing with the child's parent, the District shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation, unless:

1. Despite reasonable efforts to do so, the District cannot discover the whereabouts of the parent;
2. The rights of the parent have been terminated; or
3. The rights of the parent to make educational decisions have been subrogated and an individual appointed by a judge to represent the student has given consent for an initial evaluation.

20 U.S.C. 1414(a)(1)(D)(iii); 34 CFR 300.300(a)(2)

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TIMEFRAME	<p>The District must conduct the initial evaluation within 60 days of receiving parental consent for the evaluation, or a shorter time frame if one is established by the state.</p> <p>This time frame shall not apply if:</p> <ol style="list-style-type: none">1. A child enrolls in the current district after the relevant time frame has begun and before the previous district made a determination as to whether the child has a disability, but only if the current district is making sufficient progress to ensure a prompt completion of the evaluation and the parent and current district agree to a specific time for completion of the evaluation; or2. The parent repeatedly fails or refuses to produce the child for the evaluation. <p><i>20 U.S.C. 1414(a)(1)(C)(ii); 34 CFR 300.301(c)-(e); Education Code 29.004</i></p>
PSYCHOLOGICAL EXAMINATIONS	<p>If the District determines that an additional examination or test is required for the evaluation, the district shall provide the information required by Education Code 29.0041(a) and shall obtain parental consent. If a parent does not give consent within 20 calendar days after the District provided the information, the parent's consent is considered denied.</p> <p>The time required for a district to provide information and seek consent may not be counted toward the 60 calendar days for completion of an evaluation.</p> <p><i>Education Code 29.0041</i></p>
DETERMINATION OF ELIGIBILITY	<p>Upon completion of the administration of assessments and other evaluation measures, a team of qualified professionals and the parent shall make the determination of whether the child has a disability and of the educational needs of the child.</p> <p>The District shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.</p> <p><i>20 U.S.C. 1414(b)(4)(B); 34 CFR 300.306(a)</i></p>
REEVALUATIONS	<p>The District shall ensure that each child with a disability is reevaluated if the District determines that the educational or related services needs of the child, including improved academic achievement and functional performance, warrant a reevaluation, or if the child's parent or teacher requests a reevaluation.</p> <p>Reevaluation shall occur:</p>

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1. No more than once a year, unless the parent and the District agree otherwise; and
2. At least once every three years, unless the parent and District agree that a reevaluation is unnecessary.

The District shall obtain informed parental consent before conducting a reevaluation, except that informed parental consent is not needed if the District can demonstrate that it has taken reasonable measures to obtain consent and the child's parent has failed to respond.

20 U.S.C. 1414(a)(2), (c)(3); 34 CFR 300.303

EVALUATION FOR
CHANGE IN
ELIGIBILITY

The District shall evaluate a child before determining that the child is no longer a child with a disability. However, an evaluation is not required before the termination of eligibility due to graduation from secondary school with a regular diploma or due to exceeding the age eligibility for FAPE under state law. *20 U.S.C. 1414(c)(5); 34 CFR 300.305(e)*

INDEPENDENT
EVALUATION

The parents have a right to obtain an independent educational evaluation of their child. If a parent requests an independent evaluation, the District shall provide the parents with information regarding where one can be obtained and the District's criteria for independent evaluations.

AT PUBLIC
EXPENSE

If a parent requests an independent evaluation at public expense, the District shall, without unnecessary delay, either:

1. File a due process complaint to request a hearing to show that its evaluation is appropriate; or
2. Ensure that an independent evaluation is provided at public expense, unless the District demonstrates that the evaluation obtained by the parent did not meet District criteria.

AT PRIVATE
EXPENSE

If the District initiates a hearing, and the final decision is that the District's evaluation is appropriate, the parent still has a right to an independent evaluation, but not at public expense. If the parent obtains an independent evaluation at private expense, the results of the evaluation shall be considered by the District, if it meets District criteria, in any decision made with respect to providing FAPE to the child.

34 CFR 300.502

ELIGIBILITY

A student is eligible to participate in the District's special education program if:

1. The student is between the ages of 3 and 21, inclusive;

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2. The student has one or more of the disabilities listed in federal regulations, state law, or both; and
3. The student's disability(ies) prevent the student from being adequately or safely educated in the public schools without the provision of special services.

20 U.S.C. 1401(3); Education Code 29.003(b); 19 TAC 89.1035, 89.1040

VISUAL AND
AUDITORY
IMPAIRMENTS

A student with a visual or auditory impairment shall be eligible to participate in the District's special education program from birth.
19 TAC 89.1035(b); Education Code 30.002

PRESCRIPTION
MEDICATION

An employee of the District is prohibited from requiring a child to obtain a prescription for a substance covered under the federal Controlled Substances Act (21 U.S.C. 801 et seq.) as a condition of attending school, receiving an evaluation for special education, or receiving special education and related services.

An employee is not prohibited from consulting or sharing classroom-based observations with parents regarding a student's academic and functional performance, behavior in the classroom or school, or the need for evaluation for special education or related services.

20 U.S.C. 1412(a)(25)

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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 300.344.

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 C.F.R. 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;

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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 USC 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(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

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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)

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

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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 considers skills necessary to function in current and post-secondary environments;
6. Parent/family training and support, provided by qualified personnel with experience in Autism Spectrum Disorders (ASD);

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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;
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]

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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)

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STUDENTS IN NONDISTRICT PLACEMENT

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(LEGAL)

SHARED SERVICES ARRANGEMENTS	The District may enter into a written contract to jointly operate its special education program. The contract must be approved by the Commissioner. <i>Education Code 29.007</i>
PRIVATE SCHOOL— DISTRICT PLACED STUDENT RECEIVES IEP	If the District places a child with a disability in a private school or facility, or refers the child to a private school or facility, as a means of carrying out the requirements of the special education laws, the District shall ensure that the child is provided special education and related services, in accordance with an IEP, at no cost to the parents. <i>20 U.S.C. 1412(a)(10)(B)(i)</i>
PRIVATE SCHOOL— PARENT PLACED	When a parentally placed child with a disability is referred to the District, the District shall convene an admission, review, and dismissal (ARD) committee to determine whether the District can offer the child a free appropriate public education (FAPE). If the District determines that it cannot offer FAPE, it is not responsible for providing educational services to the child, except that the District must develop and implement an individualized services plan (ISP). <i>19 TAC 89.1096(b)</i>
OFFER OF FAPE REJECTED STUDENT RECEIVES ISP	If the District made FAPE available to a child with a disability and the parents elected to place the child in a private school or facility, the District is not required to pay for the cost of education, including special education and related services. However, the District must develop and implement an ISP. <i>20 U.S.C. 1412(a)(10)(C)(i); 34 CFR 300.148(a)</i>
FAPE OFFERED BUT NOT PROVIDED REIMBURSE- MENT	If the parents of a child with a disability, who previously received special education and related services under the authority of the District, enroll the child in a private school without the consent or referral by the District, a court or a hearing officer may require the District to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the District had not made FAPE available to the child in a timely manner before the enrollment. This right of reimbursement is subject to the notice and other requirements set forth at 34 CFR 300.148(d). <i>20 U.S.C. 1412(a)(10)(C)(ii); 34 CFR 300.148(c)</i>
HOME SCHOOL STUDENTS	A home school student is considered a private school student, for purposes of the District's obligations under IDEA, if the home school provides elementary or secondary education that incorporates an adopted curriculum designed to meet basic educational goals, including scope and sequence of courses, and formal review and documentation of student progress. <i>19 TAC 89.1096(a)</i>
INDIVIDUALIZED SERVICES PLAN (ISP)	Each parentally placed private school child with a disability who has been designated to receive services shall have an ISP that describes the specific special education and related services that the district will provide the child.

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Parentally placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools. No parentally placed private school child has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.

Decisions about the services that will be provided must be made in accordance with 34 CFR 300.134(c) (consultation process) and 300.137(c) (attendance of private school representatives at services plan committee meetings). The District must make the final decisions with respect to the services to be provided.

34 CFR 300.137, 300.138

DUAL ENROLLMENT

Parents shall have the right to “dual enroll” an eligible student age three or four in both the public school and a private school beginning on the student’s third birthday and continuing until the end of the school year in which the student turns five, or until the student is eligible to attend the District’s kindergarten program, whichever comes first, subject to the following:

1. The student’s ARD committee shall develop an IEP designed to provide the student with FAPE in the least restrictive environment (LRE).
2. From the IEP, the parent and the District shall determine which special education and/or related services will be provided to the student and the location where those services will be provided, based on the requirements concerning placement in the LRE and the policies and procedures of the District.
3. The District shall be responsible for employing and supervising the personnel providing the service, providing the needed instructional materials, and maintaining pupil accounting records. Materials and services provided shall be consistent with those provided for students enrolled only in the public school and shall remain the property of the District.

19 TAC 89.1096(c)

RESPONSIBLE
DISTRICT

The District where a student resides is responsible for providing special education and related services to a student whose parents choose dual enrollment.

If the parents decline dual enrollment, but request an ISP, the district where the private school is located is responsible for development of the ISP for a student designated to receive services.

19 TAC 89.1096(c), (d)

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STUDENTS IN NONDISTRICT PLACEMENT

EHBAC
(LEGAL)

DISTRICT CHARTER
SCHOOLS

The District shall serve children with disabilities attending District charter schools in the same manner as it serves children with disabilities in its other schools and shall provide federal special education funds to those schools in the same manner as it provides those funds to its other schools. *20 U.S.C. 1413(a)(5); 34 CFR 300.209(b)*

RESIDENTIAL
FACILITIES

IDENTIFICATION OF
STUDENTS

If a residential facility that is licensed by appropriate state agencies is located within the District's boundaries, the District must provide special education and related services to eligible students residing in the facility.

If, after contacting the facility to offer services to eligible students with disabilities, the District determines that educational services are provided through a charter school, approved non-public school, or a facility operated private school, the District is not required to provide services. However, the District shall annually contact the facility to offer services to eligible students with disabilities.

19 TAC 89.1001(c)

DISTRICT
PLACEMENTS

The District may contract with a public or private facility, institution, or agency inside or outside of Texas for residential placement for a student with a disability when the ARD committee determines that a residential placement is necessary for the student to receive FAPE. Contracts for residential placement must be approved by the Commissioner. *Education Code 29.008(a); 19 TAC 89.61(a)*

If placement in a public or private residential program is necessary to provide special education and related services, the program, including non-medical care and room and board, must be at no cost to the parents. *34 CFR 300.104*

If the District contracts for education services, rather than providing the services itself, it shall oversee the implementation of the student's IEP and shall annually reevaluate the appropriateness of the arrangement. *Education Code 29.008(d)*

Further, a District shall have the responsibilities set forth at 19 TAC 89.61 regarding students in residential placements:

OUT-OF-STATE
PLACEMENTS

If the District contracts for an out-of-state residential placement, it shall do so in accordance with the rules for in-state residential placement, except that the facility shall be approved by the appropriate agency in the state in which the facility is located rather than by the Texas Commissioner of Education. *19 TAC 89.61(c)(3)*

SPECIAL EDUCATION
STUDENTS IN NONDISTRICT PLACEMENT

EHBAC
(LEGAL)

SCHOOL FOR THE
BLIND AND
VISUALLY IMPAIRED
AND SCHOOL FOR
THE DEAF

The District shall share the cost of education (excluding the summer program) for each of its students enrolled in the Texas School for the Blind and Visually Impaired or Texas School for the Deaf.

