

Update 105 contains (LOCAL) policies that require board action before we can incorporate Update 105 into your district's Policy On Line manual.

Please notify Loretta Jeschke of your policy adoption by **faxing this form to 512-467-3618**, by **e-mailing your notification to [pol-support@tasb.org](mailto:pol-support@tasb.org)**, or by **completing the form electronically through Policy On Line Administrator Tools (<https://www.tasb.org/apps/PolicyAdmin>)** using your myTASB login and clicking the "Notify TASB of Policy Adoption" link.

### 061901 Denton ISD

Your Name: \_\_\_\_\_

Your E-mail: \_\_\_\_\_

We will send a confirmation e-mail when your update is placed online.

#### Previous Updates

- I confirm that all updates prior to Update 105 have been adopted. (Visit <https://www.tasb.org/apps/policyUpdates/index.aspx> to see updates pending adoption. Your Local Manual Updates will remain available through myTASB until your district notifies us of adoption.)

**Update 105** Adoption Date: \_\_\_\_\_

Status (please check one):

- Adopted as presented by TASB—place online immediately
- Adopted with further changes, described below\*

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\* If you have changes to the listed policies that you have not already sent to your policy consultant, please attach the policies to this form or e-mail them to your consultant to ensure they are processed as a Local District Update. Your policy consultant, Tammy Jordan, may contact you about these policies, if necessary.

If you have any questions, please contact Loretta Jeschke by phone at 800-580-7529.

# Update 105

## Adoption Notification Form

Policy On Line®

**TASB Policy Service**

**Fax: 512-467-3618**





## Localized Policy Manual

# Update 105

Please remember: Log in to **my.tasb.org** and open *Policy Service Resource Library: Local Manual Updates* to download a PDF of this update packet, annotated copies of the (LOCAL) policies, editable (LOCAL) text, and more.

## Denton ISD

Update 105 includes revisions throughout the policy manual based on the passage of the Every Student Succeeds Act (ESSA), signed into law December 10, 2015, which replaces the previous version of the law—the No Child Left Behind Act (NCLBA)—and reauthorizes the Elementary and Secondary Education Act (ESEA). Update 105 also addresses several recent amendments to the Texas Administrative Code. Major topics affected by the rule changes include disclosures of interested parties to district contracts, integrated pest management, teacher and administrator appraisals, special education, prekindergarten grants, and individual graduation committees. Update 105 also includes several local policy topics, such as parent and family engagement; flag displays; records management; teacher credentials; term contract nonrenewal; reduction in force; comparability of services under Title I, Part A; and admission of homeless students.

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 105 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 105* 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.

Most Update 105 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, Tammy Jordan, at 800-580-7529 or 512-467-0222.

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## Regarding board action on Update 105 . . .

- Board action on Localized Update 105 must occur within a properly posted, open meeting of the board and may be addressed on the agenda posting as “Policy Update 105, affecting (LOCAL) policies (see attached list of codes).” 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 105, affecting (LOCAL) policies” as the agenda item and, as agenda subitems, the code and name of each of the (LOCAL) policies affected by the update.
- A suggested motion for board action on Localized Update 105 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 105 [with the following changes:]”*
- The board’s action on Localized Update 105 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 *Administrator’s Guide to Policy Management* (<https://www.tasb.org/Services/Policy-Service/myTASB/Guidance-for-Policy-Administrators.aspx>) and tutorial videos on handling an update (<https://www.tasb.org/Services/Policy-Service/myTASB/Tutorials.aspx>), available in the myTASB Policy Service Resource Library.

## Regarding manual maintenance and administrative regulations . . .

- **Notify your policy consultant of any changes made by the board so that Policy Service records—forming the basis for subsequent updating recommendations—exactly mirror your manual.**
- The update should be incorporated into each of the district’s Localized Policy Manuals as soon as practicable. You will need to notify us of the board’s action on Update 105 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), by fax (512-467-3618, using the Update 105 Adoption Notification Form enclosed), by e-mail ([pol-support@tasb.org](mailto:pol-support@tasb.org)), or through the Policy On Line Administrator Tools (<https://www.tasb.org/apps/PolicyAdmin>).
- Administrative procedures and documents—including formal (REGULATIONS), handbooks, and guides—that may be affected by Update 105 policy changes should be inspected and revised by the district as needed.

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**PLEASE NOTE:** 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 adviser. Consult with your attorney or professional adviser to apply these principles to specific fact situations.

# Instruction Sheet

## TASB Localized Policy Manual Update 105

District      Denton ISD

<b>Code</b>	<b>Action To Be Taken</b>	<b>Note</b>
ATTN (NOTE)	No policy enclosed	See explanatory note
AIA (LEGAL)	Replace policy	Revised policy
AIB (LEGAL)	Replace policy	Revised policy
AIC (LEGAL)	Replace policy	Revised policy
AID (LEGAL)	Replace policy	Revised policy
BBE (LEGAL)	Replace policy	Revised policy
BDAE (LEGAL)	Replace policy	Revised policy
BJCD (EXHIBIT)	DELETE exhibit	See explanatory note
BJCF (LOCAL)	Replace policy	Revised policy
BQ (LOCAL)	Replace policy	Revised policy
CH (LEGAL)	Replace policy	Revised policy
CLB (LEGAL)	Replace policy	Revised policy
CLB (LOCAL)	Replace policy	Revised policy
CLE (LEGAL)	Replace policy	Revised policy
CLE (LOCAL)	ADD policy	See explanatory note
CNA (LEGAL)	Replace policy	Revised policy
CPC (LEGAL)	Replace policy	Revised policy
CPC (LOCAL)	Replace policy	Revised policy
CQ (LEGAL)	Replace policy	Revised policy
CQA (LEGAL)	Replace policy	Revised policy
D (LEGAL)	Replace policy	Revised policy
DBA (LEGAL)	Replace policy	Revised policy
DBA (LOCAL)	Replace policy	Revised policy
DBAA (LEGAL)	Replace policy	Revised policy
DCC (LEGAL)	Replace policy	Revised policy
DFBB (LOCAL)	Replace policy	Revised policy
DFFA (LOCAL)	Replace policy	Revised policy
DFFB (LOCAL)	Replace policy	Revised policy
DFFC (LOCAL)	Replace policy	Revised policy
DGC (LEGAL)	Replace policy	Revised policy
DI (LEGAL)	Replace policy	Revised policy
DK (LEGAL)	Replace policy	Revised policy

Instruction Sheet  
TASB Localized Policy Manual Update 105

DMA (LEGAL)	Replace policy	Revised policy
DNA (LEGAL)	Replace policy	Revised policy
DNB (LEGAL)	Replace policy	Revised policy
DPB (LEGAL)	Replace policy	Revised policy
EEB (LEGAL)	Replace policy	Revised policy
EHAB (LEGAL)	Replace policy	Revised policy
EHAC (LEGAL)	Replace policy	Revised policy
EHBA (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
EHBD (LEGAL)	Replace policy	Revised policy
EHBD (LOCAL)	Replace policy	Revised policy
EHBE (LEGAL)	Replace policy	Revised policy
EHBG (LEGAL)	Replace policy	Revised policy
EHDD (LEGAL)	Replace policy	Revised policy
EHDE (LEGAL)	Replace policy	Revised policy
EIF (LEGAL)	Replace policy	Revised policy
EKB (LEGAL)	Replace policy	Revised policy
FB (LEGAL)	Replace policy	Revised policy
FD (LEGAL)	Replace policy	Revised policy
FDB (LEGAL)	Replace policy	Revised policy
FDC (LEGAL)	Replace policy	Revised policy
FDC (LOCAL)	Replace policy	Revised policy
FDE (LEGAL)	Replace policy	Revised policy
FFC (LEGAL)	Replace policy	Revised policy
FL (LEGAL)	Replace policy	Revised policy
FNA (LEGAL)	Replace policy	Revised policy
FNCF (LEGAL)	Replace policy	Revised policy
FNCG (LEGAL)	Replace policy	Revised policy
FOC (LEGAL)	Replace policy	Revised policy
FOD (LEGAL)	Replace policy	Revised policy
GBA (LEGAL)	Replace policy	Revised policy

Instruction Sheet  
TASB Localized Policy Manual Update 105

GKC (LEGAL)	Replace policy	Revised policy
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# Explanatory Notes

## TASB Localized Policy Manual Update 105

District: Denton ISD

ATTN (NOTE) GENERAL INFORMATION ABOUT THIS UPDATE

**Please note:** Update 105 includes revisions throughout the policy manual based on the passage of the Every Student Succeeds Act (ESSA), signed into law December 10, 2015, which replaces the previous version of the law—the No Child Left Behind Act (NCLBA)—and reauthorizes the Elementary and Secondary Education Act (ESEA).

AIA (LEGAL) ACCOUNTABILITY  
ACCREDITATION AND PERFORMANCE INDICATORS

Existing detail from the Administrative Code has been added regarding the requirement for a district that has received an accreditation status of accredited-warned, accredited-probation, or not accredited-revoked to post notice of the status in various locations and otherwise communicate the notice. See NOTICE OF STATUS beginning on page 3.

Other changes are to better reflect statute and to add existing statutory detail regarding PERFORMANCE RATINGS.

AIB (LEGAL) ACCOUNTABILITY  
PERFORMANCE REPORTING

Beginning on page 5, new requirements from ESSA regarding the FEDERAL REPORT CARD replace outdated provisions from the NCLBA. ESSA requires a district that receives Title I funding to prepare and disseminate an annual report card—for the district and each school served by the district—that includes information on student state assessment performance and any other information that the district determines is appropriate.

AIC (LEGAL) ACCOUNTABILITY  
INVESTIGATIONS AND SANCTIONS

Amendments to the Administrative Code effective February 29, 2016, address the procedures a BOARD OF MANAGERS will follow when ordering the election of members of the board of trustees and explain the transition to the elected board after the period of appointment for the board of managers. See pages 9–10.

Other changes are to better reflect statute.

AID (LEGAL) ACCOUNTABILITY  
FEDERAL ACCOUNTABILITY STANDARDS

As a result of the new accountability system outlined in ESSA effective with the 2017–18 school year, TASB Policy Service has deleted the outdated NCLBA provisions and noted that during the transition year, districts shall be evaluated in accordance with standards established by TEA and the U.S. Department of Education.

As of the publication of this update, no additional guidance was available for inclusion in this legally referenced policy.

# Explanatory Notes

## TASB Localized Policy Manual Update 105

BBE (LEGAL) BOARD MEMBERS  
AUTHORITY

Citations in the text have been updated at FEDERAL LAW IMMUNITIES, on page 3, based on changes from ESSA.

BDAE (LEGAL) OFFICERS AND OFFICIALS  
DUTIES AND REQUIREMENTS OF DEPOSITORY

As established during the last legislative session, the TEXAS BULLION DEPOSITORY may receive deposits of bullion or specie from or on behalf of a district, and the district may use the bullion depository instead of a depository bank. See pages 3–4.

BJCD (EXHIBIT) SUPERINTENDENT  
EVALUATION

The commissioner rules on administrator appraisals that were cited in this exhibit have been repealed. The new commissioner rules, effective July 1, 2016, are applicable to principal and campus administrator appraisals only; therefore, this exhibit is recommended for deletion.

BJCF (LOCAL) SUPERINTENDENT  
NONRENEWAL

The first paragraph of this policy on superintendent nonrenewal affirms that decisions will not be based on protected employee characteristics. Recommended changes better align the list of protected characteristics with those in legal precedent regarding freedom from discrimination, harassment, and retaliation.

The following changes are recommended to the list of REASONS for nonrenewal to make the list parallel with the nonrenewal reasons in DFBB(LOCAL) (Term Contracts):

- A new item 18, listing behavior that presents a danger of physical harm to a student or other individuals.
- Revisions at item 24 to include the failure to maintain, in addition to failure to fulfill, superintendent certification, unless granted a waiver by the commissioner.
- A new item 26, listing any reason that makes the employment relationship void or voidable, such as a violation of federal, state, or local law.
- Deletion of an item that referred to fulfilling the requirements of a deficiency plan under an emergency or special assignment permit.

In addition, the NOTICE OF PROPOSED NONRENEWAL provision was simplified to refer to the requirements in law, and a provision was added to explain the board procedures if a superintendent does not request a hearing (see NO HEARING).

References to school property have been changed to "district" property throughout.

# Explanatory Notes

## TASB Localized Policy Manual Update 105

### BQ (LOCAL) PLANNING AND DECISION-MAKING PROCESS

ESSA expands on the previous NCLBA requirement regarding parental involvement to require districts to conduct outreach to "family members" of district students as well as to parents. Recommended changes at PARENT AND FAMILY ENGAGEMENT PLAN incorporate this terminology. See also EHBD, below.

The first paragraph of this policy has been recommended for revision to refer to board approval and review of the district's "vision" in addition to the mission and goals, as all three items are considered critical areas of development in the Framework for School Board Development found in the district's policy manual at BBD(EXHIBIT).

Other recommended changes at ADMINISTRATIVE PROCEDURES AND REPORTS are to better align the text with the state law requirement for the board to ensure development of administrative procedures in the areas of planning, budgeting, curriculum, staffing patterns, staff development, and school organization. A sentence has been added to the policy to affirm that the district will involve site-based decision making in development of the procedures, as required by law.

### CH (LEGAL) PURCHASING AND ACQUISITION

New Administrative Code rules from the Texas Ethics Commission effective December 24, 2015, and June 22, 2016, have been added at DISCLOSURE OF INTERESTED PARTIES, beginning on page 3, and include detail on the requirement for a district to obtain a disclosure of interested parties form from a business entity if the contract with the entity requires board action or has a value of at least \$1 million. The rules explain that if the board has delegated to staff the authority to execute the contract and the board does not participate in the selection of the entity, the contract is not considered to require board action. In addition, the rules include definitions of "contract," "controlling interest," "signed," and "value" and clarify the definition of "business entity."

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

Revisions to INTEGRATED PEST MANAGEMENT (IPM) PROGRAM, beginning on page 1, are based on amendments to the Administrative Code effective December 21, 2015. The rules revised the TRAINING requirements for IPM coordinators, deleted from the DUTIES of an IPM coordinator the requirement to conduct facility inspections, and clarified the activities required of a LICENSED APPLICATOR.

Other changes are to better reflect statute and to add existing statutory provisions regarding required NOTICE, on page 4, and provisions on incidental pesticide use application, at INCIDENTAL USE, on page 5.

### CLB (LOCAL) BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT MAINTENANCE

As mentioned above at CLB(LEGAL), state rules on INTEGRATED PEST MANAGEMENT (IPM) PROGRAMS were revised effective December 21, 2015. As a result of the rule changes, there are several recommended changes to this local policy.

- References to the relevant laws were updated and moved to the beginning of the policy where the IPM guidelines are first mentioned.
- A statement has been added that requires the IPM COORDINATOR to provide training to district employees, as necessary, to ensure other staff members understand IPM guidelines.

# Explanatory Notes

## TASB Localized Policy Manual Update 105

- At NO UNAUTHORIZED APPLICATION, a statement has been added to clarify that if the IPM coordinator is a licensed applicator, the coordinator may apply pesticides in accordance with law.

CLE (LEGAL) BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT  
FLAG DISPLAYS

Policy Service has added an existing statutory provision effective with the 2016–17 school year stating that the board shall require the prominent display of the U.S. and Texas flags in classrooms during the pledges of allegiance to the flags. A district is not required to spend federal, state, or local funds to acquire the flags, but may raise money or accept gifts, grants, and donations.

See CLE(LOCAL), below, for policy text to address the board's obligation.

CLE (LOCAL) BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT  
FLAG DISPLAYS

This local policy is recommended for inclusion in the district's policy manual to provide evidence that the board requires the prominent display of the U.S. and Texas flags in classrooms during the pledges of allegiance to the flags, as required by state law. See CLE(LEGAL), above.

CNA (LEGAL) TRANSPORTATION MANAGEMENT  
STUDENT TRANSPORTATION

New ESSA provisions on TRANSPORTATION OF STUDENTS IN FOSTER CARE have been added on page 4. A district receiving Title I, Part A funds must collaborate with the state or local child welfare agency to develop and implement clear written procedures on transportation solutions to allow children in foster care to remain in their school of origin when in the child's best interest. **Please note that these procedures must be developed by December 10, 2016.**

ESSA also made minor revisions to the statutory wording at TRANSPORTATION OF HOMELESS STUDENTS, on pages 3 and 4.

Provisions from the NCLBA on transporting students to a higher performing school were deleted. Other revisions throughout are to better track existing statutory language.

CPC (LEGAL) OFFICE MANAGEMENT  
RECORDS MANAGEMENT

To provide further guidance to districts, considerable detail has been added from existing statute to this legally referenced policy on records management, including:

- DEFINITIONS for "custodian," "essential record," "permanent record," "records control schedule," "records management," "records management officer," "records retention schedule," and "retention period";
- The board's duty to establish a RECORDS MANAGEMENT PROGRAM that enables the board, custodians, and the records management officer (RMO) to fulfill statutory responsibilities for records management and preservation;
- The RMO's duty to prepare and file with the Texas State Library and Archives Commission (TSLAC) a RECORDS CONTROL SCHEDULE that includes a retention period for each record;
- TSLAC's acceptance or rejection of the schedule and other required documents at TSLAC REVIEW;



# Explanatory Notes

## TASB Localized Policy Manual Update 105

### CQ (LEGAL) TECHNOLOGY RESOURCES

Material from the recently passed CYBERSECURITY INFORMATION SHARING ACT has been added, beginning on page 10. Effective December 18, 2015, the Act is intended to improve cybersecurity in the United States through enhanced sharing of information about cybersecurity threats. Under the Act, a district may, for a cybersecurity purpose, share with or receive from a non-federal entity or the federal government a cyber threat indicator or defensive measure. The Act does not create a duty to share information.

In addition, we have:

- Based on ESSA, updated citations at CHILDREN'S INTERNET PROTECTION ACT (page 1) and ESEA FUNDING (page 3);
- Added existing statutory definitions related to the Stored Wire and Electronic Communications and Transactional Records Access Act (pages 8–10) and updated the cited case law to provide further guidance on the term "electronic storage" (page 9); and
- Revised provisions throughout to better track existing statutory language.

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

Several REQUIRED INTERNET POSTINGS have been added to this legally referenced policy.

- Item 1 references the requirement for a district that has received an accreditation status of accredited-warned, accredited-probation, or not accredited-revoked to post notice of the status on the district's home page with a link to the notification.
- Item 2 references the board's duty to post the district's Texas Academic Performance Report on the district's website.
- Item 4 references a district's obligation to post, by August 8 of each year, the community engagement ratings and compliance statuses for the district and each campus.
- Item 5 references the ESSA requirement for a district to post its annual federal report card.
- Item 22 references the requirement for a district to post information from TEA explaining the advantages of the distinguished level of achievement and each endorsement.
- Item 24 references the new ESSA requirement for a district that receives Title I, Part A funds to post on the district and each campus website information on state assessments and district-wide assessments.

### D (LEGAL) PERSONNEL

To align with new commissioner rules on appraisal of principals and campus administrators, Policy Service has revised the subtitle of DNB to Evaluation of Campus Administrators.

# Explanatory Notes

## TASB Localized Policy Manual Update 105

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

ESSA deleted the federal requirement for teachers and paraprofessionals to be "highly qualified," prompting Policy Service to remove those provisions and make other conforming adjustments to this legally referenced policy on credentials and records. ESSA requires a school that receives Title I funds to provide a parent notice when the parent's child has been assigned or taught for four or more consecutive weeks by a teacher who does not meet state certification or licensure requirements for the grade level and subject area in which the teacher has been assigned. See **FEDERALLY REQUIRED NOTICE WHEN TEACHER LACKS CREDENTIALS** on page 1.

State parental notice provisions regarding inappropriately certified or uncertified teachers have been moved here without revision from **DK(LEGAL)**. See **STATE-REQUIRED NOTICE WHEN TEACHER LACKS CREDENTIALS**, beginning on page 1.

New provisions from ESSA at **FEDERAL REQUIREMENTS FOR TEACHERS AND PARAPROFES- SIONALS**, on page 4, include the requirement for teachers and paraprofessionals working in Title I, Part A programs to meet applicable state certification and licensure requirements. The **FEDERAL REQUIRE- MENTS FOR SPECIAL EDUCATION TEACHERS** under ESSA require state certification as a special ed- ucation teacher, with no waiver of requirements, and a bachelor's degree.

At **FORMER EMPLOYEES**, on page 7, a revision from amended Administrative Code rules effective Jan- uary 7, 2016, allows a scanned version of an original service record to be considered official if one em- ploying district sends it directly to another employing district.

### DBA (LOCAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS CREDENTIALS AND RECORDS

As mentioned above at **DBA(LEGAL)**, ESSA deleted the federal requirement for teachers and paraprofessionals to be "highly qualified." As a result, we recommend deletion of the text on parent noti- fication where a regular teacher is not "highly qualified." Provisions excepting notification when a highly qualified home campus teacher of a secondary student assigned to DAEP was the teacher of record have also been deleted from the policy, as these provisions were based on TEA's interpretation of the former federal "highly qualified" requirements.

**Please note:** State law requires a district to notify a parent if his or her child is in a classroom for which the district has assigned an inappropriately certified or uncertified teacher for more than 30 consecutive instructional days during the school year. See **DBA(LEGAL)** for this and federally required notice provi- sions.

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

Existing statutory provisions on the criminal penalties for **UNAUTHORIZED DISCLOSURE OF CHRI** (criminal history record information) have been added on page 5.

# Explanatory Notes

## TASB Localized Policy Manual Update 105

### DCC (LEGAL) EMPLOYMENT PRACTICES CONTINUING CONTRACTS

At the district's policy review session, it was determined that your district no longer issues continuing contracts. We have therefore removed from this legally referenced policy several provisions that would only be applicable if your district issued continuing contracts. The text that has been retained, now at APPLICABILITY, would cover any individuals who are currently employed under a continuing contract.

### DFBB (LOCAL) TERM CONTRACTS NONRENEWAL

The first paragraph of this policy on nonrenewal affirms that decisions will not be based on protected employee characteristics. Recommended changes better align the list of protected characteristics with legal precedent regarding freedom from discrimination, harassment, and retaliation.

Several of the nonrenewal REASONS are recommended for revision.

- Based on the deletion by ESSA of federal "highly qualified" requirements, item 30 has been revised to refer to the failure to maintain licensing and certification requirements for the employee's assignment, including completion of continuing education requirements.
- Item 29 was adjusted to refer to the failure to fulfill requirements for state licensure or certification, including passing certification or licensing exams.
- HB 1842 from the 84th Legislative Session deleted state law that permitted a campus intervention team to make decisions about staff retention at a reconstituted campus and that prohibited, in most instances, the retention of the principal and educators at a repurposed campus. Following the changes in law, TEA instructed campuses that were previously identified for improvement to develop turnaround plans in accordance with HB 1842. As a result, we recommend deletion of references to the previous laws and have updated item 11 to address when an employee is not retained at a campus in accordance with the provisions of a campus turnaround plan.
- Item 31 has been updated to delete the reference to special assignment permits, which are no longer issued, and to refer more broadly to the failure to complete certification or permit renewal requirements.

A clarification at HEARING PROCEDURES explains that a record of the hearing shall be made so that a certified transcript can be prepared, if required.

### DFFA (LOCAL) REDUCTION IN FORCE FINANCIAL EXIGENCY

Based on the deletion by ESSA of federal "highly qualified" requirements, we recommend deletion of this term as an item to be considered under Qualifications for Current or Projected Assignment at CRITERIA FOR DECISION.

### DFFB (LOCAL) REDUCTION IN FORCE PROGRAM CHANGE

Based on the deletion by ESSA of federal "highly qualified" requirements, we recommend deletion of this term as an item to be considered under Qualifications for Current or Projected Assignment at CRITERIA FOR DECISION.



# Explanatory Notes

## TASB Localized Policy Manual Update 105

DFFC (LOCAL) REDUCTION IN FORCE  
CONTINUING CONTRACTS

Based on the deletion by ESSA of federal "highly qualified" requirements, we recommend deletion of this term as an item to be considered under Qualifications for Current or Projected Assignment at CRITERIA FOR DECISION.

DGC (LEGAL) EMPLOYEE RIGHTS AND PRIVILEGES  
IMMUNITY

Citations in the text have been updated at TEACHERS (COVERDELL ACT) based on changes from ESSA.

DI (LEGAL) EMPLOYEE WELFARE

Changes to this legally referenced policy are to add detail regarding labeling and relabeling of hazardous chemical containers and to better reflect statute.

DK (LEGAL) ASSIGNMENT AND SCHEDULES

As mentioned above at DBA(LEGAL), ESSA deleted the federal requirement for teachers and paraprofessionals to be "highly qualified." As a result of that change, Policy Service has deleted the Note referencing highly qualified notice.

In addition, the details on state parental notice requirements regarding inappropriately certified or uncertified teachers have been moved without revision to DBA(LEGAL). [See STATE-REQUIRED NOTICE WHEN TEACHER LACKS CREDENTIALS at that code.]

DMA (LEGAL) PROFESSIONAL DEVELOPMENT  
REQUIRED STAFF DEVELOPMENT

Details on the required SUICIDE PREVENTION staff development training have been added based on new Administrative Code rules effective April 17, 2016. Districts must provide the training to new educators during new employee orientation and to currently employed educators by September 30, 2016. Certain training provided to educators after September 1, 2013, may satisfy the requirements for current educators.

The requirement for a district that receives Title I funds to have a strategy to address professional development was deleted by ESSA and has been deleted from this legally referenced policy.

Amendments to the Administrative Code effective December 27, 2015, are reflected at TEXAS ADOLESCENT LITERACY ACADEMIES, beginning on page 4. A teacher who is required to attend an adolescent literacy academy based on campus performance ratings must complete the training by December 31 of the calendar year in which the campus received the unacceptable performance rating. The district must maintain records of attendance in accordance with the district's record retention policy.

# Explanatory Notes

## TASB Localized Policy Manual Update 105

### DNA (LEGAL) PERFORMANCE APPRAISAL EVALUATION OF TEACHERS

New commissioner rules on teacher appraisal, effective July 1, 2016, have been added to this legally referenced policy. The rules include implementation details on the Texas Teacher Evaluation and Support System (T-TESS), including requirements for teacher ORIENTATION AND ANNUAL REVIEW and certification of APPRAISERS, and a description of the specific elements of the APPRAISAL PROCESS. A teacher may submit a written response or rebuttal within ten working days of receiving a written observation summary, a written summative annual appraisal report, or any other written documentation regarding an appraisal. See TEACHER RESPONSE AND REBUTTAL on page 11. A teacher may make a REQUEST FOR A SECOND APPRAISAL at specific points in the process. Additional information on T-TESS may be found on TEA's website at: <https://teachfortexas.org>.

As with the former state-recommended appraisal system, the Professional Development and Appraisal System (PDAS), and prior law on locally developed appraisal systems, teachers who meet certain eligibility criteria and who agree in writing may be appraised less than annually. See LESS-THAN-ANNUAL, beginning on page 5.

**Please note:** TASB Policy Service released a survey in April 2016 to help districts update their local policy on teacher appraisal. If your district has not yet completed the survey, please contact your policy consultant.

### DNB (LEGAL) PERFORMANCE APPRAISAL EVALUATION OF CAMPUS ADMINISTRATORS

New commissioner rules on appraisal of principals and other campus administrators, effective July 1, 2016, have been added to this legally referenced policy. The rules include implementation details on the TEXAS PRINCIPAL EVALUATION AND SUPPORT SYSTEM (T-PESS), including specific APPRAISAL PROCEDURES such as development of a CALENDAR, creation of an APPRAISAL REPORT, consideration of ADDITIONAL DOCUMENTATION, APPRAISER QUALIFICATIONS, and ORIENTATION.

Additional information on T-PESS may be found on TEA's website at: [http://tea.texas.gov/Texas\\_Educators/Educator\\_Evaluation\\_and\\_Support\\_System/Texas\\_Principal\\_Evaluation\\_and\\_Support\\_System/](http://tea.texas.gov/Texas_Educators/Educator_Evaluation_and_Support_System/Texas_Principal_Evaluation_and_Support_System/).

Districts still have the option of developing a local principal appraisal process in accordance with law. See ALTERNATIVES TO T-PESS on page 5.

For the APPRAISAL OF CAMPUS ADMINISTRATORS OTHER THAN PRINCIPALS, the rules permit use of a modified version of the T-PESS or a locally developed system in accordance with law.

**Please note:** TASB Policy Service released a survey in April 2016 to help districts update their local policy on appraisal of principals and other campus administrators. If your district has not yet completed the survey, please contact your policy consultant.

### DPB (LEGAL) PERSONNEL POSITIONS SUBSTITUTE, TEMPORARY, AND PART-TIME POSITIONS

ESSA deleted the federal requirement for teachers and paraprofessionals to be "highly qualified," prompting Policy Service to remove from this legally referenced policy the text that referred to parental notice regarding highly qualified status previously required by law.

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EEB (LEGAL) INSTRUCTIONAL ARRANGEMENTS  
CLASS SIZE

The state class-size limits for kindergarten through grade 4 do not apply in any 12-week period during which the district's ADA has been adjusted due to a significant percentage of migratory children. New and revised definitions from ESSA provide guidance on whether a student is considered a "migratory child" based on a "qualifying move" and whether the student or student's parent is a "migratory agricultural worker" or a "migratory fisher."

EHAB (LEGAL) BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (ELEMENTARY)

As reflected at GRADE 6 FINE ARTS, SBOE rules were amended effective August 24, 2015, to clarify expectations for fine arts requirements for grade 6 classrooms on elementary campuses. A district that has a self-contained grade 6 class at an elementary school must provide instruction to the sixth-grade students in all of the Middle School 1 TEKS for art, dance, music, and theatre.

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

SBOE rules were amended effective August 24, 2015, to align the secondary instruction requirements for middle school students with changes to the TEKS for fine arts and to comply with state law requiring students enrolled in GRADES 6–8 to complete at least one fine arts course during those grade levels. Reflected on page 2, the FINE ARTS REQUIREMENT as clarified by the rules requires a district to offer and maintain evidence that students have the opportunity to take courses in at least three of the four fine arts disciplines. Upon approval of the commissioner, a district is only required to offer an opportunity for a student to take courses in two of the fine arts disciplines.

EHBA (LEGAL) SPECIAL PROGRAMS  
SPECIAL EDUCATION

An existing provision on district TRANSPORTATION obligations when a parent enrolls a student receiving special education services in a private school has been moved to EHBAC(LEGAL).

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

Amended commissioner rules effective December 2, 2015, have been added to this legally referenced policy on admission, review, and dismissal (ARD) committees and individualized education programs (IEPs). If a parent is unable to speak English, WRITTEN NOTICE of any ARD committee meetings or the district's refusal to schedule an ARD committee meeting requested by a parent must be provided in the parent's native language, unless it is clearly not feasible to do so, or must be provided orally if the parent's native language is not written. See page 4.

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Likewise, the rules explain the requirement for a district to provide a student's IEP in the parent's native language. See TRANSLATION OF IEP INTO NATIVE LANGUAGE, beginning on page 7. A written translation must accurately translate all the text and be a complete and comparable rendition. A translated audio recording must also be a complete translation, and a district may provide a recording of the meeting at which the parent was assisted by an interpreter to satisfy this requirement. Oral translations are required if the parent's native language is not written.

A district must give a parent a written copy of the student's IEP, translated as required by law, at no cost to the parent.

EHBAC (LEGAL) SPECIAL EDUCATION  
STUDENTS IN NONDISTRICT PLACEMENT

An existing provision on district TRANSPORTATION obligations when a parent enrolls a student receiving special education services in a private school has been moved to this code from EHBA(LEGAL).

EHBAD (LEGAL) SPECIAL EDUCATION  
TRANSITION SERVICES

Citations in the text at GRADUATION, on page 2, have been updated based on changes to the Administrative Code effective September 16, 2015.

EHBAE (LEGAL) SPECIAL EDUCATION  
PROCEDURAL REQUIREMENTS

As clarified by amended commissioner rules effective December 2, 2015, when a district provides prior written notice to a parent of a proposal to initiate or change or a refusal to initiate or change the identification, evaluation, or educational placement of a child or the provision of a free and appropriate public education (FAPE), the notice must be in the parent's native language or other mode of communication. See PRIOR NOTICE AND CONSENT on page 3.

EHBD (LEGAL) SPECIAL PROGRAMS  
FEDERAL TITLE I

At PARENT AND FAMILY ENGAGEMENT PLAN, ESSA expands on the previous NCLBA requirement regarding parental involvement to require districts to conduct outreach to "family members" of district students as well as parents. Districts must implement programs, activities, and procedures for the involvement of parents and family members in order to receive funds under Title I, Part A. ESSA adds new provisions regarding engaging families, including involving parents in the activities of the schools served under Title I, Part A, which may include establishing a parent advisory board to adequately represent served families for the purpose of developing, revising, and reviewing the parent and family engagement policy, which will be incorporated into the district plan. [See BQ(LOCAL) for additional guidance regarding parent and family engagement plans.]

ESSA maintains the NCLBA requirement that educational services and other benefits for students in PRIVATE SCHOOLS be equitable in comparison to services and other benefits for public school children participating under Part A, but adds several new required services: instructional services, counseling, mentoring, and one-on-one tutoring.

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EHBD (LOCAL) SPECIAL PROGRAMS  
FEDERAL TITLE I

ESSA maintains the previous NCLBA comparability of services requirement under which a district that receives Title I, Part A funds must ensure that each campus receives comparable state and local resources, regardless of whether any specific campus receives Title I, Part A funds. TEA's *Title I, Part A Comparability of Services Guidance Handbook* requires all districts that receive Title I, Part A funds to have a district salary schedule and written policy ensuring comparable services among campuses. New text is recommended for inclusion in this policy to satisfy the policy requirement, and it requires the district to provide written assurance to TEA regarding the listed areas of service.

For ease of reference, the language at COMPARABILITY OF SERVICES describing the different methods available to the district for documenting compliance has been updated to align with terminology in TEA's *Handbook*.

The *Handbook* may be accessed on TEA's website under [Title I, Part A Comparability of Services Guidance Handbook](#).

EHBE (LEGAL) SPECIAL PROGRAMS  
BILINGUAL EDUCATION/ESL

ESSA has replaced the term "Limited English Proficient" with "English Learner," as reflected at TITLE III REQUIREMENTS on page 1. Please note that state law continues to use a variety of terms, including "student of limited English proficiency" and "English language learner."

EHBG (LEGAL) SPECIAL PROGRAMS  
PREKINDERGARTEN

New commissioner rules effective April 6, 2016, have been added at HIGH-QUALITY PREKINDERGARTEN GRANT PROGRAM, beginning on page 3. The rules explain ELIGIBILITY FOR FUNDING, define which students are QUALIFYING STUDENTS, include details on CURRICULUM REQUIREMENTS and TEACHER REQUIREMENTS, and describe the required FAMILY ENGAGEMENT PLAN.

