

Vantage Points

A Board Member's Guide to Update 99

Please note: *Vantage Points* is an executive summary, prepared specifically for board members, of the TASB Localized Update. The topic-by-topic outline and the thumbnail descriptions focus attention on key issues to assist local officials in understanding changes found in the policies. **The description of policy changes in *Vantage Points* is highly summarized and should not substitute for careful attention to the more detailed, district-specific Explanatory Notes and the policies within the localized update packet.**

This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

We welcome your comments or suggestions for improving *Vantage Points*. Please write to us at TASB Policy Service, P.O. Box 400, Austin, TX 78767-0400, e-mail us at policy.service@tasb.org, or call us at 800-580-7529 or 512-467-0222.

For further information about Policy Service, check out our website at <http://policy.tasb.org>.

© 2014 Texas Association of School Boards, Inc. All rights reserved.

Update 99 is the second of two post-legislative updates, focusing primarily on incorporating changes in law from the 83rd Legislative Session that were not included in Update 98 and amendments to the Administrative Code resulting from recent legislation. Based on these changes in law and other recommendations, major topics in the update include accreditation, district legal counsel, safety programs, graduation, credit by examination, state assessment, student discrimination and harassment, and public information.

Accountability

Accreditation

At AIA(LEGAL), House Bill (HB) 5 prompted changes related to performance indicators for accountability related to the new foundation high school program, as well as a provision requiring districts to make Algebra II available to each high school student as a condition of accreditation.

Accreditation Investigations

At AIC(LEGAL), legislative changes prompted revisions to the criteria for the Commissioner to authorize a special accreditation investigation. Senate Bill (SB) 123 added a criterion permitting the Commissioner to authorize an investigation if a complaint alleges inaccurate PEIMS or other data on which TEA bases accountability determinations, while HB 5 added new criteria regarding a disproportionate number of students in a demographic group or an excessive number of students graduating with a particular endorsement under the foundation high school program.

Board Issues

District Legal Counsel

BDD(LOCAL) POLICY CONSIDERATIONS

Recommended changes to this local policy regarding the district's legal counsel were driven by member requests and include adding the board president to the list of individuals who may seek advice or information from the district's attorney, ensuring the board has a point of contact with legal counsel even when the board has not named a specific board designee for this purpose.

Administrative Regulations

BP(LOCAL) POLICY CONSIDERATIONS

To reflect common district practices regarding administrative regulations, recommended revisions to this local policy allow for greater flexibility in maintaining official copies of regulations and clarify that the superintendent or designee, who is responsible for developing and enforcing district procedures, will resolve any discrepancies among conflicting regulations.

**District
Operations**

HBs 97 and 709 amended provisions at CCG(LLEGAL) regarding the individuals eligible to pay taxes on a residence homestead through installment payments. An additional provision from HB 97 allows partial exemption of a residence homestead donated to a disabled veteran by a charitable organization, while a provision from SB 163 exempts the residence homestead of the surviving spouse of a military member killed in action. Existing statutory provisions regarding tax exemptions have also been added, including tax limitations for surviving spouses and other partial exemptions for disabled veterans.

**Salary
Deductions**

CFEA(LOCAL) POLICY CONSIDERATIONS

This local policy addressing salary deductions and reductions is recommended for deletion. Several of the items listed as optional deductions are now included as mandatory deductions in the legally referenced policy at this code and are unnecessary to list in local policy. Other employee requests for deductions can be addressed in administrative regulations.

Safety Programs

CK(LOCAL) POLICY CONSIDERATIONS

Recommended revisions to this local policy addressing safety have been made to simplify the provisions. Rather than include details of the district's safety and risk management programs in board policy, the recommended text gives broad authority to the superintendent to develop comprehensive safety programs to address the safety of students, employees, visitors, and others with whom the district conducts business.

**Free and
Reduced-Price
Food Program**

As reflected at COB(LLEGAL) and effective with the 2014–15 school year, SB 376 requires that, if 80 percent or more of the students on a campus that participates in the national school breakfast program qualify for a free or reduced-priced breakfast, the campus must offer a free breakfast to every student. A district may obtain a one-year waiver for a campus by following the steps required by statute.

**Deferred
Compensation**

A new provision from SB 366 permitting a district to establish a Roth contribution program, if authorized by federal law, has been added at CRG(LLEGAL).

**Other Revenue
and Asset Issues**

At this update, we have also incorporated existing statutory provisions into the policy manual at several new legally referenced policies. CCE(LLEGAL) addresses how a board may establish an athletic stadium authority with an-

other district. CFB(LEGAL) outlines the requirement for a district to maintain inventories of its assets in accordance with the TEA *Financial Accountability System Resource Guide*. And CG(LEGAL) explains the circumstances under which district employees and officers are required to post bond.

Employee Issues

DAC(LOCAL) POLICY CONSIDERATIONS

Personnel Decisions

This local policy, originally required by Civil Order 5281 and addressing objective criteria for personnel decisions, is recommended for deletion from the policy manuals of those districts for which Civil Order 5281 is no longer applicable.

Incentives and Stipends

At DEAA(LEGAL), revisions reflect HB 1751, which repealed the District Awards for Teacher Excellence (DATE) program and created the Educator Excellence Innovation Program (EEIP). New Commissioner's rules on the EEIP address district eligibility, the development of a local educator excellence innovation plan, use of grant funds, and waiver requests for certain statutory requirements.

Assignments

Changes at DK(LEGAL) result from amendments to State Board for Educator Certification (SBEC) rules. Chapter 231 of the Texas Administrative Code has been revised to include the credentials appropriate for various employment assignments. Significant detail regarding emergency permits has also been added to the policy as prompted by amendments to these same rules.