Before considering the student's educational placement for special education services, the District shall provide each parent of a student with visual or auditory impairments the following written information regarding the Texas School for the Deaf or Texas School for the Blind and Visually Impaired:

1. The availability of programs offered.
2. The eligibility and admissions requirements.
3. The student's rights to admission and to appeal admission decisions.

Education Code 30.003(a), 30.004(a); 19 TAC 89.62

The District may request services through the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf in accordance with 19 TAC 89.1085. *19 TAC 89.1085*

ADULT PRISONS

If a child with a disability is convicted as an adult under state law and incarcerated in an adult prison, the child's ARD committee may modify the child's IEP or placement, notwithstanding the LRE requirements, if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

The following requirements do not apply to children with disabilities who are convicted as adults under state law and incarcerated in adult prisons:

1. Federal requirements pertaining to participation of students with disabilities in general assessments;
2. Requirements concerning transition planning and transition services, if the children's eligibility will end, because of their age, before they will be released from prison.

20 U.S.C. 1414(d)(7)

SPECIAL EDUCATION
TRANSITION SERVICES

EHBAD
(LEGAL)

TRANSITION
SERVICES DEFINED

“Transition services” means a coordinated set of activities for a child with a disability that:

1. Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child to facilitate the child’s movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.
2. Is based on the individual child’s needs, taking into account the child’s strengths, preferences, and interests.
3. Includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and if appropriate, acquisition of daily living skills and functional vocational evaluation.

20 U.S.C. 1401(34); 34 CFR 300.43

INDIVIDUAL
TRANSITION
PLANNING

Beginning not later than the first IEP to be in effect when a student turns 16 (or younger, if determined appropriate by the ARD committee), and updated annually, the student’s IEP shall include:

1. Appropriate, measurable post-secondary goals based on age appropriate transition assessments related to training, education, employment and, where appropriate, independent living skills; and
2. The transition services, including courses of study, needed to assist the child in reaching these goals.

If a participating agency other than the District fails to provide the transition services described in the IEP, the district shall reconvene the ARD committee to identify alternative strategies to meet the transition objectives.

[See EHBAB regarding membership of ARD committee for transition services meetings]

20 U.S.C. 1414(d)(1)(A)(i)(VIII), 1414(d)(6); 34 CFR 300.320(b)

GRADUATION

Graduation with a regular high school diploma terminates a student’s eligibility for special education services. For students who receive a diploma according to 19 TAC 89.1070(c), the ARD committee shall determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age requirements. [See EHBAA]

Graduation from high school with a regular diploma constitutes a change in placement that requires written prior notice to parents.

The District is not required to conduct an evaluation before termination of eligibility due to graduation from secondary school with a regular high school diploma or due to exceeding the age eligibility for a FAPE under state law.

The District shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

[See EIF]

20 U.S.C. 1414(c)(5); 34 CFR 300.305(e)(2); 19 TAC 89.1070

SPECIAL EDUCATION
PROCEDURAL REQUIREMENTS

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PROCEDURAL
SAFEGUARDS

The District shall establish and maintain procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education (FAPE). *20 U.S.C. 1415(a)–(b)*

These procedures shall include:

EXAMINATION OF
RECORDS AND
PARTICIPATION IN
MEETINGS

1. An opportunity for the parents to review all education records and to participate in meetings relating to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child. *34 CFR 300.501*

INDEPENDENT
EDUCATIONAL
EVALUATION

2. An opportunity for the parents to obtain an independent educational evaluation of the child. *34 CFR 300.501*

ASSIGNMENT OF
SURROGATE
PARENT

3. Assignment of an individual to act as a surrogate for the parent when no parent can be identified, the District cannot locate the parents, or the child is a ward of the state. *34 CFR 300.519*

PRIOR WRITTEN
NOTICE

4. Prior written notice to the parents whenever the District proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. *34 CFR 300.503* [See PRIOR NOTICE AND CONSENT, below]

MEDIATION

5. Procedures to allow parties to resolve disputes through a mediation process. *34 CFR 300.506*

COMPLAINTS

6. An opportunity for any party to file a due process complaint on any matter relating to the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. [See COMPLAINT PROCEDURES, below] *34 CFR 300.507*

DUE PROCESS
COMPLAINT

7. Procedures that require either party, or the attorney representing a party, to provide to the other party a due process complaint (which shall remain confidential). *34 CFR 300.508*

CONSENT

Consent means that:

1. The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;
2. The parent understands and agrees in writing to the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

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3. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. A revocation of consent is not retroactive.

34 CFR 300.9

LANGUAGE OF
NOTICES

The procedural safeguards and prior notices described below must be written in language understandable to the general public. The notice must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. *34 CFR 300.503(c), 300.504(d)*

ELECTRONIC
DELIVERY OF
NOTICES

A parent may elect to receive the procedural safeguards notice, prior notice, or notice of due process complaint by electronic mail if the district makes that option available. *34 CFR 300.505*

PROCEDURAL
SAFEGUARDS NOTICE

The District shall provide a copy of the procedural safeguards to parents only one time a year, except that a copy also shall be given to the parents:

1. Upon initial referral or parental request for evaluation;
2. Upon receipt of the first state complaint and upon receipt of the first due process complaint in a school year;
3. On the date of a decision to make a disciplinary removal that is a change in placement; and
4. Upon request by a parent.

The District may place a current copy of the procedural safeguards notice on its Internet Web site, if it has one.

CONTENTS OF
NOTICE

The notice shall include a full explanation of the procedural safeguards relating to:

1. Independent educational evaluations;
2. Prior written notice;
3. Parental consent;
4. Access to educational records;
5. Opportunity to present and resolve complaints through the due process complaint and state complaint procedures, including:
 - a. The time period in which to file a complaint,
 - b. The opportunity for the District to resolve the complaint; and

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- c. The difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.
6. The availability of mediation;
7. The child's placement during pendency of any due process proceedings;
8. Procedures for children who are subject to placement in an interim alternative educational setting;
9. Requirements for unilateral placement by parents of children in private schools at public expense;
10. Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
11. Civil actions, including the time period in which to file such actions; and
12. Attorneys' fees.

20 U.S.C. 1415(a)–(b), (d); 34 CFR 300.504(c)

PRIOR NOTICE AND
CONSENT

The District shall provide prior written notice to the parents a reasonable time before the District proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of a child or the provision of FAPE to the child.
34 CFR 300.503(a)

"Reasonable time" is defined as at least five school days, unless the parents agree otherwise. *19 TAC 89.1015*

CONTENTS OF
NOTICE

The notice must include:

1. A description of the action proposed or refused by the District;
2. An explanation of why the District proposes or refuses to take the action;
3. A description of each evaluation procedure, assessment, record, or report the District used as a basis for the proposed or refused action;
4. A statement that the parents have protection under the procedural safeguards and, if this notice is not an initial referral for evaluation, the means by which a copy of the procedural safeguards can be obtained;
5. Sources for parents to contact to obtain assistance in understanding the IDEA rules;

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6. A description of other options the ARD committee [see EHBAB] considered and the reasons why those options were rejected; and
7. A description of other factors that are relevant to the district's proposal or refusal.

34 CFR 300.503(b)

CONSENT TO
INITIAL
EVALUATION

Before the District conducts an initial evaluation, it shall provide prior written notice, including a description of any evaluation the District proposes to conduct, and obtain informed consent for the evaluation from the parents. *20 U.S.C. 1414(a)(1)(D), (E); 34 CFR 300.304(a)*

CONSENT TO
SERVICES

The District shall seek informed consent from the parent before providing special education and related services to a child. [See EHBAA] *20 U.S.C. 1414(a)(1)(D)*

CONSENT TO
REEVALUATION

The District shall obtain informed parental consent before conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if the District can demonstrate that it has taken reasonable measures to obtain such consent and the parent has failed to respond. *20 USC 1414(c)(3)*

PSYCHOLOGICAL
EXAMINATIONS
AND TESTS

On request of a child's parent, before obtaining the parent's consent for the administration of any psychological examination or test to the child as part of the evaluation of the child's need for special education, the District shall provide to the child's parent:

1. The name and type of the examination or test; and
2. An explanation of how the examination or test will be used to develop an appropriate IEP for the child.

If the District determines that an additional examination or test is required for the evaluation of a child's need for special education, the District shall provide the information above to the parent regarding the additional examination or test and shall obtain additional consent for the examination of test.

COMPLAINT
PROCEDURES

Whenever a due process complaint has been received by the District, the parent shall have an opportunity for an impartial due process hearing, which shall be conducted by TEA.

TIME LIMIT

Such due process complaint must set forth an alleged violation that occurred not more than one year before the date the parent or District knew or should have known about the alleged action that forms the basis of the complaint.

20 U.S.C. 1415(f)(1)(A); 19 TAC 89.1151(c)

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EXCEPTION	<p>This timeline shall not apply if the parent was prevented from requesting a hearing due to:</p> <ol style="list-style-type: none">1. A specific misrepresentation by the District that it had resolved the problem forming the basis of the complaint; or2. The District's withholding of information from the parent that the District was required by the IDEA to provide. <p><i>20 U.S.C. 1415(b)(6)–(7); 34 CFR 300.511(f)</i></p>
'STAY PUT'	<p>During the pendency of any proceeding conducted under IDEA part B (except proceedings to challenge a disciplinary change of placement or manifestation determination), the child shall remain in the then-current educational placement unless the District and the parent agree otherwise. If the child is applying for initial admission to a public school, the child shall, with the consent of the parents, be placed in the public school program until all proceedings have been completed. <i>20 U.S.C. 1415(j); 34 CFR 300.518, 300.533</i></p>
EXCEPTION	<p>When a due process hearing has been requested by a parent or district concerning a disciplinary change of placement or manifestation determination, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the child's assignment to the alternative setting, or the 45-day timeline, if applicable, whichever occurs first, unless the parent and district agree otherwise. <i>20 U.S.C. 1415(k)(3)(B), 1415(k)(7); 34 CFR 300.533 [See FOF]</i></p>
RESOLUTION PROCESS	<p>Within 15 days of receiving notice of a parent's due process complaint, and before initiating a due process hearing, the District shall convene a meeting with the parent and the relevant member or members of the ARD committee. The purpose of the meeting is for the parent to discuss the due process complaint and the facts that form the basis of the due process complaint, so that the District has the opportunity to resolve the dispute.</p> <p>The meeting need not be held if the parent and the District agree in writing to waive the meeting, or the parent and the district agree to use the mediation process.</p> <p>If the District has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the complaint, the due process hearing may occur. If the District is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made, the District may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent's due process complaint.</p> <p><i>34 CFR 300.510</i></p>

SPECIAL EDUCATION
PROCEDURAL REQUIREMENTS

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(LEGAL)

TRANSFER OF RIGHTS
TO ADULT STUDENTS

When a student reaches the age of 18, the District shall notify the student and the parents of the transfer of parental rights, as described in the following paragraph. This notice is separate and distinct from the requirement that, beginning at least one year before the student reaches the age of 18, the student's IEP include a statement regarding transfer of parental rights.

A student with a disability who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Chapter 31, Family Code, shall have the same right to make educational decisions as a student without a disability. All other rights accorded to parents under Chapter 29, Subchapter A of the Education Code or 20 U.S.C. 1415 transfer to the student.