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

Revised Higher Education Coordinating Board rules on dual credit, effective August 7, 2015, have been added beginning on page 3. At STUDENT ELIGIBILITY, we have added a reference to the relevant Administrative Code provision that includes the detailed requirements.

EHDE (LEGAL) ALTERNATIVE METHODS FOR EARNING CREDIT  
DISTANCE LEARNING

A citation in the text at OLS ELIGIBILITY has been updated based on the renumbering of the referenced statutory provision effective August 6, 2015.

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### EIF (LEGAL) ACADEMIC ACHIEVEMENT GRADUATION

New commissioner rules effective April 19, 2016, provide additional details regarding the INDIVIDUAL GRADUATION COMMITTEE (IGC) process. An IGC must convene on or before June 10 and must make a decision to award a diploma no later than August 31 for the student to be considered as a graduate for that school year. If the IGC makes a decision after August 31, the student will be reported in the subsequent year. The rules also establish a procedure for a principal to identify alternate members of the IGC when a required teacher or parent is unavailable to serve. On page 4, PEIMS REPORTING and DOCUMENTATION requirements are also addressed. The IGC process does not apply to a student receiving SPECIAL EDUCATION services.

Existing statutory provisions regarding publication of TEA information on the distinguished level of achievement and endorsements have been added at HIGH SCHOOL PGP on pages 6 and 7.

### EKB (LEGAL) TESTING PROGRAMS STATE ASSESSMENT

An existing statutory provision requiring a district that receives Title I, Part A funds to provide parents information on their child's performance on state assessments has been moved without revision from DBA(LEGAL) to this legally referenced policy. See PARENTS RIGHT-TO-KNOW UNDER ESEA on page 12.

In addition, citations have been updated based on ESSA and a table of contents added for ease of reference.

### FB (LEGAL) EQUAL EDUCATIONAL OPPORTUNITY

ESSA made minor changes to the existing requirement for districts to designate a LIAISON for homeless children. ESSA specifies that the liaison must be able to carry out the required duties of the position. ESSA also requires a district to provide additional notification regarding the duties of the liaison. A district must now inform homeless children and parents and guardians of homeless children of the liaison's duties in addition to informing school personnel, service providers, and advocates. See page 6.

### FD (LEGAL) ADMISSIONS

Revisions to this legally referenced policy are to address wording changes from ESSA to the definition of HOMELESS STUDENTS and to include other relevant federal provisions defining homeless persons referred to in state law.

Other changes are to better reflect statute.

# Explanatory Notes

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FDB (LEGAL) ADMISSIONS  
INTRADISTRICT TRANSFERS AND CLASSROOM AS-  
SIGNMENTS

ESSA revised the transfer provisions applicable to STUDENTS IN SCHOOLS IDENTIFIED FOR SUPPORT AND IMPROVEMENT. See pages 4–5. Previously a district was required to provide a student in an identified school an opportunity to transfer to another public school served by the district; under ESSA, a district may provide these students an opportunity to transfer. A district may pay for transportation of these students with Title I basic program allocations.

Other changes are to better reflect statute.

FDC (LEGAL) ADMISSIONS  
HOMELESS STUDENTS

This legally referenced policy on homeless students has been revised significantly based on changes from ESSA.

We have moved to the beginning of the policy the existing requirement for a district to make school placement and enrollment decisions for HOMELESS CHILDREN in accordance with the child's best interest, added an existing definition of "UNACCOMPANIED YOUTH," and incorporated a change from ESSA to explain that the "SCHOOL OF ORIGIN" includes the receiving school at the next grade level for a feeder school.

Other revisions from ESSA at SCHOOL STABILITY provide guidance on how a district determines a child's "best interest" for placement and enrollment decisions. A district must presume that keeping the student in his or her school of origin is in the student's best interest, except when doing so is contrary to the request of the parent, guardian, or unaccompanied youth. A district shall also consider the impact of moving schools on achievement, education, health, and safety. If the district determines that it is not in the child's best interest to attend the school of origin or the requested school, the district must provide a written explanation in a form that is understandable to the parent or student, including information regarding the dispute resolution process.

Existing provisions at SCHOOL PLACEMENT, on page 3, have been updated to better match statutory wording and reflect that TEA must affirm that districts will adopt policies and practices to ensure that homeless children are not stigmatized or segregated. See FDC(LOCAL) below for text to satisfy this policy requirement.

Existing provisions regarding RECORDS, updated with minor changes from ESSA, have been added to the policy, also on page 3.

Two new ESSA provisions have been added. At PRIVACY, the text clarifies that a district must treat information about the living situation of a homeless child as a student education record; a district cannot designate the information as directory information under FERPA. Regarding HOMELESS CHILDREN WITH DISABILITIES, on page 4, a district must coordinate homeless services with other special education services provided by the district or other districts.

**Please note:** The TASB *Regulations Resource Manual*, available on myTASB, includes an FAQ for district staff with information regarding dispute resolution procedures, including state timeline expectations for processing a dispute, and a sample dispute resolution form for use by a parent, guardian, or unaccompanied youth who disagrees with the district's eligibility, school selection, or enrollment decision. TASB developed these materials in collaboration with TEA, Education Service Center (ESC) Region 10, and the Texas Homeless Education Office (THEO). See FDC(EXHIBIT).

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### FDC (LOCAL) ADMISSIONS HOMELESS STUDENTS

As described at FDC and FFC(LEGAL), ESSA made several changes to the McKinney-Vento Homeless Assistance Act. Recommended revisions to this local policy incorporate those changes.

Text at LIAISON FOR HOMELESS STUDENTS addresses the new requirement for a district to adopt policies and practices to ensure that the liaison participates in professional development activities. In addition to requiring the liaison to receive professional development, the local policy text requires the liaison to provide appropriate staff members with relevant professional development and to review with campus admissions personnel the laws and procedures applicable to homeless students. These statements address new duties for the liaison added by ESSA. See FFC(LEGAL), below.

To satisfy the requirement to adopt policies and practices to ensure that homeless children and youths are not stigmatized or segregated, a statement has been added to that effect at ADMISSIONS. See FDC(LEGAL), above. Recommended text also clarifies that campus admissions staff must notify the liaison regarding the admission of a homeless student.

Text at ENROLLMENT IN SCHOOL OF ORIGIN has been updated to reflect the presumption that keeping the student in his or her school of origin is in the student's best interest, except when doing so is contrary to the request of the parent, guardian, or unaccompanied youth, and to update the factors that the district considers in making this decision.

Revisions at DISPUTE RESOLUTION PROCESS include the requirement for the district to provide notices regarding enrollment in writing and in a form that is understandable to the parent or student. These notices must include information on the right to appeal. A new sentence reflecting recommended best practice from TEA requires the district to expedite local timelines in the district's complaint process, when possible, for prompt dispute resolution.

**Please note:** Further details on the dispute resolution procedures are included in FDC(EXHIBIT) in the *TASB Regulations Resource Manual*, available on myTASB. The materials include an FAQ for district staff with information regarding dispute resolution procedures, including state timeline expectations for processing a dispute, and a sample dispute resolution form for use by a parent, guardian, or unaccompanied youth who disagrees with the district's eligibility, school selection, or enrollment decision. TASB developed these materials in collaboration with TEA, ESC Region 10, and THEO.

### FDE (LEGAL) ADMISSIONS SCHOOL SAFETY TRANSFERS

Citations to the NCLBA have been deleted and provisions have been revised throughout to better track existing statutory language.

### FFC (LEGAL) STUDENT WELFARE STUDENT SUPPORT SERVICES

ESSA imposes additional responsibilities regarding the LIAISON FOR HOMELESS STUDENTS. In appointing a liaison, the district must designate someone who can carry out the duties required by law. A district must also adopt policies and practices to ensure that the liaison participates in professional development and other activities. See FDC(LOCAL), above, for local policy text to satisfy this policy requirement.

New DUTIES require the liaison to ensure that:



# Explanatory Notes

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- The notice of educational rights of homeless children is disseminated in locations frequented by parents and guardians of homeless children and unaccompanied youths and is in a form understandable to them;
- Other district staff who provide services under the McKinney-Vento Act receive professional development and other support; and
- Unaccompanied youth are enrolled in school, have the same academic opportunities as other students, and are informed of assistance they can receive regarding application for federal student financial aid.

A liaison may affirm that a homeless child or the child's family meets the U.S. Department of Housing and Urban Development homeless eligibility standard for purposes of qualifying for the department's programs. See DETERMINATION OF HOMELESS STATUS on page 2.

Changes at NOTICE require districts to inform homeless children and parents and guardians of homeless children of the duties of the homeless liaison.

Regarding children in the conservatorship of the state, ESSA requires a district receiving Title I, Part A funds to designate a district contact to collaborate with the local child welfare agency if the agency designates a contact to work with the district. See CHILD WELFARE CONTACT on page 3.

**Please note:** The TASB *Regulations Resource Manual*, available on myTASB, includes an FAQ for district staff with information regarding dispute resolution procedures, including state timeline expectations for processing a dispute, and a sample dispute resolution form for use by a parent, guardian, or unaccompanied youth who disagrees with the district's eligibility, school selection, or enrollment decision. TASB developed these materials in collaboration with TEA, ESC Region 10, and THEO. See FDC(EXHIBIT).

### FL (LEGAL) STUDENT RECORDS

A new provision from ESSA has been added on page 18 and clarifies that a district must treat information about the living situation of a HOMELESS STUDENT as a student education record; a district cannot designate the information as directory information.

Another change from ESSA appears at CONSENT TO RELEASE, beginning on page 20. The change explains that an 18-year-old student or the student's parent may submit a written request that the district not release the student's name, address, and telephone listing to military recruiters or institutions of higher education without prior written consent. A district may withhold access to the contact information based on the written consent request process, but may not implement an opt-in procedure.

### FNA (LEGAL) STUDENT RIGHTS AND RESPONSIBILITIES STUDENT EXPRESSION

At FEDERAL FUNDS, a citation to the NCLBA has been deleted and the text revised to better track existing statutory language.

### FNCF (LEGAL) STUDENT CONDUCT ALCOHOL AND DRUG USE

An outdated provision from the NCLBA addressing programs and activities funded under the federal Safe and Drug-Free Schools and Communities Act has been deleted. Other changes are to better track existing statutory language.

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### FNCG (LEGAL) STUDENT CONDUCT WEAPONS

At FEDERAL FIREARMS PROVISION, we have added two existing statutory provisions from the Gun-Free Schools Act:

- A definition of "SCHOOL," which includes any setting that is under the control and supervision of a district for the purpose of district student activities; and
- The EXCEPTION for a firearm that is lawfully stored inside a locked vehicle on school property or used as part of a district activity for which the district has adopted appropriate safeguards to ensure student safety.

Citations have been updated based on ESSA.

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

A student younger than six years of age who has been expelled to a DAEP under the Gun-Free Schools Act must be provided educational services in the DAEP. This has been clarified at STUDENTS YOUNGER THAN SIX on page 4.

A revision at TERM OF REMOVAL, on page 5, explains that a period of DAEP placement may not exceed one year unless the district determines that the student is a threat to the safety of other students or to district employees. Previously the law also allowed an extended placement if it was in the best interest of the student, but that criterion was removed from statute.

Other changes are to better reflect statute.

### FOD (LEGAL) STUDENT DISCIPLINE EXPULSION

At FEDERAL FIREARMS OFFENSE, beginning on page 2, we have made the following revisions to the provisions on the Gun-Free Schools Act:

- Revisions to the text to better match statutory wording;
- Updated citations based on ESSA; and
- The addition of a definition of "SCHOOL," which includes any setting that is under the control and supervision of a district for the purpose of district student activities.

### GBA (LEGAL) PUBLIC INFORMATION PROGRAM ACCESS TO PUBLIC INFORMATION

Material from the recently passed Cybersecurity Information Sharing Act has been added on page 11. Effective December 18, 2015, the Act is intended to improve cybersecurity in the United States through enhanced sharing of information about cybersecurity threats. If for purposes of cybersecurity a district shares or receives a cyber threat indicator or defensive measure, the information is exempt from disclosure.

See also CQ(LEGAL), above.

Explanatory Notes  
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GKC            (LEGAL)            COMMUNITY RELATIONS  
   VISITORS TO THE SCHOOLS

Minor, nonsubstantive revisions at MILITARY RECRUITERS' ACCESS TO STUDENTS are based on ESSA.



ACCREDITATION	<p>Each district must be accredited by TEA. A district that is not accredited may not receive funds from TEA or hold itself out as operating a public school of this state. <i>Education Code 11.001, 39.052(f)</i></p> <p>As a condition of accreditation, the State Board of Education (SBOE) shall require each district to provide instruction in the essential knowledge and skills at appropriate grade levels and to make available to each high school student in the district an Algebra II course. <i>Education Code 28.002(c)</i></p>
STATUSES	<p>The commissioner of education shall determine criteria for the following accreditation statuses:</p> <ol style="list-style-type: none"><li>1. Accredited</li><li>2. Accredited-warned</li><li>3. Accredited-probation</li></ol> <p><i>Education Code 39.051</i></p>
CRITERIA	<p>In determining the accreditation status of a district, the commissioner shall evaluate and consider performance on student achievement indicators [see STUDENT ACHIEVEMENT INDICATORS, below] and under the financial accountability rating system developed under Education Code, Chapter 39, Subchapter D [see CFA].</p> <p>The commissioner may also evaluate and consider:</p> <ol style="list-style-type: none"><li>1. The district's compliance with statutory requirements and requirements imposed by rule of the commissioner or SBOE that relate to:<ol style="list-style-type: none"><li>a. Reporting data through the Public Education Information Management System (PEIMS) or other reports required by state or federal law or court order;</li><li>b. High school graduation requirements; or</li><li>c. Extracurricular activities, student health and safety, purchasing, elementary class size limits, removal of a disruptive student from the classroom, at-risk programs, and prekindergarten programs.</li></ol></li><li>2. The effectiveness of the district's programs for special populations; and</li><li>3. The effectiveness of the district's career and technology program.</li></ol> <p>A district's accreditation status may be raised or lowered based on the district's performance. The district's accreditation status may</p>

be lowered based on the performance of one or more campuses in the district that is below a standard required by Education Code Chapter 39, Subchapter C.

*Education Code 39.052(b), (d)*

STUDENT  
ACHIEVEMENT  
INDICATORS

The commissioner shall adopt a set of indicators of the quality of learning and student achievement. The student achievement indicators shall include:

1. The results of state assessments, including the results of assessments required for graduation and retaken by students;
2. Dropout rates;
3. High school graduation rates;
4. The percentage of students who successfully completed the requirements for the distinguished level of achievement under the foundation high school program;
5. The percentage of students who successfully completed the requirements for an endorsement; and
6. At least three additional indicators of student achievement, which must include either:
  - a. The percentage of students who satisfy the Texas Success Initiative (TSI) college readiness benchmarks in reading, writing, or mathematics; or
  - b. The number of students who earn:
    - (1) At least 12 hours of postsecondary credit required for the foundation high school program or to earn an endorsement;
    - (2) At least 30 hours of postsecondary credit required for the foundation high school program or to earn an endorsement;
    - (3) An associate's degree; or
    - (4) An industry certification.

An indicator adopted that would measure improvements in student achievement cannot negatively affect the commissioner's review of a district or campus if that district or campus is already achieving at the highest level for that indicator.

Performance on the state assessment and dropout rate indicators shall be compared to state standards and required improvement. State standards shall be adopted by the commissioner.

“Required improvement” is the progress necessary for the campus or district to meet state standards and, for the state assessment indicator, the progress necessary for the students to meet the performance standards under Education Code 39.0241 (college readiness).

*Education Code 39.053*

NOTICE OF STATUS

The commissioner shall notify a district if the district has received an accreditation status of accredited-warned or accredited-probation, or a campus’s performance is below standard. The district must notify the parents of students enrolled in the district and property owners in the district of the accreditation status and its implications. *Education Code 39.052(e)*

A district assigned an accreditation status of accredited-warned, accredited-probation, or not accredited-revoked shall notify the parents of students enrolled in the district and property owners in the district as specified in 19 TAC 97.1055. The district’s notice must contain information about the accreditation status, the implications of such status, and the steps the district is taking to address the areas of deficiency identified by the commissioner. The district’s notice shall use the format and language determined by the commissioner.

The district’s notice must:

1. Not later than 30 calendar days after the accreditation status is assigned, appear on the home page of the district’s website, with a link to the required notification, and remain until the district is assigned the accredited status; and
2. Appear in a newspaper of general circulation, as defined in 19 Administrative Code 97.1051 (relating to Definitions), in the district for three consecutive days as follows:
  - a. From Sunday through Tuesday of the second week following assignment of the status; or
  - b. If the newspaper is not published from Sunday through Tuesday, then for three consecutive issues of the newspaper beginning the second week following assignment of the status; or
3. Not later than 30 calendar days after the status is assigned, be sent by first class mail addressed individually to each parent of a student enrolled in the district and each property owner in the district; or

ACCOUNTABILITY  
ACCREDITATION AND PERFORMANCE INDICATORS

AIA  
(LEGAL)

4. Not later than 30 calendar days after the status is assigned, be presented as a discussion item in a public meeting of the board of trustees conducted at a time and location that allows parents of students enrolled in the district and property owners in the district to attend and provide public comment.

A district required to act under this subsection shall send the following to TEA via certified mail, return receipt requested:

1. The universal resource locator (URL) for the link to the notification required above; and
2. Copies of the notice in the newspaper showing dates of publication, or a paid invoice showing the notice content and its dates of publication; or
3. Copies of the notice sent by mail and copies of all mailing lists and postage receipts; or
4. Copies of the notice presented at a public meeting and copies of the board of trustees meeting notice and minutes for the board meeting in which the notice was presented and publicly discussed.

*19 TAC 97.1055(f)*

DROPOUT  
RECOVERY  
SCHOOLS

The commissioner shall designate as a dropout recovery school a district or a campus that:

1. Serves students in grades 9 through 12;
2. Has an enrollment of which at least 50 percent of the students are 17 years of age or older as of September 1 of the school year; and
3. Meets the eligibility requirements for and is registered under alternative education accountability procedures adopted by the commissioner.

The commissioner shall use the alternative completion rate at Education Code 39.0548 to determine the student achievement indicator for a dropout recovery school.

*Education Code 39.0548*

QUALITY OF  
LEARNING  
INDICATORS

In addition to the student achievement indicators, the commissioner shall adopt indicators of the quality of learning for the purpose of preparing performance reports [see AIB]. The quality of learning indicators must include:

1. The percentage of graduating students who meet the course requirements for the foundation high school program, the dis-



tinguished level of achievement under the foundation high school program, and each endorsement described by Education Code 28.025(c-1) [see EIF];

2. The results of the SAT, ACT, articulated postsecondary degree programs, and certified workforce training programs;
3. For students who have failed to satisfy the state standard on an assessment, the performance of those students on subsequent assessments, aggregated by grade level and subject area;
4. For each campus, the number of students, disaggregated by major student subpopulations, who take courses under the foundation high school program and take additional courses to earn an endorsement, disaggregated by type of endorsement;
5. The percentage of students provided accelerated instruction after unsatisfactory performance on a state assessment, the subject of the assessment on which each student failed to perform satisfactorily, the results of second and third administrations of the assessment, the percentage of such students promoted through the grade placement committee process, and the performance of those students in the following school year on the state assessments;
6. The percentage of students of limited English proficiency exempted from the administration of an assessment;
7. The percentage of students in a special education program assessed through alternative assessment instruments;
8. The percentage of students who satisfy the college readiness measure;
9. The measure of progress toward dual language proficiency for students of limited English proficiency;
10. The percentage of students who are not educationally disadvantaged;
11. The percentage of students who enroll and begin instruction at an institution of higher education in the school year following high school graduation; and
12. The percentage of students who successfully complete the first year of instruction at an institution of higher education without needing a developmental education course.

*Education Code 39.301*

ACCOUNTABILITY  
ACCREDITATION AND PERFORMANCE INDICATORS

AIA  
(LEGAL)

PERFORMANCE  
RATINGS

The commissioner shall adopt rules to evaluate school district and campus performance and assign each district and campus a performance rating. In adopting rules, the commissioner shall determine the criteria for each performance rating. Not later than August 15 of each year, the performance rating of each district and campus shall be made publicly available as provided by rules adopted by the commissioner. If a district or campus received a performance rating that reflected unacceptable performance for the preceding school year, the commissioner shall notify the district of a subsequent designation on or before June 15. The commissioner shall evaluate against state standards and consider the performance of each campus in a district on the basis of the campus performance on the student achievement indicators other than, to the greatest extent possible, the student achievement indicator related to results of state assessments.

Acceptable performance shall be defined as meeting the state standard established by the commissioner, based on:

1. Student performance in the current school year; or
2. Student performance as averaged over the current school year and the preceding two school years.

The commissioner may assign an acceptable performance rating if the campus or district:

1. Performs satisfactorily on 85 percent of the measures the commissioner determines appropriate with respect to the student achievement indicators. The commissioner may grant an exception from this criterion only in special circumstances; and
2. Does not fail to perform satisfactorily on the same measure for two consecutive school years.

The commissioner may grant an exception to a district or campus if the performance is within a certain percentage, determined by the commissioner, of the minimum performance standard for the measure of evaluation, or if the district or campus satisfies alternative performance criteria established by the commissioner.

*Education Code 39.054*

In determining the performance rating of a dropout recovery school [see DROPOUT RECOVERY SCHOOLS, above]:

1. Any student described by Education Code 39.053(g-1) who graduates or receives a high school equivalency certificate shall be included; and

2. Only the best result from the primary administration and any retake of an assessment instrument administered to a student in the school year evaluated under the accountability procedures adopted by the commissioner may be considered.

*Education Code 39.0548*

A student ordered by a juvenile court into a residential program or facility operated by or under contract with the Texas Juvenile Justice Department or another governmental entity or any student who is receiving treatment in a residential facility is not considered to be a student of the district in which the program or facility is physically located. *Education Code 39.055*

DISTRICT AND  
CAMPUS DISTINCTION  
DESIGNATIONS

The commissioner shall award distinction designations to districts and campuses. A distinction designation shall be referenced directly in connection with the performance rating assigned to the district or campus and made publicly available together with the district or campus performance ratings.

A district or campus may not be awarded a distinction designation unless the district or campus has acceptable performance on the student achievement indicators.

*Education Code 39.201*

The commissioner shall establish an academic distinction designation for districts and campuses for outstanding performance in attainment of postsecondary readiness. *Education Code 39.202*

CAMPUS  
DESIGNATIONS

The commissioner shall award campus distinction designations for: outstanding performance in improvement in student achievement, closing student achievement differentials, academic achievement in English language arts, mathematics, science, or social studies, and may award a campus distinction designation for outstanding performance in advanced middle or junior high school student achievement. *Education Code 39.203*

EXCELLENCE  
EXEMPTIONS

Except as listed below, a school or district that is rated exemplary is exempt from requirements and prohibitions imposed under the Education Code, including regulations adopted under the Education Code.

An exemplary campus or district is not exempt from:

1. A prohibition on conduct that constitutes a criminal offense;
2. Requirements imposed by federal law or rule, including requirements for special education or bilingual education programs;

3. A requirement, restriction, or prohibition relating to:
  - a. Curriculum essential knowledge and skills or high school graduation requirements;
  - b. Public school accountability;
  - c. Extracurricular activities;
  - d. Health and safety;
  - e. Purchasing;
  - f. Elementary class size limits;
  - g. Removal of a disruptive student from the classroom;
  - h. At-risk programs;
  - i. Prekindergarten programs;
  - j. Rights and benefits of school employees;
  - k. Special education programs; or
  - l. Bilingual education programs.

The commissioner may exempt an exemplary campus from class size limits if the campus submits a written plan showing steps that will be taken to ensure that the exemption will not be harmful to the academic achievement of the students on the school campus. If granted, the exemption remains in effect until the commissioner determines that achievement levels of the campus have declined.

*Education Code 39.232*

ACCOUNTABILITY  
PERFORMANCE REPORTING

AIB  
(LEGAL)

DISTRICT  
PERFORMANCE  
REPORT — TAPR

TEA shall provide to each district a Texas Academic Performance Report (TAPR). The intent of the TAPR is to inform the public about the educational performance of the district and of each campus in the district in relation to the district, the state, and a comparable group of schools. The TAPR will present the campus performance information as well as the student, staff, and financial information required by statute. It will also include any explanations and additional information deemed appropriate to the intent of the report.

The district may not alter the report provided by TEA. However, the district may concurrently provide additional information to the public that supplements or explains information in the TAPR. The report may include the following information:

1. Student information, including total enrollment, enrollment by ethnicity, socioeconomic status, and grade groupings and retention rates;
2. Financial information, including revenues and expenditures;
3. Staff information, including number and type of staff by sex, ethnicity, years of experience, and highest degree held, teacher and administrator salaries, and teacher turnover;
4. Program information, including student enrollment by program, teachers by program, and instructional operating expenditures by program; and
5. The number of students placed in a disciplinary alternative education program (DAEP) under Education Code Chapter 37.

Supplemental information to be included in the reports shall be determined by the board.

*Education Code 39.306(a)–(b), (d)–(e), (g); 19 TAC 61.1022(a)–(b), (e)*

PUBLIC HEARING

A board shall hold a hearing for public discussion of the TAPR within 90 days after the report is received from TEA. The hearing may take place during a regularly scheduled or special meeting of the board.

The board shall give notice of the hearing to property owners in the district and parents of and other persons standing in parental relation to a district student. The notice of hearing must include notice to a newspaper of general circulation in the district and notice to electronic media serving the district.

*Education Code 39.306(c); 19 TAC 61.1022(c)*

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PUBLICATION	The TAPR must be published within two weeks after the public hearing, in the same format as it was received from TEA. The board shall disseminate the report by posting it on the district website and in public places, such as each school office, local businesses, and public libraries. <i>Education Code 39.306(c); 19 TAC 61.1022(d), (f)</i>
REPORT USES	The information in the TAPR shall be a primary consideration in district and campus planning. It shall also be a primary consideration of the board in the evaluation of the performance of the superintendent, and of the superintendent in the evaluation of the performance of campus principals. <i>Education Code 39.307</i>
CAMPUS PERFORMANCE REPORT — SRC	Each school year, TEA shall distribute to each district a report card for each campus. The campus report card distributed by TEA shall be termed the “school” report card (SRC). The intent of the SRC is to inform each student’s parents or guardians about the school’s performance and characteristics. The SRC will present the student, staff, financial, and performance information required by statute, as well as any explanations and additional information deemed appropriate to the intent of the report.
DISTRIBUTION	<p>The district must disseminate each SRC within six weeks after the SRC is received from TEA. The school may not alter the report provided by TEA; however, it may concurrently provide additional information to the parents or guardians that supplements or explains information in the SRC.</p> <p>The SRC must be distributed to the parent, guardian, conservator, or other person having lawful control of each student at the campus. On written request, a district shall provide a copy of the SRC to any other party.</p> <p>The campus administration may provide the SRC in the same manner it would normally transmit official communications to parents and guardians, such as including the SRC in a weekly folder sent home with each student, mailing it to the student’s residence, providing it at a teacher-parent conference, enclosing it with the student report card, or sending it via electronic mail.</p> <p><i>Education Code 39.305; 19 TAC 61.1021</i></p>
WEBSITE NOTICES	<p>Not later than the tenth day after the first day of instruction of each school year, a district that maintains an Internet website shall make the following information available:</p> <ol style="list-style-type: none"><li>1. The information in the most recent campus report card for each campus in the district;</li></ol>

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2. The information contained in the most recent performance report for the district;
3. The most recent accreditation status and performance rating of the district; and
4. A definition and explanation of each accreditation status, based on commissioner rule.

*Education Code 39.362*

LOCAL  
PERFORMANCE AND  
COMPLIANCE  
REPORTING

A district shall use criteria developed by a local committee to evaluate the performance of the district and each campus in:

1. Community and student engagement; and
2. Compliance with statutory reporting requirements and policy requirements.

The district shall assign performance ratings for the community and student engagement indicators and compliance status to the district and all campuses in the district, except for budgeted campuses, DAEP campuses, and juvenile justice alternative education program (JJAEP) campuses. Districts are not required to assign performance ratings for the community and student engagement indicators and compliance status to facilities operated by the Texas Juvenile Justice Department.

Annually, by August 8, the district shall report each rating to TEA. The district shall post the locally determined performance ratings and compliance status for the district and each campus on the district website no later than August 8 of each year. For campuses that operate on a year-round calendar, the district shall post the locally determined performance ratings and compliance status on the district website no later than the last day of August of each year.

*Education Code 39.0545(a); 19 TAC 61.1023(f), (h)*

COMMUNITY AND  
STUDENT  
ENGAGEMENT  
CATEGORIES

For purposes of the community and student engagement ratings, the district shall assign the district and each campus a performance rating of exemplary, recognized, acceptable, or unacceptable for both overall performance and each of the following individual evaluation factors:

1. Fine arts;
2. Wellness and physical education;
3. Community and parental involvement, such as opportunities for parents to assist students in preparing for state assessments, tutoring programs that support students taking state

assessments, and opportunities for students to participate in community service projects;

4. The 21st Century Workforce Development program;
5. The second language acquisition program;
6. The digital learning environment;
7. Dropout prevention strategies; and
8. Educational programs for gifted and talented students.

NOT APPLICABLE A district may assign a rating of *Not Applicable* to a program or performance category only when the district determines that the program or performance category is not applicable to the district or a campus. A district may not assign a rating of *Not Applicable* to all of the program or performance categories for the district or a campus.

OVERALL PERFORMANCE RATING A district shall require the local committee(s) to determine the criteria that shall be used to evaluate and assign an overall performance rating of Exemplary, Recognized, Acceptable, or Unacceptable to each campus and the district. A district may not assign a rating of *Not Applicable* to this indicator for the district or a campus.

*Education Code 39.0545(a), (b)(1), (c)(1); 19 TAC 61.1023(b)–(d)*

COMPLIANCE CRITERIA The district shall assign the district and each campus a performance rating of exemplary, recognized, acceptable, or unacceptable regarding compliance with statutory reporting and policy requirements.

A district shall require the local committee(s) to determine the criteria that shall be used to evaluate and assign a status of "Yes" or "No" on the record of the district and each campus regarding compliance with statutory reporting and policy requirements. A district may not assign a rating of *Not Applicable* to this indicator for the district or a campus.

*Education Code 39.0545(a), (b)(2), (c)(2); 19 TAC 61.1023(e)*

STUDENT PERFORMANCE REPORT Each year, TEA shall report to a district whether each student fell below, met, or exceeded the necessary target for improvement necessary to be prepared to perform satisfactorily on, as applicable, the grade five assessments, the grade eight assessments, and the end-of-course assessments required for graduation. *Education Code 39.034, .302*



ACCOUNTABILITY  
PERFORMANCE REPORTING

AIB  
(LEGAL)

NOTICE TO  
PARENTS

The district a student attends shall provide a record of the annual improvement information from TEA in a written notice to the student's parent or other person standing in parental relationship. If a student failed to perform satisfactorily on a state assessment, the district shall include specific information relating to access to online educational resources at the appropriate assessment instrument content level, including educational resources and assessment instrument questions and released answers. *Education Code 39.303*

NOTICE TO  
TEACHERS AND  
STUDENTS

A district shall prepare a report of the annual improvement information and provide the report at the beginning of the school year to:

1. Each teacher for all students, including incoming students, who took a state assessment; and
2. All students who were provided instruction by that teacher in the subject for which the assessment instrument was administered.

The report shall indicate whether the student performed satisfactorily or, if the student did not perform satisfactorily, whether the student met the standard for annual improvement.

*Education Code 39.304*

FEDERAL REPORT  
CARD

A district that receives Title I funding shall prepare and disseminate an annual federal report card that includes information on the district as a whole and each school within the district.

IMPLEMENTATION

The federal report card shall be concise; presented in an understandable and uniform format, and to the extent practicable, in a language that parents can understand; and accessible to the public, which shall include placing the report card on the district's website. If the district does not operate a website, the information in the report card must be provided to the public in another manner determined by the district.

MINIMUM  
REQUIREMENTS

The federal report card shall include the information required in the annual state report card described at 20 U.S.C. 6311(h)(1)(C), as applied to the district and each school served by the district, including:

1. In the case of the district, information that shows how students served by the district achieved on state academic assessments compared to students in the state as a whole;
2. In the case of a school, information that shows how the school's students' achievement on state academic assess-

ments compared to students served by the district and the state as a whole; and

3. Any other information that the district determines is appropriate and will best provide parents, students, and other members of the public with information regarding the progress of each public school served by the district, whether or not such information is included in the annual state report card.

*20 U.S.C. 6311(h)(2)*

ACCOUNTABILITY  
INVESTIGATIONS AND SANCTIONS

AIC  
(LEGAL)

MONITORING  
REVIEWS AND ON-  
SITE INVESTIGATIONS

The commissioner of education may direct TEA to conduct monitoring reviews and random on-site visits of a district at any time, as authorized by Education Code 7.028, only as necessary to ensure:

1. Compliance with federal law and regulations;
2. Financial accountability, including compliance with grant requirements; and
3. Data integrity for purposes of:
  - a. The Public Education Information Management System (PEIMS); and
  - b. Accountability under Education Code Chapter 39.

A monitoring review may include desk reviews and on-site visits, including random on-site visits. In conducting a monitoring review, TEA may obtain information from administrators, other district employees, parents of students enrolled in the district, and other persons as necessary.

The commissioner may at any time convert a monitoring review to a special accreditation investigation under Education Code 39.057, provided the commissioner promptly notifies the district of the conversion. The agency shall give written notice to the superintendent and the board of any impending monitoring review.

TEA shall report in writing to the superintendent and president of the board and shall make recommendations concerning any necessary improvements or sources of aid such as regional education service centers. A district that takes action with regard to the recommendations provided by TEA shall make a reasonable effort to seek assistance from a third party in developing an action plan to improve district performance using improvement techniques that are goal-oriented and research-based.