Substitute Positions

At DPB(LEGAL), amendments to SBEC rules clarify that SBEC requirements regarding assignment of certified employees apply to substitute teachers and require the district to keep a list of any uncertified substitute teachers.

Instruction

CPR Instruction

At EHAC(LEGAL), HB 897, effective with the 2014–15 school year, requires the district to provide CPR instruction to each student at least once during grades 7–12. The instruction may be offered as part of any course, and the requirement may be waived for a student with a disability. If CPR certification is desired, certain personnel must conduct the instruction.

Credit by Examination

Amended State Board of Education (SBOE) rules on credit by examination without prior instruction align the rules with changes from HB 2694 and SB 1365. As reflected at EHDC(LEGAL), the rules specify that if a student earns a score of 80 percent or higher on an examination, the student is not required to take an end-of-course (EOC) assessment for the course. District-developed examinations for courses that do not have an EOC assessment must meet validation requirements no later than the 2018–19 school year.

Subject to certain exceptions, the examinations must be administered at least once in each of four testing windows.

EHDC(LOCAL) POLICY CONSIDERATIONS

Because many of the issues previously recommended for inclusion in this local policy regarding credit by examination are now addressed in SBOE rules, we recommend deleting local provisions addressing selection of test dates, requests for alternate examinations or test dates, fees, and award of credit. The broad language now in the first paragraph of the policy requires the district to provide opportunities for credit by examination in accordance with law and SBOE rule using examinations that, as required by law, are approved by the school board.

Graduation Requirements

EIF(LEGAL), addressing graduation, has been extensively revised as a result of legislation and new SBOE rules. HB 5 affected provisions regarding personal graduation plans (PGP), including adding a requirement for staff to review PGP options for all entering ninth grade students and their parents. Once a student and his or her parent have signed a PGP by the end of the student's ninth grade year, the student may change the plan, though the district must notify the student's parent.

EIF(LEGAL) also includes new SBOE rules addressing graduation requirements for students entering grade 9 in the 2014–15 school year under the new foundation high school program, including information on endorsements, permissible substitutions for physical education and fine arts, and performance acknowledgments. Provisions from Commissioner's rules addressing the transition to the foundation high school program, including graduation options available to students who entered grade 9 before the 2014–15 school year, have also been added, while obsolete provisions regarding graduation requirements for students who entered grade 9 before the 2007–08 school year have been deleted.

EIF(LOCAL) POLICY CONSIDERATIONS

Please note: In early March, Policy Service sent the district a brief electronic survey to gather information about the district's decisions regarding the foundation graduation program that must be included in board-adopted policy, such as whether the district will require additional credits for graduation and whether students may substitute certain courses and activities for physical education and fine arts credits. From the survey responses, the district's policy consultant will develop and send a draft of EIF(LOCAL) for board adoption, separate from Update 99.

State Assessments

Revised Commissioner’s rules resulted in numerous changes to EKB(LEGAL) regarding state assessments:

- A student in grade 8 or below who takes a high school course with an applicable EOC assessment shall have the assessment result applied toward the student’s high school assessment graduation requirements.
- Except for certain exceptions, a student must meet satisfactory performance on each required EOC assessment to receive a Texas diploma.
- Other new Commissioner’s rules explain when a student is eligible to use a substitute assessment in place of an EOC assessment required for graduation.
- An EOC assessment cannot be used for the purposes of credit by examination.
- If a student must retake a course that he or she failed but for which the student achieved satisfactory performance on the EOC assessment, the student is not required to retake the assessment.

We have also deleted text on exit-level assessments, as students subject to these graduation testing requirements will graduate in 2014.

Student Issues

Assistance Animals

Changes to FBA(LEGAL) are the result of HB 489, which updated state law provisions regarding assistance animal access to public facilities to better correspond with the federal Americans with Disabilities Act rules regarding service animals. An assistance or service animal is now limited to canines under federal and state law.

Student Safety

FFF(LOCAL) POLICY CONSIDERATIONS

This local policy addressing student safety is recommended for deletion, since student safety is now covered under the broad provisions of CK(LOCAL), as mentioned above.

**Prohibited
Conduct**

FFH(LOCAL) POLICY CONSIDERATIONS

Based on recommendations by the U.S. Department of Education, Office for Civil Rights (OCR), we recommend amendments to this local policy addressing discrimination and harassment to clarify that the Title IX coordinator also handles reports of gender-based harassment and to require that the district notify relevant parties of the outcome of an investigation within the parameters allowed in law.

Other recommended changes explain how the district should proceed with its investigation when a criminal or regulatory investigation is occurring at the same time. During an investigation by a law enforcement or regulatory agency, the district would continue with its investigation only to the extent that it does not impede the agency investigation. Once the agency has finished gathering its evidence, however, the district is obligated to resume its investigation.

**Public
Information**

At GBA(LEGAL), SB 1368 prompted changes to the definition of public information, which now includes information that is written or produced (in addition to collected, assembled, or maintained) under a law or ordinance or in connection with the transaction of official business for the board or by an individual officer or employee of the district acting in his or her official capacity. The definition of public information also now includes electronic communications on any device if the communication is in connection with the transaction of official business. New definitions of “official business” and “in connection with the transaction of official business” and a list of the forms of public information have been added. In the list of information excepted from public disclosure, several revisions have been made, including a provision from HB 1009 that protects the identity of a school marshal from disclosure, while HB 3357 expands the protections for records related to participants in the TRS retirement program.

**More
Information**

For further information on these and other policy changes, refer to the policy-by-policy Explanatory Notes—customized for each district’s policies—and the policies themselves, found in your district’s localized update packet.