34 CFR 300.520; Education Code 29.017(a)–(b); 19 TAC 89.1049(c)

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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;
4. Did not perform satisfactorily on a state assessment instrument and who has not in the previous or current school year subsequently performed on that instrument or another appro-

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priate 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 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)

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 the students to perform at grade level at the conclusion of the next regular school term. *Education Code 29.081(a)*

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ACCELERATED INSTRUCTION	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>
EFFECTIVENESS	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>
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)	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>
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 for eligible students. The program shall be conducted beyond the</p>

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	required instructional year, which may include intercessions for year round programs.
POLICY	If the District provides an OEYP, it shall adopt a policy designed to lead to immediate reduction and ultimate elimination of student retention.
PROGRAM CRITERIA	An OEYP must meet the requirements set forth at Education Code 29.082 and 19 TAC 105.1001.
PROMOTION OF STUDENT	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).
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 61.1017.</p> <p><i>Education Code 29.0821; 19 TAC 61.1017</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 in grades 9 through 12.</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>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 offered in a program that meets the required minimum number of instructional days under Education Code section 25.081</p>

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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; or
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.

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.

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

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

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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

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

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	<p>[see EKC], to be at risk for dyslexia or other reading difficulties. The District shall determine the form, content, and timing of the program.</p> <p>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.</p>
LIMITATION	<p>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.</p> <p><i>Education Code 28.006(f), (g), (g-1), (k)</i></p>
INTENSIVE PROGRAM OF INSTRUCTION	<p>The District shall offer an intensive program of instruction to a student who does not perform satisfactorily on a state assessment instrument.</p>
STATE ASSESSMENTS	<p>The program shall be designed to:</p> <ol style="list-style-type: none">1. Enable the student to:<ol style="list-style-type: none">a. To the extent practicable, perform at the student's grade level at the conclusion of the next regular school term; orb. Attain a standard of annual growth specified by the District and reported by the District to TEA; and2. If applicable, carry out the purposes of Education Code 28.0211.
GRADUATION REQUIREMENTS	<p>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.</p>
NO CAUSE OF ACTION	<p>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.</p> <p><i>Education Code 28.0213</i></p>

ACADEMIC ACHIEVEMENT

EI
(LEGAL)

AWARD OF CREDIT	The award of credit for a course affirms that a student has satisfactorily met state and local requirements. <i>19 TAC 74.26(a)</i>
EARLY AWARD OF CREDIT	The District may offer courses designated for grades 9–12 in earlier grade levels. Credit must be awarded if the student has demonstrated achievement by meeting the standard requirements of the course, including demonstrated proficiency in the subject matter, regardless of the time the student received instruction in the course or the grade level at which proficiency was attained. The academic achievement record shall reflect that students have satisfactorily completed courses at earlier grade levels from grades 9–12 and have been awarded state graduation credits. <i>19 TAC 74.26(b)</i>
PARTIAL AWARD	In accordance with the District's local policy, a student who is able to successfully complete only one semester of a two-semester course can be awarded credit proportionately. <i>19 TAC 74.26(d)</i>
ATTENDANCE FOR CREDIT	Unless credit is awarded by the attendance committee, or regained in accordance with a principal's plan [see FEC], a student may not be given credit for a class unless the student is in attendance for at least 90 percent of the days the class is offered. <i>Education Code 25.092</i>
GRADUATION REQUIREMENTS	Credit for courses for high school graduation may be earned only if the student received a grade equivalent to 70 on a scale of 100, based upon the essential knowledge and skills of each course. Credit earned toward state graduation requirements in an accredited school district shall be transferable and must be accepted by any other school district in the state. <i>19 TAC 74.26(a)(1), (c)</i>
ACADEMIC ACHIEVEMENT RECORD	<p>The District shall use the academic achievement record (transcript) form designated by the State Board. This form shall serve as the academic record for each student and shall be maintained permanently by the District. Any credit earned by a student must be recorded on the academic achievement record, regardless of when the credit was earned.</p> <p>Copies of the record shall be made available to students transferring to another district. The information may be provided to the student or to the district to which the student is transferring, or both. The District shall respond promptly to all requests for student records from receiving districts. [See also FDA and FL]</p> <p><i>Education Code 28.025(e); 19 TAC 74.14(b)–(c)</i></p>
EARLY HIGH SCHOOL GRADUATION SCHOLARSHIP PROGRAM	For purposes of the Early High School Graduation Scholarship Program, a student who does not satisfy the curriculum requirements for a recommended or advanced high school program is considered to have satisfied those requirements if the high school

ACADEMIC ACHIEVEMENT

EI
(LEGAL)

from which the student graduated indicates on the student's transcript that the student was unable to complete the appropriate curriculum within the time prescribed solely because of a reason beyond the student's control, such as lack of enrollment capacity or a shortage of qualified teachers. *Education Code 56.203(d)*

TRANSCRIPT SEALS

Students who complete high school graduation requirements shall have attached to the academic achievement record the State Board-approved seal.

CERTIFICATE OF
COURSEWORK
COMPLETION

A student who completes all graduation requirements except for required exit-level examinations may be issued a certificate of coursework completion. The academic achievement record shall include a notation of the date a certificate of completion was issued to the student.

Education Code 28.025(d); 19 TAC 74.14(d)–(e)

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; and
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.

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:

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

ACADEMIC GUIDANCE PROGRAM

EJ
(LEGAL)

NOTATION ON
TRANSCRIPT OR
DIPLOMA

4. Sources of information on higher education admissions and financial aid.

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
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 a District's or cam-

TESTING PROGRAMS
STATE ASSESSMENT

EKB
(LEGAL)

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); 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.

TESTING PROGRAMS
STATE ASSESSMENT

EKB
(LEGAL)

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.

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

A student may be exempted from the administration of state assessments, including exit-level exams, if the student is eligible for special education services and:

1. The student's IEP does not include instruction in the essential knowledge and skills at any grade level; or

TESTING PROGRAMS
STATE ASSESSMENT

EKB
(LEGAL)

2. The assessment instrument, even with allowable modifications, would not provide an appropriate measure of the student's achievement as determined by the student's ARD committee.

Education Code 39.027(a)(1), (2)

Each exempt student shall take an appropriate locally selected assessment, as determined by the student's ARD committee, in accordance with procedures developed by TEA. Student performance results on these alternate assessments must be reported to TEA. *19 TAC 101.5(c)*

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.

TO PARENTS AND
STUDENTS

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]

19 TAC 101.81; No Child Left Behind Act, 20 U.S.C. 6311(h)(6)

PARENTAL ACCESS

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. *Education Code 26.005, 26.006(a)(2)*

SECURITY

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. *19 TAC 101.61*

CONFIDENTIALITY

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. *Education Code 39.030(b); 19 TAC 101.63* [See FL and GBA]

PENALTIES

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.

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:

1. Duplicating secure examination materials;
2. Disclosing the contents of any portion of a secure test;
3. Providing, suggesting, or indicating to an examinee a response or answer to a secure test item or prompt;
4. Changing or altering a response or answer of an examinee to a secure test item or prompt;
5. Aiding or assisting an examinee with a response or answer to a secure test item or prompt;
6. Encouraging or assisting an individual to engage in the conduct described in 1–5 above; or
7. Failing to report to an appropriate authority that an individual has engaged in conduct outlined in 1–6 above.

Any person who violates, assists in the violation of, or solicits another to violate or assist in the violation of test security or confidential integrity, and any person who fails to report such a violation are subject to the following penalties:

1. Placement of restrictions on the issuance, renewal, or holding of a Texas teacher certificate, either indefinitely or for a set term;
2. Issuance of an inscribed or non-inscribed reprimand;
3. Suspension of a Texas teacher certificate for a set term; or
4. Revocation or cancellation of a Texas teacher certificate without opportunity for reapplication for a set term or permanently.

Any irregularities in test security or confidential integrity may also result in the invalidation of student results.

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 exempted from 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.

SECOND AND
THIRD YEARS

An immigrant LEP student may be exempted from the administration of the state assessment for up to 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. 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.

Education Code 39.027(a)(3), (4), (g)

In grades 2–12, an immigrant LEP student who achieves a rating of advanced high on the state-administered English language proficiency 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

STATE ASSESSMENT
LEP STUDENTS

EKBA
(LEGAL)

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(a)*

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.

SECTION F: STUDENTS

FA	STUDENT GOALS AND OBJECTIVES
FB	EQUAL EDUCATIONAL OPPORTUNITY
FC	SCHOOL ATTENDANCE AREAS
FD	ADMISSIONS
FDA	Interdistrict Transfers
FDAA	Public Education Grants
FDB	Intradistrict Transfers and Classroom Assignments
FDC	Homeless Students
FDD	School Safety Transfers
FE	ATTENDANCE
FEA	Compulsory Attendance
FEB	Attendance Accounting
FEC	Attendance for Credit
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FEE	Open/Closed Campus
FEF	Released Time
FF	STUDENT WELFARE
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FFEB	Substance Abuse
FFF	Student Safety
FFFA	Supervision of Students
FFFB	Safety Patrols
FFFD	Bicycle/Automobile Use
FFFF	School Buses
FFG	Child Abuse and Neglect
FFH	Freedom from Discrimination, Harassment, and Retaliation
FFI	Freedom from Bullying
FG	STUDENT AWARDS AND SCHOLARSHIPS
FH	STUDENT VOLUNTEERS

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SECTION F: STUDENTS

FJ	GIFTS AND SOLICITATIONS
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FNA	Student Expression
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FNB	Involvement in Decision Making
FNC	Student Conduct
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FNCD	Tobacco Use and Possession
FNCE	Telecommunications/Electronic Devices
FNCF	Alcohol and Drug Use
FNCG	Weapons
FNCH	Assaults
FNCI	Disruptions
FND	Married Students
FNE	Pregnant Students
FNF	Interrogations and Searches
FNG	Student and Parent Complaints/Grievances
FO	STUDENT DISCIPLINE
FOA	Removal by Teacher
FOB	Out-of-School Suspension
FOC	Placement in a Disciplinary Alternative Education Setting
FOCA	Disciplinary Alternative Education Program Operations
FOD	Expulsion
FODA	Juvenile Justice Alternative Education Program
FOE	Emergency and Alternative Placement
FOF	Students with Disabilities
FP	STUDENT FEES, FINES, AND CHARGES

ADMISSIONS
INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

FDB
(LOCAL)

Students shall be assigned to schools in the attendance areas in which they reside. The Superintendent may authorize the intradistrict transfer of a student, upon written request by the parent, with the understanding that transportation shall be provided by the parents. The Superintendent may assign any student from one school facility or classroom to another within the District. When the Board changes attendance zones, students shall attend the appropriate school as designated by that change.

Students in kindergarten-grade 5 who are attending a District school and move to another school attendance area may continue to attend the school where they were initially enrolled for the remainder of the current school year. Transportation shall be the responsibility of the parents if a student is not attending his or her geographically designated campus.

CHILDREN OF
DISTRICT EMPLOYEES

A child of a District employee may attend the campus where his or her parent is employed, regardless of the designated attendance zones.

INTRADISTRICT
TRANSFERS —
ELEMENTARY

A transfer from one attendance zone to another may be granted by the Superintendent or designee at the beginning of a semester if a physical move of the family is planned within the school year. A transfer from one attendance zone to another may be granted if the school administration feels that such a transfer will enhance educational opportunities.

Students may be transferred administratively when it will more evenly distribute class sizes among the schools involved.

BOARD RESPONSE TO
PARENT PETITION

Upon receipt of a written petition to transfer a child from one attendance zone to another, the following criteria shall be considered when determining the need to deny the petition:

1. Overcrowding at the sending and receiving schools.
2. Size of sending and receiving schools.
3. Dependability of parent transportation.
4. Permanence of request. The student must remain for the full school year.