*Education Code 7.028, 39.056*

SPECIAL  
ACCREDITATION  
INVESTIGATIONS

The commissioner may authorize a special accreditation investigation:

1. When excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;
2. When excessive numbers of allowable exemptions from the required state assessment are determined;
3. In response to complaints to the agency of alleged violations of civil rights or other requirements imposed on the state by federal law or court order;

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4. In response to established compliance reviews of the district's financial accounting practices and state and federal reporting requirements;
5. When extraordinary numbers of student placements in disciplinary alternative education programs, other than placements under Education Code 37.006 and 37.007, are determined;
6. In response to an allegation involving a conflict between members of the board or between the board and the district administration if it appears that the conflict involves a violation of a role or duty of the board members or the administration clearly defined by the Education Code. If the agency's findings indicate the board has observed a lawfully adopted policy, the agency may not substitute its judgment for that of the board;
7. When excessive numbers of students in special education programs are assessed through modified assessment instruments;
8. In response to an allegation regarding, or an analysis using a statistical method result indicating, a possible violation of an assessment instrument security procedure;
9. When a significant pattern of decreased academic performance has developed as a result of the promotion in the preceding two school years of students who did not perform satisfactorily on the state assessments;
10. When excessive numbers of students eligible to enroll fail to complete an Algebra II course or any other advanced course as determined by the commissioner;
11. When resource allocation practices indicate a potential for significant improvement in resource allocation;
12. When a disproportionate number of students of a particular demographic group is graduating with a particular endorsement;
13. When an excessive number of students is graduating with a particular endorsement;
14. In response to repeated complaints concerning imposition of excessive paperwork requirements on classroom teachers;
15. In response to a complaint with respect to alleged inaccurate data that is reported through the Public Education Information Management System (PEIMS) or through other reports required by state or federal law or rule or court order and that is

ACCOUNTABILITY  
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used by the agency to make a determination relating to public school accountability, including accreditation, under Education Code Chapter 39; or

16. As the commissioner otherwise determines necessary.

*Education Code 39.057(a)–(c)*

TEA shall adopt written procedures for conducting special accreditation investigations, including procedures that allow TEA to obtain information from district employees in a manner that prevents a district or campus from screening the information. *Education Code 39.058(a)*

Based on the results of a special accreditation investigation, the commissioner may:

1. Take appropriate action under Education Code, Chapter 39, Subchapter E [see INTERVENTIONS AND SANCTIONS below];
2. Lower the district's accreditation status or a district's or campus's performance rating; or
3. Take action under both items 1 and 2 above.

Regardless of whether the commissioner lowers the accreditation status or a district's or campus's performance rating, the commissioner may impose one of the district- or campus-level interventions or sanctions listed at items 1 through 8 at INTERVENTIONS AND SANCTIONS.

*Education Code 39.057(d), (e)*

INTERVENTIONS AND  
SANCTIONS  
DISTRICT-LEVEL

If a district does not satisfy the accreditation criteria, the academic performance standards, or any financial accountability standard, or if considered appropriate by the commissioner on the basis of a special accreditation investigation under Education Code 39.057, the commissioner shall take any of the following actions to the extent the commissioner determines necessary:

1. Issue public notice of the deficiency to the board;
2. Order the board to conduct a hearing to notify the public of insufficient performance, expected improvements, and potential interventions and sanctions;
3. Order the preparation of a student achievement improvement plan;
4. Order the president of the board and superintendent to appear at a hearing before the commissioner or designee to ex-

plain the district's low performance, lack of improvement, and plans for improvement;

5. Arrange a monitoring review;
6. Appoint a TEA monitor to participate in and report to TEA on the activities of the board and superintendent;
7. Appoint a conservator to oversee district operations. The duties and powers of a conservator are set forth at Education Code 39.111;
8. Appoint a management team to direct the operations of the district in areas of insufficient performance, or require the district to obtain certain services under contract with another person. The duties and powers of a management team are set forth at Education Code 39.111;
9. If the district's status is accredited-warned or accredited-probation, or if the district fails to satisfy any standard under Education Code 39.054(e) (student achievement indicators in relation to state standards and required improvement), appoint a board of managers to exercise the powers and duties of the board. The duties and powers of a board of managers are set forth at Education Code 39.112;
10. If the district has received a status of accredited-warned or accredited-probation for two consecutive school years, including the current school year, has failed to satisfy any standards under Section 39.054(e) (student achievement indicators in relation to state standards and required improvement), or has failed to satisfy financial accountability standards, revoke the district's accreditation and:
  - a. Order closure of the district and annex it to one or more adjoining districts; or
  - b. In the case of a home-rule school district, order closure of all programs operated under the district; or
11. If the district has failed to satisfy any student achievement indicator standard due to the district's dropout rates, impose sanctions designed to improve high school completion rates.

*Education Code 39.102(a)*

If a district has had a conservator or management team assigned for two consecutive school years, the commissioner may appoint a board of managers to exercise the powers and duties of the district's board. The majority of the board of managers must be residents of the district. *Education Code 39.102(b)*

CAMPUS-LEVEL

If a campus's performance satisfies the standards under Education Code 39.054(e) (student achievement indicators in relation to state standards and required improvement) for the current school year, but would not satisfy the standards for the following school year, the commissioner may request that the campus-level committee revise and submit the portions of the campus improvement plan that are relevant to those areas for which the campus would not satisfy performance standards. *Education Code 39.105*

If a campus's performance is below any standard under Education Code 39.054(e) (student achievement indicators in relation to state standards and required improvement), the commissioner shall take actions, to the extent the commissioner determines necessary, under Education Code Chapter 39, Subchapter E. If the commissioner determines that a campus subject to interventions or sanctions has implemented substantially similar interventions under federal accountability requirements, the commissioner may accept those measures. *Education Code 39.103(a), (c)*

In addition, the commissioner may:

1. Order the president of the board, superintendent, and the campus principal to appear at a hearing before the commissioner or designee to explain the campus's low performance, lack of improvement, and plans for improvement; or
2. Establish a school community partnership team composed of members of the campus-level planning and decision-making committee and additional community representatives as determined appropriate by the commissioner.

*Education Code 39.103(b)*

CAMPUS  
INTERVENTION  
TEAM

The commissioner shall assign a campus intervention team to a campus whose performance is below any standard. [See Education Code 39.113 for composition of campus intervention team.] The campus intervention team shall:

1. Conduct an on-site needs assessment, as set forth at Education Code 39.106(a)(1) and (b);
2. Recommend appropriate actions relating to any area of insufficient performance, as set forth at Education Code 39.106(c);
3. Assist in the development of a targeted improvement plan, and in the execution of the plan as set forth at Education Code 39.106(d-3);
4. Conduct a public meeting at the campus, as set forth at Education Code 39.106(a)(4) and (a-1);

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5. Assist the campus in submitting the targeted improvement plan to the board and the commissioner for approval, and presenting the plan in a public hearing as provided by Education Code 39.106(e-1); and
6. Assist the commissioner in monitoring the campus's progress in implementing the targeted improvement plan.

*Education Code 39.106*

After a targeted improvement plan or updated plan is submitted to the board, the board shall:

1. Conduct a hearing for the purpose of notifying the public of insufficient performance, expected improvements, and possible intervention measures and sanctions, and soliciting public comment on the plan. The board may conduct one hearing for one or more campuses.
2. Post the plan on the district's Internet website before the hearing; and
3. Submit the plan to the commissioner for approval.

*Education Code 39.106(d), (e-1)*

CAMPUS  
TURNAROUND  
PLAN—  
UNACCEPTABLE  
FOR TWO YEARS

After a campus has been identified as unacceptable for two consecutive school years, the commissioner shall order the campus to prepare and submit a turnaround plan.

A campus intervention team shall assist the campus in:

1. Developing an updated targeted improvement plan, including a campus turnaround plan. An updated targeted improvement plan must include all plans and details that are required to execute the campus turnaround plan without any additional action or approval by the board of trustees;
2. Submitting the plan to the board for approval and presenting the plan in a public hearing;
3. Obtaining approval of the plan from the commissioner; and
4. Executing the plan.

*Education Code 39.107(a), (a-1), (b-3)*

Before a campus turnaround plan is prepared and submitted for approval to the board, the district, in consultation with the campus intervention team, shall provide notice to parents, the community, and stakeholders that the campus has received an academically unacceptable performance rating for two consecutive years and will



be required to submit a campus turnaround plan. The district shall request assistance from parents, the community, and stakeholders in developing the campus turnaround plan. *Education Code 39.107(a-2)*

The district, in consultation with the campus intervention team, shall prepare the campus turnaround plan and allow parents, the community, and stakeholders an opportunity to review the plan before it is submitted to the board for approval. A district may request that a regional education service center provide assistance in the development and implementation of a campus turnaround plan or partner with an institution of higher education to develop and implement a campus turnaround plan. *Education Code 39.107(b), (b-2)*

CONTENTS OF  
PLAN

A campus turnaround plan must include:

1. A detailed description of the academic programs to be offered at the campus, including instructional methods, length of school day and school year, academic credit and promotion criteria, and programs to serve special student populations;
2. The term of the charter, if a district charter is to be granted for the campus under Education Code 12.0522 [see EL];
3. Written comments from the campus-level committee [see BQB], if applicable, parents, and teachers at the campus; and
4. A detailed description of the budget, staffing, and financial resources required to implement the plan, including any supplemental resources to be provided by the district or other identified sources.

The plan must include details on the method for restructuring, reforming, or reconstituting the campus. If the district determines that granting a district charter under Education Code 12.0522 is appropriate for the campus, the campus turnaround plan must provide information on the implementation of the district charter. The plan must assist the campus in implementing procedures to satisfy all performance standards required under Education Code 39.054(e).

*Education Code 39.107(b), (b-1)*

A campus turnaround plan must take effect not later than the school year following the third consecutive school year that the campus has received an academically unacceptable performance rating. *Education Code 39.107(b-4)*

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(LEGAL)

**IMPLEMENTATION** Following approval of a campus turnaround plan by the commissioner, the district, in consultation with the campus intervention team, may take any actions needed to prepare for the implementation of the plan.

If a campus for which a campus turnaround plan has been ordered receives an academically acceptable performance rating for the school year following the order, the board may implement the campus turnaround plan, implement a modified version of the campus turnaround plan, or withdraw the campus turnaround plan.

A district required to implement a campus turnaround plan may modify the plan if the campus receives an academically acceptable performance rating for two consecutive school years following the implementation of the plan.

The campus shall implement the updated targeted improvement plan. The commissioner may appoint a monitor, conservator, management team, or board of managers to ensure and oversee district-level support to low-performing campuses and the implementation of the updated targeted plan.

*Education Code 39.107(b-5)–(b-7), (c)*

**COMMISSIONER  
APPROVAL**

The commissioner may approve a campus turnaround plan only if the commissioner determines that the campus will satisfy all student performance standards required under Education Code 39.054(e) not later than the second year the campus receives a performance rating following the implementation of the campus turnaround plan. If the commissioner does not make this determination, the commissioner shall order:

1. Appointment of a board of managers to govern the district as provided at Education Code 39.112(b);
2. Alternative management of the campus; or
3. Closure of the campus.

*Education Code 39.107(d)*

**UNACCEPTABLE  
FOR THREE  
ADDITIONAL YEARS**

If the campus is considered to have an unacceptable performance rating for three consecutive school years after the campus is ordered to submit a campus turnaround plan, the commissioner shall order appointment of a board of managers for the district or closure of the campus. *Education Code 39.107(e)*

**CLOSURE**

If the commissioner orders the closure of a campus, that campus may be repurposed to serve students at that campus location only if the commissioner finds that the repurposed campus offers a distinctly different academic program and serves a majority of grade

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levels at the repurposed campus not served at the original campus, and approves a new campus identification number for the campus. The majority of students assigned to a campus that has been closed and repurposed may not have attended that campus in the previous school year. Any student assigned to a campus that has been closed must be allowed to transfer to any other campus in the district that serves that student's grade level and on request must be provided transportation to the other campus. The commissioner may grant an exemption allowing students assigned to a closed campus to attend the repurposed campus if there is no other campus in the district at which the students may enroll. *Education Code 39.107(e-1)*

BOARD OF  
MANAGERS

A board of managers appointed by the commissioner is required to take appropriate actions to resolve the conditions that caused a campus to be subject to a turnaround order, including amending the district's budget, reassigning staff, or relocating academic programs.

The commissioner may remove a board of managers only if the campus receives an academically acceptable performance rating for two consecutive school years. If the campus receives an academically unacceptable performance rating for two additional consecutive years following the appointment of the board of managers, the commissioner may remove the board of managers and, in consultation with the local community, may appoint a new board of managers to govern the district.

*Education Code 39.107(e-4), (f)*

The board of managers must, if possible, include community leaders, business representatives who have expertise in leadership, and individuals who have knowledge or expertise in the field of education. The commissioner must provide each individual appointed to a board of managers with training in effective leadership strategies.

A board of managers shall, during the period of the appointment, order the election of members of the board of trustees of the district in accordance with applicable provisions of law and 19 Administrative Code 97.1073. Except as provided by this subsection, the members of the board of trustees do not assume any powers or duties after the election until the appointment of the board of managers expires. An individual elected to the board of trustees at an election ordered under this subsection assumes and may exercise all powers and duties of that office at the first official board meeting where the replacement of the member of the board of managers with the elected board of trustee member occurs and after satisfying all legal and procedural prerequisites to take office.

Any member of the board of trustees elected during the appointment of the board of managers who has not yet assumed the powers and duties of a member of the board of trustees will not be considered for purposes of constitution of a quorum.

Not later than the second anniversary of the date the board of managers of a district was appointed, the commissioner shall notify the board of managers and the board of trustees of the date on which the appointment of the board of managers will expire. Following each of the last three years of the period of the appointment, one-third of the members of the board of managers shall be replaced by the number of members of the school district board of trustees who were elected at an election ordered under this subsection that constitutes, as closely as possible, one-third of the membership of the board of trustees. On the expiration of the appointment of the board of managers, the board of trustees assumes all of the powers and duties assigned to a board of trustees by law, rule, or regulation.

Following the expiration of the period of appointment of a board of managers for a district, the commissioner shall provide training in effective leadership strategies to the board of trustees.

*Education Code 39.112(d-1)–(d-2), (e), (g); 19 TAC 97.1073*

If, before the second anniversary of the date the board of managers of a district was appointed, the commissioner determines, after receiving local feedback, that insufficient progress has been made toward improving the academic or financial performance of the district, the commissioner may extend the authority of the board of managers for a period of up to two additional years. *Education Code 39.112(f)*

PARENT  
REQUEST

The commissioner shall order the specific action (appointment of board of managers or closure) requested by the parents of a majority of students enrolled at the campus, if the commissioner is presented, in the time and manner specified by commissioner rule, a written petition signed by the parents. The signature of only one parent per student is required.

If the board of the district in which the campus is located presents a written request that the commissioner order a specific action (appointment of board of managers or closure) other than the action requested in the parents' petition and a written explanation of the basis for the board's request, the commissioner may order the action requested by the board. The board's request must be presented to the commissioner in the time and manner specified by commissioner rule.

*Education Code 39.107(e-2)–(e-3)*

ACCOUNTABILITY  
INVESTIGATIONS AND SANCTIONS

AIC  
(LEGAL)

ALTERNATIVE  
MANAGEMENT

Following the removal of a board of managers under Education Code 39.107(f), or at the request of a managing entity appointed under Education Code 39.107(d) to oversee the implementation of alternative management, the commissioner may appoint a conservator or monitor for the district to ensure district-level support for low-performing campuses and to oversee the implementation of the updated targeted improvement plan. *Education Code 39.107(g)*

The district shall execute a contract with a managing entity for a term not to exceed five years. The commissioner may require a district to extend the term of the contract if the commissioner determines that extending the contract on expiration of the initial term is in the best interest of the students attending the campus. The terms of the contract must be approved by the commissioner. If a campus receives an academically unacceptable performance rating for two consecutive school years after the managing entity assumes management of the campus, the commissioner shall cancel the contract with the managing entity. *Education Code 39.107(g-1)*

Subject to Education Code 39.107(e), at the end of the contract term with a managing entity or the cancellation of a contract with a managing entity under Education Code 39.107(g-1), the board of trustees shall resume management of the campus. *Education Code 39.107(g-2)*

TRANSITIONAL  
INTERVENTIONS  
AND SANCTIONS

For a campus that received an academically unacceptable performance rating for the 2013–14, 2014–15, and 2015–16 school years, the commissioner may apply the interventions and sanctions authorized by Education Code Chapter 39 as that chapter existed on January 1, 2015. If the campus receives an academically unacceptable performance rating for the 2016–17 and 2017–18 school years, the commissioner shall apply the interventions and sanctions authorized by Education Code 39.107(e).

For a campus that received an academically acceptable performance rating for the 2013–14 school year and an academically unacceptable performance rating for the 2014–15 and 2015–16 school years, the commissioner shall apply the interventions and sanctions authorized by Education Code 39.107(a). If the campus receives an academically unacceptable performance rating for the 2016–17, 2017–18, and 2018–19 school years, the commissioner shall apply the interventions and sanctions authorized by Education Code 39.107(e).

*Education Code 39.1071*

If the commissioner determines that the basis for the unsatisfactory performance of a campus for more than two consecutive school

ACCOUNTABILITY  
INVESTIGATIONS AND SANCTIONS

AIC  
(LEGAL)

years is limited to a specific condition that may be remedied with targeted technical assistance, the commissioner may require the district to contract for the appropriate technical assistance. *Education Code 39.107(i)*

NO NAME CHANGE

In reconstituting, repurposing, or imposing any other intervention or sanction on a campus, the commissioner may not require that the name of a campus be changed. *Education Code 39.115*

PROFESSIONAL  
SERVICES

In addition to the other authorized interventions and sanctions, the commissioner may order a district or campus to acquire professional services at the expense of the district or campus to address the applicable financial, assessment, data quality, program, performance, or governance deficiency. The commissioner's order may require the district or campus to:

1. Select or be assigned an external auditor, data quality expert, professional authorized to monitor district assessment instrument administration, or curriculum or program expert; or
2. Provide for or participate in the appropriate training of district staff or board members, in the case of a district, or campus staff in the case of a campus.

*Education Code 39.109*

COSTS OF  
INTERVENTIONS AND  
SANCTIONS

The costs of providing a monitor, conservator, management team, campus intervention team, technical assistance team, managing entity, or service provider shall be paid by the district.

If the district fails or refuses to pay the costs in a timely manner, the commissioner may pay the costs using amounts withheld from any funds to which the district is otherwise entitled, or recover the costs in the manner provided for recovery of an overallocation of state funds under Education Code 42.258.

*Education Code 39.110*

APPEALS

The commissioner shall provide a process for a district to challenge an academic or financial accountability rating. A district may not challenge an academic or financial accountability rating in another proceeding if the district had an opportunity to challenge the decision under the process provided by the commissioner. *Education Code 39.151*

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**Note:** The following provisions apply to a district with a central administrative office that is located in a county with a population of more than two million and that has a student enrollment that is more than 125,000 and less than 200,000, and that is operating under a turnaround plan.

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STUDENT BOARD  
MEMBER

Notwithstanding Education Code 11.051(b) (regarding number of trustees on a school board), the board may adopt a resolution establishing as a nonvoting member a student trustee position. If a board adopts such a resolution, the board shall adopt a policy addressing the topics specified in statute. *Education Code 11.0511*





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**Note:** The Every Student Succeeds Act (ESSA) amended federal accountability standards effective beginning with the 2017–18 school year. During the transition period, each district shall be evaluated with the standards set forth by TEA and the U.S. Department of Education.

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BOARD MEMBERS  
AUTHORITY

BBE  
(LEGAL)

BOARD AUTHORITY

The board members as a body corporate have the exclusive power and duty to govern and oversee the management of the public schools of the district. *Education Code 11.151(b)*

A board may act only by majority vote of the members present at a meeting held in compliance with Government Code Chapter 551, at which a quorum of the board is present and voting. Unless authorized by the board, a member of the board may not, individually, act on behalf of the board. *Education Code 11.051(a-1)*

ACCESS TO  
INFORMATION

When acting in the member's official capacity, a board member has an inherent right of access to information, documents, and records maintained by the district.

"Official capacity" means all duties of office and includes administrative decisions or actions.

A district shall provide the information, documents, and records to the board member without requiring the board member to submit a public information request under Texas Government Code Chapter 552 (Public Information Act) and without regard to whether the requested items are the subject of or relate to an item listed on an agenda for an upcoming meeting.

The district may withhold or redact information, a document, or a record requested by a board member to the extent that the item is excepted from disclosure or is confidential under the Public Information Act or other law [see GBA]. Education Code 11.1512 does not require the district to provide information, documents, and records that are not subject to disclosure under the Family Educational Rights and Privacy Act of 1974 [see FL].

A district shall post, in a place convenient to the public, the cost of responding to one or more requests submitted by a board member under Education Code 11.1512(c) if the requests are for 200 or more pages of material in a 90-day period.

A district shall report annually to TEA not later than September 1 of each year:

1. The number of requests submitted by a board member under Education Code 11.1512(c) during the preceding school year; and
2. The total cost to the district for that school year of responding to the requests.

*Education Code 11.1512(c)-(f)*

An individual board member has an inherent right of access to records maintained by the district when the board member requests

the records in his or her official capacity. *Atty. Gen. Op. No. JM-119 (1983)*

When there are competing confidentiality or security concerns, it may be proper for a board to establish reasonable procedures to preserve confidentiality, but the district may not absolutely prohibit an individual board member from viewing records involving district business that are otherwise properly available to the board as a governmental body. *Atty. Gen. Op. No. GA-138 (2004)*

ACCESS TO  
STUDENT  
RECORDS

Personally identifiable information in education records may be released, without the written consent of the student's parents, only to a school official who has a legitimate educational interest in the education records. *34 C.F.R. 99.31 [See FL]*

RESPONSIBILITY  
FOR RECORDS

A person, including a board member, commits a criminal offense if the person:

1. Knowingly or intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a district record in contravention of Local Government Code Chapter 202. *Local Gov't Code 202.008; Penal Code 37.10*
2. Willfully destroys, mutilates, alters, or removes public information without permission as provided by Government Code Chapter 552. *Gov't Code 552.351*
3. Distributes information considered confidential under the Public Information Act. *Gov't Code 552.352*

PROTECTIONS FOR  
ACTING ON A  
LEGISLATIVE  
MEASURE

A board member may not be subject to disciplinary action or a sanction, penalty, disability, or liability for:

1. An action permitted by law that the officer takes in the officer's official capacity regarding a legislative measure;
2. Proposing, endorsing, or expressing support for or opposition to a legislative measure or taking any action permitted by law to support or oppose a legislative measure;
3. The effect of a legislative measure or of a change in law proposed by a legislative measure on any person; or
4. A breach of duty, in connection with the board member's practice of or employment in a licensed or regulated profession or occupation, to disclose to any person information, or to obtain a waiver or consent from any person, regarding the officer's actions relating to a legislative measure; or the substance, effects, or potential effects of a legislative measure.

*Gov't Code 572.059*

BOARD MEMBERS  
AUTHORITY

BBE  
(LEGAL)

BOARD MEMBER  
IMMUNITIES

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)*

STATE LAW  
IMMUNITIES

A board member is not personally liable for any act that is incident to or within the scope of the duties of the board member's position and that involves the exercise of judgment or discretion. *Education Code 22.0511(a)*

FEDERAL LAW  
IMMUNITIES

Except as provided in 20 U.S.C. Section 7946(b), no board member shall be liable for harm caused by an act or omission of the board member on behalf of a district if the conditions of the Paul D. Coverdell Teacher Protection Act of 2001 are met. *20 U.S.C. 7943, 7946(a)* [See also DGC]



OFFICERS AND OFFICIALS  
DUTIES AND REQUIREMENTS OF DEPOSITORY

BDAE  
(LEGAL)

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**Note:** Information regarding depository contracts for districts, including the forms referenced in this policy, is available at [http://tea.texas.gov/Finance\\_and\\_Grants/Financial\\_Compliance/Depository\\_Contracts\\_for\\_School\\_Districts/](http://tea.texas.gov/Finance_and_Grants/Financial_Compliance/Depository_Contracts_for_School_Districts/).

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SELECTION	The depository selected under the terms of this policy shall be a bank located in the state of Texas. The depository may be a state bank authorized and regulated under Texas law; a national bank, savings and loan association, or savings bank authorized and regulated by federal law; or a savings and loan association or savings bank organized under Texas law; but shall not be any bank the deposits of which are not insured by the Federal Deposit Insurance Corporation (FDIC). <i>Education Code 45.201(2), .203</i>
METHOD	Not later than the 60th day before the date a school district's current depository contract expires, the district shall choose whether to select a depository through competitive bidding or through requests for proposals. <i>Education Code 45.206(a)</i>
COMPETITIVE BIDDING NOTICE	If a school district chooses to use competitive bidding, the district shall, not later than the 30th day before the date the current depository contract expires, mail to each bank in the district and, if desired, to other banks, a notice stating the time and place in which bid applications will be received for selecting a depository or depositories. The notice must include the uniform bid blank form Bid Form for Depository Services prescribed by State Board rule. <i>Education Code 45.206(a-1); 19 TAC 109.51(b), (c)</i>
REQUESTS FOR PROPOSALS NOTICE	If a school district chooses to use requests for proposals, the district shall, not later than the 30th day before the date the current depository contract expires, mail to each bank located in the district and, if desired, to other banks, a notice stating the time and place in which proposals will be received for selecting a depository or depositories. The notice must include the uniform proposal blank form Proposal Form for Depository Services prescribed by State Board rule. A district shall state the selection criteria, including the factors specified under Education Code 45.207(c) [see FACTORS TO CONSIDER, below], in the request for proposals. <i>19 TAC 109.51(b), (d)</i>
BEST VALUE	A district shall select the proposal that offers the best value to the district based on the evaluation and ranking of each submitted proposal in relation to the stated selection criteria. A district may negotiate with the bank that submits the highest-ranked proposal to determine any terms of the proposed depository contract other than the interest rates proposed. <i>Education Code 45.206(a-2), (d)</i>

OFFICERS AND OFFICIALS  
DUTIES AND REQUIREMENTS OF DEPOSITORY

BDAE  
(LEGAL)

FACTORS TO  
CONSIDER

Each bid or proposal received in accordance with these provisions shall be considered by a board at a regular or special meeting. In determining the highest and best bid or the highest-ranked proposal, or in case of tying bids or proposals the highest and best tying bids or proposals, a board shall consider the interest rate bid or proposed on time deposits; the charge for keeping district accounts, records, and reports and furnishing checks; the ability of the bank submitting the bid or proposal to provide the necessary services and perform the duties as school district depository, and any other matters the board considers to be in the best interests of a district. *Education Code 45.207(c)*

AWARD OF CONTRACT

A school district shall award the depository contract to the bank that submits the highest bid or the highest-ranked proposal, except that the district may award the contract as provided by Education Code 45.207(a-1) [see TIE BIDS AND PROPOSALS, below] if:

1. The district:
  - a. Receives tying bids for the contract; or
  - b. After evaluating the proposals for the contract, ranks two or more proposals equally;
2. Each bank submitting a tying bid or proposal has bid or proposed to pay the district the maximum interest rates allowed by the Federal Reserve System and the FDIC; and
3. In the board's judgment, the tying bids or proposals are otherwise equal.

*Education Code 45.207(a)*

TIE BIDS AND  
PROPOSALS

In the case of tying bids or proposals, a board may:

1. Award the contract to each of the banks submitting the tying bids or proposals; or
2. Determine by lot which of the banks submitting the tying bids or proposals will receive the contract.

*Education Code 45.207(a-1)*

REJECTION OF BIDS  
OR PROPOSALS

A board has the right to reject any and all bids or proposals. *Education Code 45.207(d)*

COLLATERAL

In accordance with written board policy, a district shall determine if an investment security is eligible to secure deposits of public funds covered by the Public Funds Collateral Act.

The policy may include the security of the institution that obtains or holds an investment security, the substitution or release of an in-



OFFICERS AND OFFICIALS  
DUTIES AND REQUIREMENTS OF DEPOSITORY

BDAE  
(LEGAL)

vestment, and the method by which an investment security used to secure a deposit of public funds is valued.

*Gov't Code 2257.023*

DUTIES

The depository shall:

TERM OF OFFICE

1. Serve for a term of two years and until its successor is duly selected and qualified, except that a district and its depository bank may agree to extend the contract for two additional two-year terms. The initial contract term and any extension must coincide with the district's fiscal year. An extension is not subject to the bid notice requirements of Education Code 45.206 [see METHOD, above]. *Education Code 45.205*

CONTRACT

2. Make and enter into a depository contract(s), bond(s), or other necessary instruments setting forth the duties and agreements pertaining to the depository. The district must use the prescribed uniform depository contract form, Depository Contract for Funds of Independent School Districts under the Texas Education Code, Chapter 45, Subchapter G, School District Depositories and, if applicable, surety bond form, Texas School Depository Surety Bond Form. The bid or proposal of the depository shall be attached to the contract and incorporated by reference in the contract. The district must file the completed contract and, if applicable, surety bond form with TEA. *Education Code 45.208(a), (e); 19 TAC 109.52*

AUTHORIZED  
COLLATERAL

3. Secure public funds by eligible securities to the extent and in the manner required by the Public Funds Collateral Act. *Gov't Code, Ch. 2257*

OTHER DUTIES

4. Faithfully perform all legal duties and obligations and make payments from district funds upon order, duly entered, of the board. *Education Code 45.208(c)(1)-(4)*

5. Faithfully keep and account for, according to law, all district funds and pay over to the successor depository all balances remaining in district accounts. *Education Code 45.208(c)(5), (6)*

TEXAS BULLION  
DEPOSITORY

The Texas Bullion Depository is established as an agency of this state in the office of the comptroller under Subtitle C, Title 10, Government Code. The depository may receive a deposit of bullion or specie from or on behalf of a district in accordance with rules adopted by the comptroller. *Gov't Code 2116.002(a), .005(a)*

An investment by a school district in a depository account may be made instead of an investment as provided by Education Code 45.102, and the depository may be used by a district instead of a depository bank for purposes of Subchapter G, Chapter 45, Education Code. *Gov't Code 2116.015(b)*



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 Constitutional rights or based unlawfully on race, color, religion, sex, gender, national origin, age, disability, or any other basis prohibited by law. Reasons for the nonrenewal 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 toward 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 District 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). [See DH]
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.

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 the 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. Behavior that presents a danger of physical harm to a student or other individuals.
19. Assault on a person on District property or at a school-related function, or on an employee, student, or student's parent regardless of time or place.
20. Use of profanity in the course of performing any duties of employment, whether on or off District premises, in the presence of students, staff, or members of the public, if reasonably characterized as unprofessional.
21. Falsification of records or other documents related to the District's activities.
22. Falsification or omission of required information on an employment application.
23. Misrepresentation of facts to the Board or other District officials in the conduct of District business.
24. Failure to fulfill or maintain requirements for Superintendent certification, unless granted a waiver by the commissioner of education.
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 that makes the employment relationship void or voidable, such as a violation of federal, state, or local law.
27. Any reason constituting good cause for terminating the contract during its term.

SUPERINTENDENT  
NONRENEWAL

BJCF  
(LOCAL)

NOTICE OF  
PROPOSED  
NONRENEWAL

If the Board determines that the Superintendent's contract should be considered for nonrenewal, the Board shall deliver to the Superintendent written notice of the proposed nonrenewal in accordance with law.

REQUEST FOR  
HEARING

If the Superintendent desires a hearing after receiving notice of the proposed nonrenewal, the Superintendent shall notify the Board in writing not later than the 15th day after receiving the notice. When the Board receives a timely request for a hearing on proposed nonrenewal, the hearing shall be held not later than the 15th day after receipt of the request, unless the parties mutually agree to a delay. The Superintendent shall be given notice of the hearing date as soon as it is set.

HEARING  
PROCEDURE

Unless the Superintendent requests that the hearing be open, the hearing shall be conducted in closed meeting with only the members of the Board, the Superintendent, their chosen representatives, and such witnesses as may be called in attendance. Witnesses may be excluded from the hearing until called to present evidence. The Superintendent and the Board may each be represented by a person designated in writing to act for them. 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 presiding officer's control and shall generally follow the steps listed below:

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

SUPERINTENDENT  
NONRENEWAL

BJCF  
(LOCAL)

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 such evidence as is 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 Superintendent's contract are lawful, supported by the evidence, and not arbitrary or capricious, it shall so notify the Superintendent 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.

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

BQ  
(LOCAL)

	<p>The Board shall approve and periodically review the District's vision, mission, and goals to improve student performance. The vision, mission, goals, and the approved District and campus objectives shall be mutually supportive and shall support the state goals and objectives under Education Code, Chapter 4. [See AE(EXHIBIT)]</p>
<p>DISTRICT IMPROVEMENT PLANNING PROCESS</p>	<p>The District's planning process to improve student performance includes the development of the District's educational goals, the legal requirements for the District and campus improvement plans, all pertinent federal planning requirements, and administrative procedures. The Board shall approve the process under which the educational goals are developed and shall ensure that input is gathered from the District-level committee. [See BQA]</p>
<p>PARENT AND FAMILY ENGAGEMENT PLAN</p>	<p>The Board shall ensure that the District and campus improvement plans, as applicable, address all elements required by federal law for receipt of Title I, Part A funds, including elements pertaining to parent and family engagement. The District-level and campus-level committees shall involve parents and family members of District students in the development of such plans and in the process for campus review and improvement of student academic achievement and campus performance. [See EHBD]</p>
<p>ADMINISTRATIVE PROCEDURES AND REPORTS</p>	<p>The Board shall ensure that administrative procedures are developed in the areas of planning, budgeting, curriculum, staffing patterns, staff development, and school organization; adequately reflect the District's planning process; and include implementation guidelines, time frames, and necessary resources. The District-level and campus-level committees shall be involved in the development of these procedures. [See BQA and BQB]</p> <p>The Superintendent shall report periodically to the Board on the status of the planning process, including a review of the related administrative procedures, any revisions to improve the process, and progress on implementation of identified strategies.</p>
<p>EVALUATION</p>	<p>The Board shall ensure that data are gathered and criteria are developed to undertake the required biennial evaluation to ensure that policies, procedures, and staff development activities related to planning and decision-making are effectively structured to positively impact student performance.</p>





PURCHASING AND ACQUISITION

CH  
(LEGAL)

BOARD AUTHORITY	A board may adopt rules and procedures for the acquisition of goods and services. <i>Education Code 44.031(d)</i>
DELEGATION OF AUTHORITY	<p>A board may delegate its authority regarding an action authorized or required to be taken by a district by Education Code Chapter 44, Subchapter B, to a designated person, representative, or committee.</p> <p>A board may not delegate the authority to act regarding an action authorized or required to be taken by the board by Education Code Chapter 44, Subchapter B.</p>
DISASTER EXCEPTION	<p>Notwithstanding any other provision of the Education Code, in the event of a catastrophe, emergency, or natural disaster affecting a district, the board may delegate to the superintendent or designated person the authority to contract for the replacement or repair of school equipment under Education Code Chapter 44, Subchapter B if emergency replacement or repair is necessary for the health and safety of district students and staff.</p> <p><i>Education Code 44.0312</i></p>
PURCHASES VALUED AT OR ABOVE \$50,000	<p>All district contracts for the purchase of goods and services, except contracts for the purchase of produce or vehicle fuel, valued at \$50,000 or more in the aggregate for each 12-month period, shall be made by the method that provides the best value for a district:</p> <ol style="list-style-type: none"><li>1. Competitive bidding for services other than construction services.</li><li>2. Competitive sealed proposals for services other than construction services.</li><li>3. A request for proposals for services other than construction services.</li><li>4. An interlocal contract.</li><li>5. The reverse auction procedure as defined by Government Code 2155.062(d).</li><li>6. The formation of a political subdivision corporation under Local Government Code 304.001.</li></ol> <p><i>Education Code 44.031(a)</i></p>

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

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FACTORS

In awarding a contract, a district shall consider:

1. Purchase price.
2. The reputation of the vendor and of the vendor's goods and services.
3. The quality of the vendor's goods or services.
4. The extent to which the goods or services meet the district's needs.
5. The vendor's past relationship with the district.
6. The impact on the ability of the district to comply with laws relating to historically underutilized businesses.
7. The total long-term cost to the district to acquire the goods or services.
8. For a contract that is not for goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor or the vendor's ultimate parent company or majority owner has its principal place of business in this state or employs at least 500 persons in this state.
9. Any other relevant factor specifically listed in the request for bids or proposals.

*Education Code 44.031(b)*

In awarding a contract by competitive sealed bid under Education Code 44.031, a district that has its central administrative office located in a municipality with a population of less than 250,000 may consider a bidder's principal place of business in the manner provided by Local Government Code 271.9051. This section does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 153. *Education Code 44.031(b-1)*

The factors listed above are the only criteria that may be considered by a district in its decision to award a contract. R.G.V. Vend-

*ing v. Weslaco Indep. Sch. Dist., 995 S.W.2d 897 (Tex. App.—  
Corpus Christi 1999, no pet.).*

OUT-OF-STATE  
BIDDERS

A board shall not award a contract for services 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 greater of 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, or a state in which a majority of the manufacturing relating to the contract will be performed. *Gov't Code 2252.001-.002*

This requirement shall not apply to a contract involving federal funds. A district shall rely on information published by the comptroller in evaluating the bids of a nonresident bidder. *Gov't Code 2252.003-.004*

DISCLOSURE OF  
INTERESTED PARTIES

A district may not enter into a contract that requires an action or vote of the board before the contract may be signed, or has a value of at least \$1 million, with a business entity unless the business entity submits a disclosure of interested parties to the district at the time the business entity submits the signed contract to the district. *Gov't Code 2252.908*

A contract does not require an action or vote by the board if the board has legal authority to delegate to its staff the authority to execute the contract, the board has delegated this authority, and the board does not participate in the selection of the business entity with which the contract is entered into. *1 TAC 46.1(c)*

"Contract" means a contract between a board and a business entity at the time it is voted on by the board or at the time it binds the board, whichever is earlier, and includes an amended, extended, or renewed contract. *1 TAC 46.3(a)*

"Business entity" means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation. The term includes an entity through which business is conducted with a district, regardless of whether the entity is a for-profit or nonprofit entity, and does not include a governmental entity or state agency. *Gov't Code 2252.908(a)(1); 1 TAC 46.3(b)*

"Interested party" means a person who has a controlling interest in a business entity with whom a district contracts or who actively participates in facilitating the contract or negotiating the terms of the

contract, including a broker, intermediary, adviser, or attorney for the business entity. *Gov't Code 2252.908(a)(3); 1 TAC 46.3(d), (e)*

“Controlling interest” means:

1. An ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds ten percent;
2. Membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than ten members; or
3. Service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers. This subsection does not apply to an officer of a publicly held business entity or its wholly owned subsidiaries.

*1 TAC 46.3(c)*

“Signed” includes any symbol executed or adopted by a person with present intention to authenticate a writing, including an electronic signature. *1 TAC 46.3(f)*

“Value” of a contract is based on the amount of consideration received or to be received by a business entity from a board under the contract.

The disclosure of interested parties must be submitted on a form prescribed by the Texas Ethics Commission that includes a list of each interested party for the contract of which the contracting business entity is aware; and the signature of the authorized agent of the contracting business entity, acknowledging that the disclosure is made under oath and under penalty of perjury.

Not later than the 30th day after the date the district receives a required disclosure of interested parties the district shall submit a copy of the disclosure to the Texas Ethics Commission.

*Gov't Code 2252.908; 1 TAC 46.5* [See BBFA for additional conflict of interest disclosures.]

CONTRACT WITH  
PERSON INDEBTED  
TO DISTRICT

A board may, by resolution, establish regulations permitting a school district to refuse to enter into a contract or other transaction with a person indebted to the school district. A district may refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the district.

The term “person” includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited

liability company, and any other entity that seeks to enter into a contract or other transaction with a district requiring board approval.

*Education Code 44.044*

NOTICE  
PUBLICATION

Notice of when and where bids or proposals or the responses to a request for qualifications will be received and opened shall be published in the county where a district's central administrative office is located, once a week for at least two weeks prior to the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is no newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which a district's central administrative office is located. In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately. *Education Code 44.031(g)*

ELECTRONIC BIDS OR  
PROPOSALS

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

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

*Education Code 44.0313*

PROFESSIONAL  
SERVICES

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

A 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

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qualifications to perform the services and for a fair and reasonable price. *Gov't Code 2254.002, .003(a)*

An interlocal contract between a district and a purchasing cooperative may not be used to purchase engineering or architectural services. *Gov't Code 791.011(h)*

[See also CV]

EMERGENCY DAMAGE  
OR DESTRUCTION

If school equipment, a school facility, or a part of a school facility or personal property is destroyed or severely damaged or, as a result of an unforeseen catastrophe or emergency, undergoes major operational or structural failure, and a board determines that the delay posed by the methods provided for in Education Code 44.031 would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment, school facility, or the part of the school facility may be made by methods other than those required by Education Code 44.031. *Education Code 44.031(h)*

COMPUTERS

A district may acquire computers and computer-related equipment, including computer software, through the Department of Information Resources (DIR) under contracts with the DIR in accordance with Government Code Chapter 2054 or 2157. *Education Code 44.031(i)*

AUTOMATED  
INFORMATION  
SYSTEM

A district may purchase an automated information system using the purchasing method described by Government Code 2157.068 for commodity items or a purchasing method designated by the controller to obtain the best value for the state, including a request for offers method. A district that purchases an item using a method listed above satisfies any state law requiring the district to seek competitive bids for the purchase of the item. *Gov't Code 2157.006; 34 TAC 20.391*

AUTOMATED  
EXTERNAL  
DEFIBRILLATORS

A school that purchases or leases an automated external defibrillator, as defined by Health and Safety Code 779.001, shall ensure that the defibrillator meets standards established by the federal Food and Drug Administration. *Education Code 44.047*

SOLE SOURCE

Compliance with Education Code 44.031 is not required for purchases that are available from only one source, including:

1. An item for which competition is precluded because of a patent, copyright, secret process, or monopoly.
2. A film, manuscript, or book.
3. A utility service, including electricity, gas, or water.
4. A captive replacement part or component for equipment.

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The sole source exception shall not apply to mainframe data processing equipment and peripheral attachments with a single-item purchase price in excess of \$15,000.

*Education Code 44.031(j)–(k)*

INSURANCE

A contract for the purchase of insurance is a contract for the purchase of personal property and shall be made in accordance with Education Code 44.031. *Education Code 44.031; Atty. Gen. Op. DM-347 (1995)*

MULTIYEAR  
CONTRACTS

A district may execute an insurance contract for a period longer than 12 months, if the contract contains either or both of the provisions described at COMMITMENT OF CURRENT REVENUE, below. If a district executes a multiyear insurance contract, it need not advertise for insurance vendors until the 12-month period during which the district will be executing a new insurance contract. *Atty. Gen. Op. DM-418 (1996)*

COMPETITIVE  
BIDDING

Except to the extent prohibited by other law and to the extent consistent with Education Code Chapter 44, Subchapter B, a school district may use competitive bidding to select a vendor as authorized by Education Code 44.031(a)(1).

A district shall award a competitively bid contract at the bid amount to the bidder offering the best value for the district. In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria. The selection criteria may include the factors listed in Education Code 44.031(b) [see FACTORS, above].

Except as provided below, Local Government Code Chapter 271, Subchapter B does not apply to a competitive bidding process under this policy.

*Education Code 44.0351*

OPENING BIDS

Bids may be opened only by a board at a public meeting or by an officer or employee of a district at or in an office of the district. A bid that has been opened may not be changed for the purpose of correcting an error in the bid price. *Local Gov't Code 271.026*

A board shall have the right to reject any and all bids. *Local Gov't Code 271.027(a)*

SAFETY RECORD

In determining who is a responsible bidder, a board may take into account the safety record of the bidder; of the firm, corporation, partnership, or institution represented by the bidder; or of anyone acting for such firm, corporation, partnership, or institution, provided that:

1. The board has adopted a written definition and criteria for accurately determining the safety record of the bidder.
2. The board has given notice in the bid specifications that the safety record of a bidder may be considered in determining the bidder's responsibility.
3. The determinations are not arbitrary and capricious.

*Local Gov't Code 271.0275*

IDENTICAL BIDS

If a district receives two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, it shall select only one bidder from the identical bids.

If only one of the bidders submitting identical bids is a resident of a district, that bidder shall be selected. If two or more such bidders are residents of a district, one shall be selected by the casting of lots. In all other cases, one of the identical bids shall be selected by the casting of lots.

A board shall prescribe the manner of casting lots and shall be present when the lots are cast. All qualified bidders or their representatives may be present at the casting of lots.

*Local Gov't Code 271.901*

COMPETITIVE SEALED PROPOSALS

In selecting a vendor through competitive sealed proposals as authorized by Education Code 44.031(a)(2), a school district shall follow the procedures prescribed below.

REQUEST FOR PROPOSALS

The district shall prepare a request for competitive sealed proposals that includes information that vendors may require to respond to the request. The district shall state in the request for proposals the selection criteria that will be used in selecting the successful offeror.

OPENING PROPOSALS

The district shall receive, publicly open, and read aloud the names of the offerors and, if any are required to be stated, all prices stated in each proposal. Not later than the 45th day after the date on which the proposals are opened, the district shall evaluate and rank each proposal submitted in relation to the published selection criteria.

SELECTION

The district shall select the offeror that offers the best value for the district based on the published selection criteria and on its ranking evaluation. The district shall first attempt to negotiate a contract with the selected offeror. The district may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If the district is unable to negotiate a satisfactory contract with the selected offeror, the dis-



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trict shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.

BEST VALUE  
DETERMINATION

In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria.

*Education Code 44.0352*

INTERLOCAL  
AGREEMENTS

To increase efficiency and effectiveness, a district may contract or agree with other local governments and with state agencies, including the comptroller, to perform some of its purchasing functions.  
*Gov't Code 791.001, .011, .025*

An interlocal contract must be authorized by a board and the governing body of each contracting party; must state the purpose, terms, rights, and duties of the contracting parties; and must specify that each party paying for the performance of governmental functions or services shall make those payments from current revenues available to the paying party.

An interlocal contractual payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract. The contract may be renewed and may have a specified term of years.

*Gov't Code 791.011(d)–(f), (i)*

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

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

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

A district may not enter into a contract to purchase construction-related goods or services through a purchasing cooperative in an amount greater than \$50,000 unless a person designated by the district certifies in writing that:

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1. The project for which the construction-related goods or services are being procured does not require the preparation of plans and specifications under Chapter 1001 or 1051, Occupations Code; or
2. The plans and specifications required under Chapters 1001 and 1051, Occupations Code, have been prepared.

“Purchasing cooperative” means a group purchasing organization that governmental entities join as members and the managing entity of which receives fees from members or vendors.

*Gov't Code 791.011(j)*

STATE PURCHASING  
PROGRAM

Purchasing services performed for a district by the comptroller shall include:

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

The comptroller may charge a district its actual costs in providing purchasing services.

*Local Gov't Code 271.082*

DISTRICT  
REQUIREMENTS

A district may participate in the purchasing program, including participation in purchases that use the reverse auction procedure, by filing with the comptroller a resolution adopted by the board requesting that the district be allowed to participate on a voluntary basis, to the extent the comptroller deems feasible, and stating that the board shall:

1. Designate an official to act for the district in all matters relating to the program, including the purchase of items from the vendor under any contract.
2. Direct the decisions of its representative.
3. Be responsible for:
  - a. Submitting requisitions to the commission under contract(s) and for payment directly to the vendor; and
  - b. Electronically sending purchase orders directly to vendors, or complying with procedures governing a reverse

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auction purchase, and electronically sending the comptroller reports on actual purchases.

4. Be responsible for the vendor's compliance with all conditions of delivery and quality of the purchased item.

A purchase made through participation in this program meets any state requirement to seek competitive bids for the purchase of the item.

*Local Gov't Code 271.083*

MULTIPLE AWARD  
CONTRACT  
SCHEDULE

The comptroller shall develop a schedule of multiple award contracts that have been previously awarded using a competitive process by the federal government or any other governmental entity in any state.

A district may purchase goods or services directly from a vendor under a contract listed on a schedule. An authorized purchase satisfies any requirement of state law relating to competitive bids or proposals and satisfies any applicable requirements of Government Code 2157.

The price listed for a good or service under a multiple award contract is a maximum price. A district may negotiate a lower price for goods or services under a contract listed on a schedule.

*Gov't Code 2155, Subch. 1*

COOPERATIVE  
PURCHASING  
PROGRAM

A district may participate in a cooperative purchasing program with another local government of this state or another state or with a local cooperative organization of this state or another state. If a district does so, it may sign an agreement with another participating local government or a local cooperative stating that the district will:

1. Designate a person to act on behalf of the district in all matters relating to the program.
2. Make payments to another participating local government or local cooperative organization or directly under a contract, as provided in the agreement.
3. Be responsible for the vendor's compliance.

If a district participates in a cooperative purchasing program, it satisfies any law requiring it to seek competitive bids.

*Local Gov't Code 271.102; Atty. Gen. Op. JC-37 (1999)*

CONTRACT-RELATED  
FEE

A school district that enters into a purchasing contract valued at \$25,000 or more under Education Code 44.031(a)(5) (interlocal

contract), under Local Government Code Chapter 271, Subchapter F (cooperative purchasing program), or under any other cooperative purchasing program authorized for school districts by law shall document any contract-related fee, including any management fee, and the purpose of each fee under the contract.

The amount, purpose, and disposition of any fee described above must be presented in a written report and submitted annually in an open meeting of the board. The written report must appear as an agenda item. The commissioner of education may audit the written report.

*Education Code 44.0331*

STATE COUNCIL ON  
COMPETITIVE  
GOVERNMENT

As approved by the State Council on Competitive Government, a district may voluntarily participate in a contract awarded by the council or a state agency under Government Code 2162. A district that purchases goods or services under this type of contract is considered to have satisfied any state law requiring competitive purchasing. *Gov't Code 2162.102(d)*

REVERSE AUCTION

A district that uses the reverse auction procedure must include in the procedure a notice provision and other provisions necessary to produce a method of purchasing that is advantageous to the district and fair to vendors. *Local Gov't Code 271.906(b)*

Reverse auction procedure means:

1. A real-time bidding process usually lasting less than one hour and taking place at a previously scheduled time and Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services; or
2. A bidding process usually lasting less than two weeks and taking place during a previously scheduled period and at a previously scheduled Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services.

*Gov't Code 2155.062(d)*

COMMITMENT OF  
CURRENT REVENUE

A contract for the acquisition, including lease, of real or personal property is a commitment of a district's current revenue only, provided the contract contains either or both of the following provisions:

1. Retains to the board the continuing right to terminate the contract at the expiration of each budget period during the term of the contract.

2. Is conditioned on a best efforts attempt by the board to obtain and appropriate funds for payment of the contract.

*Local Gov't Code 271.903*

CHANGE ORDERS

If a change in plans or specifications is necessary after the performance of a contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the district may approve change orders making the changes. The district may grant general authority to an administrative official to approve the change orders.

The total contract price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants.

A contract with an original contract price of \$1 million or more may not be increased by more than 25 percent. If a change order for a contract with an original contract price of less than \$1 million increases the contract amount to \$1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.

*Education Code 44.0411*

ENERGY OR WATER  
CONSERVATION  
MEASURES

A district may contract for energy or water conservation measures. Such a contract shall be let according to the procedures established for professional services by Government Code 2254.004.

A board shall establish a long-range energy plan to reduce a district's annual electric consumption by five percent beginning with the 2008 state fiscal year and consume electricity in subsequent fiscal years in accordance with the district's energy plan.

*Education Code 44.901--.902* [See policy CL for legal requirements pertaining to such contracts and plans.]

RECYCLED  
PRODUCTS

A district shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. A district shall regularly review and revise its purchasing procedures and specifications for purchase of goods, supplies, equipment, and materials in order to:

1. Eliminate procedures and specifications that explicitly discriminate against products made of recycled materials.
2. Encourage the use of products made of recycled materials.

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3. Ensure to the maximum extent economically feasible that the district purchase products that may be recycled when they have served their intended use.

A district may seek an exemption from compliance if it has a population of less than 5,000 within its geographic boundaries and demonstrates to the Water Commission that compliance would work a hardship on the district.

*Health and Safety Code 361.426*

AGRICULTURAL  
PRODUCTS

If the cost and quality are equal, a district shall give preference in purchasing to agricultural products, including textiles and other similar products, that are produced, processed, or grown in Texas. "Processed" means canning, freezing, drying, juicing, preserving, or any other act that changes the form of a good from its natural state to another form. If Texas agricultural products are not equal in cost and quality to other agricultural products, a district shall give preference in purchasing to agricultural products produced, processed, or grown in the United States, if the cost and quality of the U.S. and foreign products are equal.

A district may not adopt product purchasing specifications that unnecessarily exclude agricultural products produced, processed, or grown in Texas.

VEGETATION FOR  
LANDSCAPING

If cost is equal and the quality is not inferior, a district shall give preference to Texas vegetation when it purchases vegetation for landscaping purposes.

*Education Code 44.042*

BUS PURCHASE OR  
LEASE

Each contract proposed for the purchase or lease of one or more school buses, including a lease with an option to purchase, shall be submitted to competitive bidding when the contract is valued at \$20,000 or more. *Education Code 44.031(l)* [See CNB]

RIGHT TO WORK

While engaged in procuring goods and services or awarding a contract, a district:

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

*Education Code 44.043*

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LOBBYING  
RESTRICTION:  
TOBACCO EDUCATION  
GRANT FUNDS

A district may not spend grant funds it receives from the Permanent Fund for Tobacco Education and Enforcement to pay:

1. Lobbying expenses incurred by the district;
2. A person or entity that is required under Government Code Chapter 305 to register as a lobbyist with the Texas Ethics Commission;
3. Any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity of a registered lobbyist (as described in item 2); or
4. A person or entity who has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.

*Gov't Code 403.1067*

CRIMINAL HISTORY

For provisions pertaining to criminal history record information on contractors, see CJA(LEGAL).

IMPERMISSIBLE  
PRACTICES

A board member, employee, or agent shall not, with criminal negligence, make or authorize separate, sequential, or component purchases to avoid the purchasing requirements set out in Education Code 44.031. An officer or employee shall not knowingly violate Education Code 44.031 in any other manner.

“Component purchases” means purchases of the component parts of an item that in normal purchasing practices would be made in one purchase. “Separate purchases” means purchases, made separately, of items that in normal purchasing practices would be made in one purchase. “Sequential purchases” means purchases, over a period, of items that in normal purchasing practices would be made in one purchase.

Violation of this provision is a Class B misdemeanor and an offense involving moral turpitude, conviction of which shall result in removal from office or dismissal from employment. A board member who is convicted of a violation of this provision is considered to have committed official misconduct and for four years after the date of final conviction, the removed person is ineligible to be appointed or elected to public office in Texas, is ineligible to be employed by or act as an agent for the state or a political subdivision, and is ineligible to receive any compensation through a contract with the state or a political subdivision. [See BBC]

*Education Code 44.032*

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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 a 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. *Education Code 44.032(f)*



BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT  
MAINTENANCE

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BUILDINGS	A school building must be located on grounds that are well-drained and maintained in a sanitary condition. A school building must be properly ventilated and provided with an adequate supply of drinking water, an approved sewage disposal system, handwashing facilities, a heating system, and lighting facilities that conform to established standards of good public health engineering practices.
LUNCHROOMS	A school lunchroom must comply with state food and drug regulations.
CUSTODIAL SERVICES	A school building and its appurtenances shall be maintained in a sanitary manner. A full-time building custodian or janitor shall know the fundamentals of safety and school sanitation.  <i>Health and Safety Code 341.065</i>
STRUCTURAL PEST CONTROL	A district may obtain pest control services for school buildings only by: <ol style="list-style-type: none"><li>1. Contracting with a person who holds a license to perform the services; or</li><li>2. Requiring a district employee who is licensed as a certified noncommercial applicator or technician to perform the services.</li></ol> <i>Occupations Code 1951.459</i>
INTEGRATED PEST MANAGEMENT PROGRAM	Each district shall establish, implement, and maintain an integrated pest management (IPM) program. An IPM program is a regular set of procedures for preventing and managing pest problems using an integrated pest management strategy. The school district is responsible for each IPM coordinator's compliance with the regulations in 4 Administrative Code 7.201–.205 (Division 7). <i>Occupations Code 1951.212; 4 TAC 7.201</i>
IPM PROGRAM REQUIREMENTS	The IPM program shall contain these essential elements: <ol style="list-style-type: none"><li>1. A board-approved IPM policy, stating the district's commitment to follow integrated pest management guidelines in all pest control activities that take place on district property. The IPM policy statement shall include:<ol style="list-style-type: none"><li>a. A definition of IPM consistent with this section;</li><li>b. A reference to Texas laws and rules governing pesticide use and IPM in public schools;</li><li>c. Information about who can apply pesticides on school district property; and</li></ol></li></ol>

BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT  
MAINTENANCE

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

*4 TAC 7.201(1)*

IPM COORDINATOR

The superintendent shall appoint an IPM coordinator to implement the district's IPM program. Not later than 90 days after the superintendent designates or replaces an IPM coordinator, the district must report to the Texas Department of Agriculture (TDA) the newly appointed coordinator's name, address, telephone number, e-mail address and the effective date of the appointment. A district that appoints more than one IPM coordinator shall designate a responsible IPM coordinator who will have overall responsibility for the IPM program and provide oversight of subordinate IPM coordinators regarding IPM program decisions. *Occupations Code 1951.212(e); 4 TAC 7.201(2)*

TRAINING

The IPM coordinator shall:

1. Successfully complete a TDA-approved IPM coordinator training course within six months of appointment; and
2. Obtain at least six hours of TDA-approved IPM continuing education units at least every three years in accordance with the requirements of 4 Administrative Code 7.202.

*Occupations Code 1951.212(f); 4 TAC 7.202*

DUTIES

The IPM coordinator shall be responsible for implementation of the school district IPM program. The IPM coordinator shall oversee and be responsible for:

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

*4 TAC 7.202(5)*

LICENSED  
APPLICATOR

A district that engages in pest control activities must employ or contract with a licensed applicator, who may, if an employee, also serve as the IPM coordinator. *4 TAC 7.201(3)*

The commercial or noncommercial certified applicator or licensed technician shall:

1. Apply only EPA labeled pesticides, appropriate for the target pest, except as provided in Division 7;
2. Provide the structural pest management needs of the district by following the district's IPM program and these regulations;

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

*4 TAC 7.203*

NOTICE

A district shall prior to or by the first week of school attendance, ensure that a procedure is in place to provide prior notification of pesticide applications in accordance with 4 Administrative Code Chapter 7. Individuals who request in writing to be notified of pesticide applications may be notified by telephonic, written, or electronic methods. *4 TAC 7.201(4)*

The chief administrator or building manager shall notify persons who work in a district building of an indoor pest control treatment by:

1. Posting the sign made available by the certified applicator or technician in an area of common access that the persons are likely to check on a regular basis at least 48 hours before each planned treatment; and
2. Providing the pest control information sheet made available by the certified applicator or technician to a person working in the building on request.

*Occupations Code 1951.455(a); 4 TAC 7.146, .147 [See DI]*

At the time a student is registered, district personnel shall inform the parent, guardian, or managing conservator that the school periodically applies pesticides indoors and that information on the application of pesticides is available on request. *Occupations Code 1951.455(b) [See FD]*

PESTICIDE USE

All pesticides used by districts must be registered with the United States Environmental Protection Agency (EPA) and the TDA, with the exception of those pesticides that have been exempted from registration by the Federal Insecticide, Fungicide, and Rodenticide

Act (FIFRA), Section 25(b). All pesticides used by districts must also bear a label as required by FIFRA and Chapter 76 of the Texas Agriculture Code. Pesticide use must also meet the following requirements:

1. Pest control signs shall be posted at least 48 hours prior to a pesticide application inside district buildings as provided for under 4 Administrative Code 7.148.
2. For outdoor applications made on district grounds, the treated area must be identified at all entry points with a sign, or must be secured using a locking device, a fence or other practical barrier such as commercially available barrier caution tape, or periodically monitored to keep students out of the treated area until the allowed reentry time.
3. Pesticides used on district property shall be mixed outside of student occupied areas of buildings and grounds.
4. The use of non-pesticide control measures, non-pesticide monitoring tools and mechanical devices, such as glue boards and traps as permitted in accordance with Division 7, are exempt from posting requirements. The use of non-pesticide tools and devices by unlicensed district personnel, for monitoring purposes, shall be permitted. Monitoring by unlicensed district personnel shall be done only as directed, under the supervision of the IPM coordinator.
5. Pesticide applications shall not be made to outdoor school grounds if such an application will expose students to physical drift of pesticide spray particles. Reasonable preventative measures shall be taken to avoid the potential of drift to occur.
6. Districts are allowed to apply the pesticides to control pests, rodents, insects, and weeds at school buildings, grounds, or other facilities in accordance with the approval for use and restrictions listed for each category detailed in 4 Administrative Code 7.204(6).

*Occupations Code 1951.212; 4 TAC 7.204*

INCIDENTAL USE

The Incidental Use For Schools Fact Sheet must contain the text specified in 4 Administrative Code 7.205, and must be provided during pesticide instruction and training by the IPM coordinator to each district employee whose primary duty is not pest control, and whose work may include tasks subject to the exception. The IPM coordinator must keep records of all the training conducted annually. Pest control use records for all incidental pesticide use application, including the reason for application and justification for emergency, must be maintained by the IPM coordinator for two years. 4 TAC 7.205



BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT  
MAINTENANCE

CLB  
(LOCAL)

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





BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT  
FLAG DISPLAYS

CLE  
(LEGAL)

Every public school shall fly the United States and Texas flags on all regular school days. *Education Code 1.003*

A board shall require that the United States and Texas flags be prominently displayed in accordance with 4 U.S.C. Sections 5–10 and Chapter 3100, Government Code, in each campus classroom to which a student is assigned at the time the pledges of allegiance to those flags are recited. [See EC] A district is not required to spend federal, state, or local district funds to acquire flags under this provision. A district may raise money or accept gifts, grants, and donations to acquire flags. *Education Code 25.082(b-1)*

NATIONAL MOTTO

A public school may display the national motto, “In God We Trust,” in each classroom, auditorium, and cafeteria. *Education Code 1.004*



BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT  
FLAG DISPLAYS

CLE  
(LOCAL)

The U.S. and Texas flags shall be prominently displayed in each classroom to which a student is assigned during the time that the pledges of allegiance to those flags are recited.



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 passengers, including the operator.
2. "Passenger car" refers to a motor vehicle, other than a motorcycle, used to transport persons and designed to accommodate ten or fewer passengers, including the operator.
3. "Passenger van" means a motor vehicle, other than a motorcycle 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 a 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 on a route 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; Transp. Code 541.201*

AUTHORITY

A 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. In establishing and operating the transportation system, a board shall employ bus drivers certified in accordance with standards and qualifications adopted by the Department of Public Safety. *Education Code 34.007*

TRANSPORTATION  
ALLOTMENT FOR  
ELIGIBLE STUDENTS

Each district operating a regular transportation system is entitled to an allotment based on the daily cost per regular eligible student of operating and maintaining the regular transportation system and the linear density of that system. *Education Code 42.155(c)*

“Regular eligible student” means a student who resides two or more miles from the student’s campus of regular attendance, measured along the shortest route that may be traveled on public roads, and who is not classified as a student eligible for special education services. *Education Code 42.155(b)(1)*

The commissioner of education may not reduce the allotment because a district provides transportation for an eligible student to and from a child-care facility or a grandparent’s residence instead of the student’s residence, if the transportation is provided within the approved routes of the district for the school the student attends. *Education Code 42.155(k)*

A 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, except that a board may not charge a fee for transportation for which a district receives funds under Education Code 42.155(d). *Education Code 11.158(a)(14)*

If the district does not receive any funds under Education Code 42.155 and does not participate in a county transportation system for which an allotment is provided under Education Code 42.155(i), the board may require payment of a reasonable fee for the transportation of a student to and from the school the student attends. *Education Code 11.158(a)(16)*

HAZARDOUS  
CONDITIONS

A district may apply for and on approval of the commissioner receive an additional amount of up to ten percent of its regular transportation allotment to be used for the transportation of children living within two miles of the school they attend who would be subject to hazardous traffic conditions if they walked to school. A 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 children 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)*

CAREER AND  
TECHNOLOGY  
PROGRAM

The cost of transporting career and technology education students from one campus to another inside a district or from a sending district to another secondary public school for a career and technology program or an area career and technology school, or to an approved postsecondary institution under a contract for instruction approved by TEA shall be reimbursed based on the number of actual miles traveled times the district’s official extracurricular travel per mile rate as set by the board and approved by TEA. *Education Code 42.155(f)*

TRANSPORTATION MANAGEMENT  
STUDENT TRANSPORTATION

CNA  
(LEGAL)

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.

An operator of a school bus, while operating the bus, shall prohibit a passenger from:

1. Standing in the bus; or
2. Sitting on the floor of the bus or in any location that is not designed as a seat.

*Transp. 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)*

BUS PASSES OR  
CARDS

A school district may use the state transportation allotment to provide a bus pass or card for another transportation system to each student who is eligible to use the regular transportation system of the district but for whom the regular transportation system of the district is not a feasible method of providing transportation. *Education Code 42.155(l)*

DESIGNATION OF  
CHILD-CARE  
FACILITY OR  
GRANDPARENT'S  
RESIDENCE

A 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, if the location is 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 adoption 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  
OF HOMELESS  
STUDENTS

As a condition of receiving funds under the McKinney-Vento Homeless Assistance Act, a 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 [see FFC]) to and from the school of origin, as follows:

TRANSPORTATION MANAGEMENT  
STUDENT TRANSPORTATION

CNA  
(LEGAL)

1. If the child continues to live in the area served by 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 child's living arrangements in the area served by the district of origin terminate and the child, though continuing his or her education in the school of origin, begins living in an area served by another district, the district of origin and the district in which the 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.

*42 U.S.C. 11432(g)(1)(J)(iii)(I), (II)* [See FDC]

TRANSPORTATION  
OF STUDENTS IN  
FOSTER CARE

A district receiving Title 1, Part A funds must collaborate with the state or local child welfare agency to develop and implement clear written procedures governing how transportation to maintain children in foster care in their school of origin when in their best interest will be provided, arranged, and funded for the duration of the time in foster care. These procedures shall:

1. Ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with 42 U.S.C. 675(4)(A); and
2. Ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their schools of origin, the district will provide transportation to the school of origin if:
  - a. The local child welfare agency agrees to reimburse the district for the cost of such transportation;
  - b. The district agrees to pay the cost of transportation; or
  - c. The district and the local welfare agency agree to share the cost of such transportation.

*20 U.S.C. 6312(c)(5)* [See FD]

SCHOOL ACTIVITIES

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

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)*



TRANSPORTATION MANAGEMENT  
STUDENT TRANSPORTATION

CNA  
(LEGAL)

In all circumstances in which passenger cars or passenger vans are used to transport students, the operator of the vehicle 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

A 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

A board may contract with a mass transit authority, commercial transportation company, or juvenile board for all or any part of a district's public school transportation if the authority, company, or board:

1. Requires its school bus drivers to have the qualifications required by and to be certified in accordance with standards established by the Department of Public Safety; and
2. Uses only those school buses or mass transit authority buses in transporting 15 or more students that meet or exceed safety standards for school buses established under Education Code 34.002.

A mass transit authority contracting under this provision for daily transportation of pre-primary, primary, secondary students to or from school shall conduct, in a manner and on a schedule approved by the board, the following education programs:

1. A program to inform the public that public school students will be riding on the authority's or company's buses;
2. 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
3. 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.

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

*Education Code 34.008*

[For provisions pertaining to criminal history record information on contractors providing transportation services, see CJA(LEGAL).]



DEFINITIONS	
“CUSTODIAN”	“Custodian” means the appointed or elected public officer who by the state constitution, state law, ordinance, or administrative policy is in charge of an office that creates or receives local government records.
“ESSENTIAL RECORD”	“Essential record” means any district record necessary to the resumption or continuation of district operations in an emergency or disaster, to the re-creation of the legal and financial status of the district, or to the protection and fulfillment of obligations to the people of the state.
“LOCAL GOVERNMENT RECORD”	“Local government record” means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information-recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a district or any of its officers or employees, pursuant to law or in the transaction of public business. The term does not include: <ol style="list-style-type: none"><li>1. Extra identical copies of documents created only for convenience of reference or research by district officers or employees.</li><li>2. Notes, journals, diaries, and similar documents created by a district officer or employee for his or her own personal convenience.</li><li>3. Blank forms, stocks of publications, and library and museum materials acquired solely for the purposes of reference or display.</li><li>4. Copies of documents in any media furnished to the public under the Open Records Act or other state law.</li></ol>
“PERMANENT RECORD”	“Permanent record” or “record of permanent value” means any local government record for which the retention period on a records retention schedule issued by the Texas State Library and Archives Commission (TSLAC) is given as permanent.
“RECORDS CONTROL SCHEDULE”	“Records control schedule” means a document prepared by or under the authority of a records management officer listing the records maintained by a district, their retention periods, and other records disposition information that the records management program in each district may require.
“RECORDS MANAGEMENT”	“Records management” means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term includes

the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

“RECORDS  
MANAGEMENT  
OFFICER”

“Records management officer” means the person identified under Local Government Code 203.025 as the records management officer. [See DESIGNATION below]

“RECORDS  
RETENTION  
SCHEDULE”

“Records retention schedule” means a document issued by TSLAC under authority of Subchapter J, Chapter 441, Government Code, establishing mandatory retention periods for local government records.

“RETENTION  
PERIOD”

“Retention period” means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

*Local Gov't Code 201.003*

BOARD'S  
RESPONSIBILITIES

In implementing the Local Government Records Act (Local Government Code Title 6, Subtitle C), a board shall:

1. Establish, promote, and support an active and continuing program for the efficient and economical management of all district records.
2. Cause policies and procedures to be developed for the administration of the program under the direction of the records management officer.
3. Facilitate the creation and maintenance of district records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the district and designed to furnish the information necessary to protect the legal and financial rights of the district, the state, and persons affected by the district's activities.
4. Facilitate the identification and preservation of district records that are of permanent value.
5. Facilitate the identification and protection of essential district records.
6. Cooperate with TSLAC in its conduct of statewide records management surveys.