Note: For transfers of students who are victims of bullying, see FDB(LEGAL). For transfers of students who attend a persistently dangerous school, become victims of a violent criminal offense, or become victims of sexual assault, see FDD.

WELLNESS AND HEALTH SERVICES
PHYSICAL EXAMINATIONS

FFAA
(LEGAL)

PHYSICAL FITNESS ASSESSMENT	<p>Annually, the District shall assess the physical fitness of students in grades 3 through 12, using an assessment instrument adopted by the Commissioner.</p> <p>The District is not required to assess a student for whom, as a result of disability or other condition identified by Commissioner rule, the assessment instrument is inappropriate.</p> <p>Each student must be assessed based on factors related to student health, including aerobic capacity; body composition; and muscular strength, endurance, and flexibility, unless a particular factor is inappropriate for that student because of a health classification defined in 19 TAC 74.31 [See EHAA, CLASSIFICATION FOR PHYSICAL EDUCATION].</p>
REPORT	<p>The District shall compile the results of the physical fitness assessment and provide summary results, aggregated by grade level and any other appropriate category identified by Commissioner rule, to TEA. The summary results may not contain the names of individual students or teachers.</p>
CONFIDENTIALITY	<p>The results of individual student performance on the physical fitness assessment instrument are confidential and may be released only in accordance with state and federal law.</p> <p>The District may accept donations made to facilitate implementation of this subchapter.</p> <p><i>Education Code Ch. 38, Subch. C; 19 TAC 101.1001</i></p>
VISION AND HEARING SCREENING	<p>As soon as possible after admission and within a period set by rule, a student required to be screened shall undergo approved screening for vision and hearing disorders and any other special senses and communication disorders specified by the Texas Department of State Health Services (TDSHS). <i>Health and Safety Code 36.005(a)</i></p>
DISTRICT RESPONSIBILITY	<p>The Superintendent shall ensure that each student admitted to the District complies with the screening requirements set by TDSHS or submits an affidavit of exemption (see below). <i>Health and Safety Code 36.005(c)</i></p>
SCREENING SCHEDULE ROUTINE SCREENING	<p>All students enrolled in the District shall be screened for vision and hearing problems in prekindergarten; kindergarten; and first, third, fifth, and seventh grades before May 31 of each year. Upon written request approved by TDSHS, the screening of vision and hearing may instead occur in prekindergarten; kindergarten; and first, second, fourth, and sixth grades. <i>25 TAC 37.23(d), (f)</i></p>

WELLNESS AND HEALTH SERVICES
PHYSICAL EXAMINATIONS

FFAA
(LEGAL)

SCREENING ON ENROLLMENT	Students four years of age and older, who are enrolled in the District for the first time, must be screened for possible vision and hearing problems within 120 calendar days of enrollment. If the student is enrolled within 60 days of the date school closes for the summer, the student must be tested by December 31 of that year. <i>25 TAC 37.23(e)(1)</i>
OUTSIDE SCREENING	Except for students enrolled in kindergarten or first grade, the District shall exempt a student from screening if the student's parent or legal guardian submits proof that the student's vision and/or hearing has been screened within the prior reporting year. Proof of vision and hearing screening upon initial enrollment must be submitted to the District by the dates for screening upon enrollment. Proof for all other students must be submitted by May 31. <i>25 TAC 37.23(e)(3), 37.26(a), (b)</i>
PROVISIONAL ADMISSION	A parent, guardian, managing conservator, or person having legal responsibility for the student's support may execute an affidavit stating that a person other than the screener used by the District shall conduct the screening as soon as is feasible. The student may be admitted on a provisional basis, or the student may be denied admission, until the screening results are provided to the District. <i>25 TAC 37.23(g)</i>
EXEMPTION—RELIGIOUS BELIEFS	The District shall not require a student to be screened if the parent, guardian, managing conservator, or person having legal responsibility for the student's support submits to the District, on or before the date vision or hearing screening is scheduled, an affidavit in lieu of the record of screening stating that the vision or hearing screening conflicts with the tenets or practices of a church or religious denomination of which the affiant is an adherent or member. <i>Health and Safety Code 36.005(b); 25 TAC 37.23(h)</i>
RECORDS	The District shall maintain the screening records required by statute and regulation. <i>Health and Safety Code 36.006; 25 TAC 37.24</i>
TRANSFER OF RECORDS	A student's screening records may be transferred among districts without the consent of the student or minor student's parent, managing conservator, or guardian. The District shall honor an original or true copy of the proofs of screening upon the transfer of a student from another Texas district. When a district's official record for a student contains entries of vision or hearing examinations or screening test results, the original or true and correct copy of the record may be transferred between districts. <i>Health and Safety Code 36.006(c); 25 TAC 37.28</i>
REPORTS	On or before June 30 of each year, the District shall submit to TDSHS a report on the screening status of its aggregate population screened during the reporting year. The results of required profes-

WELLNESS AND HEALTH SERVICES
PHYSICAL EXAMINATIONS

FFAA
(LEGAL)

	sional examinations or screening tests shall be reported as specified on forms approved by TDSHS. <i>Health and Safety Code 36.006; 25 TAC 37.26(c)(1)</i>
SPINAL SCREENING	Each student required by rule of the TDSHS to be screened shall undergo approved screening for abnormal spinal curvature. <i>Health and Safety Code 37.002(a)</i>
DISTRICT RESPONSIBILITY	The Superintendent shall ensure that each student admitted to the District complies with the screening requirements or submits an affidavit of exemption (see below). <i>Health and Safety Code 37.002(c), 25 TAC 37.148(m)</i>
SCREENING SCHEDULE ROUTINE SCREENING	Students in grades six and nine shall be screened for abnormal spinal curvature before the end of the school year. The screening requirement for students entering grades six or nine may be met if the student has been screened for spinal deformities during the previous year. Districts may implement a program that includes screening in grades five and eight in lieu of grades six and nine. <i>25 TAC 37.148(a), (b)</i>
SCREENING ON ENROLLMENT	New students enrolling in grades scheduled for screening (i.e., grades six and nine or five and eight), who have no record of having received their scheduled screening(s) shall be screened the year they enroll. Districts shall consider offering a student enrolling in grades ten, eleven, or twelve the opportunity for spinal screening if the student has no record of having been screened previously. <i>25 TAC 37.148(c)</i>
EXEMPTION—RELIGIOUS BELIEFS	A student is exempt from screening if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or a member. The minor student's parent, managing conservator, or guardian must submit an affidavit stating the objections to screening. This affidavit shall be submitted on or before the day of the screening procedure each year the screening is performed. <i>Health and Safety Code 37.002(b); 25 TAC 37.148(d)</i>
ANNUAL REPORT	Each district shall submit to TDSHS an annual report of spinal screening performed during the school year no later than June 30 of the reporting year. The report shall be submitted as specified on a form issued by TDSHS. <i>25 TAC 37.148(n)</i>
TRANSFER OF RECORDS	A student's health record shall be acceptable as proof of screening if such record contains entries of screening results. In such case, the original or a true and correct copy of that record may be transferred between schools and shall be honored upon transfer of a student from another district in Texas or within the United States. <i>25 TAC 37.148(o)</i>

Notice of Employee Responsibilities for Reporting Child Abuse and Neglect

What are the District's policies addressing child abuse or neglect and my responsibilities for reporting suspected child abuse or neglect?

The applicable District policies—FFG(LEGAL), GRA(LEGAL) and (LOCAL), and DH(LOCAL) and (EXHIBIT)—are enclosed in this packet. This distribution is required by state law. At regular intervals, these policies will be addressed in staff development as well. If you have any questions about these policies, please contact Margaret Duchamp at (409) 882-5610.

What are my legal responsibilities for reporting if I suspect that a child has been or may be abused or neglected?

Anyone who suspects that a child has been or may be abused or neglected has a legal responsibility, under state law, for reporting the suspected abuse or neglect to law enforcement or to Child Protective Services (CPS).

Any District employee, agent, or contractor has an additional legal obligation to submit the oral or written report within 48 hours of learning of the facts giving rise to the suspicion.

Are there any restrictions on reporting?

Under state law, an employee is prohibited from using or threatening to use a parent's refusal to consent to administration of a psychotropic drug or to any other psychiatric or psychological testing or treatment of a child as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal:

- Presents a substantial risk of death, disfigurement, or bodily injury to the child; or
- Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

To whom do I make a report?

Reports may be made to any of the following:

- A law enforcement agency: Orange Police Department (409) 883-1026; Pinehurst Police Department (409) 886-2221; West Orange Police Department (409) 883-0059;
- The Child Protective Services (CPS) division of the Texas Department of Family and Protective Services (1-800-252-5400) or on the Web at www.txabusehotline.org; or
- If applicable, the state agency operating, licensing, certifying, or registering the facility in which the suspected abuse or neglect occurred.

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CHILD ABUSE AND NEGLECT

FFG
(EXHIBIT)

However, if the suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to CPS, unless the report is to the state agency that operates, licenses, certifies or registers the facility where the suspected abuse or neglect took place; or the report is to the Texas Juvenile Probation Commission as a report of suspected abuse or neglect in a juvenile justice program or facility.

Reporting your suspicion to a school counselor, a principal, or to another school staff member does NOT fulfill your responsibilities under the law. Furthermore, the District cannot require you to report your suspicion first to a school administrator.

Will my report be kept confidential?

State law requires that the identity of a person making a report of suspected child abuse or neglect be kept confidential.

Will I be liable in any way for making a report?

A person who in good faith reports or assists in the investigation of a report of child abuse or neglect is immune from civil or criminal liability.

What will happen if I don't report suspected child abuse or neglect?

By failing to report a suspicion of child abuse or neglect:

- You may be placing a child at risk of continued abuse or neglect;
- You are violating the law and may be subject to legal penalties, including criminal sanctions;
- You are violating Board policy and may be subject to disciplinary action, including possible termination of your employment; and
- Your certification from the State Board for Educator Certification may be suspended, revoked, or canceled.

What are my responsibilities regarding investigations of abuse or neglect?

State law specifically prohibits school officials from:

- Denying an investigator's request to interview a child at school in connection with an investigation of child abuse or neglect; or
- Requiring that a parent or school employee be present during the interview.

School personnel must cooperate fully and may not interfere with an investigation of reported child abuse or neglect.

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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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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)

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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. <i>Education Code 33.087</i>
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 lower 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 REIN-STATEMENT, described below, are met. A suspension shall not last beyond the end of a school year.
GRADE EVALUATION PERIOD	<p>“Grade evaluation period” means:</p> <ol style="list-style-type: none">1. The six-week grade reporting period; or2. The first six weeks of a semester and each grade reporting period thereafter, in the case of a district with a grade reporting period longer than six weeks. <p><i>Education Code 33.081(c)</i></p>
SCHOOL WEEK	The school week is defined as beginning at 12:01 a.m. on the first instructional day of the calendar week and ending at the close of instruction on the last instructional day of the calendar week, excluding holidays. <i>19 TAC 76.1001(b)</i>
EXEMPT COURSES	<p>The suspension and reinstatement provisions of Education Code 33.081(c) and (d) do not apply to an advanced placement or international baccalaureate course, or to an honors or dual credit course in the subject areas of English language arts, mathematics, science, social studies, economics, or a language other than English. <i>Education Code 33.081(d-1)</i></p> <p>The following are honors classes for purposes of eligibility to participate in extracurricular activities:</p> <ol style="list-style-type: none">1. All College Board Advanced Placement courses and International Baccalaureate courses in all disciplines;2. English language arts: high school/college concurrent enrollment classes that are included in the “Community College General Academic Course Guide Manual (Part One)”;

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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 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)

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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 EX-EMPT COURSES, is equal to or greater than the equivalent of 70 on a scale of 100. The principal and each of the student's teachers shall make the determination concerning the student's grades.
Education Code 33.081(d)

ATTENDANCE AND PARTICIPATION The State Board of Education by rule shall limit participation in and practice for extracurricular activities during the school day and the school week.

The Board 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;

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2. The activity is held in conjunction with another activity that is considered extracurricular;
3. The activity is held off-campus, except in a case in which adequate facilities do not exist on campus;
4. The general public is invited; or
5. An admission is charged.

EXCEPTION —
PUBLIC
PERFORMANCES

A student ineligible to participate in an extracurricular activity, but who is enrolled in a state-approved course that requires demonstration of the mastery of the essential knowledge and skills in a public performance, may participate in the performance if:

1. Only item 4, above, applies; and
2. The requirement for student participation in public is stated in the essential knowledge and skills of the course.

19 TAC 76.1001(a)

LIMITS ON
PARTICIPATION
AND PRACTICE

Limitations on practice, rehearsal, and student participation during the school week shall be as follows:

DURING THE
SCHOOL WEEK

1. For any given extracurricular activity, a student may not participate in more than one activity per school week, excluding holidays, except as provided in item 2, below;
2. A student may also participate in a tournament or post-district contest, as well as a contest postponed by weather or public disaster that may determine advancement to a post-district level of competition;
3. For each extracurricular activity, 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.

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2. The limit in item 1 does not prohibit a student from enrolling in any state-approved class. A student who is enrolled in a state-approved class that includes essential knowledge and skills that relate to the preparation for an extracurricular activity may practice that extracurricular activity for no more than one period during the school day.
3. A student may not be permitted to miss a scheduled academic class to practice for an unrelated extracurricular activity.
4. 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. <i>19 TAC 76.1001(c)</i>
PARENTAL NOTICE AND CONSENT	A parent is entitled to full information regarding the school activities of a parent's child except as provided by Education Code 38.004 (regarding child abuse investigations). <i>Education Code 26.008(a)</i>
ANONYMOUS 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. <u><i>Byard v. Clear Creek Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 020-R5-1001 (June 17, 2002)</i></u>
VIDEOTAPING AND RECORDING	A District employee is not required to obtain the consent of a child's parent before the employee may videotape the child or record the child's voice if the videotape or recording is to be used only for a purpose related to a cocurricular or extracurricular activity. <i>Education Code 26.009(b)(2)</i>
DISCRIMINATORY CLUB	An extracurricular activity sponsored or sanctioned by the District, including an athletic event or an athletic team practice, may not

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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
COMMENCEMENT

FMH
(LEGAL)

INVOCATIONS/
BENEDICTIONS

School officials shall not direct the performance of a formal religious exercise at promotional and graduation ceremonies. Lee v. Weisman, 505 U.S. 577 (1992) (addressing prayer by clergy at graduation)

SCHOOL-
SPONSORED
SPEECH

The District shall not adopt a policy that establishes an improper majoritarian election on religion and has the purpose and creates the perception of encouraging the delivery of prayer at a series of important school events. The religious liberty protected by the Constitution is abridged when a district affirmatively sponsors the particular religious practice of prayer. Santa Fe Indep. Sch. Dist. v. Doe, 530 U.S. 290 (2000) (addressing school-sponsored, student-led prayer delivered over the public address system at high school football games)

Note: In *Jones v. Clear Creek Indep. Sch. Dist.*, 977 F.2d 963 (5th Cir. 1992), cert. denied, 508 U.S. 967 (1993), the Fifth Circuit Court of Appeals held that a district may permit a graduating senior class, with the advice and counsel of the senior class sponsor, to select student volunteers to deliver nonsectarian, nonproselytizing invocations and benedictions for the purpose of solemnizing graduation ceremonies. Although not expressly overruled, the precedential value of this case has been called into question by the United States Supreme Court's decision in *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000).

PRIVATE STUDENT
SPEECH

The District shall adopt a policy that includes the establishment of a limited public forum for student speakers at all school events at which a student is to publicly speak. *Education Code 25.152* [See FNA(LEGAL) at EXPRESSION OF RELIGIOUS VIEWPOINTS]

EARLY GRADUATES

A parent is entitled to have a child who graduates earlier than the child would normally graduate participate in graduation ceremonies at the time the child graduates, if the child completes each course required for graduation. *Education Code 26.003(a)(3)(C), (4)* [See EIF]

SPECIAL EDUCATION
STUDENTS

The District shall issue a certificate of attendance to a student who receives special education services and who has completed four years of high school but has not completed the student's individualized education program. The District shall allow a student who receives a certificate of attendance to participate in a graduation ceremony with students receiving high school diplomas. A student may participate in only one graduation ceremony under this provision. This provision does not preclude a student from receiving a

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diploma if the student successfully completes an IEP. *Education
Code 28.025(f)*

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT EXPRESSION

FNA
(LEGAL)

FIRST AMENDMENT	<p>The District shall take no action respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Board for a redress of grievances. <i>U.S. Const. Amend. I</i></p>
FREEDOM OF SPEECH	<p>Students do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. At school and school events, students have First Amendment rights, applied in light of the special characteristics of the school environment.</p> <p>Student expression that is protected by the First Amendment may not be prohibited absent a showing that the expression will materially and substantially interfere with the operation of the school or the rights of others.</p> <p><u><i>Tinker v. Des Moines Indep. Cmty. Sch. Dist.</i>, 393 U.S. 503 (1969)</u> [See also FNCI]</p> <p>The special characteristics of the school environment and the governmental interest in stopping student drug abuse allow the District to restrict student expression that it reasonably regards as promoting illegal drug use. <u><i>Morse v. Frederick</i>, 2007 WL 1804317 (U.S. 2007)</u></p> <p>When a student threatens violence against a student body, such specific threatening speech to a school or its population is unprotected by the First Amendment: school officials may punish such speech without first collecting evidence sufficient to prove a reasonable belief that disruption would occur as a result of the speech. <u><i>Ponce v. Socorro Indep. Sch. Dist.</i>, 508 F.3d 765 (5th Cir. 2007)</u></p> <p>The inculcation of fundamental values necessary to the maintenance of a democratic society is part of the work of the school. The First Amendment does not prevent school officials from determining that particular student expression is vulgar and lewd, and therefore contrary to the school's basic educational mission. <u><i>Bethel Sch. Dist. No. 403 v. Fraser</i>, 478 U.S. 675 (1986)</u></p>
PRAYER AT SCHOOL ACTIVITIES	<p>A public school student has an absolute right to individually, voluntarily, and silently pray or meditate in school in a manner that does not disrupt the instructional or other activities of the school. A student shall not be required, encouraged, or coerced to engage in or refrain from such prayer or meditation during any school activity. <i>Education Code 25.901</i></p> <p>Nothing in the Constitution as interpreted by the U.S. Supreme Court prohibits any public school student from voluntarily praying at any time before, during, or after the school day. But the religious</p>

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liberty protected by the Constitution is abridged when the District affirmatively sponsors the particular religious practice of prayer.

The District shall not adopt a policy that establishes an improper majoritarian election on religion and has the purpose and creates the perception of encouraging the delivery of prayer at a series of important school events.

Santa Fe Indep. Sch. Dist. v. Doe, 530 U.S. 290 (2000) (addressing school-sponsored, student-led prayer delivered over the public address system at high school football games) [For invocations and benedictions at commencement, see FMH]

FEDERAL FUNDS

As a condition of receiving certain federal funds, the District shall certify in writing to TEA that no policy of the District prevents, or otherwise denies participation in, constitutionally protected prayer in public schools, as detailed in the guidance from the United States secretary of education regarding constitutionally protected prayer. The certification shall be provided by October 1 of each year.

By November 1 of each year, TEA shall report to the secretary a list of districts that have not filed the certification or against which complaints have been made to TEA that the district is not in compliance with the paragraph above. The secretary may issue and secure compliance with rules or orders with respect to a district that fails to certify, or is found to have certified in bad faith, that no policy of the district prevents, or otherwise denies participation in, constitutionally protected prayer in public schools.

No Child Left Behind Act of 2001, 20 U.S.C. 7904

EXPRESSION OF
RELIGIOUS
VIEWPOINTS

The District shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the District treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject. *Education Code 25.151*

POLICIES

The District shall adopt and implement a local policy regarding a limited public forum and voluntary student expression of religious viewpoints. If the District voluntarily adopts and follows the model policy governing voluntary religious expression in public schools at Education Code 25.156, the District is in compliance with the provisions of Education Code Chapter 25, Subchapter E covered by the model policy.

The District shall adopt a policy that includes the establishment of a limited public forum for student speakers at all school events at

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT EXPRESSION

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which a student is to publicly speak. The policy regarding the limited public forum must also require the District to:

1. Provide the forum in a manner that does not discriminate against a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject;
2. Provide a method, based on neutral criteria, for the selection of student speakers at school events and graduation ceremonies;
3. Ensure that a student speaker does not engage in obscene, vulgar, offensively lewd, or indecent speech; and
4. State, in writing, orally, or both, that the student's speech does not reflect the endorsement, sponsorship, position, or expression of the District.

Student expression on an otherwise permissible subject may not be excluded from the limited public forum because the subject is expressed from a religious viewpoint.

DISCLAIMER

The disclaimer required by item 4, above, must be provided at all graduation ceremonies. The District must continue to provide the disclaimer at any other event in which a student speaks publicly for as long as a need exists to dispel confusion over the District's nonsponsorship of the student's speech.

Education Code 25.152, 25.155

CLASS
ASSIGNMENTS

Students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of their submissions. Homework and classroom assignments must be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the District. Students may not be penalized or rewarded on account of the religious content of their work. *Education Code 25.153*

[For information on the study of religion, see EMI. For information on student religious groups and activities, see FNAB.]

PATRIOTIC
OBSERVANCES

The District may officially encourage students to express love for the United States by reciting historical documents or singing official anthems that contain religious references; such patriotic or ceremonial occasions do not constitute a school-sponsored religious exercise. *Engel v. Vitale, 370 U.S. 421 (1962)*

The District shall not, however, compel students to participate in patriotic observances. *West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624 (1943) (holding unconstitutional a requirement that*

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT EXPRESSION

FNA
(LEGAL)

students salute the United States flag and recite the Pledge of Allegiance)

STUDENT CONDUCT
TELECOMMUNICATIONS/ELECTRONIC DEVICES

FNCE
(LOCAL)

TELECOMMUNICATIONS DEVICES District employees may confiscate telecommunications devices, including mobile telephones, used in violation of applicable campus rules.

A confiscated telecommunications device shall be released for a fee determined by the Board. In accordance with the student handbook, the student or the student's parents may retrieve the device after paying the fee.

If a telecommunications device is not retrieved, the District shall dispose of the device after providing notice required by law.

OTHER ELECTRONIC DEVICES Guidelines regarding other electronic devices shall be addressed in the student handbook.

STUDENT DISCIPLINE
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC
(LEGAL)

REMOVAL UNDER
STUDENT CODE OF
CONDUCT

The Student Code of Conduct must specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program (DAEP). *Education Code 37.001(a)(2)*

MANDATORY
PLACEMENT IN DAEP

A student shall be removed from class and placed in a DAEP if the student engages in conduct described in Education Code 37.006 that requires placement. *Education Code 37.006*

SCHOOL-RELATED
MISCONDUCT

A student shall be removed from class and placed in a DAEP if the student engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Penal Code 42.06, or terroristic threat under Penal Code 22.07.