*Local Gov't Code 203.021*

CUSTODIANS OF  
RECORDS

In implementing the Local Government Records Act, district custodians of records shall:

1. Cooperate with the records management officer in carrying out the policies and procedures established by a district for the efficient and economical management of records and in carrying out the requirements of the Local Government Records Act.
2. Adequately document the transaction of district business and the services, programs, and duties for which they and their staff are responsible.
3. Maintain the records in their care and carry out the preservation, microfilming, destruction, or other disposition of the records only in accordance with the policies and procedures of the district's records management program and the requirements of the Local Government Records Act and rules adopted under it.

*Local Gov't Code 203.022*

RECORDS  
MANAGEMENT  
OFFICER  
DESIGNATION

A board shall designate an individual or an office or position as the records management officer for the district.

The name, office, or position of the records management officer shall be entered into the minutes of the board and filed by the records management officer with the director and librarian of TSLAC within 30 days after the date of the designation.

Any subsequent designations of a new individual or a new office or position shall be entered into the minutes and reported to TSLAC in the same manner as the original designation.

If the order designating a records management officer designates an office or position rather than an individual, a new holder of that office or position must file the holder's name with TSLAC within 30 days after the date of assuming the office or position.

*Local Gov't Code 203.025*

DUTIES

In implementing the Local Government Records Act, the records management officer shall:

1. Assist in establishing and developing policies and procedures for a district's records management program.
2. Administer the records management program and provide assistance to the custodians in order to reduce costs and improve record-keeping efficiency.

3. In cooperation with the custodians of records, prepare and file records control schedules, amended schedules, and lists of obsolete records, as required by the Local Government Records Act.
4. In cooperation with the custodians of records, prepare or direct the preparation of requests for authorization to destroy records, when such requests are required under the Local Government Records Act.
5. In cooperation with the custodians of records, identify and take adequate steps to preserve district records of permanent value.
6. In cooperation with the custodians of records, identify and take adequate steps to protect essential district records.
7. In cooperation with the custodians of records, ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with a district's records management program and the requirements of the Local Government Records Act and rules adopted under it.
8. Disseminate to the board and custodians of records information concerning state laws, administrative rules, and government policies relating to a district's records.
9. In cooperation with the custodians of records, establish procedures to ensure that the handling of records is carried out with due regard for the duties and responsibilities of custodians that may be imposed by law and the confidentiality of information in records to which access is restricted by law.

*Local Gov't Code 203.023*

RECORDS  
MANAGEMENT  
PROGRAM

A board by ordinance or order shall establish a records management program to be administered by the records management officer. The ordinance or order must provide methods and procedures to enable the board, custodians, and the records management officer to fulfill the statutory duties and responsibilities concerning management and preservation of records. The ordinance or order may prescribe any policies or procedures for the operation of the records management program that are consistent with the requirements of the Local Government Records Act and rules adopted under it. A copy of the ordinance or order must be filed by the records management officer with TSLAC within 30 days after the date of its adoption. *Local Gov't Code 203.026(a)-(c)*

RECORDS CONTROL  
SCHEDULES

The records management officer shall prepare and file with TSLAC a records control schedule listing the following records and establishing a retention period for each:

1. All records created or received by the district;
2. Any record no longer created or received by the district that is still in its possession and for which the retention period on a records retention schedule issued by TSLAC has not expired; and
3. Any record no longer created or received by the district that is still in its possession and for which the retention period on a records retention schedule issued by TSLAC has expired but which will not be destroyed.

In lieu of filing a records control schedule, the records management officer may file with TSLAC a written certification of compliance that the district has adopted records control schedules that comply with the minimum requirements established on records retention schedules issued by TSLAC.

The board shall require in the ordinance or order establishing the records management program the review or approval of a records control schedule or amended schedule by the officers of the district as it considers necessary.

*Local Gov't Code 203.041*

RETENTION  
PERIODS

A retention period for each record on the records control schedule shall be determined by the board or under its direction. A retention period may not be less than a retention period prescribed by state or federal law, regulation, or rule of court; or a retention period for the record established on a records retention schedule issued by TSLAC. *Local Gov't Code 203.042*

TSLAC RETENTION  
SCHEDULES

TSLAC has adopted the following retention schedules, among others: Local Schedule GR—Records Common to All Governments, Local Schedule EL—Records of Elections and Voter Registration, Local Schedule TX—Records of Property Taxation, and Local Schedule SD—Records for Public School Districts. These schedules establish mandatory minimum retention periods for the records listed. *13 TAC 7.125*

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**Note:** The TSLAC records retention schedules are available at <https://www.tsl.texas.gov/slr/recordspubs/localretention.html>.

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TSLAC REVIEW

If the director and librarian of TSLAC or designee accepts the records control schedule, amended schedule, written certification of compliance, or amended certification for filing, the acceptable records control schedule may be used as the basis for the destruction of records listed on it without additional notice from the director and librarian.

If the director and librarian or designee rejects the records control schedule, amended schedule, written certification of compliance, or amended certification for filing, the reasons for the rejection shall be stated in writing within a reasonable time to the records management officer and the schedule, amended schedule, written certification, or amended certification shall be corrected and resubmitted.

*Local Gov't Code 203.043(a), (b)*

DESTRUCTION OF  
RECORDS

A district record may be intentionally destroyed under any of the following conditions:

1. The record is listed on a records control schedule filed with TSLAC and either its retention period has expired or it has been microfilmed or electronically stored in accordance with legal requirements.
2. The record appears on a list of obsolete records approved by TSLAC.
3. A destruction request is filed with and approved by TSLAC for a record not listed on an approved control schedule.
4. A district court issues an expunction order for the destruction or obliteration of the records, pursuant to state law.
5. The records are defined as exempt from scheduling or filing requirements or listed as exempt in a records retention schedule issued by TSLAC.

*Local Gov't Code 202.001*

EXCEPTIONS

A district record the subject matter of which is known by the custodian to be the subject of litigation may not be destroyed until the litigation is settled. A district record that is subject to a request under the Texas Public Information Act, Chapter 552, Government Code, may not be destroyed until the request is resolved. *Local Gov't Code 202.002*

A district shall not destroy a student's education record, as defined by the Family Educational Rights and Privacy Act, if there is an outstanding request to inspect and review the record. *34 C.F.R. 99.10(e)* [See FL]



OFFICE MANAGEMENT  
RECORDS MANAGEMENT

CPC  
(LEGAL)

RECORDKEEPING	As a board may require, the records management officer shall keep accurate lists of records destroyed, their volume, and other information of records management activities. <i>Local Gov't Code 203.046</i>
PRESERVATION OF RECORDS	Permanent records shall be stored under conditions that meet the requirements of 13 Administrative Code 7.164.
PERMANENT RECORDS	
MICROFILMING	District records may be maintained on microfilm in addition to or instead of paper or other media, subject to the requirements of Chapter 204, Local Government Code and rules adopted by TSLAC. <i>Local Gov't Code 204.002</i>
ELECTRONIC STORAGE	District record data may be stored electronically in addition to or instead of source documents in paper or other media, subject to the requirements of Chapter 205, Local Government Code and rules adopted by TSLAC. <i>Local Gov't Code 205.002</i>
FEDERAL INVESTIGATIONS AND BANKRUPTCY	Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any bankruptcy case, or in relation to or contemplation of any such matter or case, shall be fined, imprisoned not more than 20 years, or both. <i>18 U.S.C. 1519</i>



The Superintendent shall oversee the performance of records management functions prescribed by state and federal law:

- Records Administrator, as prescribed by Local Government Code 176.001 and 176.007 [See BBFA and CHE]
- Officer for Public Information, as prescribed by Government Code 552.201–.205 [See GBAA]
- Public Information Coordinator, as prescribed by Government Code 552.012 [See BBD]

LOCAL GOVERNMENT  
RECORDS ACT

The term “local government record” shall pertain to all items identified as such by the Local Government Records Act.

“LOCAL  
GOVERNMENT  
RECORD”

RECORDS  
MANAGEMENT  
OFFICER

The Superintendent shall serve as and perform the duties of the District’s records management officer as prescribed by Local Government Code 203.023, and shall administer the District’s records management program pertaining to local government records in compliance with the Local Government Records Act.

NOTIFICATION

The records management officer shall file his or her name with the Texas State Library and Archives Commission (TSLAC) within 30 days of assuming the position.

RECORDS  
CONTROL  
SCHEDULES

The records management officer shall file with the TSLAC a written declaration that the District has adopted records control schedules that comply with records retention schedules issued by the TSLAC as provided by law.

WEBSITE POSTINGS

The District’s records management program shall address the length of time records will be posted on the District’s website when the law does not specify a posting period.

RECORDS  
DESTRUCTION  
PRACTICES

All local government records shall be considered District property and any unauthorized destruction or removal shall be prohibited. The District shall follow its records control schedules, records management program, and all applicable laws regarding records destruction. However, the District shall preserve records, including electronically stored information, and suspend routine record destruction practices where appropriate and in accordance with procedures developed by the records management officer. Such procedures shall describe the circumstances under which local government records scheduled for destruction must be retained. Notification shall be given to appropriate staff when routine record destruction practices must be suspended and when they may be resumed.

TRAINING

The records management officer shall receive appropriate training regarding the Local Government Records Act and shall ensure that custodians of records, as defined by law, and other applicable District staff are trained on the District's records management program, including this policy and corresponding procedures.

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PEIMS	<p>A 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 of education, shall be used by a 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), a 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. 7131</i> [See ESEA FUNDING, below, for details]</p>
DEFINITIONS "HARMFUL TO MINORS"	<p>"Harmful to minors" means any picture, image, graphic image file, or other visual depiction that:</p> <ol style="list-style-type: none"><li>1. Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;</li><li>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; and</li><li>3. Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.</li></ol> <p><i>47 U.S.C. 254(h)(7)(G); 20 U.S.C. 7131(e)(6)</i></p>
"TECHNOLOGY PROTECTION MEASURE"	<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 a district submits to the FCC the certifications described below at CERTIFICATIONS TO THE FCC and a certification that an Internet safety policy has been adopted and implemented as described at INTERNET SAFETY POLICY below, and ensures the use of computers with Internet access in accordance with the certifications. <i>47 U.S.C. 254(h)(5)(A); 47 C.F.R. 54.520</i></p>

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CERTIFICATIONS TO THE FCC A district that receives discounts for Internet access and internal connections services under the federal universal support mechanism for schools must make certifications in accordance with 47 C.F.R. 54.520(c) each funding year. A district that only receives discounts for telecommunications services is not subject to the certification requirements, but must indicate that it only receives discounts for telecommunications services. *47 C.F.R. 54.520(b)*

WITH RESPECT TO MINORS A district must submit certification that the district:

1. Is enforcing a policy of Internet safety for minors that includes monitoring their online activities and the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are obscene, child pornography, or harmful to minors;
2. Is enforcing the operation of such technology protection measure during any use of such computers by minors; and
3. Is educating minors, as part of its Internet safety policy, about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response.

*47 U.S.C. 254(h)(5)(B)*

WITH RESPECT TO ADULTS A district must submit certification that the district:

1. Is enforcing a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are obscene or child pornography; and
2. Is enforcing the operation of such technology protection measure during any use of such computers.

*47 U.S.C. 254(h)(5)(C)*

DISABLING FOR ADULTS An administrator, supervisor, or other person authorized by a 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)(D)*

INTERNET SAFETY POLICY A 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;

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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 online;
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

A 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)(iii), (l)(1)(B)*

“INAPPROPRIATE  
FOR MINORS”

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

ESEA FUNDING

Federal funds made available under Title IV, Part A 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 a 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.

A district may disable the technology protection measure to enable access for bona fide research or other lawful purposes.

CERTIFICATION TO  
DOE

A district shall certify its compliance with these requirements during each annual program application cycle under the ESEA.

*20 U.S.C. 7131*

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TRANSFER OF  
EQUIPMENT TO  
STUDENTS

A 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 2175.905;
2. Any equipment purchased by the district; and
3. Any surplus or salvage equipment owned by the district.

*Education Code 32.102(a)*

Before transferring data processing equipment to a student, a 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

A 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)*

A district shall not pay a fee or other reimbursement to a state eleemosynary institution or institution or agency of higher education or other state agency for surplus or salvage data processing equipment it transfers to the district. *Government Code 2175.905(c)*

USE OF PUBLIC  
FUNDS

A 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 ac-



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cess to data processing equipment, as determined by a district. A 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 a 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.

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

A 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 322; 1 TAC 203*

DIGITAL SIGNATURE

A digital signature may be used to authenticate a written electronic communication sent to a district if it complies with rules adopted by the board. Before adopting the rules, the board shall consider the rules adopted by the Department of Information Resources (DIR) and, to the extent possible and practicable, make the board's rules consistent with DIR rules. *Gov't Code 2054.060; 1 TAC 203*

SECURITY BREACH  
NOTIFICATION  
TO INDIVIDUALS

A district that owns or licenses computerized data that includes sensitive personal information shall disclose, in accordance with the notice provisions at Business and Commerce Code 521.053(e), any breach of system security, after discovering or receiving notification of the breach, to any individual whose sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made as quickly as possible, except as provided at CRIMINAL INVESTIGATION EXCEPTION below, or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

TO THE OWNER OR  
LICENSE HOLDER

A district that maintains computerized data that includes sensitive personal information not owned by the district shall notify the owner or license holder of the information, in accordance with Business and Commerce Code 521.053(e), of any breach of system security immediately after discovering the breach, if the sensitive personal

information was, or is reasonably believed to have been, acquired by an unauthorized person.

TO A CONSUMER  
REPORTING  
AGENCY

If a district is required to notify at one time more than 10,000 persons of a breach of system security, the district shall also notify each consumer reporting agency, as defined by 15 U.S.C. 1681a, that maintains files on consumers on a nationwide basis, of the timing, distribution, and content of the notices. The district shall provide the notice without unreasonable delay.

CRIMINAL  
INVESTIGATION  
EXCEPTION

A district may delay providing the required notice to state residents or the owner or license holder at the request of a law enforcement agency that determines that the notification will impede a criminal investigation. The notification shall be made as soon as the law enforcement agency determines that the notification will not compromise the investigation.

INFORMATION  
SECURITY POLICY

A district that maintains its own notification procedures as part of an information security policy for the treatment of sensitive personal information that complies with the timing requirements for notice described above complies with Business and Commerce Code 521.053 if the district notifies affected persons in accordance with that policy.

*Business and Commerce Code 521.053; Local Gov't Code 205.010*

DEFINITIONS  
"BREACH OF  
SYSTEM  
SECURITY"

"Breach of system security" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive personal information maintained by a person, including data that is encrypted if the person accessing the data has the key required to decrypt the data. Good faith acquisition of sensitive personal information by an employee or agent of the person for the purposes of the person is not a breach of system security unless the person uses or discloses the sensitive personal information in an unauthorized manner. *Business and Commerce Code 521.053(a)*

"SENSITIVE  
PERSONAL  
INFORMATION"

"Sensitive personal information" means:

1. An individual's first name or first initial and last name in combination with any one or more of the following items, if the name and the items are not encrypted:
  - a. Social security number;
  - b. Driver's license number or government-issued identification number; or

- c. Account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account; or
  2. Information that identifies an individual and relates to:
    - a. The physical or mental health or condition of the individual;
    - b. The provision of health care to the individual; or
    - c. Payment for the provision of health care to the individual.

“Sensitive personal information” does not include publicly available information that is lawfully made available to the public from the federal government or a state or local government.

*Business and Commerce Code 521.002(a)(2), (b)*

ACCESS TO  
ELECTRONIC  
COMMUNICATIONS

ELECTRONIC  
COMMUNICATION  
PRIVACY ACT

Except as otherwise provided in the Electronic Communication Privacy Act, 18 U.S.C. 2510–22, a person commits an offense if the person:

1. Intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept any wire, oral, or electronic communication;
2. Intentionally uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when:
  - a. Such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication; or
  - b. Such device transmits communications by radio, or interferes with the transmission of such communication; or
  - c. Such person knows, or has reason to know, that such device or any component thereof has been sent through the mail or transported in interstate or foreign commerce; or
  - d. Such use or endeavor to use takes place on the premises of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or obtains or is for the purpose of obtaining information relating to the operations of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or

- e. Such person acts in the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;
3. Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the prohibited interception of a wire, oral, or electronic communication;
4. Intentionally uses, or endeavors to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the prohibited interception of a wire, oral, or electronic communication; or
5. Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by 18 U.S.C. 2511(2)(a)(ii), 2511(2)(b)–(c), 2511(2)(e), 2516, and 2518; knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation; having obtained or received the information in connection with a criminal investigation; and with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation.

It shall not be unlawful for a person not acting under color of law to intercept a wire, oral, or electronic communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any state.

*18 U.S.C. 2511(1), (2)(d)*

STORED WIRE AND  
ELECTRONIC  
COMMUNICATIONS  
AND  
TRANSACTIONAL  
RECORDS ACCESS  
ACT

A district must comply with the Stored Wire and Electronic Communications and Transactional Records Access Act, 18 U.S.C. 2701–12.

Whoever intentionally accesses without authorization a facility through which an electronic communication service is provided or intentionally exceeds an authorization to access that facility and thereby obtains, alters, or prevents authorized access to a wire or electronic communication while it is in electronic storage in such system commits an offense. *18 U.S.C. 2701(a)*

EXCEPTIONS

This section does not apply with respect to conduct authorized:

1. By the person or entity providing a wire or electronic communications service;
2. By a user of that service with respect to a communication of or intended for that user; or
3. By sections 18 U.S.C. 2703, 2704, or 2518.

*18 U.S.C. 2701(c)*

DEFINITIONS

“ELECTRONIC  
COMMUNICATION”

“Electronic communication” means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photooptical system that affects interstate or foreign commerce. *18 U.S.C. 2510(12), 2711(1)*

“ELECTRONIC  
STORAGE”

“Electronic storage” means:

1. Any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and
2. Any storage of such communication by an electronic communication service for purposes of backup protection of such communication.

*18 U.S.C. 2510(17), 2711(1)*

The term encompasses only the information that has been stored by an electronic communication service provider. Information that an individual stores to the individual’s hard drive or cell phone is not in electronic storage under the statute. *Garcia v. City of Laredo*, 702 F.3d 788 (5th Cir. 2012)

“ELECTRONIC  
COMMUNICATIONS  
SYSTEM”

“Electronic communications system” means any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications. *18 U.S.C. 2510(14), 2711(1)*

“ELECTRONIC  
COMMUNICATION  
SERVICE”

“Electronic communication service” means any service which provides to users thereof the ability to send or receive wire or electronic communications. *18 U.S.C. 2510(15), 2711(1)*

“FACILITY”

“Facility” includes servers operated by electronic communication service providers for the purpose of storing and maintaining electronic storage. The term does not include technology, such as cell phones and computers, that enables the use of an electronic communication service. *Garcia v. City of Laredo*, 702 F.3d 788 (5th Cir. 2012)

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"PERSON"	"Person" means any employee, or agent of the United States or any state or political subdivision thereof, and any individual, partnership, association, joint stock company, trust, or corporation. <i>18 U.S.C. 2510(6), 2711(1)</i>
CYBERSECURITY INFORMATION SHARING ACT	A district may, for a cybersecurity purpose and consistent with the protection of classified information, share with, or receive from, any other non-federal entity or the federal government a cyber threat indicator or defensive measure. A district receiving a cyber threat indicator or defensive measure from another entity shall comply with otherwise lawful restrictions placed on the sharing or use of such cyber threat indicator or defensive measure by the sharing entity. <i>6 U.S.C. 1503(c)</i>
PROTECTION AND USE OF INFORMATION SECURITY	A district monitoring an information system, operating a defensive measure, or providing or receiving a cyber threat indicator or defensive measure under 6 U.S.C. 1503 shall implement and utilize a security control to protect against unauthorized access to or acquisition of such indicator or measure. <i>6 U.S.C. 1503(d)(1)</i>
REMOVAL OF PERSONAL INFORMATION	A district sharing a cyber threat indicator pursuant to these provisions shall, prior to sharing: <ol style="list-style-type: none"><li data-bbox="560 1029 1443 1197">1. Review such indicator to assess whether it contains any information not directly related to a cybersecurity threat that the district knows at the time of sharing to be personal information of a specific individual or information that identifies a specific individual and remove such information; or</li><li data-bbox="560 1218 1443 1396">2. Implement and utilize a technical capability configured to remove any information not directly related to a cybersecurity threat that the district knows at the time of sharing to be personal information of a specific individual or information that identifies a specific individual.</li></ol> <i>6 U.S.C. 1503(d)(2)</i>
USE OF INFORMATION	A cyber threat indicator or defensive measure shared or received may, for cybersecurity purposes: <ol style="list-style-type: none"><li data-bbox="560 1564 1443 1701">1. Be used by a district to monitor or operate a defensive measure that is applied to an information system of the district, or an information system of another non-federal entity or a federal entity upon written consent of that other entity; and</li><li data-bbox="560 1722 1443 1858">2. Be otherwise used, retained, and further shared by a district subject to an otherwise lawful restriction placed by the sharing entity on such indicator or measure, or an otherwise applicable provision of law.</li></ol> <i>6 U.S.C. 1503(d)(3)</i>

EXCEPTION	<p>A cyber threat indicator or defensive measure shared with a state, tribal, or local government under Title 6, United States Code, may not be used by any such government to regulate, including an enforcement action, the lawful activity of any non-federal entity or any activity taken by a non-federal entity pursuant to mandatory standards, including an activity relating to monitoring, operating a defensive measure, or sharing of a cyber threat indicator. A cyber threat indicator or defensive measure shared as described in this provision may, consistent with a state, tribal, or local government regulatory authority specifically relating to the prevention or mitigation of cybersecurity threats to information systems, inform the development or implementation of a regulation relating to such information systems. <i>6 U.S.C. 1503(d)(4)(C)</i></p>
LAW ENFORCEMENT USE	<p>A district that receives a cyber threat indicator or defensive measure under Title 6, United States Code, may use such indicator or measure for the purposes described in 6 U.S.C. 1504(d)(5)(A). <i>6 U.S.C. 1503(d)(4)(B)</i> [See CKE]</p>
EXEMPTION FROM PUBLIC DISCLOSURE	<p>A cyber threat indicator or defensive measure shared by or with a state, tribal, or local government under 6 U.S.C. 1503 shall be deemed voluntarily shared information and exempt from disclosure under any state or local freedom of information law, open government law, open meetings law, open records law, sunshine law, or similar law requiring disclosure of information or records. <i>6 U.S.C. 1503(d)(4)(B)</i></p> <p>A cyber threat indicator or defensive measure shared with the federal government under Title 6, United States Code, shall be:</p> <ol style="list-style-type: none"><li>1. Deemed voluntarily shared information and exempt from disclosure under federal public information law and any state or local provision of law requiring disclosure of information or records; and</li><li>2. Withheld, without discretion, from the public under federal public information law and any state or local provision of law requiring disclosure of information or records.</li></ol> <p><i>6 U.S.C. 1504(d)(3)</i> [See GBA]</p>
NO DUTY	<p>Nothing in these provisions creates a duty to share a cyber threat indicator or defensive measure or to warn or act based on receipt of a cyber threat indicator or defensive measure; or undermines or limits the availability of otherwise applicable common law or statutory defenses. <i>6 U.S.C. 1505(c)</i></p>
DEFINITIONS "NON-FEDERAL ENTITY"	<p>"Non-federal entity" means any private entity, non-federal government agency or department, or state, tribal, or local government</p>

(including a political subdivision, department, or component thereof). *6 U.S.C. 1501(14)*

“CYBERSECURITY PURPOSE” “Cybersecurity purpose” means the purpose of protecting an information system or information that is stored on, processed by, or transiting an information system from a cybersecurity threat or security vulnerability. The term does not include any action that solely involves a violation of a consumer term of service or a consumer licensing agreement. *6 U.S.C. 1501(4)*

“CYBERSECURITY THREAT” “Cybersecurity threat” means an action, not protected by the First Amendment to the United States Constitution, on or through an information system that may result in an unauthorized effort to adversely impact the security, availability, confidentiality, or integrity of an information system or information that it stored on, processed by, or transiting an information system. *6 U.S.C. 1501(5)*

“CYBER THREAT INDICATOR” “Cyber threat indicator” means information that is necessary to describe or identify:

1. Malicious reconnaissance, as defined in 6 U.S.C. 1501(12), including anomalous patterns of communications that appear to be transmitted for the purpose of gathering technical information related to a cybersecurity threat or security vulnerability;
2. A method of defeating a security control or exploitation of a security vulnerability;
3. A security vulnerability, including anomalous activity that appears to indicate the existence of a security vulnerability;
4. A method of causing a user with legitimate access to an information system or information that is stored on, processed by, or transiting an information system to unwittingly enable the defeat of a security control or exploitation of a security vulnerability;
5. Malicious cyber command and control, as defined in 6 U.S.C. 1501(11);
6. The actual or potential harm caused by an incident, including a description of the information exfiltrated as a result of a particular cybersecurity threat;
7. Any other attribute of a cybersecurity threat, if disclosure of such attribute is not otherwise prohibited by law; or
8. Any combination thereof.

*6 U.S.C. 1501(6)*



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“DEFENSIVE MEASURE”	“Defensive measure” means an action, device, procedure, signature, technique, or other measure applied to an information system or information that is stored on, processed by, or transiting an information system that detects, prevents, or mitigates a known or suspected cybersecurity threat or security vulnerability. The term does not include a measure that destroys, renders unusable, provides unauthorized access to, or substantially harms an information system or information stored on, processed by, or transiting such information system not owned by the private entity operating the measure or another entity that is authorized to provide consent and has provided consent to that private entity for operation of such measure. <i>6 U.S.C. 1501(7)</i>
“INFORMATION SYSTEM”	“Information system” has the meaning given the term in 44 U.S.C. 3502 and includes industrial control systems, such as supervisory control and data acquisition systems, distributed control systems, and programmable logic controllers. <i>6 U.S.C. 1501(9)</i>
“SECURITY CONTROL”	“Security control” means the management, operational, and technical controls used to protect against an unauthorized effort to adversely affect the confidentiality, integrity, and availability of an information system or its information. <i>6 U.S.C. 1501(16)</i>
“SECURITY VULNERABILITY”	“Security vulnerability” means any attribute of hardware, software, process, or procedure that could enable or facilitate the defeat of a security control. <i>6 U.S.C. 1501(17)</i>



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**Note:** The following is an index of website posting requirements that are addressed in the legal reference material of the policy manual. The list is not all-inclusive. The list does not address postings that are required in response to a specific incident or postings required under special circumstances.

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REQUIRED INTERNET  
POSTINGS

A district that maintains an Internet website shall post the following:

1. Not later than 30 days after an accreditation status of accredited-warned, accredited-probation, or not accredited-revoked is assigned, a district must post notice on the home page of its website with a link to the required notification under 19 Administrative Code 97.1055(f), and maintain this until the district is assigned the accredited status. [See AIA]
2. A board shall disseminate its Texas Academic Performance Report (TAPR) by posting it on the district website under 19 Administrative Code 61.1022(f). [See AIB]
3. Not later than the tenth day after the first day of instruction of each school year, a district shall make available each campus report card, the district's performance report, the district's accreditation status and performance rating, and a definition and explanation of each accreditation status, under Education Code 39.362. [See AIB]
4. Not later than August 8 of each year, a district shall post the locally determined performance ratings and compliance status for the district and each campus under 19 Administrative Code 61.1023(h). [See AIB]
5. A district shall post its annual federal report card under 20 U.S.C. 6311(h)(2). [See AIB]
6. A district shall post an election notice required under Election Code 85.007. [See BBB]
7. A district that is located wholly or partly in a municipality with a population of more than 500,000 and with a student enrollment of more than 15,000 shall post a report filed pursuant to Election Code Chapter 254 by a board member, a candidate for membership on the board, or a specific-purpose committee for supporting, opposing, or assisting a candidate or member of a board under Election Code 254.04011. [See BBBA]

TECHNOLOGY RESOURCES  
DISTRICT, CAMPUS, AND CLASSROOM WEBSITES

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8. A district shall provide access to the conflicts disclosure statements and questionnaires under Local Government Code 176.009. [See BBFA, CHE]
9. A district shall post the statements regarding activities to support student health under Education Code 28.004. [See BDF]
10. A board must post notice of a board meeting and, if the district contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more, the board must also post the agenda for a board meeting under Government Code 551.056. [See BE]
11. A district that has a student enrollment of 10,000 or more shall post the archived recording, or a link thereto, of its meetings under Government Code 551.128(b-1). [See BE]
12. A district issuing capital appreciation bonds shall post the information required by Government Code 1201.0245. [See CCA]
13. A district shall include on the home page of its website the prescribed statement if the district proposes to increase the amount of taxes to fund maintenance and operation expenditures under Tax Code 26.05(b). [See CCG]
14. A district shall post a summary of its proposed budget concurrently with publication of the proposed budget under Education Code 44.0041. [See CE]
15. A district shall maintain its adopted budget on the district's website until the third anniversary of the date the budget was adopted, under Education Code 44.0051. [See CE]
16. A district shall continuously post its annual financial report under Local Government Code 140.008 on its website until the district posts the next annual report, or, as an alternative, the district may post a link to the comptroller's website where the district's financial information may be viewed. [See CFA]
17. A district shall continuously post on its website the contact information for the district's main office, including the physical address, the mailing address, the main telephone number, and an e-mail address, under Local Government Code 140.008(f)(2). [See CFA]
18. A district shall report its energy usage information on a publicly accessible Internet website with an interface designed for ease of navigation, if available, under Government Code 2265.001. [See CL]

TECHNOLOGY RESOURCES  
DISTRICT, CAMPUS, AND CLASSROOM WEBSITES

CQA  
(LEGAL)

19. A district that does not participate in the uniform group health insurance program (TRS ActiveCare) shall post its comparability report, together with the policy or contract for the group health coverage plan, under Education Code 22.004(d). [See CRD]
20. A district shall post the board's employment policies under Education Code 21.204(d). [See DCB]
21. A district shall post the transition and employment guide for students enrolled in special education programs and their parents in order to provide information on statewide services and programs that assist in the transition to life outside the public school system, under Education Code 29.0112.
22. A district shall publish information from TEA under Education Code 28.02121 explaining the advantages of the distinguished level of achievement and each endorsement. [See EIF]
23. A district shall post the date the PSAT/NMSQT will be administered and the date any college advanced placement tests will be administered, under Education Code 29.916. [See EK]
24. A district that receives funds under Title 1, Part A shall post on its website and the website of each campus for each grade served, information on each assessment required by the state to comply with 20 U.S.C. 6311, other assessments required by the state, and assessments required district-wide, under 20 U.S.C. 6312(e)(2)(B). [See EKB]
25. A district shall post information regarding local programs and services, including charitable programs and services, available to assist homeless students, under Education Code 33.906. [See FDC]
26. A district shall prominently post information about required and recommended immunizations and procedures for claiming an exemption from immunization requirements under Education Code 38.019. [See FFAB]
27. To the extent practicable, a district must post the procedure for reporting bullying established by the district's bullying policy, under Education Code 37.0832(e). [See FFI]

OPTIONAL INTERNET  
POSTINGS

- A district that maintains an Internet website may post the following:
1. A board may broadcast an open meeting over the Internet, under Government Code 551.128. [See BE]

TECHNOLOGY RESOURCES  
DISTRICT, CAMPUS, AND CLASSROOM WEBSITES

CQA  
(LEGAL)

2. Notice of a vacant position for which a certificate or license is required may be provided by posting the position on the district's Internet website, rather than on a bulletin board, under Education Code 11.1513. [See DC]
3. A district may place on its Internet website a current copy of the procedural safeguards notice regarding special education and related services, under 34 C.F.R. 300.504(b). [See EHBAE]
4. A district may provide the annual notice to the parent of each student enrolled in grade 9 or above of the availability of programs under which a student may earn college credit, under Education Code 28.010. [See EHDD]

"GEOSPATIAL DATA  
PRODUCTS"

"Geospatial data product" means a document, computer file, or Internet website that contains geospatial data; a map; or information about a service involving geospatial data or a map. *Gov't Code 2051.101(1)*

NOTICE

A district shall include a notice on each geospatial data product that:

1. Is created or hosted by the district;
2. Appears to represent property boundaries; and
3. Was not produced using information from an on-the-ground survey conducted by or under the supervision of a registered professional land surveyor or land surveyor authorized to perform surveys under laws in effect when the survey was conducted.

The notice must be in substantially the following form: "This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries."

The notice may include language further defining the limits of liability of a geospatial data product producer; apply to a geospatial data product that contains more than one map; or for a notice that applies to a geospatial data product that is or is on an Internet website, be included on a separate page that requires the person accessing the website to agree to the terms of the notice before accessing the geospatial data product.

*Gov't Code 2051.102*

EXEMPTION

A district is not required to include the notice on a geospatial data product that:

1. Does not contain a legal description, a property boundary monument, or the distance and direction of a property line;
2. Is prepared only for use as evidence in a legal proceeding;
3. Is filed with the clerk of any court; or
4. Is filed with the county clerk.

*Gov't Code 2051.103*





**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 D: PERSONNEL

DA	EMPLOYMENT OBJECTIVES
DAA	Equal Employment Opportunity
DAB	Genetic Nondiscrimination
DAC	Objective Criteria for Personnel Decisions
DB	EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
DBA	Credentials and Records
DBAA	Criminal History and Credit Reports
DBB	Medical Examinations and Communicable Diseases
DBD	Conflict of Interest
DBE	Nepotism
DC	EMPLOYMENT PRACTICES
DCA	Probationary Contracts
DCB	Term Contracts
DCC	Continuing Contracts
DCD	At-Will Employment
DCE	Other Types of Contracts
DE	COMPENSATION AND BENEFITS
DEA	Compensation Plan
DEAA	Incentives and Stipends
DEAB	Wage and Hour Laws
DEB	Fringe Benefits
DEC	Leaves and Absences
DECA	Family and Medical Leave
DECB	Military Leave
DED	Vacations and Holidays
DEE	Expense Reimbursement
DEG	Retirement
DF	TERMINATION OF EMPLOYMENT
DFA	Probationary Contracts
DFAA	Suspension/Termination During Contract
DFAB	Termination at End of Year
DFAC	Return To Probationary Status
DFB	Term Contracts
DFBA	Suspension/Termination During Contract
DFBB	Nonrenewal
DFC	Continuing Contracts
DFCA	Suspension/Termination
DFD	Hearings Before Hearing Examiner
DFE	Resignation
DFE	Reduction in Force

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## SECTION D: PERSONNEL

DFFA	Financial Exigency
DFFB	Program Change
DFFC	Continuing Contracts
DG	EMPLOYEE RIGHTS AND PRIVILEGES
DGA	Freedom of Association
DGB	Personnel-Management Relations
DGBA	Employee Complaints/Grievances
DGC	Immunity
DH	EMPLOYEE STANDARDS OF CONDUCT
DHA	Gifts and Solicitations
DHB	Reports to State Board for Educator Certification
DHE	Searches and Alcohol/Drug Testing
DI	EMPLOYEE WELFARE
DIA	Freedom from Discrimination, Harassment, and Retaliation
DJ	EMPLOYEE RECOGNITION AND AWARDS
DK	ASSIGNMENT AND SCHEDULES
DL	WORK LOAD
DLA	Staff Meetings
DLB	Required Plans and Reports
DM	PROFESSIONAL DEVELOPMENT
DMA	Required Staff Development
DMB	Career Advancement
DMC	Continuing Professional Education
DMD	Professional Meetings and Visitations
DME	Research and Publication
DN	PERFORMANCE APPRAISAL
DNA	Evaluation of Teachers
DNB	Evaluation of Campus Administrators
DP	PERSONNEL POSITIONS
DPB	Substitute, Temporary, and Part-Time Positions

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

DBA  
(LEGAL)

NOTICE TO PARENTS  
TEACHER  
QUALIFICATIONS

As a condition of receiving assistance under Title I, Part A of the Elementary and Secondary Education Act (ESEA) (20 U.S.C. 6301 et seq.), a district shall, at the beginning of each school year, notify the parents of each student attending any school receiving such funds that the parents may request, and the district shall provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

1. Whether the student's teacher:
  - a. Has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction;
  - b. Is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived; and
  - c. Is teaching in the field of discipline of the certification of the teacher.
2. Whether the child is provided services by paraprofessionals and, if so, their qualifications.