A student shall also be removed from class and placed in a DAEP if the student commits the following on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

1. Engages in conduct punishable as a felony;
2. Engages in conduct that contains the elements of assault, under Penal Code 22.01(a)(1).
3. Sells, gives, or delivers to another person or possesses, uses, or is under the influence of:
 - a. Marijuana or a controlled substance, as defined by the Texas Controlled Substances Act, Health and Safety Code Chapter 481, or by 21 U.S.C. 801, et seq.;
 - b. A dangerous drug, as defined by the Texas Dangerous Drug Act, Health and Safety Code Chapter 483.
4. Sells, gives, or delivers to another person an alcoholic beverage, as defined by Alcoholic Beverage Code 1.04, or commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage.
5. Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Health and Safety Code 485.031 through 485.034.
6. Engages in conduct that contains the elements of the offense of public lewdness under Penal Code 21.07.
7. Engages in conduct that contains the elements of the offense of indecent exposure under Penal Code 21.08.

Education Code 37.006(a)

STUDENT DISCIPLINE
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC
(LEGAL)

EXCEPTION	Removal to a DAEP for school-related misconduct is not required if the student is expelled for the same conduct. <i>Education Code 37.006(m)</i>
RETALIATION	Except where a student engages in retaliatory acts against a District employee for which expulsion is mandatory [see FOD], a student shall be removed from class and placed in a DAEP if the student engages in conduct on or off school property containing the elements of retaliation, as defined in Penal Code 36.06, against any school employee. <i>Education Code 37.006(b)</i>
CONDUCT UNRELATED TO SCHOOL	<p>In addition to the circumstances listed above, a student shall be removed from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:</p> <ol style="list-style-type: none">1. The student receives deferred prosecution under Family Code 53.03, for conduct defined as a felony offense in Title 5, Penal Code;2. A court or jury finds that the student has engaged in delinquent conduct under Family Code 54.03 for conduct defined as a felony offense in Title 5, Penal Code; or3. The Superintendent or designee has a reasonable belief that the student has engaged in conduct defined as a felony offense in Title 5, Penal Code. <p>[See FOC(EXHIBIT) for list of Title 5 felonies]</p> <p><i>Education Code 37.006(c)</i></p>
REASONABLE BELIEF	In determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense, the Superintendent or the Superintendent's designee may consider all available information, including the information furnished under Code of Criminal Procedure Article 15.27. <i>Education Code 37.006(e)</i> [See GRA]
SEXUAL ASSAULT OF ANOTHER STUDENT	<p>A student shall be removed from class and placed in a DAEP or juvenile justice alternative education program (JJAEP) if:</p> <ol style="list-style-type: none">1. The student was convicted of, received adjudication for, or was placed on probation for sexual assault of another student while the students were assigned to the same campus, regardless of whether the assault occurred on or off school property;2. The parent of the victim of the assault has requested that the student be transferred to a campus other than that to which the victim is assigned; and

STUDENT DISCIPLINE
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC
(LEGAL)

3. There is only one campus in the District serving the grade level in which the student is enrolled.

Education Code 25.0341, 37.0051(a) [See FDD at SEXUAL ASSAULT TRANSFER, TRANSFER OF ASSAILANT]

A limitation imposed by Education Code Chapter 37 on the length of placement in a DAEP or a JJAEP does not apply to a placement under this provision. *Education Code 37.0051(b)*

PERMISSIVE
REMOVAL

NON-TITLE 5
FELONY

A student may be removed from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

1. The Superintendent or designee has a reasonable belief (as determined above) that the student has engaged in conduct defined as a felony offense other than those listed in Title 5, Penal Code [see FOC(EXHIBIT)]; and
2. The continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

Education Code 37.006(d), (e)

ONE YEAR AFTER
CONDUCT

A principal or other appropriate administrator may, but is not required to, remove a student to a DAEP for off-campus conduct, for which removal would otherwise be required, if the principal or other appropriate administrator did not have knowledge of the conduct before the first anniversary of the date the conduct occurred. *Education Code 37.006(n)*

OLDER 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 DAEP 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. *Education Code 25.001(b-1)*

PLACEMENT OF
YOUNGER STUDENTS

A student who is younger than ten shall be removed from class and placed in a DAEP if the student engages in conduct for which expulsion would be required by Section 37.007. *Education Code 37.006(f); 37.007(e)* [See FOD]

STUDENTS
YOUNGER THAN
SIX

Notwithstanding any other provision of the Education Code, a student who is younger than six years of age may not be removed from class and placed in a DAEP, except that a student younger than six years of age who has been expelled pursuant to the Gun Free Schools Act [see FOD] may be provided educational services in a DAEP. *Education Code 37.006(l)*

STUDENT DISCIPLINE
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC
(LEGAL)

PROCESS FOR REMOVAL CONFERENCE	Not later than the third class day after a student is removed by a teacher or by the school principal or other appropriate administrator, the principal or other appropriate administrator shall schedule a conference among the principal or other appropriate administrator, the student's parent or guardian, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular class pending the conference.
ORDER	Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the principal shall order the placement of the student for a period consistent with the Student Code of Conduct.
APPEAL	If District policy allows a student to appeal to the Board or the Board's designee a decision of the principal or other appropriate administrator, the decision of the Board or the Board's designee is final and may not be appealed. <i>Education Code 37.009(a)</i>
TERM OF REMOVAL	The Board or designee shall set a term for a student's placement in a DAEP. If the period of placement is inconsistent with the guidelines in the Student Code of Conduct, the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the District determines that the student is a threat to the safety of other students or to District employees; or extended placement is in the best interest of the student. <i>Education Code 37.009(d)</i>
BEYOND GRADING PERIOD OR 60 DAYS	If placement in a DAEP is to extend beyond 60 days or the end of the next grading period, whichever is earlier, the student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before the Board or designee.
NO APPEAL	Any decision of the Board or designee concerning placement beyond 60 days or the end of the next grading period is final and cannot be appealed. <i>Education Code 37.009(b)</i>
BEYOND END OF SCHOOL YEAR	Before a student may be placed in a DAEP for a period that extends beyond the end of the school year, the Board or designee must determine that: <ol style="list-style-type: none">1. The student's presence in the regular classroom program or at the student's regular campus presents a danger of physical harm to the student or another individual; or

STUDENT DISCIPLINE
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC
(LEGAL)

2. The student has engaged in serious or persistent misbehavior that violates the Student Code of Conduct.

Education Code 37.009(c)

ORDER OF
REMOVAL

The Board or designee shall deliver to the student and the student's parent or guardian a copy of the order placing the student in a DAEP. *Education Code 37.009(g)*

Not later than the second business day after the date of the removal conference, the Board or designee shall deliver a copy of the order placing the student in a DAEP and any information required under Family Code 52.04 to the authorized officer of the juvenile court in the county in which the juvenile resides. *Education Code 37.010(a)*

ACTIVITIES

The terms of a placement under Education Code 37.006 must prohibit the student from attending or participating in school-sponsored or school-related activities. *Education Code 37.006(g)*

In addition to any notice required under Code of Criminal Procedure 15.27 [see GRA], a principal or designee shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in conduct for which DAEP placement must or may be ordered.

Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as provided by state or federal law. An educator's certificate may be suspended or revoked for intentional failure to keep such information confidential.

Education Code 37.006(o)

COMPLETION OF
PROCEEDINGS UPON
WITHDRAWAL

If a student withdraws from the District before an order for placement in a DAEP is entered, the principal or Board, as appropriate, may complete the proceedings and enter an order. If the student re-enrolls in the District the same or subsequent school year, the District may enforce the order at that time except for any period of the placement that has been served by the student in another district that honored the order. If the principal or Board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order. *Education Code 37.009(i)*

ENROLLMENT IN
ANOTHER DISTRICT

If a student placed in a DAEP enrolls in another district before the expiration of the placement, the Board shall provide to the district in which the student enrolls a copy of the placement order at the

STUDENT DISCIPLINE
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC
(LEGAL)

same time it provides other records. The district in which the student enrolls shall inform each educator who will have responsibility for, or will be under the direction and supervision of an educator who will have responsibility for, the instruction of the student of the contents of the placement order. Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as provided by state or federal law.

The district in which the student enrolls may continue the placement or allow the student to attend regular classes. [See FO] The district in which the student enrolls may take any of these actions if:

1. The student was placed in a DAEP by an open-enrollment charter school and the charter school provides the district a copy of the placement order; or
2. The student was placed in a DAEP by a district in another state and:
 - a. The out-of-state district provides a copy of the placement order; and
 - b. The grounds for placement are the same as grounds for placement in the enrolling district.

Education Code 37.008(j)

OUT-OF-STATE
PLACEMENT

If a student was placed in a DAEP in another state for more than one year and the enrolling district continues the placement under Education Code 37.008(j), the enrolling district shall reduce the period of placement so that the aggregate period does not exceed one year unless the enrolling district determines that:

1. The student is a threat to the safety of other students or to district employees; or
2. Extended placement is in the best interest of the student.

Education Code 37.008(j-1)

COURT-ORDERED
PLACEMENT

Unless the Board and the juvenile board for the county in which the District's central administrative office is located have entered into a memorandum of understanding concerning the juvenile probation department's role in supervising and providing other support services for students in DAEP programs:

EXPELLED
STUDENT

1. A court may not order a student expelled under Section 37.007 to attend a District DAEP as a condition of probation;

STUDENT DISCIPLINE
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

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(LEGAL)

MULTIPLE REFERRALS	<p>2. A court may not order a student to attend a DAEP without the District's consent, until the student has successfully completed any sentencing requirements, if the court has ordered the student to attend a DAEP as a condition of probation once during a school year and the student is referred to juvenile court again during that school year.</p> <p><i>Education Code 37.010(c), (d)</i></p>
SCHOOL ACTIVITIES	<p>Any court placement in a DAEP must prohibit the student from attending or participating in school-sponsored or school-related activities. <i>Education Code 37.010(d)</i></p>
PLACEMENT AFTER COURT DISPOSITION	<p>After the student has successfully completed any court disposition requirements, including conditions of 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 into the public schools. The District may place the student in the DAEP.</p> <p>Notwithstanding Education Code 37.002(d) [see FOA], the student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.</p> <p><i>Education Code 37.010(f)</i></p>
NOT GUILTY / INSUFFICIENT EVIDENCE / CHARGES DROPPED	<p>If a student was removed to DAEP for a reason other than false alarm or report, terroristic threat, or conduct on or within 300 feet of school property, the Superintendent or designee shall review the student's placement in the DAEP upon receipt of notice under Article 15.27(g), Code of Criminal Procedure, stating that:</p> <ol style="list-style-type: none">1. Prosecution of a student was refused for lack of prosecutorial merit or insufficient evidence, and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or2. A court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice. <p>A student may not be returned to the regular classroom pending the review. The Superintendent or designee shall schedule a review of the student's placement with the student's parent or guardian not later than the third class day after the Superintendent or designee receives notice from the office or official designated by the court.</p>

STUDENT DISCIPLINE
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FOC
(LEGAL)

After reviewing the notice and receiving information from the student's parent or guardian, the Superintendent or designee may continue the student's placement in the DAEP if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

Education Code 37.006(h)

APPEAL AFTER
PLACEMENT
UPHELD

The student or the student's parent or guardian may appeal the Superintendent's decision to the Board. The student may not be returned to the regular classroom pending the appeal. The Board shall, at the next scheduled meeting, review the notice provided under Article 15.27(g), Code of Criminal Procedure, and receive information from the student, the student's parent or guardian, and the Superintendent or designee and confirm or reverse the Superintendent's decision. The Board shall make a record of the proceedings.

If the Board confirms the decision, the Board shall inform the student and the student's parent or guardian of the right to appeal to the Commissioner. The student may not be returned to the regular classroom pending the appeal to the Commissioner.

Education Code 37.006(i), (j)

120-DAY REVIEW OF
STATUS

A student placed in a DAEP shall be provided a review of the student's status, including a review of the student's academic status, by the Board's designee at intervals not to exceed 120 days. In the case of a high school student, the Board's designee, with the student's parent or guardian, shall review the student's progress toward meeting high school graduation requirements and shall establish a specific graduation plan for the student. This requirement does not, however, obligate the District to provide in the DAEP a course, except as required by Education Code 37.008(l). [See FOCA] At the review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of the teacher that removed the student without that teacher's consent. The teacher cannot be coerced to consent. *Education Code 37.009(e)*

ADDITIONAL
PROCEEDINGS

If, during the term of placement, a student engages in additional conduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted and the principal or Board, as appropriate, may enter an additional order. *Education Code 37.009(j)*

STUDENT DISCIPLINE
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC
(LEGAL)

REPORTING

The District shall include the number of students removed to a DAEP in its annual performance report. *Education Code 37.053(e)(5)* [See BR]

Note: See FOF for provisions concerning students with disabilities.

STUDENT DISCIPLINE
STUDENTS WITH DISABILITIES

FOF
(LEGAL)

STUDENTS WITH
DISABILITIES UNDER
SECTION 504

The District shall conduct an evaluation in accordance with 34 CFR 104.35(b) before taking any action with respect to any significant change in placement of a student with a disability who needs or is believed to need special education and related services. *34 CFR 104.35(a)*

The District may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student with a disability who is currently engaging in the illegal use of drugs or in the use of alcohol to the same extent that the District would take disciplinary action against nondisabled students. The due process procedures afforded under Section 504 do not apply to such disciplinary action. *29 U.S.C. 705(20)(C)(iv)*

Note: The provisions below apply only to students eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA).

SPECIAL EDUCATION
STUDENTS

Except as set forth below, the placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal (ARD) committee. Any disciplinary action regarding the student shall be determined in accordance with federal law and regulations. *Education Code 37.004*

The methods adopted in the Student Code of Conduct [see FO] for discipline management and for preventing and intervening in student discipline problems must provide that a student who is enrolled in the special education program may not be disciplined for bullying, harassment, or making hit lists until an ARD committee meeting has been held to review the conduct. *Education Code 37.001(b-1)*

DAEP PLACEMENT
NOT SOLELY FOR
EDUCATIONAL
PURPOSES

A student with a disability who receives special education services may not be placed in a disciplinary alternative education program (DAEP) solely for educational purposes. A teacher in a DAEP who has a special education assignment must hold an appropriate certificate or permit for that assignment. *Education Code 37.004(c), (d)*

REMOVAL FOR TEN
DAYS OR LESS

School personnel may remove a student with a disability who violates a student code of conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten consecutive school days, to the extent those alternatives are applied to children without disabilities. *20 U.S.C. 1415(k)(1)(B); 34 CFR 300.530(b)(1)*

STUDENT DISCIPLINE
STUDENTS WITH DISABILITIES

FOF
(LEGAL)

SERVICES DURING REMOVAL	The District is required to provide services during the period of removal if the District provides services to a child without disabilities who is similarly removed. <i>34 CFR 300.530(d)(3)</i>
SUBSEQUENT REMOVALS OF TEN DAYS OR LESS	School personnel may remove the student for additional removals of not more than ten consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change in placement (see below). <i>34 CFR 300.530(b)(1)</i>
SERVICES DURING REMOVAL	After a student has been removed from his or her current placement for ten school days in the same school year, during any subsequent removal of ten consecutive school days or less, school personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are needed so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP. <i>20 U.S.C. 1415(k)(1)(D); 34 CFR 300.530(d)(4)</i>
NOTICE OF PROCEDURAL SAFEGUARDS	Not later than the date on which the decision to take the disciplinary action is made, the District shall notify the student's parents of the decision and of all procedural safeguards [see EHBAE]. <i>20 U.S.C. 1415(k)(1)(H)</i>
REMOVALS THAT ARE A CHANGE IN PLACEMENT	Any disciplinary action that would constitute a change in placement may be taken only after the student's ARD committee conducts a manifestation determination review (see MANIFESTATION DETERMINATION, below) <i>Education Code 37.004</i>
'CHANGE IN PLACEMENT'	<p>For purposes of disciplinary removal of a student with a disability, a change in placement occurs if a student is:</p> <ol style="list-style-type: none">1. Removed from the student's current educational placement for more than ten consecutive school days; or2. Subjected to a series of removals that constitute a pattern because:<ol style="list-style-type: none">a. The series of removals total more than ten school days in a school year;b. The student's behavior is substantially similar to the student's behavior in the previous incidents that resulted in the series of removals; andc. Additional factors exist, such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

STUDENT DISCIPLINE
STUDENTS WITH DISABILITIES

FOF
(LEGAL)

The District determines, on a case-by-case basis, whether a pattern of removals constitutes a change in placement. The District's determination is subject to review through due process and judicial proceedings.

34 CFR 300.526

School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a student who violates a code of student conduct.

20 U.S.C. 1415(k)(1)(A)

MANIFESTATION
DETERMINATION

Within ten school days of any decision to change the placement of a student because of a violation of a code of student conduct, the District, parents, and relevant members of the ARD committee (as determined by the parent and the District) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine whether the conduct in question was:

1. Caused by, or had a direct and substantial relationship to, the student's disability; or
2. The direct result of the District's failure to implement the IEP.

If the District, the parent, and relevant members of the ARD committee determine that either of the above is applicable, the conduct shall be determined to be a manifestation of the student's disability.

20 U.S.C. 1415(k)(1)(E); 34 CFR 300.530(e)

NOT A
MANIFESTATION

If the determination is that the student's behavior was not a manifestation of the student's disability, school personnel may apply the relevant disciplinary procedures to the student in the same manner and for the same duration as for students without disabilities. The ARD committee shall determine the interim alternative educational setting. *20 U.S.C. 1415(k)(1)(C), 1415(k)(2); 34 CFR 300.530(c)*

SERVICES
DURING
REMOVAL

The student must:

1. Continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP.
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

STUDENT DISCIPLINE
STUDENTS WITH DISABILITIES

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(LEGAL)

These services may be provided in an interim alternative educational setting.

34 CFR 300.530(d)(1)–(2)

MANIFESTATION

If the District, the parents, and relevant members of the ARD committee determine that the conduct was a manifestation of the student's disability, the ARD committee shall:

1. Conduct a functional behavioral assessment (FBA), unless the District had conducted an FBA before the behavior that resulted in the change in placement occurred, and implement a behavioral intervention plan (BIP) for the student; or
2. If a BIP has already been developed, review the BIP and modify it, as necessary, to address the behavior.

Except as provided at SPECIAL CIRCUMSTANCES, below, the ARD committee shall return the student to the placement from which the student was removed, unless the parent and the District agree to a change in placement as part of the modification of the BIP.

20 U.S.C. 1415(k)(1)(F); 34 CFR 300.530(f)

SPECIAL
CIRCUMSTANCES

School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:

1. Carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of TEA or the District; or
2. Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of TEA or the District;
3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of TEA or the District.

20 U.S.C. 1415(k)(1)(G); 34 CFR 300.530(g)

The ARD committee shall determine the interim alternative education setting. *20 U.S.C. 1415(k)(2)*

SERVICES DURING
REMOVAL

The student must:

1. Continue to receive educational services so as to enable the student to continue to participate in the general education cur-

STUDENT DISCIPLINE
STUDENTS WITH DISABILITIES

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riculum, although in another setting, and to progress toward meeting the goals in the student's IEP.

2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

These services may be provided in an interim alternative educational setting.

34 CFR 300.530(d)(1)

APPEALS

A parent who disagrees with a placement decision or the manifestation determination may request a hearing. A district that believes that maintaining a current placement of a student is substantially likely to result in injury to the student or others may request a hearing. *20 U.S.C. 1615(k)(3)(A); 34 CFR 300.532(a); 19 TAC 89.1151*

PLACEMENT
DURING APPEALS

When an appeal has been requested by a parent or the District, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the student's assignment to the alternative setting, whichever occurs first, unless the parent and District agree otherwise. *20 U.S.C. 1415(k)(4); 34 CFR 300.533*

REPORTING CRIMES

Federal law does not prohibit the District from reporting a crime committed by a student with a disability to appropriate authorities. If the District reports a crime, the District shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom the District reported the crime. The District may transmit records only to the extent permitted by the Family Educational Rights and Privacy Act (FERPA). *20 U.S.C. 1415(k)(6); 34 CFR 300.535 [See FL]*

STUDENTS NOT YET
IDENTIFIED

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated a code of student conduct may assert any of the protections provided for in the IDEA if the District had knowledge that the student had a disability before the behavior that precipitated that disciplinary action occurred. *20 U.S.C. 1415(k)(5)(A); 34 CFR 300.534(a)*

DISTRICT
KNOWLEDGE

The District shall be deemed to have knowledge that a student has a disability if, before the behavior that precipitated the disciplinary action occurred:

1. The parent of the student expressed concern in writing to supervisory or administrative personnel of the District, or to the

STUDENT DISCIPLINE
STUDENTS WITH DISABILITIES

FOF
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teacher of the student, that the student was in need of special education and related services;

2. The parent requested an evaluation of the student for special education and related services; or
3. The student's teacher, or other District personnel, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the special education director or to other supervisory personnel of the District.

20 U.S.C. 1415(k)(5)(B); 34 CFR 300.534(b)

EXCEPTION

The District shall not be deemed to have knowledge that the student had a disability if:

1. The parent has not allowed an evaluation of the student;
2. The parent has refused services; or
3. The student has been evaluated and it was determined that the student did not have a disability.

20 U.S.C. 1415(k)(5)(C); 34 CFR 300.534(c)

If the District does not have knowledge (as described above), before taking disciplinary measures, that a student has a disability, the student may be subjected to the same disciplinary measures applied to students without disabilities who engaged in comparable behaviors.

However, if a request is made for an evaluation during the time period in which the student is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

20 U.S.C. 1415(k)(5)(D); 34 CFR 300.534(d)

BEHAVIOR
MANAGEMENT
TECHNIQUES

It is the policy of the state to treat all students with dignity and respect, including students with disabilities who receive special education services. Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities. *Education Code 37.0021(a); 19 TAC 89.1053(j)*

EXCEPTIONS

Education Code 37.0021 (regarding use of confinement, seclusion, restraint, and time-out) does not apply to:

STUDENT DISCIPLINE
STUDENTS WITH DISABILITIES

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1. A peace officer, while performing law enforcement duties;
2. An educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of the District.

Education Code 37.0021(g); 19 TAC 89.1053(l)

Further, Education Code 37.0021 does not prevent a student's locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:

1. The student possesses a weapon; and
2. The confinement is necessary to prevent the student from causing bodily harm to the student or another person.