*20 U.S.C. 6312(e)(1)(A)*

FEDERALLY  
REQUIRED NOTICE  
WHEN TEACHER  
LACKS  
CREDENTIALS

A school that receives such federal funds shall also provide to each individual parent of a child who is a student in such school, with respect to such student, timely notice that the student has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable state certification or licensure requirements at the grade level and subject area in which the teacher has been assigned.

*20 U.S.C. 6312(e)(1)(B)(ii)*

STATE-REQUIRED  
NOTICE WHEN  
TEACHER LACKS  
CREDENTIALS

If a district assigns an inappropriately certified or uncertified teacher (as defined below) to the same classroom for more than 30 consecutive instructional days during the same school year, it shall provide written notice of the assignment to the parents or guardians of each student in that classroom.

A superintendent shall provide the notice not later than the 30th instructional day after the date of the assignment of the inappropriately certified or uncertified teacher. A district shall make a good-faith effort to ensure that the notice is provided in a bilingual form to any parent or guardian whose primary language is not English. A district shall retain a copy of the notice and make

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

DBA  
(LEGAL)

information relating to teacher certification available to the public on request.

An “inappropriately certified or uncertified teacher” includes an individual serving on an emergency certificate or an individual who does not hold any certificate or permit. It does not include an individual who is:

1. Certified and assigned to teach a class or classes outside his or her area of certification, as determined by SBEC rules specifying the certificate required for an assignment;
2. Serving on a certificate issued due to a hearing impairment;
3. Serving on a certificate issued pursuant to enrollment in an approved alternative certification program;
4. Certified by another state or country and serving on a certificate issued under Education Code 21.052;
5. Serving on a school district teaching permit; or
6. Employed under a waiver granted by the commissioner of education.

*Education Code 21.057; 19 TAC 231.1*

PROFESSIONAL  
PERSONNEL  
CERTIFICATE

A person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a district unless the person holds an appropriate certificate or permit. A person who desires to teach shall present the person’s certificate for filing with a district before the person’s contract with a board is binding.

A person employed by a district as an educational diagnostician before September 1, 2008, may continue employment with the district without obtaining a certificate or permit as an educational diagnostician so long as the person is employed by that district.

A person is not required to hold a certificate under Education Code 21.0487 to be employed by a district as a Junior Reserve Officer Training Corps instructor.

An educator who does not hold a valid certificate may not be paid for teaching or work done before the effective date of issuance of a valid certificate.

*Education Code 21.003(a), .053(a), (b), .0487(d)*

LICENSE

A person may not be employed by a district as an audiologist, occupational therapist, physical therapist, physician, nurse, school psychologist, associate school psychologist, licensed professional

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

DBA  
(LEGAL)

counselor, marriage and family therapist, social worker, or speech language pathologist unless the person is licensed by the state agency that licenses that profession. A person may perform specific services within those professions for a district only if the person holds the appropriate credentials from the appropriate state agency.

A person employed by a district before September 1, 2011, to perform marriage and family therapy is not required to hold a license as a marriage and family therapist as long as the person remains employed by the district.

*Education Code 21.003(b)*

SCHOOL DISTRICT  
TEACHING PERMIT

A district may issue a school district teaching permit and employ as a teacher a person who does not hold a teaching certificate issued by SBEC. To be eligible for a school district teaching permit, a person must hold a baccalaureate degree. *Education Code 21.055(a)–(b)*

STATEMENT TO  
COMMISSIONER

Promptly after employing a person under a school district permit, a district shall send a written statement to the commissioner. This statement must identify the person, the person's qualifications as a teacher, and the subject or class the person will teach. The person may teach the subject or class pending action by the commissioner.

Not later than the 30th day after the commissioner receives a district's statement, the commissioner may inform the district that the person is not qualified to teach. The person may not teach if the commissioner finds that the person is not qualified. If the commissioner fails to act before the 30th day after receiving the statement, a district may issue the school district teaching permit and the person may teach the subject or class identified in the statement sent to the commissioner.

*Education Code 21.055(c)–(d)*

NONCORE CAREER  
AND TECHNICAL  
COURSES

The following requirements do not apply to a person who will teach only noncore academic career and technical education courses:

1. The requirement to hold a baccalaureate degree;
2. The requirement that the district send a written statement to the commissioner identifying the person, the person's qualifications as a teacher, and the subject or class the person will teach; and

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

DBA  
(LEGAL)

3. The requirement that the commissioner inform the district in writing if the commissioner finds the person to be not qualified to teach.

A board may issue a school district teaching permit to a person who will teach courses only in career and technical education based on qualifications certified by the superintendent. Qualifications must include demonstrated subject matter expertise such as professional work experience, formal training and education, holding an active professional relevant industry license, certification, or registration, or any combination of work experience, training and education, or industry license, certification, or registration, in the subject matter to be taught.

The superintendent shall certify to the board that a new employee has undergone a criminal background check and is capable of proper classroom management. A district shall require a new employee to obtain at least 20 hours of classroom management training and to comply with continuing education requirements as determined by the board.

A person may teach a career and technical education course immediately upon issuance of a permit. Promptly after employing a person who qualifies under Education Code 21.055(d-1), the board shall send to the commissioner a written statement identifying the person, the course the person will teach, and the person's qualifications to teach the course.

*Education Code 21.055(d-1)*

DURATION OF  
PERMIT

A school district teaching permit remains valid unless the district issuing the permit revokes it for cause. A person authorized to teach under a school district teaching permit issued by a particular district may not teach in another school district unless that other district complies with the permit-issuing provisions. *Education Code 21.055(e)*

CERTIFICATION OF  
PARAPROFESSIONAL  
EMPLOYEES

Educational aides shall be certified according to standards established by the State Board for Educator Certification. *19 TAC 230.51*

FEDERAL  
REQUIREMENTS FOR  
TEACHERS AND PARA-  
PROFESSIONALS

Teachers and paraprofessionals working in a program supported with funds under Title I, Part A of the Elementary and Secondary Education Act (20 U.S.C. 6301 et seq.) shall meet applicable state certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification. *20 U.S.C. 6311(g)(2)(J), 6312(c)(6)*

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

DBA  
(LEGAL)

FEDERAL  
REQUIREMENTS FOR  
SPECIAL EDUCATION  
TEACHERS

Each person employed as a special education teacher who teaches elementary school, middle school, or secondary school must:

1. Have obtained full state certification as a special education teacher [including participating in an alternate route to certification as a special educator, if such alternate route meets minimum requirements described in 34 C.F.R. 2005.56(a)(2)(ii) as in effect November 28, 2008], or passed the state special education teacher licensing examination, and holds a license to teach in the state as a special education teacher;
2. Have not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
3. Hold at least a bachelor's degree.

*20 U.S.C. 1412(a)(14)(C)*

CPR AND FIRST AID  
CERTIFICATION

A district employee who serves as head director of a school marching band, head coach, or chief sponsor of an extracurricular athletic activity (including cheerleading) that is sponsored or sanctioned by the district or UIL must maintain and submit to the district proof of current certification in first aid and cardiopulmonary resuscitation issued by the American Red Cross, the American Heart Association, or another organization that provides equivalent training and certification. A district shall adopt procedures for administering this requirement, including procedures for the time and manner in which proof of current certification must be submitted. *Education Code 33.086*

AED CERTIFICATION

Each school nurse, assistant school nurse, athletic coach or sponsor, physical education instructor, marching band director, cheerleading coach, and any other employee specified by the commissioner must receive and maintain certification in the use of an automated external defibrillator (AED) from the American Heart Association, the American Red Cross, or a similar nationally recognized association. *Education Code 22.902* [See DMA]

SCHOOL BUS  
DRIVERS  
CREDENTIALS

For purposes of the following provisions, a "school bus driver" is a driver transporting school children and/or school personnel on routes to and from school or on a school-related activity trip while operating a multifunction school activity bus, school activity bus, or school bus. *37 TAC 14.1* [See CNA]

At a minimum, to become employed and maintain employment status as a school bus driver, a person must meet the following requirements:

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

DBA  
(LEGAL)

1. Be at least 18 years old.
2. Possess a valid driver's license designating a class appropriate (with applicable endorsement, if commercial driver license) for the gross vehicle weight rating and manufacturer's designed passenger capacity of the vehicle to be operated.
3. Meet the medical qualifications specified by the Department of Public Safety (DPS) at 37 Administrative Code 14.12. [See DBB]
4. Maintain an acceptable driving record in accordance with the minimum standards established by the DPS at 37 Administrative Code 14.14.
5. Maintain an acceptable criminal history record, secured from any law enforcement agency or criminal justice agency, and reviewed in accordance with the provisions of Education Code Chapter 22. [See DBAA]
6. Possess a valid Texas School Bus Driver Safety Training Certificate, as specified at 37 Administrative Code 14.35 or a valid Enrollment Certificate, as specified at 37 Administrative Code 14.36.

*Transp. Code 521.022; 37 TAC 14.11, .12, .14*

PRE-EMPLOYMENT  
INQUIRIES

An applicant for employment as a school bus driver must disclose to the district:

1. Any violations of motor vehicle laws or ordinances (other than parking violations) of which the applicant was convicted or forfeited bond or collateral during the three years preceding the date the application is submitted;
2. Any serious traffic violations, as defined by Transportation Code 522.003(25), of which the applicant was convicted during the ten years preceding the date the application is submitted; and
3. Any suspension, revocation, or cancellation of driving privilege that the applicant has ever received.

The district shall make an inquiry into the applicant's complete driving record, with DPS and with any state in which the applicant held a motor vehicle operator's license or permit within the past seven years. If no previous driving record is found to exist, the district must document its efforts to obtain such information and certify that no previous driving record exists for the individual.



EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

DBA  
(LEGAL)

The district shall review the applicant's driving record to determine whether that person meets minimum requirements, as described at 37 Administrative Code 14.14(d) (penalty points for convictions of traffic law violations and crash involvements).

*37 TAC 14.14(b)*

ANNUAL  
EVALUATION

A district shall, at least once every 12 months, make an inquiry into the complete driving record of each school bus driver it employs, with DPS and with any state in which the individual held a motor vehicle operator's license or permit during that time period. The district shall review the driving record to determine whether the individual meets the minimum requirements described at 37 Administrative Code 14.14(d) (penalty points for convictions of traffic law violations and crash involvements). *Transp. Code 521.022(d); 37 TAC 14.14(c)*

DISQUALIFICATION

Any person who has accumulated ten or more penalty points shall be considered ineligible to transport students until such time as he or she may become qualified. A school bus driver who receives notice that his or her license, permit, or privilege to operate a motor vehicle has been revoked, suspended, or withdrawn shall notify the district of the contents of the notice before the end of the business day following the day the driver received it. A district shall not permit a disqualified driver to drive a school bus, school activity bus, or multifunction school activity bus. *37 TAC 14.14(g)*

EMPLOYEE RECORDS  
PROFESSIONAL  
EMPLOYEES

The following records on professional personnel must be readily available for review by the commissioner:

1. Credentials (certificate or license);
2. Service record(s) and any attachments;
3. Contract;
4. Teaching schedule or other assignment record; and
5. Absence from duty reports.

SERVICE RECORD

The basic document in support of the number of years of professional service claimed for salary increment purposes and both the state's sick and personal leave program data for all personnel is the service record (form FIN-115) or a similar form containing the same information. It is the responsibility of the issuing district to ensure that service records are true and correct and that all service recorded on the service record was actually performed.

The service record must be validated by a person designated by a district to sign service records. The service record shall be kept on file at the district.

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

DBA  
(LEGAL)

FORMER  
EMPLOYEES

On request by a classroom teacher, librarian, school counselor, or nurse or by the school district employing one of those individuals, a district that previously employed the individual shall provide a copy of the individual's service record to the district employing the individual. The district must provide the copy not later than the 30th day after the later of:

1. The date the request is made; or
2. The date of the last day of the individual's service to the district.

The original service record, signed by the employee, shall be given to the employee upon request or sent to the next employing district. A district must maintain a legible copy for audit purposes. A scanned version of the original service record may be considered official if sent directly from one employing district to another employing district.

*Education Code 21.4031; 19 TAC 153.1021(b), (d)*

ACCESS TO  
EMPLOYEE  
RECORDS

With regard to public access to information in personnel records, custodians of such records shall adhere to the requirements of the Public Information Law. *Gov't Code Ch. 552* [See GBA]

Information in a personnel file is excepted from the requirements of the Public Information Law if the disclosure would constitute a clearly unwarranted invasion of personal privacy.

Except as provided below, an employee of a district shall choose whether to allow public access to information in the district's custody that relates to the employee's home address, home telephone number, emergency contact information, or social security number, or that reveals whether the person has family members.

*Gov't Code 552.024, .102(a)*

The social security number of an employee of a district in the custody of the district is confidential. A district may not require an employee or former employee of the district to choose whether to allow public access to the employee's or former employee's social security number. *Gov't Code 552.024(a-1), .147(a-1)*

EMPLOYEE  
RIGHT OF  
ACCESS

All information in the personnel file of a district employee shall be made available to that employee or the employee's designated representative as public information is made available under the Public Information Law. An employee or an employee's authorized representative has a special right of access, beyond the right of the general public, to information held by a district that relates to the

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

A district may not deny to the employee or his or her representative access to information relating to the employee on the grounds that the information is considered confidential by privacy principles under the Public Information Law. A district may assert as grounds for denial of access other provisions of the Public Information Law or other laws that are not intended to protect the employee's privacy interests.

If a district determines that information in the employee's records is exempt from disclosure under an exception of Government Code Chapter 552, Subchapter C, other than an exception intended to protect the privacy interest of the requestor or the person whom the requestor is authorized to represent, it shall submit a written request for a decision to the attorney general before disclosing the information. If a decision is not requested, a district shall release the information to the requestor not later than the tenth day after the request for information is received.

*Gov't Code 552.023, .102(a), .307*



EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

DBA  
(LOCAL)

UPDATING  
CREDENTIALS

All employees who have earned certificates, endorsements, or degrees of higher rank since the previous school year shall file with the District:

1. An official college transcript showing the highest degree earned and date conferred.
2. Proof of the certificate or endorsement.

CONTRACT  
PERSONNEL

The Superintendent or designee shall ensure that contract personnel possess valid credentials before issuing contracts.

SOCIAL SECURITY  
NUMBER

The District shall not use an employee's social security number as an employee identifier, except for tax purposes [see DC]. In accordance with law, the District shall keep an employee's social security number confidential.



EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

DBAA  
(LEGAL)

DEFINITIONS

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

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

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

CERTIFIED PERSONS

The State Board for Educator Certification (SBEC) shall review the NCHRI of a person who is an applicant for or holder of a certificate and who is employed by or is an applicant for employment by a 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. A 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, a district shall send or ensure that the person sends to DPS information that DPS requires for obtaining NCHRI, which may include fingerprints and photographs.

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

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

DBAA  
(LEGAL)

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>A 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. A 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 a district or 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>A 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>A 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"><li>1. May not be hired or must be discharged as provided by Education Code 22.085; or</li><li>2. May not be employed as a substitute teacher because the person's educator certification has been revoked or is suspended.</li></ol>
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>A district shall obtain all CHRI that relates to a person to whom this section applies through the Clearinghouse. A 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), .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.



EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

DBAA  
(LEGAL)

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

*Education Code 22.0835*

- COORDINATION OF EFFORTS      TEA, SBEC, a 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      A 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.

A district may obtain the CHRI from:

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

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

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

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

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

DBAA  
(LEGAL)

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

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

A district or an individual may not confirm the existence or nonexistence of CHRI to any person who is not eligible to receive the information.

*Gov't Code 411.084*

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

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

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

DESTRUCTION OF  
CHRI

A district shall destroy CHRI obtained from DPS on the earlier of:

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

*Gov't Code 411.097(d)(3)*

CONFIDENTIALITY OF  
INFORMATION  
OBTAINED FROM  
APPLICANT OR  
EMPLOYEE

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

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

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

DBAA  
(LEGAL)

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

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

*Education Code 22.08391*

UNAUTHORIZED  
DISCLOSURE OF CHRI

A person commits a Class B misdemeanor if the person knowingly or intentionally:

1. Obtains CHRI in an unauthorized manner, uses the information for an unauthorized purpose, or discloses the information to a person who is not entitled to the information; or
2. Violates a DPS rule adopted under Government Code Chapter 411, Subchapter F.

A person commits a second degree felony if the person:

1. Obtains, uses, or discloses CHRI for remuneration or for the promise of remuneration; or
2. Employs another person to obtain, use, or disclose CHRI for remuneration or for the promise of remuneration.

*Gov't Code 411.085*

SBEC NOTIFICATION

A 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 educator employed by or seeking employment with the district has a reported criminal history and the district obtained information about the educator's criminal record by a means other than the criminal history clearinghouse established by the Texas Department of Public Safety. [See also DHB for details on reporting requirements.]

"Reported criminal history" means information concerning any formal criminal justice system charges and dispositions. The term includes arrests, detentions, indictments, criminal information, convictions, deferred adjudications, and probations in any state or federal jurisdiction.

*Education Code 22.087; 19 TAC 249.14(d), .3(43)*

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

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EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

DBAA  
(LEGAL)

DISCHARGE OF  
CONVICTED  
EMPLOYEES

A 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, a 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 a 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 a 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 of education that the district has complied with the above provisions at DISCHARGE OF CONVICTED EMPLOYEES as required by Education Code 22.085.

SANCTIONS

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

SBEC may impose a sanction on a superintendent who falsely or inaccurately certified to the commissioner that the district had complied with Education Code 22.085. [See DISCHARGE OF CONVICTED EMPLOYEES, above]

OPTIONAL  
TERMINATION

A district may discharge an employee if the district obtains information of the employee's conviction of a felony or misdemeanor

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

DBAA  
(LEGAL)

involving moral turpitude that the employee did not disclose to SBEC or to the district. An employee so discharged is considered to have been discharged for misconduct for the purposes of Labor Code 207.044 (unemployment compensation).

*Education Code 22.085; 19 TAC 249.15(b)(12), (13) [See DF]*

CONSUMER CREDIT  
REPORTS

DEFINITIONS

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

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

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

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

*15 U.S.C. 1681a*

OBTAINING  
REPORTS

A district may not procure a consumer report for employment purposes unless:

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

ADVERSE ACTION

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

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

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

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EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

DBAA  
(LEGAL)

ADDRESS  
DISCREPANCIES

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

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

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

*16 C.F.R. 641.1*

DISPOSAL OF  
RECORDS

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

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

Examples of reasonable measures include:

1. Burning, pulverizing, or shredding papers containing a consumer report so the information cannot practicably be read or reconstructed;
2. Destroying or erasing electronic media containing a consumer report so that the information cannot practicably be read or reconstructed; or
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 C.F.R. 682.3*

EMPLOYMENT PRACTICES  
CONTINUING CONTRACTS

DCC  
(LEGAL)

APPLICABILITY

Each person employed under a continuing contract is entitled to continue in the employee's position or a position with the District for future school years without the necessity for annual nomination or reappointment, until such time as the person:

1. Resigns [see DFE];
2. Retires under the Teacher Retirement System;
3. Is released from employment by the District at the end of a school year because of necessary reduction of personnel [see DFCA];
4. Is discharged for good cause [see DFCA];
5. Is discharged for a reason stated in the teacher's contract that existed on or before September 1, 1995, [see DFD]; or
6. Is returned to probationary status under Education Code 21.106 [see DFAC].

*Education Code 21.154*

FORMER  
ADMINISTRATORS

The District may grant to a person who has served as a principal or in another administrative position for which certification is required, at the completion of the person's service in that capacity, a continuing contract if the person qualifies for that position under criteria adopted by the Board. *Education Code 21.155*





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, gender, national origin, age, disability, or any other basis prohibited by law. 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. [See DFFA]
10. Reduction in force because of a program change. [See DFFB]
11. The employee is not retained at a campus in accordance with the provisions of a campus turnaround plan. [See AIC]
12. Drunkenness or excessive use of alcoholic beverages; or possession, use, or being under the influence of alcohol or alcoholic beverages while on District property, while working in the scope of the employee's duties, or while attending any school- or District-sponsored activity.
13. The illegal possession, use, manufacture, or distribution of a controlled substance, a drug, a dangerous drug, hallucinogens, or other substances regulated by state statutes.
14. Failure to meet the District's standards of professional conduct.
15. 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]

16. 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]
17. Failure to comply with reasonable District requirements regarding advanced coursework or professional improvement and growth.
18. Disability, not otherwise protected by law, that prevents the employee from performing the essential functions of the job.
19. Any activity, school-connected or otherwise, that, because of publicity given it, or knowledge of it among students, faculty, or the community, impairs or diminishes the employee's effectiveness in the District.
20. Any breach by the employee of an employment contract or any reason specified in the employee's employment contract.
21. Failure to maintain an effective working relationship, or maintain good rapport, with parents, the community, or colleagues.
22. A significant lack of student progress attributable to the educator.
23. Behavior that presents a danger of physical harm to a student or to other individuals.
24. Assault on a person on District property or at a school-related function, or on an employee, student, or student's parent regardless of time or place.
25. 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.
26. Falsification of records or other documents related to the District's activities.
27. Falsification or omission of required information on an employment application.
28. Misrepresentation of facts to a supervisor or other District official in the conduct of District business.

29. Failure to fulfill requirements for state licensure or certification, including passing certification or licensing examinations required by state or federal law or by the District, for the employee's assignment.
30. Failure to maintain licensing and certification requirements, including the completion of required continuing education hours, for the employee's assignment.
31. Failure to complete certification or permit renewal requirements, or failure to fulfill the requirements of a deficiency plan, under an Emergency Permit or a Temporary Classroom Assignment Permit.
32. Any attempt to encourage or coerce a child to withhold information from the child's parent or from other District personnel.
33. Any reason that makes the employment relationship void or voidable, such as a violation of federal, state, or local law.
34. Any reason constituting good cause for terminating the contract during its term.

RECOMMENDATIONS  
FROM  
ADMINISTRATION

Administrative recommendations for renewal or proposed nonrenewal of term contracts shall be submitted to the Superintendent. A recommendation for proposed nonrenewal shall be supported by any relevant documentation. 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  
NONRENEWAL

After the Board votes to propose nonrenewal, the Superintendent or designee shall deliver written notice of proposed nonrenewal in accordance with law.

If the notice of proposed nonrenewal does not contain a statement of the reason or all 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 at a reasonable time before the hearing. The initial notice or any subsequent notice shall contain the hearing procedures.

TERM CONTRACTS  
NONRENEWAL

DFBB  
(LOCAL)

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 presiding officer, the Board shall notify the employee whether the hearing will be conducted by the Board [see HEARING BY THE BOARD, below] or an attorney designated by the Board [see HEARING BY AN ATTORNEY DESIGNATED BY THE BOARD, below].

In either case, the hearing shall be held not later than the 15th day after receipt of the request, unless the parties mutually agree to a delay. The employee shall be given notice of the hearing date as soon as it is set.

HEARING BY THE  
BOARD

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.

HEARING  
PROCEDURES

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

1. After consultation with the parties, the presiding officer 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.

HEARING BY AN  
ATTORNEY  
DESIGNATED BY  
THE BOARD

The hearing must be private unless the employee requests in writing that the hearing be public, except that the attorney may close the hearing to maintain decorum. If the employee does not request a public hearing, only the attorney designated by the Board, the employee, the Superintendent, their representatives, and witnesses shall be permitted to be in attendance, and 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 control of the attorney designated by the Board and shall generally follow the steps listed at HEARING BY THE BOARD.

Not later than the 15th day after the completion of the hearing, the attorney shall provide to the Board a record of the hearing and his or her recommendation on renewal.

BOARD REVIEW

The Board shall consider the record of the hearing and the attorney's recommendation at the first Board meeting for which notice can be posted, unless the parties agree in writing to a different date. The Board shall notify the employee of the meeting date as soon as it is set. At the meeting, the Board shall allow each party an equal amount of time to present oral arguments. The Board shall notify the employee in writing of the Board's decision on renewal not later than the 15th day after the date of the meeting.

NO HEARING

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



REDUCTION IN FORCE  
FINANCIAL EXIGENCY

DFFA  
(LOCAL)

PLAN TO REDUCE  
PERSONNEL COSTS

If the Superintendent determines that there is a need to reduce personnel costs, the Superintendent shall develop, in consultation with the Board as necessary, a plan for reducing costs that may include one or more of the following:

- Salary reductions [see DEA];
- Furloughs, if the District has received from the commissioner of education certification of a reduction in funding under Education Code 42.009 [see CBA and DEA];
- Reductions in force of contract personnel due to financial exigency, if the District meets the standard for declaring a financial exigency as defined by the commissioner [see CEA and provisions at REDUCTION IN FORCE DUE TO FINANCIAL EXIGENCY, below];
- Reductions in force of contract personnel due to program change [see DFFB]; or
- Other means of reducing personnel costs.

A plan to reduce personnel costs may include the reduction of personnel employed pursuant to employment arrangements not covered at APPLICABILITY, below.

- See DCD for the termination at any time of at-will employment.
- See DFAB for the termination of a probationary contract at the end of the contract period.
- See DFCA for the termination of a continuing contract, if applicable.
- See DCE for the termination at the end of the contract period of a contract not governed by Chapter 21 of the Education Code.

REDUCTION IN FORCE  
DUE TO FINANCIAL  
EXIGENCY

APPLICABILITY

The following provisions shall apply when a reduction in force due to financial exigency requires:

1. The nonrenewal or termination of a term contract;
2. The termination of a probationary contract during the contract period; or
3. The termination of a contract not governed by Chapter 21 of the Education Code during the contract period.

DEFINITIONS

Definitions used in this policy are as follows:

REDUCTION IN FORCE  
FINANCIAL EXIGENCY

DFFA  
(LOCAL)

1. "Nonrenewal" shall mean the termination of a term contract at the end of the contract period.
2. "Discharge" shall mean termination of a contract during the contract period.

GENERAL GROUNDS A reduction in force may take place when the Superintendent recommends and the Board adopts a resolution declaring a financial exigency. [See CEA] A determination of financial exigency constitutes sufficient reason for nonrenewal or sufficient cause for discharge.

EMPLOYMENT AREAS When a reduction in force is to be implemented, the Superintendent shall recommend the employment areas to be affected.

Employment areas may include, for example:

1. Elementary grades, levels, subjects, departments, or programs.
2. Secondary grades, levels, subjects, departments, or programs, including career and technical education subjects.
3. Special programs, such as gifted and talented, bilingual/ESL programs, special education and related services, compensatory education, or migrant education.
4. Disciplinary alternative education programs (DAEPs) and other discipline management programs.
5. Counseling programs.
6. Library programs.
7. Nursing and other health services programs.
8. An educational support program that does not provide direct instruction to students.
9. Other District-wide programs.
10. An individual campus.
11. Any administrative position, unit, or department.
12. Programs funded by state or federal grants or other dedicated funding.
13. Other contractual positions.

The Superintendent's recommendation may address whether any employment areas should be:



REDUCTION IN FORCE  
FINANCIAL EXIGENCY

DFFA  
(LOCAL)

1. Combined or adjusted (e.g., “elementary programs” and “compensatory education programs” can be combined to identify an employment area of “elementary compensatory education programs”); and/or
2. Applied on a District-wide or campus-wide basis (e.g., “the counseling program at [named elementary campus]”).

The Board shall determine the employment areas to be affected.

CRITERIA FOR  
DECISION

The Superintendent or designee shall apply the following criteria to the employees within an affected employment area when a reduction in force will not result in the nonrenewal or discharge of all staff in the employment area. The criteria are listed in the order of importance and shall be applied sequentially to the extent necessary to identify the employees who least satisfy the criteria and therefore are subject to the reduction in force. For example, if all necessary reductions can be accomplished by applying the first criterion, it is not necessary to apply the second criterion, and so forth.

1. Qualifications for Current or Projected Assignment: Certification, multiple or composite certifications, bilingual certification, licensure, endorsement, and/or specialized or advanced content-specific training or skills for the current or projected assignment.
2. Performance: Effectiveness, as reflected by:
  - a. The most recent formal appraisal and, if available, consecutive formal appraisals from more than one year [see DNA]; and
  - b. Any other written evaluative information, including disciplinary information, from the last 36 months.

If the Superintendent or designee at his or her discretion decides that the documented performance differences between two or more employees are too insubstantial to rely upon, he or she may proceed to apply the remaining criteria in the order listed below.

3. Extra Duties: Currently performing an extra-duty assignment, such as department or grade-level chair, band director, athletic coach, or activity sponsor.
4. Professional Background: Professional education and work experience related to the current or projected assignment.
5. Seniority: Length of service in the District, as measured from the employee’s most recent date of hire.

REDUCTION IN FORCE  
FINANCIAL EXIGENCY

DFFA  
(LOCAL)

SUPERINTENDENT RECOMMENDATION	The Superintendent shall recommend to the Board the nonrenewal or discharge of the identified employees within the affected employment areas.
BOARD VOTE	After considering the Superintendent's recommendations, the Board shall determine the employees to be proposed for nonrenewal or discharge, as appropriate.  If the Board votes to propose nonrenewal of one or more employees, the Board shall specify the manner of hearing in accordance with DFBB(LOCAL).  If the Board votes to propose discharge of one or more employees, the Board shall determine whether the hearing will be conducted by a TEA-appointed hearing examiner [see DFD] or will be a local hearing under Education Code 21.207 [see DFBB].
NOTICE	The Superintendent or designee shall provide each employee written notice of the proposed nonrenewal or discharge, as applicable. The notice shall include:  <ol style="list-style-type: none"><li data-bbox="561 947 1089 974">1. The proposed action, as applicable;</li><li data-bbox="561 1003 1333 1031">2. A statement of the reason for the proposed action; and</li><li data-bbox="561 1060 1390 1121">3. Notice that the employee is entitled to a hearing of the type determined by the Board.</li></ol>
CONSIDERATION FOR AVAILABLE POSITIONS	An employee who has received notice of proposed nonrenewal or discharge may apply for available positions for which he or she wishes to be considered. The employee is responsible for reviewing posted vacancies, submitting an application, and otherwise complying with District procedures.  If the employee meets the District's objective criteria for the position and is the most qualified internal applicant, the District shall offer the employee the position until:  <ol style="list-style-type: none"><li data-bbox="561 1465 1390 1528">1. Final action by the Board to end the employee's contract, if the employee does not request a hearing.</li><li data-bbox="561 1558 1430 1654">2. The evidentiary hearing by the independent hearing examiner, the Board, or other person designated in DFBB(LOCAL), if the employee requests a hearing.</li></ol>
HEARING REQUEST NONRENEWAL: TERM CONTRACT	An employee receiving notice of proposed nonrenewal of a term contract may request a hearing in accordance with DFBB.

REDUCTION IN FORCE  
FINANCIAL EXIGENCY

DFFA  
(LOCAL)

DISCHARGE: CHAPTER 21 CONTRACT	An employee receiving notice of proposed discharge from a contract governed by Chapter 21 of the Education Code may request a hearing. The hearing shall be conducted in accordance with DFD or the nonrenewal hearing process in DFBB, as determined by the Board and specified in the notice of proposed discharge.
DISCHARGE: NON-CHAPTER 21 CONTRACT	An employee receiving notice of proposed discharge during the period of an employment contract not governed by Chapter 21 of the Education Code may request a hearing before the Board or its designee in accordance with DCE.
FINAL ACTION HEARING REQUESTED	If the employee requests a hearing, the Board shall take final action after the hearing in accordance with DCE, DFBB, or DFD, as applicable, and shall notify the employee in writing.
NO HEARING REQUESTED	If the employee does not request a hearing, the Board shall take final action in accordance with DCE, DFBB, or DFD, as applicable, and shall notify the employee in writing.



REDUCTION IN FORCE  
PROGRAM CHANGE

DFFB  
(LOCAL)

**APPLICABILITY** This policy shall apply when a reduction in force due to a program change requires the nonrenewal of a term contract. A program change may be due to, for example, a redirection of resources; efforts to improve efficiency; a change in enrollment; a lack of student response to particular course offerings; legislative revisions to programs; or a reorganization or consolidation of two or more individual schools, departments, or school districts.

**DEFINITIONS** Definitions used in this policy are as follows:

1. "Program change" shall mean any elimination, curtailment, or reorganization of a program, department, school operation, or curriculum offering, including, for example, a change in curriculum objectives; a modification of the master schedule; the restructuring of an instructional delivery method; or a modification or reorganization of staffing patterns in a department, on a particular campus, or District-wide.
2. "Nonrenewal" shall mean the termination of a term contract at the end of the contract period.

**GENERAL GROUNDS** A reduction in force may take place when the Superintendent recommends and the Board approves a program change. A determination of a program change constitutes sufficient reason for nonrenewal.

**EMPLOYMENT AREAS** When a reduction in force is to be implemented, the Superintendent shall recommend the employment areas to be affected.

Employment areas may include, for example:

1. Elementary grades, levels, subjects, departments, or programs.
2. Secondary grades, levels, subjects, departments, or programs, including career and technical education subjects.
3. Special programs, such as gifted and talented, bilingual/ESL programs, special education and related services, compensatory education, or migrant education.
4. Disciplinary alternative education programs (DAEPs) and other discipline management programs.
5. Counseling programs.
6. Library programs.
7. Nursing and other health services programs.
8. An educational support program that does not provide direct instruction to students.

REDUCTION IN FORCE  
PROGRAM CHANGE

DFFB  
(LOCAL)

9. Other District-wide programs.
10. An individual campus.
11. Any administrative position, unit, or department.
12. Programs funded by state or federal grants or other dedicated funding.
13. Other contractual positions.

The Superintendent's recommendation may address whether any employment areas should be:

1. Combined or adjusted (e.g., "elementary programs" and "compensatory education programs" can be combined to identify an employment area of "elementary compensatory education programs"); and/or
2. Applied on a District-wide or campus-wide basis (e.g., "the counseling program at [named elementary campus]").