For these purposes, "weapon" includes any weapon described under Education Code 37.007(a)(1). [See FNCG]

Education Code 37.0021(f)

CONFINEMENT

A student with a disability who receives special education services may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique. *Education Code 37.0021(a)*

SECLUSION

A District employee or volunteer or an independent contractor of the District may not place a student in seclusion. *Education Code 37.0021(c)*

"Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

1. Is designed solely to seclude a person; and
2. Contains less than 50 square feet of space.

Education Code 37.0021(b)(2)

RESTRAINT

A school employee, volunteer, or independent contractor may use restraint only in an emergency and with the following limitations:

1. Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency.
2. Restraint shall be discontinued at the point at which the emergency no longer exists.
3. Restraint shall be implemented in such a way as to protect the health and safety of the student and others.

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STUDENTS WITH DISABILITIES

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4. Restraint shall not deprive the student of basic human necessities.

19 TAC 89.1053(c)

“Restraint” means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student’s body.

“Emergency” means a situation in which a student’s behavior poses a threat of:

1. Imminent, serious physical harm to the student or others; or
2. Imminent, serious property destruction.

19 TAC 89.1053(b)(1), (b)(2)

TRAINING

Training for school employees, volunteers, or independent contractors regarding the use of restraint shall be provided according to the requirements set forth at 19 TAC 89.1053(d).

DOCUMENTATION

In a case in which restraint is used, school employees, volunteers, or independent contractors shall implement the documentation requirements set forth at 19 TAC 89.1053(e).

TIME-OUT

A school employee, volunteer, or independent contractor may use time-out with the following limitations.

1. Physical force or threat of physical force shall not be used to place a student in time-out.
2. Time-out may only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student’s IEP and/or BIP if it is utilized on a recurrent basis to increase or decrease targeted behavior.
3. Use of time-out shall not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student’s IEP.

19 TAC 89.1053(g)

“Time-out” means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

1. That is not locked; and

STUDENT DISCIPLINE
STUDENTS WITH DISABILITIES

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2. From which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

19 TAC 89.1053(b)(3)

TRAINING

Training for school employees, volunteers, or independent contractors regarding the use of time-out shall be provided according to the requirements set forth at 19 TAC 89.1053(h).

DOCUMENTATION

Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. The ARD committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use.

19 TAC 89.1053(j)

ACCESS TO PROGRAMS, SERVICES, AND ACTIVITIES

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NONDISCRIMINATION	<p>No person shall, on the grounds of race, color, or national origin, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any District program or activity. <i>42 U.S.C. 2000d</i></p> <p>An officer or employee of the District who is acting or purporting to act in an official capacity may not, because of a person's race, religion, color, sex, or national origin:</p> <ol style="list-style-type: none">1. Refuse to permit the person to use facilities open to the public and owned, operated, or managed by or on behalf of the district;2. Refuse to permit the person to participate in a program owned, operated, or managed by or on behalf of the district;3. Refuse to grant a benefit to the person; or4. Impose an unreasonable burden on the person. <p><i>Civil Practices and Remedies Code 106.001(a)</i></p>
INDIVIDUALS WITH DISABILITIES FEDERAL PROHIBITION	<p>No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of the District, or be subjected to discrimination by the District. Nor shall the District exclude or otherwise deny equal services, programs, or activities to an individual because of the known disability of an individual with whom the individual is known to have a relationship or association. <i>42 U.S.C. 12132; 28 CFR 35.130(g)</i></p>
DEFINITION	<p>A "qualified individual with a disability" is an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the District. <i>42 U.S.C. 12131(2); 28 CFR 35.104</i></p>
REASONABLE MODIFICATION	<p>The District shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the District can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. <i>28 CFR 35.130(b)(7)</i></p>
COMMUNICATIONS	<p>The District shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others. To this end, the District shall furnish appropriate auxiliary aids and ser-</p>

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vices where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by the District. In determining what type of auxiliary aid or service is necessary, the District shall give primary consideration to the requests of the individual with disabilities. *28 CFR 35.160*

AUXILIARY
AIDS AND
SERVICES

"Auxiliary aids and services" includes (1) qualified interpreters, notetakers, transcription services, written materials, assistive listening systems, and other effective methods for making aurally delivered materials available to individuals with hearing impairments, (2) qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods for making visually delivered materials available to individuals with visual impairments, (3) acquisition or modification of equipment or devices, and (4) other similar services and actions. *28 CFR 35.104*

LIMITS OF
REQUIRED
MODIFICATION

The District is not required to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. Any decision that compliance with its responsibility to provide effective communication for individuals with disabilities would fundamentally alter the service, program, or activity or unduly burden the District shall be made by the Board after considering all resources available for use in funding and operating the program, service, or activity. The decision shall be accompanied by a written statement of the reasons for reaching that conclusion. *28 CFR 35.164*

NOTICE

The District shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of Title II of the Americans with Disabilities Act (ADA) and its applicability to the services, programs, or activities of the District. The information shall be made available in such manner as the Board and Superintendent find necessary to apprise such persons of the protections against discrimination assured them by the ADA. *28 CFR 35.106*

COMPLIANCE
COORDINATOR

The District shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title II of the ADA, including any investigation of any complaint communicated to it alleging its noncompliance or alleging any actions that would be prohibited under the ADA. The District shall make available to all interested individuals the name, office address, and telephone number of the employee(s) so designated and shall adopt and publish procedures for the prompt and equitable resolution of complaints alleging any action that would be prohibited under the ADA. *28 CFR 35.107* [See DAA and GF]

ACCESS TO PROGRAMS, SERVICES, AND ACTIVITIES

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STATE PROHIBITION NON- DISCRIMINATION	<p>No person with a disability may be denied admittance to any public facility in the state because of the person's disability. No person with a disability may be denied the use of a white cane, assistance animal, wheelchair, crutches, or other device of assistance.</p> <p>The discrimination prohibited by this section includes a refusal to allow a person with a disability to use or be admitted to any public facility, a ruse or subterfuge calculated to prevent or discourage a person with a disability from using or being admitted to a public facility and a failure to:</p> <ol style="list-style-type: none">1. Comply with Government Code Chapter 469;2. Make reasonable accommodations in policies, practices, and procedures; or3. Provide auxiliary aids and services necessary to allow the full use and enjoyment of the public facility.
REGULATIONS	<p>Regulations relating to the use of public facilities by any designated class of persons from the general public may not prohibit the use of particular public facilities by persons with disabilities who, except for their disabilities or use of assistance animals or other devices for assistance in travel, would fall within the designated class.</p> <p><i>Human Resources Code 121.003(c)–(e)</i></p>
RELIGIOUS FREEDOM	<p>The District may not substantially burden a person's free exercise of religion, unless it is acting in furtherance of a compelling governmental interest and has used the least restrictive means of furthering that interest. <i>Civil Practice and Remedies Code 110.003</i> [See also DAA and FB]</p>
SOCIAL SECURITY NUMBERS	<p>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.</p>
EXCEPTIONS	<p>The above provision does not apply to:</p> <ol style="list-style-type: none">1. Any disclosure that is required by federal statute. The United States Internal Revenue Code provides that the Social Security number issued to an individual for purposes of federal income tax laws shall be used as the identifying number for taxpayers;2. Any disclosure to a district maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted before such date to verify the identity of an individual; or

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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.

5 U.S.C. 552a Note; PL 93-579, § 7, 88 Stat. 1896 (1974)

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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*

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 peace officers, 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 the 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. *Gov't Code 552.024*

PEACE OFFICERS /
SECURITY
OFFICERS

District-held information relating to the home address, home telephone number, or social security number of peace officers or security officers commissioned by the Board of Private Investigators and Private Security Agencies, or any information that reveals

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whether the person has family members, is confidential and may not be disclosed if the person chooses to restrict public access to the information and notifies the District on a form provided by the District, accompanied by evidence of the individual's status. *Gov't Code 551.1175*

EVALUATIONS

An evaluation of the performance of a teacher or administrator is confidential. *Education Code 21.355*

EDUCATOR
CERTIFICATION EXAM

The results of an educator certification examination are confidential and are not subject to disclosure, unless:

1. The disclosure is regarding notification to a parent of the assignment of an uncertified teacher to a classroom as required by Education Code 21.057; or
2. The educator has failed the examination more than five times.

Education Code 21.048(c-1)

CREDIT CARD, DEBIT
CARD, CHARGE CARD,
AND ACCESS DEVICE
NUMBERS

A credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for 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

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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)*

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.

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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 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*
4. 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*
5. 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*
6. Drafts and working papers involved in the preparation of proposed legislation. *Gov't Code 552.106*
7. 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 Con-

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duct or information that a court order has prohibited from disclosure. *Gov't Code 552.107*

8. 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

9. 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*
10. A trade secret obtained from a person and privileged or confidential by statute or judicial decision. *Gov't Code 552.110(a)*
11. 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)*
12. 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 deliberate process privilege, incorporated into the exception found at Government Code 552.111, exempts communications related to a governmental agency's policymaking)*
13. 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*
14. 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]*
15. 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:

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- 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

16. 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

17. Test items developed by a state-funded educational institution. *Gov't Code 552.122*
18. 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)*
19. 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

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20. The name of an applicant for Superintendent, except the Board must give public notice of the name or names of the finalists being considered for that position at least 21 days before the date of the meeting at which final action or a vote is to be taken on the applicant's employment. *Gov't Code 552.126* [See BJB]

21. 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

22. An informer's name or information that would substantially reveal the identity of an informer, unless:

- a. The informer or the informer's spouse consents to disclosure of the informer's name.
- 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.

Gov't Code 552.135

23. 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 information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of the District.

Gov't Code 552.027

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24. 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.

25. 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

26. Information that relates to computer network security 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, or a computer program, network, system, 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 is vulnerable to alteration, damage, or erasure.

Gov't Code 552.136

MILITARY DISCHARGE
RECORDS

27. 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 re-

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cord 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

28. 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

29. Certain District investment information, as specified by Government Code 552.143, is not public information and is excepted from disclosure. *Gov't Code 552.143*

COMMUNITY RELATIONS
ADVERTISING AND FUND RAISING IN THE SCHOOLS

GKB
(LEGAL)

OUTDOOR
ADVERTISING

A person commits an offense if the person willfully erects or maintains outdoor advertising, or allows outdoor advertising to be erected or maintained on property owned by the person, in violation of Transportation Code Chapter 391. *Trans. Code 391.031, 391.061*

EXCEPTION

An outdoor advertising sign may include the logo or emblem of an entity if the sign is erected or maintained by a public school in a county with a population of 65,000 or less, the entity sponsors or provides significant funding to the school, and the entity's logo or emblem occupies less than 25 percent of the area of the sign. *Trans. Code 391.037*

DEFINITION

"Outdoor advertising" means an outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or other thing designed, intended, or used to advertise or inform if any part of the advertising or information content is visible from the main-traveled way of the interstate or primary system. *Trans. Code 391.001(10)*

CHARITABLE RAFFLES

A raffle is the awarding of one or more prizes by chance at a single occasion among a pool or group of persons who have paid or promised a thing of value for a ticket that represents a chance to win a prize. *Occupations Code 2002.002(6)*

A "qualified nonprofit organization" for purposes of the Charitable Raffle Enabling Act may conduct raffles in accordance with the Act to benefit the District or school. A parent-teacher organization may be qualified to hold such raffles if it meets the requirements of the Act. *Occupations Code 2002.003, 2002.051; Atty. Gen. Op. JM-1176 (1990)* [See also FJ]

COMMUNITY RELATIONS
SCHOOL VOLUNTEER PROGRAM

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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
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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 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

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*