The Board shall determine the employment areas to be affected.

CRITERIA FOR  
DECISION

The Superintendent or designee shall apply the following criteria to the employees within an affected employment area when a program change will not result in the nonrenewal of all staff in the employment area. The criteria are listed in the order of importance and shall be applied sequentially to the extent necessary to identify the employees who least satisfy the criteria and therefore are subject to the reduction in force. For example, if all necessary reductions can be accomplished by applying the first criterion, it is not necessary to apply the second criterion, and so forth.

1. Qualifications for Current or Projected Assignment: Certification, multiple or composite certifications, bilingual certification, licensure, endorsement, and/or specialized or advanced content-specific training or skills for the current or projected assignment.
2. Performance: Effectiveness, as reflected by:
  - a. The most recent formal appraisal and, if available, consecutive formal appraisals from more than one year [see DNA]; and
  - b. Any other written evaluative information, including disciplinary information, from the last 36 months.

If the Superintendent or designee at his or her discretion decides that the documented performance differences between two or more employees are too insubstantial to rely upon, he

REDUCTION IN FORCE  
PROGRAM CHANGE

DFFB  
(LOCAL)

or she may proceed to apply the remaining criteria in the order listed below.

3. Extra Duties: Currently performing an extra-duty assignment, such as department or grade-level chair, band director, athletic coach, or activity sponsor.
4. Professional Background: Professional education and work experience related to the current or projected assignment.
5. Seniority: Length of service in the District, as measured from the employee's most recent date of hire.

SUPERINTENDENT  
RECOMMENDATION

The Superintendent shall recommend to the Board the nonrenewal of the identified employees within the affected employment areas.

BOARD VOTE

After considering the Superintendent's recommendations, the Board shall determine the employees to be proposed for nonrenewal, as appropriate. If the Board votes to propose nonrenewal of one or more employees, the Board shall specify the manner of hearing in accordance with DFBB(LOCAL).

NOTICE

The Superintendent or designee shall provide each employee written notice of the proposed nonrenewal. The notice shall include a statement of the reason for the proposed action and notice that the employee is entitled to a hearing of the type determined by the Board.

CONSIDERATION FOR  
AVAILABLE POSITIONS

An employee who has received notice of proposed nonrenewal may apply for available positions for which he or she wishes to be considered. The employee is responsible for reviewing posted vacancies, submitting an application, and otherwise complying with District procedures.

If the employee meets the District's objective criteria for the position and is the most qualified internal applicant, the District shall offer the employee the position until:

1. Final action by the Board to end the employee's contract, if the employee does not request a hearing.
2. The evidentiary hearing by the independent hearing examiner, the Board, or other person designated in DFBB(LOCAL), if the employee requests a hearing.

HEARING REQUEST

An employee receiving notice of proposed nonrenewal of a term contract may request a hearing in accordance with DFBB.

FINAL ACTION

HEARING  
REQUESTED

If the employee requests a hearing, the Board shall take final action after the hearing in accordance with DFBB and shall notify the employee in writing.

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NO HEARING  
REQUESTED

If the employee does not request a hearing, the Board shall take final action in accordance with DFBB and shall notify the employee in writing.



REDUCTION IN FORCE  
CONTINUING CONTRACTS

DFFC  
(LOCAL)

APPLICABILITY	This policy shall apply when a necessary reduction of personnel requires the discharge of a continuing contract.
GENERAL GROUNDS	A reduction of personnel may take place when the Superintendent recommends and the Board adopts a resolution declaring a financial exigency [see CEA] or determines another need to reduce personnel on continuing contracts.
DEFINITION	“Discharge” as used in this policy shall mean termination of a contract during the contract period.
TEACHING FIELDS	<p>When a reduction of personnel is to be implemented, the Superintendent shall recommend the teaching fields to be affected.</p> <p>Teaching fields may include, for example:</p> <ol style="list-style-type: none"><li>1. Elementary</li><li>2. Special education</li><li>3. Fine arts</li><li>4. Languages other than English</li><li>5. Secondary subject areas</li><li>6. Career and technical education</li><li>7. District administration</li><li>8. Campus administration</li><li>9. Instructional support</li><li>10. Administrative support</li><li>11. Auxiliary</li></ol> <p>The Superintendent’s recommendation may address whether any teaching fields should be:</p> <ol style="list-style-type: none"><li>1. Combined or adjusted (e.g., “elementary” and “fine arts” can be combined to identify a teaching field of “elementary fine arts”); and/or</li><li>2. Applied on a District-wide or campus-wide basis (e.g., “secondary science at [named high school campus]”).</li></ol> <p>The Board shall determine the teaching fields to be affected.</p>
CRITERIA FOR DECISION	The Superintendent or designee shall apply the following criteria to the employees within an affected teaching field when the reduction of personnel will not result in the discharge of all staff on continuing contracts within the affected teaching field. The criteria are listed in

REDUCTION IN FORCE  
CONTINUING CONTRACTS

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the order of importance and shall be applied sequentially to the extent necessary to identify the employees who least satisfy the criteria and therefore are subject to the reduction of personnel. For example, if all necessary reductions can be accomplished by applying the first criterion, it is not necessary to apply the second criterion, and so forth.

1. Performance: Effectiveness, as reflected by:
  - a. The most recent formal appraisal and, if available, consecutive formal appraisals from more than one year [see DNA]; and
  - b. Any other written evaluative information, including disciplinary information, from the last 36 months.

If the Superintendent or designee at his or her discretion decides that the documented performance differences between two or more employees are too insubstantial to rely upon, he or she may proceed to apply the remaining criteria in the order listed below.

2. Qualifications for Current or Projected Assignment: Certification, multiple or composite certifications, bilingual certification, licensure, endorsement, and/or specialized or advanced content-specific training or skills for the current or projected assignment.
3. Extra Duties: Currently performing an extra-duty assignment, such as department or grade-level chair, band director, athletic coach, or activity sponsor.
4. Professional Background: Professional education and work experience related to the current or projected assignment.
5. Seniority: Length of service in the District, as measured from the employee's most recent date of hire.

SUPERINTENDENT  
RECOMMENDATION

The Superintendent shall recommend to the Board the discharge of the identified employees within the affected teaching fields.

BOARD VOTE

After considering the Superintendent's recommendations, the Board shall determine the employees to be proposed for discharge.

NOTICE

If the Board votes to propose discharge of one or more employees, the Superintendent or designee shall provide each employee written notice of the proposed discharge. The notice shall include:

1. The proposed action;
2. A statement of the reason for the proposed action; and

REDUCTION IN FORCE  
CONTINUING CONTRACTS

DFFC  
(LOCAL)

3. Notice that the employee is entitled to a hearing of the type determined by the Board.

CONSIDERATION FOR  
AVAILABLE POSITIONS

An employee who has received notice of proposed discharge may apply for available positions for which he or she wishes to be considered. The employee is responsible for reviewing posted vacancies, submitting an application, and otherwise complying with District procedures.

If the employee meets the District's objective criteria for the position and is the most qualified internal applicant, the District shall offer the employee the position until:

1. Final action by the Board to end the employee's contract, if the employee does not request a hearing.
2. The evidentiary hearing by the independent hearing examiner, the Board, or other person designated in DFBB(LOCAL), if the employee requests a hearing.

HEARING REQUEST

An employee receiving notice of proposed discharge due to financial exigency may request a hearing. The hearing shall be conducted in accordance with DFD or the nonrenewal hearing process in DFBB, as determined by the Board and specified in the notice of proposed discharge.

An employee receiving notice of proposed discharge due to a necessary reduction of personnel not based on financial exigency may request a hearing in accordance with DFD.

FINAL ACTION

HEARING  
REQUESTED

If the employee requests a hearing, the Board shall take final action after the hearing in accordance with DFBB or DFD, as applicable, and shall notify the employee in writing.

NO HEARING  
REQUESTED

If the employee does not request a hearing, the Board shall take final action in accordance with DFBB or DFD, as applicable, and shall notify the employee in writing.



EMPLOYEE RIGHTS AND PRIVILEGES  
IMMUNITY

DGC  
(LEGAL)

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)*

PROFESSIONAL  
EMPLOYEES

A professional employee of a 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 a district" includes a superintendent; principal; teacher, including a substitute teacher or a teacher employed by a company that contracts with a district to provide the teacher's services to the district; a supervisor; social worker; school 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), .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

A 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 DG(LEGAL) at INSTRUCTIONAL MATERIALS AND TECHNOLOGICAL EQUIPMENT]

*Education Code 22.0511(d)*

EMPLOYEE RIGHTS AND PRIVILEGES  
IMMUNITY

DGC  
(LEGAL)

TEACHERS  
(COVERDELL ACT)

Except as provided in 20 U.S.C. Section 7946(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:

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 7943, 7946(a)*

EMPLOYEE RIGHTS AND PRIVILEGES  
IMMUNITY

DGC  
(LEGAL)

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 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 GRAA]*

CHILD ABUSE AND  
MALTREATMENT

The requirements of Education Code 38.0041 [regarding prevention of abuse and other maltreatment of children, see FFG] are considered to involve an employee's judgment and discretion and are not considered ministerial acts for purposes of immunity from liability under Education Code 22.0511 [see IMMUNITY FROM INDIVIDUAL LIABILITY, above]. *Education Code 38.0041 [See DG regarding protection from disciplinary proceedings]*

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)*

ADMINISTRATION OF  
MEDICATION

A district, a 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]*

IMMUNITY FOR  
MENTAL HEALTH  
FIRST AID

A person who has completed a mental health first aid training program offered by a local mental health authority and who in good faith attempts to assist an individual experiencing a mental health crisis is not liable in civil damages for an act performed in attempt-

EMPLOYEE RIGHTS AND PRIVILEGES  
IMMUNITY

DGC  
(LEGAL)

ing to assist the individual unless the act is willfully or wantonly negligent. *Health and Safety Code 1001.206.*

IMMUNITY FOR  
SHELTER WORKERS

An officer or employee of a district is not civilly liable for an act performed in the discharge of duty if the person is performing an activity related to sheltering or housing individuals in connection with the evacuation of an area stricken or threatened by disaster. *Gov't Code 418.006, 431.085*



EMPLOYEE WELFARE

DI  
(LEGAL)

HAZARD  
COMMUNICATION ACT

A district shall perform the following duties in compliance with the Hazard Communication Act:

NOTICE

1. Post and maintain adequate notice, at locations where notices are normally posted, informing employees of their rights under the Hazard Communication Act. *Health and Safety Code 502.017(a)*

EDUCATION AND  
TRAINING

2. Provide an education and training program for employees who use or handle hazardous chemicals. "Employee" means a person who may be or may have been exposed to hazardous chemicals in the person's workplace under normal operating conditions or foreseeable emergencies. Workers such as office workers or accountants who encounter hazardous chemicals only in nonroutine, isolated instances are not employees for purposes of these requirements. *Health and Safety Code 502.003(10), .009*
3. Keep the written hazard communication program and a record of each training session given to employees, including the date, a roster of the employees who attended, the subjects covered in the training session, and the names of the instructors. Records shall be maintained for at least five years. *Health and Safety Code 502.009(g)*

WORKPLACE  
CHEMICAL LIST

4. Compile and maintain a workplace chemical list that contains required information for each hazardous chemical normally present in the workplace or temporary workplace in excess of 55 gallons or 500 pounds, or as determined by the executive commissioner of the Health and Human Services Commission for certain highly toxic or dangerous hazardous chemicals. The list must be readily available to employees and their representatives. All employees shall be made aware of the list before working with or in a work area containing hazardous chemicals. *Health and Safety Code 502.005(a), (c)*
5. Update the list as necessary, but at least by December 31 of each year, and maintain the list for at least 30 years. Each workplace chemical list shall be dated and signed by the person responsible for compiling the information. *Health and Safety Code 502.005(b), (d)*

SAFETY DATA  
SHEETS

6. Maintain a legible copy of the most current manufacturer's safety data sheets (SDS) for each hazardous chemical. If the district does not have a current SDS for a hazardous chemical when the chemical is received, the district shall request an SDS in writing from the manufacturer or distributor in a timely manner or otherwise obtain a current SDS. Safety data sheets shall be readily available, on request, for review by

EMPLOYEE WELFARE

DI  
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employees or designated representatives at each workplace.  
*Health and Safety Code 502.006*

PROTECTIVE  
EQUIPMENT

7. Provide employees with appropriate personal protective equipment. *Health and Safety Code 502.017(b)*

LABELING

A label on an existing container of a hazardous chemical may not be removed or defaced unless it is illegible, inaccurate, or does not conform to the OSHA standard or other applicable labeling requirement. Primary and secondary containers must be relabeled in accordance with Health and Safety Code 502.007(a). An employee may not be required to work with a hazardous chemical from an unlabeled container except for a portable container intended for the immediate use of the employee who performs the transfer. *Health and Safety Code 502.007*

PEST CONTROL  
TREATMENT NOTICE

The chief administrator or building manager shall notify persons who work in a district building of an indoor pest control treatment by:

1. Posting the sign made available by the certified applicator or technician in an area of common access that the persons are likely to check on a regular basis at least 48 hours before each planned treatment; and
2. Providing the pest control information sheet made available by the certified applicator or technician to a person working in the building on request.

*Occupations Code 1951.455; 4 TAC 7.146, .147 [See CLB]*

ASSIGNMENT AND SCHEDULES

DK  
(LEGAL)

**ASSIGNMENT** A public school employee must have the appropriate credentials for his or her current assignment unless the appropriate permit has been issued. The credentials appropriate to each assignment are set forth in rules of the State Board for Educator Certification (SBEC) at 19 Administrative Code Chapter 231. *19 TAC 231.1* [See DBA]

**EMERGENCY PERMITS** A superintendent or designee who cannot secure an appropriately certified and qualified individual to fill a vacant position may activate an emergency permit for an individual who does not have one of the appropriate credentials for the assignment.

The superintendent or designee must:

1. Document the efforts the district has taken to employ a fully certified individual in the position for which an emergency permit is activated;
2. Apply for an emergency permit when a vacant position is filled with an uncertified or inappropriately certified individual who will serve as the teacher of record or will serve in the assignment for more than 30 consecutive instructional days. The application must be submitted to TEA within 45 instructional days of the date of assignment;
3. Verify that the district maintains a support system, has assigned a trained mentor, and will provide release time as needed to assist the individual serving on an emergency permit. However, a district shall not be required to provide a mentor for a degreed, certified teacher assigned on an emergency permit if the teacher has one or more creditable years' experience within the district, as defined at 19 Administrative Code Chapter 153, Subchapter CC; and
4. Verify that the individual for whom the emergency permit is activated has been advised of the SBEC rules regarding permits and permit renewal requirements in 19 Administrative Code Chapter 230, Subchapter F.

*19 TAC 230.71(b)*

For all assignments except career and technical education assignments based on skill and experience, the superintendent, designee, or authorized representative must verify the individual's eligibility for the emergency permit and submit online to TEA, within 45 instructional days of assignment, the information listed at 19 Administrative Code 230.79. *19 TAC 230.79*

An emergency permit is authorized for the district for a specific assignment and is not the property of the individual for whom the

ASSIGNMENT AND SCHEDULES

DK  
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emergency permit was activated. If an emergency permit authorized by SBEC is not used, the district shall notify TEA staff by email. *19 TAC 230.71(d)–(e)*

TEMPORARY  
VACANCIES

A district is not required to activate an emergency permit if an uncertified individual is assigned for a certified teacher who will be absent for more than 30 consecutive instructional days due to documented health-related reasons and has expressed the intention to return to the assignment. A district must, however, comply with the parent notification requirements below. *19 TAC 230.71(g)*

EDUCATOR  
CONSENT

A certified teacher must consent to the activation of an emergency permit and be advised of the conditions of the emergency permit.

A teacher who refuses to consent to activation of an emergency permit may not be terminated or nonrenewed or otherwise retaliated against because of the teacher's refusal to consent to the activation of the emergency permit. However, a teacher's refusal to consent shall not impair a district's right to implement a necessary reduction in force or other personnel actions in accordance with local policy.

*19 TAC 230.71(c)*

ELIGIBILITY  
REQUIREMENTS

An individual for whom an emergency permit is activated must meet the general eligibility criteria listed at 19 Administrative Code 230.75 and the specific eligibility requirements for the assignment listed at 19 Administrative Code 230.77. *19 TAC 230.75, .77*

HARDSHIP  
EXCEPTION

An emergency permit may be authorized on a hardship basis for an individual who does not meet all eligibility requirements only if approval has been granted and e-mail notification received from TEA staff. The district must:

1. Document local conditions requiring the assignment of an individual who does not meet emergency permit requirements;
2. Verify that the deficiencies for the certificate sought do not exceed 36 semester credit hours; and
3. Verify:
  - a. That the individual will be enrolled in the first available course listed on the deficiency plan; or
  - b. Registration for the next available administration of the appropriate content specialization portion of the certification examination for an individual who holds a valid Texas classroom teaching certificate and a bachelor's degree from an accredited institution of higher education

and is placed in an assignment requiring a different classroom teaching certificate.

*19 TAC 230.71(f)*

VALIDITY OF  
EMERGENCY  
PERMIT

An emergency permit is valid for the remainder of the school year for which it is activated. The emergency permit must be submitted to TEA within 45 instructional days from the date of assignment. The permit is valid for service only in the requesting district and only for the assignments indicated on the emergency permit application.

The employment of an individual on an emergency permit may not exceed three school years in the same assignment. The individual may serve in a specific assignment no more than two additional school years beyond the initial emergency permit. To continue beyond the initial emergency permit year, the individual must comply with the renewal provisions specified in 19 Administrative Code 230.81.

To continue employment in the assignment beyond the validity of the emergency permit, the individual must hold the appropriate certificate. An individual may not serve as a classroom teacher of record in the district for more than three school years without obtaining initial, standard certification.

*19 TAC 230.73*

RENEWAL OF  
PERMIT

A superintendent, designee, or authorized representative may renew an emergency permit for the same assignment in the same district for which the initial emergency permit was activated. Renewal procedures are set forth at 19 Administrative Code 230.81(5).

No individual may continue in the same assignment for more than three school years of service on an emergency permit, except that emergency permits used fewer than 90 calendar days may be renewed for one additional year of service. The total of semester credit hours or the equivalent contact hours required to obtain certification appropriate for the assignment shall determine the number of emergency permit renewals for which the individual may be eligible. The schedule for determining eligibility for emergency permit renewal is set forth at 19 Administrative Code 230.81(3).

*19 TAC 230.81*

NONRENEWABLE  
PERMITS

A superintendent or designee may activate a nonrenewable permit for an individual who has not completed the appropriate examination requirements specified in 19 Administrative Code 230.21 (Educator Assessment). A nonrenewable permit may not be activated

ASSIGNMENT AND SCHEDULES

DK  
(LEGAL)

for an individual in the same assignment area for which another permit had previously been authorized.

A nonrenewable permit may be activated for an individual in one or more of the categories listed at 19 Administrative Code 230.83(b).

The superintendent, designee, or authorized representative must verify that an individual is eligible for the permit and submit the following information within 60 calendar days of assignment:

1. An application for a nonrenewable permit completed before the effective date of the assignment; and
2. The appropriate fee (payable by the district).

*19 TAC 230.83*

PRINCIPAL'S  
APPROVAL

The principal of a campus shall approve all teacher and staff appointments for the campus from a pool of applicants selected by a district or of applicants who meet the hiring requirements established by a district, based on criteria developed by the principal after informal consultation with the faculty. A superintendent or designee has final placement authority for a teacher transferred because of enrollment shifts or program changes. *Education Code 11.202; Atty. Gen. Op. DM-27 (1991)*

TRANSFERS

A district's employment policy may include a provision for providing each current district employee with an opportunity to participate in a process for transferring to another school in or position with the district. *Education Code 11.1513(c)(3)*

PARENT  
NOTIFICATION

If a district assigns an inappropriately certified or uncertified teacher to the same classroom for more than 30 consecutive instructional days during the same school year, it shall provide written notice of the assignment to the parents or guardians of each student in that classroom. *Education Code 21.057 [See DBA]*

PROFESSIONAL DEVELOPMENT  
REQUIRED STAFF DEVELOPMENT

DMA  
(LEGAL)

STAFF DEVELOPMENT EDUCATOR	<p>The staff development provided by a district to an educator other than a principal must be conducted in accordance with standards developed by the district and designed to improve education in the district.</p>
PRINCIPAL	<p>The staff development provided by a district to a principal shall be governed by Education Code 21.3541 and rules adopted under that section. [See DNB]</p> <p><i>Education Code 21.451(a), (a-1)</i></p>
TRAINING SPECIFICS— EDUCATORS	<p>Staff development shall be predominantly campus-based, related to achieving campus performance objectives, and developed and approved by the campus-level committee.</p> <p>A district may use district-wide staff development that has been developed and approved through the district-level decision process. [See BQA and BQB, as appropriate]</p> <p>Staff development may include:</p> <ol style="list-style-type: none"><li>1. Training in technology, conflict resolution, and discipline strategies, including classroom management, district discipline policies, and the Student Code of Conduct;</li><li>2. Training in preventing, identifying, responding to, and reporting incidents of bullying; and</li><li>3. Instruction as to what is permissible under law, including opinions of the United States Supreme Court, regarding prayer in public school.</li></ol> <p><i>Education Code 21.451(b)–(d), (g)</i></p>
STUDENTS WITH DISABILITIES	<p>Staff development must include training, based on scientifically based research, that relates to the instruction of students with disabilities and is designed for educators who work primarily outside the area of special education.</p> <p>A district is required to provide such training only if the educator does not possess the knowledge and skills necessary to implement the individualized education program developed for a student receiving instruction from the educator. A district may determine the time and place at which the training is delivered.</p> <p>In developing or maintaining such training, a district must consult persons with expertise in research-based practices for students with disabilities, including colleges, universities, private and non-profit organizations, regional education service centers, qualified district personnel, and any other persons identified as qualified by the district.</p> <p><i>Education Code 21.451(d)(2), (e)–(f)</i></p>

PROFESSIONAL DEVELOPMENT  
REQUIRED STAFF DEVELOPMENT

DMA  
(LEGAL)

SUICIDE  
PREVENTION

Staff development must include suicide prevention training that must be provided to all new district educators on an annual basis, as part of a new employee orientation and to existing district educators on the following schedule adopted by TEA rule:

1. All districts shall provide the training to all new educators as a part of new employee orientation during the 2016–17 school year.
2. Each subsequent school year, districts shall provide the training to all new educators as a part of new employee orientation.
3. Districts shall provide the training to all currently employed educators on or by September 30, 2016.

The suicide prevention training must use a best practice-based program recommended by the Texas Department of State Health Services (TDSHS) in coordination with TEA. The training may be satisfied through independent review of suicide prevention training material that complies with guidelines developed by TEA and is offered online.

Suicide prevention training that was provided to existing educators by a district on or after September 1, 2013, may be used to meet the requirements if the training program is on the recommended best practice-based list, or is an online program that meets the TEA guidelines for independent review.

Districts shall maintain records that include the name of each educator who participated in the training.

*Education Code 21.451(d)(3)–(d-2); 19 TAC 153.1013*

MENTAL HEALTH,  
SUBSTANCE ABUSE  
PREVENTION, AND  
SUICIDE PREVENTION

A district shall provide training in mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention for teachers, school counselors, principals, and all other appropriate personnel. A district is required to provide the training at an elementary school campus only to the extent that sufficient funding and programs are available. A school district may implement a program on the list described at Health and Safety Code 161.325 to satisfy the training requirements. [See FFB]

If a district provides the training, a district employee must participate in the training at least one time, and the district shall maintain records that include the name of each district employee who participated in the training.

*Health and Safety Code 161.325*



PROFESSIONAL DEVELOPMENT  
REQUIRED STAFF DEVELOPMENT

DMA  
(LEGAL)

CHILD ABUSE AND  
MALTREATMENT

A district's methods for increasing awareness of issues regarding sexual abuse and other maltreatment of children [see BQ, district improvement plan, and FFG] must address employee training.

The training must be provided as part of employee orientation to all new employees. The training may be included in staff development under Education Code 21.451.

The training shall address:

1. Factors indicating a child is at risk for sexual abuse or other maltreatment;
2. Likely warning signs indicating a child may be a victim of sexual abuse or other maltreatment;
3. Internal procedures for seeking assistance for a child who is at risk for sexual abuse or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;
4. Techniques for reducing a child's risk of sexual abuse or other maltreatment; and
5. Community organizations that have relevant existing research-based programs and that are able to provide training or other education for employees, students, and parents.

A district shall maintain records of the training that include the name of each employee who participated.

If a district determines that the district does not have sufficient resources to provide the required training, the district shall work with a community organization to provide the training at no cost to the district.

*Education Code 38.0041*

STUDENT DISCIPLINE

Each principal or other appropriate administrator who oversees student discipline shall, at least once every three school years, attend professional development training regarding Education Code Chapter 37, Subchapter G. The professional development shall include training relating to the distinction between a discipline management technique used at the principal's discretion under Education Code 37.002(a) and the discretionary authority of a teacher to remove a disruptive student under Education Code 37.002(b) [see FOA].

The professional development training may be provided in coordination with an education service center through the use of distance

PROFESSIONAL DEVELOPMENT  
REQUIRED STAFF DEVELOPMENT

DMA  
(LEGAL)

learning methods, such as telecommunications networks, and using available TEA resources.

*Education Code 37.0181*

SPECIAL PROGRAMS  
TRAINING

TEXAS  
ADOLESCENT  
LITERACY  
ACADEMIES

A teacher shall attend a Texas adolescent literacy academy under 19 Administrative Code 102.1101 if:

1. The teacher teaches at a campus that receives a rating that reflects unacceptable performance and that fails to meet the state system safeguard performance target in reading for one or more student groups; and
2. The teacher teaches in general education, special education, or English as a second language for students in grade 6, 7, or 8, and:
  - a. The teacher is a certified, full-time English language arts and reading teacher who instructs English language arts and/or reading for at least 50 percent of the teacher's instructional duties; or
  - b. The teacher is a certified, full-time content area teacher who instructs mathematics, science, and/or social studies for at least 50 percent of the teacher's instructional duties.

A teacher described above is required to complete the training not later than December 31 of the calendar year in which the rating that reflects unacceptable performance is assigned.

A teacher who is required to attend an academy is eligible for a teacher stipend upon completion of face-to-face training if funds have been appropriated and are available for that purpose. A teacher who completes online training is not eligible for a stipend.

The stipend shall not be considered in determining whether a district is paying the teacher the state minimum monthly salary [see DEA and DEAA].

Each school district with teachers required to attend and complete Texas adolescent reading academies must maintain records to verify teacher attendance and completion in accordance with the district's record retention policy.

*Education Code 21.4551(c), (e); 19 TAC 102.1101*

GIFTED AND  
TALENTED  
EDUCATION

A district shall ensure that:

1. Before assignment to the program for gifted students, teachers who provide instruction and services that are part of the program have a minimum of 30 hours of staff development

PROFESSIONAL DEVELOPMENT  
REQUIRED STAFF DEVELOPMENT

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(LEGAL)

that includes nature and needs of gifted/talented students, assessment of student needs, and curriculum and instruction for gifted students.

2. Teachers without the required training who provide instruction and services that are part of the gifted/talented program complete the 30-hour training requirement within one semester.
3. Teachers who provide instruction and services that are part of a program for gifted students receive a minimum of six hours annually of professional development in gifted education.
4. Administrators and counselors who have authority for program decisions have a minimum of six hours of professional development that includes nature and needs of gifted/talented students and program options.

*19 TAC 89.2*

ELECTIVE BIBLE  
COURSE

A teacher of an elective Bible course offered under Education Code 28.011 [see EMI] must hold a minimum of a High School Composite Certification in language arts, social studies, or history with, where practical, a minor in religious or biblical studies. The teacher must successfully complete the staff development training developed by the commissioner of education with respect to Bible elective courses. *Education Code 28.011(f)*

AUTOMATED  
EXTERNAL  
DEFIBRILLATORS

A district shall annually make available to employees and volunteers instruction in the principles and techniques of cardiopulmonary resuscitation and the use of an automated external defibrillator (AED).

The instruction provided in the use of AEDs must meet guidelines for approved AED training under Health and Safety Code 779.002. Each school nurse, assistant school nurse, athletic coach or sponsor, physical education instructor, marching band director, cheerleading coach, and any other employee specified by the commissioner, and each student who serves as an athletic trainer, must:

1. Participate in the instruction; and
2. Receive and maintain certification in the use of an AED from the American Heart Association, the American Red Cross, or a similar nationally recognized association.

*Education Code 22.902*

EXTRACURRICULAR  
ACTIVITY SAFETY  
TRAINING

The following persons must satisfactorily complete the extracurricular safety training program developed by the commissioner:

1. A coach or sponsor for an extracurricular athletic activity;

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REQUIRED STAFF DEVELOPMENT

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2. A trainer, unless the trainer has completed the educational requirements for licensure as a licensed athletic trainer set forth at 22 Administrative Code 871.7 and the continuing education requirements at 22 Administrative Code 871.12;
3. A physician who is employed by a district or who volunteers to assist with an extracurricular athletic activity, unless the physician attends a continuing medical education course that specifically addresses emergency medicine; and
4. A director responsible for a school marching band.

The training may be conducted by a district, the American Red Cross, the American Heart Association, or a similar organization, or by the University Interscholastic League (UIL).

*Education Code 33.202(b), (f); 19 TAC 76.1003*

RECORDS

A 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 employed by or volunteering for the district who is required to receive safety training.

A campus that is determined by a superintendent to be out of compliance with the safety training requirements shall be subject to the range of penalties determined by the UIL.

*Education Code 33.206; 19 TAC 76.1003(e)*

STEROIDS

A district shall require that each employee who serves as an athletic coach at or above the seventh grade level for an extracurricular athletic activity sponsored or sanctioned by the UIL complete:

1. The educational program developed by the UIL regarding the health effects of steroids; or
2. A comparable program developed by the district or a private entity with relevant expertise.

*Education Code 33.091(c-1)*

CONCUSSIONS

At least once every two years, the following employees shall take a training course from an authorized provider in the subject matter of concussions:

1. A coach of an interscholastic athletic activity shall take a course approved by the UIL.
2. An athletic trainer who serves as a member of a district's concussion oversight team shall take a course approved by the Texas Department of State Health Services Advisory Board of Athletic Trainers (TDSHS-ABAT) or a course approved for

PROFESSIONAL DEVELOPMENT  
REQUIRED STAFF DEVELOPMENT

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continuing education credit by the licensing authority for athletic trainers.

3. A licensed health-care professional, other than an athletic trainer, who serves as a member of a district's concussion oversight team shall take a course approved by the UIL, TDSHS-ABAT, or the appropriate licensing authority for the profession.

The employee must submit proof of timely completion of an approved course to the superintendent or designee. A licensed health-care professional who is not in compliance with these training requirements may not serve on a concussion oversight team in any capacity. [See FM]

*Education Code 38.158*

RESOURCES FOR  
STAFF DEVELOPMENT

If a district receives resources from the commissioner's staff development account, it must pay to the commissioner for deposit in the account an amount equal to one-half of the cost of the resources provided to the district. *Education Code 21.453*



PERFORMANCE APPRAISAL  
EVALUATION OF TEACHERS

DNA  
(LEGAL)

TEACHER APPRAISAL      The employment policies adopted by the board must require a written evaluation of each teacher at annual or more frequent intervals.

A teacher appraisal must be done at least once during each school year. A teacher may be appraised less frequently if the teacher agrees in writing and the teacher's most recent evaluation rated the teacher as at least proficient, or the equivalent, and did not identify any area of deficiency. A teacher who is appraised less frequently than annually must be appraised at least once during each period of five school years.

*Education Code 21.203, 352(c)*

INTERIM  
EVALUATIONS AND  
GUIDANCE

In addition to conducting a complete appraisal as frequently as required by Education Code 21.352(c), a district shall require that appropriate components of the appraisal process, such as classroom observations and walk-throughs, occur more frequently as necessary to ensure that a teacher receives adequate evaluation and guidance. A district shall give priority to conducting appropriate components more frequently for inexperienced teachers or experienced teachers with identified areas of deficiency. *Education Code 21.352(c-1)*

REQUIRED  
COMPONENTS

The statutorily required components of teacher appraisal are defined as follows:

1. The implementation of discipline management procedures is the teacher's pedagogical practices that produce student engagement and establish the learning environment.
2. The performance of teachers' students is how the individual teacher's students progress academically in response to the teacher's pedagogical practice as measured at the individual teacher level by one or more of the following student growth measures:
  - a. Student learning objectives;
  - b. Student portfolios;
  - c. Pre- and post-test results on district-level assessments;  
or
  - d. Value-added data based on student state assessment results.

*19 TAC 150.1001(f)*

NOTICE AND USE OF  
EVALUATIONS

A district shall use a teacher's consecutive appraisals from more than one year, if available, in making employment decisions and

PERFORMANCE APPRAISAL  
EVALUATION OF TEACHERS

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	<p>developing career recommendations for the teacher. <i>Education Code 21.352(e)</i></p> <p>The district shall notify a teacher of the results of any appraisal of the teacher in a timely manner so that the appraisal may be used as a developmental tool by the district and the teacher to improve the overall performance of the teacher. <i>Education Code 21.352(f)</i></p>
ROLE OF EXTRACURRICULAR ACTIVITIES	<p>A teacher who directs extracurricular activities in addition to performing classroom teaching duties shall be appraised only on the basis of classroom teaching performance and not on performance in connection with extracurricular activities. <i>Education Code 21.353</i></p>
ACCESS TO EVALUATIONS	<p>A district shall maintain a written copy of the evaluation of each teacher's performance in the teacher's personnel file.</p> <p>Each teacher is entitled to receive a written copy of the evaluation promptly on its completion. The evaluation and any rebuttal may be given to another school district at which the teacher has applied for employment at the request of that district.</p> <p><i>Education Code 21.352(c)</i></p>
CONFIDENTIALITY	<p>A document evaluating the performance of a teacher is confidential. <i>Education Code 21.355</i></p>
TWO APPRAISAL METHODS	<p>A district shall use one of the following methods to appraise teachers:</p> <ol style="list-style-type: none"><li>1. The teacher appraisal system recommended by the commissioner of education [see STATE METHOD (T-TESS) below]; or</li><li>2. A local teacher appraisal system [see DISTRICT OPTION and CAMPUS OPTION below].</li></ol> <p><i>Education Code 21.352(a); 19 TAC 150.1001(a)</i></p>
SELECTION OF APPRAISAL METHOD	<p>A superintendent, with the approval of a board, may select the state appraisal method. Each district or campus wanting to select or develop an alternative teacher appraisal system must follow the requirements set forth below at DISTRICT OPTION or CAMPUS OPTION. <i>19 TAC 150.1001(c)</i></p>
NOTICE TO SERVICE CENTER	<p>A superintendent shall notify the executive director of the district's regional education service center in writing of the district's choice of appraisal system when using an alternative to the state appraisal method and detail the components of that system by the first day of instruction for the school year in which the alternative system is used.</p>



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A district shall submit annually to its service center a summary of the campus-level evaluation scores from the state appraisal method or the district's locally adopted appraisal system, in a manner prescribed by the commissioner.

*19 TAC 150.1008*

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**Note:** The following provisions apply to teacher appraisal using the state appraisal method.

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STATE METHOD  
(T-TESS)

The commissioner's recommended teacher appraisal system, the Texas Teacher Evaluation and Support System (T-TESS), was developed in accordance with Education Code 21.351. *19 TAC 150.1001(b), .1002(a)*

ORIENTATION AND  
ANNUAL REVIEW

A district shall ensure that all teachers are provided with an orientation to the T-TESS no later than the final day of the first three weeks of school and at least two weeks before the first observation when:

1. The teacher is new to the district;
2. The teacher has never been appraised under the T-TESS; or
3. District policy regarding teacher appraisal has changed since the last time the teacher was provided with an orientation to the T-TESS.

The teacher orientation shall be conducted in a face-to-face setting during a district's first year of T-TESS implementation and include all state and local appraisal policies and the local appraisal calendar. In addition to the orientation, campuses may hold other sessions sufficient in length allowing teachers to actively participate in a discussion of the T-TESS specifics and to have their questions answered.

*19 TAC 150.1006*

APPRAISERS

The teacher appraisal process requires at least one certified appraiser. An appraiser must be the teacher's supervisor or a person approved by the board.

CAMPUS  
ADMINISTRATOR

Only a campus administrator may act as a certified appraiser, except as provided below.

Under the T-TESS, a "campus administrator" includes a principal, an assistant principal, an administrator who holds a comparable administrator/supervisor certificate established by the State Board for Educator Certification, or supervisory staff whose job descrip-

tion includes the appraisal of teachers and who is not a classroom teacher.

An individual other than a campus administrator may act as a certified appraiser if:

1. The individual has been certified by completing the required training prior to conducting appraisals; and
2. In the case where the certified appraiser is a classroom teacher, the certified appraiser:
  - a. Conducts appraisals at the same school campus at which the certified appraiser teaches if the certified appraiser is the chair of a department or grade level whose job description includes classroom observation responsibilities; or
  - b. Does not conduct appraisals of classroom teachers who teach at the same campus as the certified appraiser if the certified appraiser is not a department or grade-level chair.

TRAINING AND  
CERTIFICATION

Before conducting appraisals, an appraiser must be certified by having satisfactorily completed the state-approved T-TESS appraiser training and having passed the T-TESS certification examination, and must have received Instructional Leadership Training (ILT), Instructional Leadership Development (ILD), or Advanced Educational Leadership (AEL) certification. Appraisers without ILT, ILD, or AEL certification before January 1, 2016, may not take ILT or ILD to satisfy the requirement. Periodic recertification and training shall be required.

*Education Code 21.351(c); 19 TAC 150.1005*

APPRAISAL  
CALENDAR

A district shall establish a calendar for teacher appraisals and provide that calendar to teachers within three weeks from the first day of instruction. The appraisal period for each teacher must include all of the days of the teacher's contract.

Observations during the appraisal period must be conducted during the required days of instruction for students during one school year.

The appraisal calendar shall:

1. Exclude observations in the two weeks after the day of completion of the T-TESS orientation in the school years when an orientation is required; and

2. Indicate a period for end-of-year conferences that ends no later than 15 working days before the last day of instruction for students.

*19 TAC 150.1003(d)*

A teacher may be given advance notice of the date or time of an appraisal, but advance notice is not required. *Education Code 21.352(d); 19 TAC 150.1003(c)*

ASSESSMENT OF  
TEACHER  
PERFORMANCE

Each teacher must be appraised each school year, except as provided below at LESS-THAN-ANNUAL APPRAISAL. Whenever possible, an appraisal shall be based on the teacher's performance in fields and teaching assignments for which he or she is certified. *19 TAC 150.1003(a)*

During the appraisal period, the certified appraiser shall evaluate and document teacher performance specifically related to the domain criteria as identified in 19 Administrative Code 150.1002(a) and the performance of teachers' students as defined in 19 Administrative Code 150.1001(f)(2). *19 TAC 150.1003(e)*

LESS-THAN-  
ANNUAL  
APPRAISAL

A teacher may receive a full appraisal less than annually if the teacher agrees in writing and the teacher's most recent full appraisal resulted in the teacher receiving summative ratings of at least proficient on nine of the sixteen dimensions and did not identify any area of deficiency, defined as a rating of Improvement Needed or its equivalent, on any of the sixteen dimensions identified in 19 Administrative Code 150.1002(a) or the performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2). A teacher who receives a full appraisal less than annually must receive a full appraisal at least once during each period of five school years.

District policy may stipulate:

1. Whether the option to receive a full appraisal less frequently than annually is to be made available to teachers;
2. Whether the option to receive a full appraisal less frequently than annually is to be adopted district-wide or is to be campus specific;
3. If the appraisal accompanying a teacher new to a district or campus meets this option, whether the appraisal is to be accepted or whether that teacher is to be appraised by the new campus administrator; and
4. Whether a certified appraiser may place a teacher on the traditional appraisal cycle as a result of performance deficiencies

documented in accordance with 19 Administrative Code 150.1003(b)(6) and (f) (related to cumulative data regarding teacher performance in addition to formal classroom observations).

A school district may choose annually to review the written agreement to have less frequent full appraisals with the teacher. However, at the conclusion of the school year, the district may modify appraisal options through board policy and may make changes to expectations for appraisals that apply to all teachers regardless of a teacher's participation in the appraisal option in the previous year(s).

In a year in which a teacher does not receive a full appraisal due to meeting the requirements, a teacher shall participate in:

1. The Goal-Setting and Professional Development Plan process;
2. The performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2); and
3. A modified end-of-year conference that addresses:
  - a. The progress on the Goal-Setting and Professional Development Plan;
  - b. The performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2); and
  - c. The following year's Goal-Setting and Professional Development plan.

*19 TAC 150.1003(l)*

DOMAINS AND  
DIMENSIONS

Each teacher shall be appraised on the following domains and dimensions of the T-TESS rubric that is aligned to the Texas Teacher Standards in 19 Administrative Code Chapter 149 (relating to Commissioner's Rules Concerning Educator Standards):

1. Domain I. Planning, which includes the following dimensions:
  - a. Standards and alignment;
  - b. Data and assessment;
  - c. Knowledge of students; and
  - d. Activities.
2. Domain II. Instruction, which includes the following dimensions:

- a. Achieving expectations;
  - b. Content knowledge and expertise;
  - c. Communication;
  - d. Differentiation; and
  - e. Monitor and adjust.
3. Domain III. Learning Environment, which includes the following dimensions:
- a. Classroom environment, routines, and procedures;
  - b. Managing student behavior; and
  - c. Classroom culture.
4. Domain IV. Professional Practices and Responsibilities, which includes the following dimensions:
- a. Professional demeanor and ethics;
  - b. Goal setting;
  - c. Professional development; and
  - d. School community involvement.

The evaluation of each of the dimensions above shall consider all data generated in the appraisal process. The data for the appraisal of each dimension shall be gathered from pre-conferences, observations, post-conferences, end-of-year conferences, the Goal-Setting and Professional Development Plan process, and other documented sources.

Each teacher shall be evaluated on the 16 dimensions in Domains I–IV identified above using the following categories:

1. Distinguished;
2. Accomplished;
3. Proficient;
4. Developing; and
5. Improvement needed.

STUDENT  
PERFORMANCE

Beginning with the 2017–18 school year, each teacher appraisal shall include the performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2) (relating to student growth measures).

If calculating a single overall summative appraisal score for teachers, the performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2), shall count for at least 20 percent of a teacher's summative score.

Each teacher shall be evaluated on the performance of teachers' students using one of the terms from the following categories:

1. Distinguished or well above expectations;
2. Accomplished or above expectations;
3. Proficient or at expectations;
4. Developing or below expectations; or
5. Improvement needed or well below expectations.

*19 TAC 150.1002*

APPRAISAL  
PROCESS

The annual teacher appraisal, or full appraisal, shall include:

1. A completed and appraiser-approved Goal-Setting and Professional Development Plan that shall be:
  - a. Submitted to the teacher's appraiser within the first six weeks from the day of completion of the T-TESS orientation for teachers in their first year of appraisal under the T-TESS or for teachers new to the district; or
  - b. Initially drafted in conjunction with the teacher's end-of-year conference from the previous year, revised as needed based on changes to the context of the teacher's assignment during the current school year, and submitted to the teacher's appraiser within the first six weeks of instruction; and
  - c. Maintained throughout the course of the school year by the teacher to track progress in the attainment of goals and participation in professional development activities detailed in the approved plan;
  - d. Shared with the teacher's appraiser prior to the end-of-year conference; and
  - e. Used after the end-of-year conference in the determination of ratings for the goal setting and professional development dimensions of the T-TESS rubric;
2. For a teacher in the first year of appraisal under the T-TESS or for teachers new to the district, a Goal-Setting and Profes-

sional Development Plan conference prior to the teacher submitting the plan to the teacher's appraiser;

3. After a teacher's first year of appraisal under the T-TESS within the district, an observation pre-conference conducted prior to announced observations;
4. At least one classroom observation of a minimum of 45 minutes, with additional walk-throughs and observations conducted at the discretion of the certified appraiser and in accordance with the Education Code 21.352(c-1). Additional observations and walk-throughs do not require an observation post-conference. Additional observations and walk-throughs do require a written summary if the data gathered during the additional observation or walk-through will impact the teacher's summative appraisal ratings, in which case the written summary shall be shared within ten working days after the completion of the additional observation or walk-through. Title 19 Administrative Code 150.1004 (relating to Teacher Response and Appeals) applies to a written summary of an additional observation or walk-through that will impact the teacher's summative appraisal ratings;
5. An observation post-conference that:
  - a. Shall be conducted within ten working days after the completion of an observation;
  - b. Is diagnostic and prescriptive in nature;
  - c. Includes a written report of the rating of each dimension observed that is presented to the teacher only after a discussion of the areas for reinforcement and areas for refinement; and
  - d. Can allow for, at the discretion of the appraiser, a revision to an area for reinforcement or refinement based on the post-conference discussion with the teacher;
6. Cumulative data from written documentation collected regarding job-related teacher performance, in addition to formal classroom observations;
7. An end-of-year conference that:
  - a. Reviews the appraisal data collected throughout the current school year and previous school years, if available;
  - b. Examines and discusses the evidence related to the teacher's performance on the four dimensions of Domain IV of the T-TESS rubric;

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- c. Examines and discusses evidence related to the performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2) (relating to student growth measures), when available; and
  - d. Identifies potential goals and professional development activities for the teacher for the next school year; and
8. A written summative annual appraisal report to be provided to the teacher within ten working days of the conclusion of the end-of-year conference.

*19 TAC 150.1003(b)*

SHORTER  
OBSERVATIONS

By written, mutual consent of the teacher and the certified appraiser, the required 45 minutes of observation may be conducted in shorter time segments. The time segments must aggregate to at least 45 minutes. *19 TAC 150.1003(g)*

CUMULATIVE  
DATA

The certified appraiser is responsible for documentation of cumulative data. Any third-party information from a source other than the certified appraiser that the certified appraiser wishes to include as cumulative data shall be verified and documented by the certified appraiser. Any documentation that will influence the teacher's summative annual appraisal report must be shared in writing with the teacher within ten working days of the certified appraiser's knowledge of the occurrence. The principal shall also be notified in writing of the cumulative data when the certified appraiser is not the teacher's principal. *19 TAC 150.1003(f)*

SUMMATIVE REPORT

A written summative annual appraisal report shall be shared with the teacher no later than 15 working days before the last day of instruction for students. The written summative annual appraisal report shall be placed in the teacher's personnel file by the end of the appraisal period. *19 TAC 150.1003(h)*

END-OF-YEAR  
CONFERENCE

An end-of-year conference shall be held within a time frame specified on the district calendar, no later than 15 working days before the last day of instruction for students. The end-of-year conference shall focus on the data and evidence gathered throughout the appraisal year; the teacher's efforts as they pertain to Domain IV; the results of the performance of teachers' students, when available, as defined in 19 Administrative Code 150.1001(f)(2); and the potential goals and professional development plans for the following year. The written summative annual appraisal report shall be shared with the teacher within ten working days following the conclusion of the end-of-year conference but no later than 15 working days before the last day of instruction.



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In cases where the certified appraiser is not an administrator on the teacher's campus, either the principal, assistant principal, or another supervisory staff member designated as an administrator on the campus must participate in the end-of-year conference.

*19 TAC 150.1003(i), (j)*

ADDITIONAL  
DOCUMENTATION

Any documentation collected after the end-of-year conference but before the end of the contract term during one school year may be considered as part of the appraisal of a teacher. If the documentation affects the teacher's evaluation in any dimension, another summative report shall be developed to inform the teacher of the changes. *19 TAC 150.1003(k)*

TEACHER RESPONSE  
AND REBUTTAL

A teacher may submit a written response or rebuttal at the following times:

1. For Domains I, II, and III, after receiving a written observation summary or any other written documentation related to the ratings of those three domains; or
2. For Domain IV and for the performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2), after receiving a written summative annual appraisal report.

Any written response or rebuttal must be submitted within ten working days of receiving a written observation summary, a written summative annual appraisal report, or any other written documentation associated with the teacher's appraisal. A teacher may not submit a written response or rebuttal to a written summative annual appraisal report for the ratings in Domains I, II, and III if those ratings are based entirely on observation summaries or written documentation already received by the teacher earlier in the appraisal year for which the teacher already had the opportunity to submit a written response or rebuttal.

*Education Code 21.352(c); 19 TAC 150.1004(a), (b)*

REQUEST FOR  
SECOND APPRAISAL

A teacher may request a second appraisal by another certified appraiser at the following times:

1. For Domains I, II, and III, after receiving a written observation summary with which the teacher disagrees; or
2. For Domain IV and for the performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2), after receiving a written summative annual appraisal report with which the teacher disagrees.

The second appraisal must be requested within ten working days of receiving a written observation summary or a written summative

annual appraisal report. A teacher may not request a second appraisal by another certified appraiser in response to a written summative annual appraisal report for the ratings of dimensions in Domains I, II, and III if those ratings are based entirely on observation summaries or written documentation already received by the teacher earlier in the appraisal year for which the teacher already had the opportunity to request a second appraisal.

A teacher may be given advance notice of the date or time of a second appraisal, but advance notice is not required.

The second appraiser shall make observations and walk-throughs as necessary to evaluate the dimensions in Domains I–III or shall review the Goal-Setting and Professional Development Plan for evidence of goal attainment and professional development activities, when applicable. Cumulative data may also be used by the second appraiser to evaluate other dimensions.

A district shall adopt written procedures for determining the selection of second appraisers. The procedures shall be disseminated to each teacher at the time of employment and updated annually or as needed.

*Education Code 21.352(c); 19 TAC 150.1004(c)–(g)*

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**Note:** The following provisions apply to teacher appraisal using a district-developed appraisal method.

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DISTRICT OPTION

A district that does not choose to use the T-TESS must develop its own teacher-appraisal system supported by locally adopted policy and procedures and by the processes outlined below.

DEVELOPMENT OF  
APPRAISAL SYSTEM

The district-level planning and decision-making committee shall:

1. Develop an appraisal process;
2. Develop evaluation criteria, including discipline management and performance of the teachers' students; and
3. Consult with the campus-planning and decision-making committee on each campus in the district.

APPRAISAL  
PROCESS

The appraisal process shall include:

1. At least one appraisal each year, or less frequently if in accordance with Education Code 21.352(c) [see TEACHER APPRAISAL above];

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2. A conference between the teacher and the appraiser that is diagnostic and prescriptive with regard to remediation needed in overall performance by category; and
3. Criteria based on observable, job-related behavior, including:
  - a. Teachers' implementation of discipline management procedures, as defined in 19 Administrative Code 150.1001(f)(1); and
  - b. Beginning with the 2017–18 school year, the performance of the teachers' students as defined in 19 Administrative Code 150.1001(f)(2).

BOARD  
ACCEPTANCE

A district-level planning and decision-making committee shall submit the appraisal process and criteria to the superintendent, who shall submit the appraisal process and criteria to the board with a recommendation to accept or reject.

The board may accept or reject, with comments, the appraisal process and performance criteria, but may not modify the process or criteria.

*Education Code 21.352(a)(2), (b); 19 TAC 150.1007(a)*

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**Note:** The following provisions apply to teacher appraisal using a campus-developed appraisal method.

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CAMPUS OPTION

A campus within a district may choose to develop a local appraisal system.

DEVELOPMENT OF  
APPRAISAL SYSTEM

The campus planning and decision-making committee shall:

1. Develop an appraisal process;
2. Develop evaluation criteria, including discipline management and performance of the teachers' students; and
3. Submit the process and criteria to the district-level planning and decision-making committee.

APPRAISAL  
PROCESS

The appraisal process shall include:

1. At least one appraisal each year, or less frequently if in accordance with Education Code 21.352(c) [see TEACHER APPRAISAL above];
2. A conference between the teacher and the appraiser that is diagnostic and prescriptive with regard to remediation needed in overall performance by category; and

3. Criteria based on observable, job-related behavior, including:
  - a. Teachers' implementation of discipline management procedures, as defined in 19 Administrative Code 150.1001(f)(1); and
  - b. Beginning with the 2017–18 school year, the performance of the teachers' students as defined in 19 Administrative Code 150.1001(f)(2).

BOARD  
ACCEPTANCE

Upon submission of the appraisal process and criteria to the district-level planning and decision-making committee, the committee shall make a recommendation to accept or reject the appraisal process and criteria and transmit that recommendation to the superintendent.

The superintendent shall submit to the board:

1. The recommended campus appraisal process and criteria;
2. The district-level planning and decision-making committee's recommendation; and
3. The superintendent's recommendation.

The board may accept or reject, with comments, an appraisal process and performance criteria, but may not modify the process or criteria.

*Education Code 21.352(a)(2), (b); 19 TAC 150.1007(b)*

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**Note:** The standards to be used to inform the training, appraisal, and professional development of teachers are outlined in 19 Administrative Code 149.1001.

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PERFORMANCE APPRAISAL  
EVALUATION OF CAMPUS ADMINISTRATORS

DNB  
(LEGAL)

FREQUENCY

The employment policies adopted by a board must require a written evaluation at annual or more frequent intervals of each principal, supervisor, school counselor, or other full-time, certified professional employee, and nurse. *Education Code 21.203(a)*

District funds may not be used to pay an administrator who has not been appraised in the preceding 15 months. *Education Code 21.354(d)*

PRINCIPAL APPRAISAL

A district shall appraise each principal annually. In appraising principals, a school district shall use either:

1. The appraisal system and school leadership standards and indicators developed or established by the commissioner of education; or
2. An appraisal process and performance criteria developed by the district in consultation with the district-level and campus-level committees [see BQA and BQB] and adopted by the board.

*Education Code 21.3541(f), (g); 19 TAC 150.1023(a)*

The commissioner's recommended principal appraisal system, the Texas Principal Evaluation and Support System (T-PESS), was developed in accordance with Education Code 21.3541.

The superintendent, with the approval of the board, may select the T-PESS. Each school district wanting to select or develop an alternative principal appraisal system must follow Education Code 21.3541, and 19 Administrative Code 150.1026 (relating to Alternatives to the Commissioner's Recommended Principal Appraisal System).

*19 TAC 150.1021(b), (c)*

NOTICE TO ESC

The superintendent shall notify the executive director of its regional education service center in writing of the school district's choice of appraisal system when using an alternative to the commissioner's recommended appraisal system and detail the components of that system by the first day of instruction for the school year in which the alternative system is used.

Each school district shall submit annually to its regional education service center a summary of the evaluation scores from the T-PESS or the district's locally adopted appraisal system, in a manner prescribed by the commissioner.

*19 TAC 150.1027*

PERFORMANCE APPRAISAL  
EVALUATION OF CAMPUS ADMINISTRATORS

DNB  
(LEGAL)

TEXAS PRINCIPAL  
EVALUATION AND  
SUPPORT SYSTEM  
(T-PESS)

Each principal shall be appraised on the following standards and indicators of the T-PESS rubric that is aligned to the Texas Administrator Standards in 19 Administrative Code, Chapter 149 (relating to Commissioner's Rules Concerning Educator Standards):

1. Standard I. Instructional Leadership, which includes four indicators;
2. Standard II. Human Capital, which includes four indicators;
3. Standard III. Executive Leadership, which includes four indicators;
4. Standard IV. School Culture, which includes five indicators; and
5. Standard V. Strategic Operations, which includes four indicators.

The evaluation of each of the standards and indicators above shall consider all data generated in the appraisal process.

Each principal shall be evaluated on the attainment and progress toward at least one goal, as referenced in 19 Administrative Code 150.1023 (relating to Appraisals, Data Sources, and Conferences). At least one goal shall be focused on the improvement of the principal's practice, as captured in the T-PESS rubric indicators and descriptors.

If calculating a single overall summative appraisal score for principals, the rating for the attainment of goals shall count for:

1. At least 20 percent of a principal's summative score for a principal who has served at least one year in his or her role on the same campus; or
2. At least 30 percent of a principal's summative score for a principal who is in his or her first year as principal on a particular campus.

Each principal shall be evaluated on each of the 21 indicators in Standards I–V identified above and on the attainment of each goal, using the following categories:

1. Distinguished;
2. Accomplished;
3. Proficient;
4. Developing; and
5. Improvement needed.

PERFORMANCE APPRAISAL  
EVALUATION OF CAMPUS ADMINISTRATORS

DNB  
(LEGAL)

Beginning with the 2017–18 school year, each principal appraisal shall include the campus-level academic growth or progress of the students enrolled at the principal’s campus.

If calculating a single overall summative appraisal score for principals, the measure of student growth or progress shall count for:

1. At least 20 percent of a principal’s summative score for a principal who has served two or more years in his or her role on the same campus;
2. At least 10 percent of a principal’s summative score for a principal who has served one year in his or her role on the same campus; or
3. May not be included in calculating a single overall summative appraisal score for a principal who is in his or her first year as principal on a particular campus.

Each principal shall be evaluated on student growth or progress using one of the terms from the following categories:

1. Distinguished;
2. Accomplished;
3. Proficient;
4. Developing; or
5. Improvement needed.

*19 TAC 150.1022*

APPRAISAL  
PROCEDURES

The annual principal appraisal shall include:

1. At least one appraiser-approved goal that shall be:
  - a. Initially drafted in conjunction with the principal’s end-of-year conference from the previous year, as applicable, revised as needed based on changes to the context of the principal’s assignment at the beginning of the current school year, and submitted to the principal’s appraiser; and
  - b. Maintained throughout the course of the school year by the principal to track progress in the attainment of goals and the actions taken to achieve the goals;
  - c. Shared with the principal’s appraiser prior to the end-of-year conference; and

PERFORMANCE APPRAISAL  
EVALUATION OF CAMPUS ADMINISTRATORS

DNB  
(LEGAL)

- d. Used after the end-of-year conference in the determination of ratings for the attainment of goals;
2. A pre-evaluation conference prior to the principal submitting his or her goals to the principal's appraiser;
3. A mid-year conference to determine and discuss progress toward the attainment of goals;
4. An end-of-year conference that:
  - a. Reviews data collected throughout the current school year and previous school years, if available;
  - b. Examines and discusses the artifacts and evidence related to the principal's performance on the 21 indicators of T-PESS rubric and the attainment of goals;
  - c. Examines and discusses evidence related to student growth or progress measures, as described in 19 Administrative Code 150.1022(f)–(h), when available; and
  - d. Identifies potential goals and professional development activities for the principal for the next school year; and
5. A written summative annual appraisal report to be provided to the principal after the conclusion of the end-of-year conference.

CALENDAR	Each school district shall establish a calendar for the appraisal of principals and provide that calendar to principals prior to the pre-evaluation conference.
APPRAISAL REPORT	The written summative annual appraisal report shall be placed in the principal's personnel file by the end of the appraisal period.
ADDITIONAL DOCUMENTATION	Any documentation collected after the end-of-year conference but before the end of the contract term during one school year may be considered as part of the appraisal of a principal. If the documentation affects the principal's evaluation in any indicator, the attainment of goals, or a measure of student growth or progress, another summative report shall be developed to inform the principal of the changes prior to the end of the contract term.  <i>19 TAC 150.1023(b)–(e)</i>
APPRAISER QUALIFICATIONS	The principal appraisal process requires at least one certified appraiser. Before conducting an appraisal, an appraiser must be certified by having satisfactorily completed the state-approved T-PESS. Periodic recertification and training may be required. <i>19 TAC 150.1024</i>



PERFORMANCE APPRAISAL  
EVALUATION OF CAMPUS ADMINISTRATORS

DNB  
(LEGAL)

ORIENTATION            A district shall ensure that a principal is provided with an orientation of the T-PESS either prior to or in conjunction with the pre-evaluation conference when:

1. The principal is new to the district;
2. The principal has never been appraised under the T-PESS; or
3. District policy regarding principal appraisal has changed since the last time the principal was provided with an orientation to the T-PESS.

The principal orientation shall include all state and local appraisal policies and the local appraisal calendar.

*19 TAC 150.1025*

ALTERNATIVES TO  
T-PESS

A district that does not choose to use the T-PESS must develop its own principal appraisal system supported by locally adopted policy and procedures; developed in consultation with the district-level and campus-level committees established under Education Code 11.251; and adopted by the board. *Education Code 21.3541; 19 TAC 150.1026*

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**Note:** The standards, indicators, knowledge, and skills to be used to align with the training, appraisal, and professional development of principals are outlined in 19 Administrative Code 149.2001.

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APPRAISAL OF  
CAMPUS  
ADMINISTRATORS  
OTHER THAN  
PRINCIPALS

A district shall appraise each campus administrator, other than a principal, annually using either:

1. The commissioner's recommended appraisal process and performance criteria; or
2. An appraisal process and performance criteria developed by the district in consultation with the district- and campus-level committees and adopted by the board.

*Education Code 21.354(c)*

A district may use the T-PESS to appraise campus administrators other than principals provided the school district makes appropriate modifications to ensure that the T-PESS rubric and components fit the job descriptions of the campus administrators other than principals evaluated with the T-PESS.

Each school district wanting to select or develop a local appraisal system for campus administrators other than principals must use an appraisal process and performance criteria developed in con-

PERFORMANCE APPRAISAL  
EVALUATION OF CAMPUS ADMINISTRATORS

DNB  
(LEGAL)

sultation with the district- and campus-level committees established under Education Code 11.251; and adopted by the board.

*Education Code 21.354(c)(2); 19 TAC 150.1028*

SCHOOL  
COUNSELORS

The commissioner shall develop and periodically update an evaluation form for use by districts in evaluating school counselors.  
*Education Code 21.356*

CONFIDENTIALITY OF  
EVALUATION

A document evaluating the performance of an administrator is confidential. *Education Code 21.355*

PERSONNEL POSITIONS  
SUBSTITUTE, TEMPORARY, AND PART-TIME POSITIONS

DPB  
(LEGAL)

UNCERTIFIED  
SUBSTITUTES

State Board for Educator Certification requirements regarding assignment of certified employees apply to substitute teachers. If a district must employ a substitute teacher who is not certified, a list of the substitute teachers shall be retained in the district files. *19 TAC 231.1(e)*

PARENT  
NOTIFICATION

If a district assigns an inappropriately certified or uncertified teacher [as defined in DBA(LEGAL)] to the same classroom for more than 30 consecutive instructional days during the same school year, it shall provide written notice of the assignment to the parents or guardians of students in that classroom.

A superintendent shall provide the notice not later than the 30th instructional day after the date of the assignment of the inappropriately certified or uncertified teacher. A district shall make a good-faith effort to ensure that the notice is provided in a bilingual form to any parent or guardian whose primary language is not English. A district shall retain a copy of the notice and make information relating to teacher certification available to the public on request. [See also DBA(LEGAL)]

*Education Code 21.057*

CRIMINAL HISTORY  
REVIEW

A district shall obtain all criminal history record information that relates to a substitute teacher for a district or shared services arrangement through the Department of Public Safety's criminal history clearinghouse. [See DBAA] *Education Code 22.0836*



INSTRUCTIONAL ARRANGEMENTS  
CLASS SIZE

EEB  
(LEGAL)

TEACHER-STUDENT  
RATIO

A district shall employ a sufficient number of certified teachers to maintain an average ratio of not less than one teacher for each 20 students in average daily attendance. *Education Code 25.111*

HIGH-QUALITY  
PREKINDERGARTEN  
GRANT PROGRAM

A district operating a prekindergarten program under Education Code Chapter 29, Subchapter E-1 must attempt to maintain an average ratio in any prekindergarten program class of not less than one certified teacher or teacher's aide for each 11 students. *Education Code 29.167(d)*

PHYSICAL EDUCATION

A district's physical education curriculum objectives and goals shall address teacher-student ratios. [See EHAA] *Education Code 25.114*

KINDERGARTEN-  
GRADE 4

A district shall not enroll more than 22 students in a class, kindergarten through fourth grade, except as allowed by the commissioner of education. The limit on class size, kindergarten through grade 4, shall not apply during:

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

A "migratory child" is a child or youth who made a qualifying move:

1. As a migratory agricultural worker or a migratory fisher; or
2. With, or to join, a parent or spouse who is a migratory agricultural worker or migratory fisher.

A "qualifying move" is a move due to economic necessity:

1. From one residence to another residence; and
2. From one school district to another school district, except in the case of a school district of more than 15,000 square miles, wherein a qualifying move is a distance of 20 miles or more to a temporary residence.

A "migratory agricultural worker" is an individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in agriculture, which may be dairy work or the initial processing of raw agricultural products. If an individual did not engage in such new employment soon after a qualifying move, such individual may be considered a migratory agricultural worker if the individual actively sought such new employment and has a recent

INSTRUCTIONAL ARRANGEMENTS  
CLASS SIZE

EEB  
(LEGAL)

history of moves for temporary or seasonal agricultural employment.

A “migratory fisher” is an individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in fishing. If the individual did not engage in such new employment soon after the move, the individual may be considered a migratory fisher if the individual actively sought such new employment and has a recent history of moves for temporary or seasonal fishing employment.

*Education Code 25.112(a), (b); 20 U.S.C. 6399*

EXCEPTION TO  
CLASS SIZE LIMITS

The commissioner may except a district, on application, from the class size limits above if the limit works an undue hardship on the district. An exception expires at the end of the school year for which it is granted.

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

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

*Education Code 25.112(d)–(e)*

NOTICE TO  
PARENTS

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

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

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

*Education Code 25.113*

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (ELEMENTARY)

EHAB  
(LEGAL)

ESSENTIAL  
KNOWLEDGE AND  
SKILLS

A district that offers kindergarten through grade 5 must provide instruction in the required curriculum as specified in 19 Administrative Code 74.1 (relating to Essential Knowledge and Skills).

A district shall ensure that sufficient time is provided for teachers to teach and 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 74.2*

DAILY PHYSICAL  
ACTIVITY

A district shall require students in kindergarten through grade 5 to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year, as part of the district's physical education program or through structured activity during a campus's daily recess.

If a district determines, for any particular grade level, that requiring moderate or vigorous daily physical activity is impractical due to scheduling concerns or other factors, the district may as an alternative require a student in that grade level to participate in moderate or vigorous physical activity for at least 135 minutes during each school week.

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

*Education Code 28.002(l)*

GRADE 6 FINE ARTS

A district that provides instruction for grade 6 in a self-contained elementary class as part of elementary school shall provide instruction for students in grade 6 in all of the Middle School 1 TEKS for art, dance, music, and theatre as specified in 19 Administrative Code Chapter 117. *Education Code 28.002(c-1); 19 TAC 74.2(b)*





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. A district is not required to offer a specific course in the foundation and enrichment curriculum except as specified in 19 Administrative Code 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 Administrative Code 74.1, relating to essential knowledge and skills. A district must ensure that sufficient time is provided for teachers to teach and for students to learn English language arts, mathematics, science, social studies, at least one of the four disciplines in fine arts (art, dance, music, theatre), health, physical education, technology applications, and to the extent possible, languages other than English. The school district may provide instruction in a variety of arrangements and settings, including mixed-age programs designed to permit flexible learning arrangements for developmentally appropriate instruction for all student populations to support student attainment of course and grade level standards. *19 TAC 74.3(a)(1)*

PHYSICAL ACTIVITY  
REQUIREMENTS

A 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.

A 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

A 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 Administrative Code 76.1001.

A 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

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (SECONDARY)

EHAC  
(LEGAL)

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 of the essential knowledge and skills for physical education specified in 19 Administrative Code Chapter 116; and
2. The activity is organized and monitored by school personnel or by appropriately trained instructors who are part of a program that has been certified by the board.

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

FINE ARTS  
REQUIREMENT

The school district must ensure that, beginning with students who enter grade 6 in the 2010–11 school year, each student completes one Texas Essential Knowledge and Skills-based fine arts course in grade 6, grade 7, or grade 8. *Education Code 28.002(c-1); 19 TAC 74.3(a)(2)*

A district shall offer and maintain evidence that students have the opportunity to take courses in at least three of the four disciplines in fine arts. The requirement to offer three of the four disciplines in fine arts may be reduced to two by the commissioner of education upon application of a school district with a total middle school enrollment of less than 250 students. *19 TAC 74.3(a)(3)*

INSTRUCTION IN  
HIGH SCHOOL,  
COLLEGE, AND  
CAREER  
PREPARATION

Each district shall provide instruction to students in grade 7 or 8 in preparing for high school, college, and a career. The instruction must include information regarding:

1. The creation of a high school personal graduation plan under Education Code 28.02121;
2. The distinguished level of achievement described by Education Code 28.025(b-15);
3. Each endorsement described by Education Code 28.025(c-1);
4. College readiness standards; and
5. Potential career choices and the education needed to enter those careers.

A district may provide the instruction as part of an existing course in the required curriculum; provide the instruction as part of an existing career and technology course designated by the State Board of Education (SBOE) as appropriate for that purpose; or establish a new elective course through which to provide the instruction.

*Education Code 28.016*

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (SECONDARY)

EHAC  
(LEGAL)

HIGH SCHOOL  
COURSES AT EARLIER  
GRADES

A 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 Administrative Code 74.1. A 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)*

A 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, and at least one additional advanced English course.
2. Mathematics — Algebra I, Algebra II, Geometry, Precalculus, and Mathematical Models with Applications.
3. Science — Integrated Physics and Chemistry, Biology, Chemistry, Physics, and at least two of the following:
  - a. Aquatic Science;
  - b. Astronomy;
  - c. Earth and Space Science;
  - d. Environmental Systems;
  - e. Advanced Animal Science;
  - f. Advanced Biotechnology;
  - g. Advanced Plant and Soil Science;
  - h. Anatomy and Physiology;
  - i. Engineering Design and Problem Solving;
  - j. Food Science;
  - k. Forensic Science;
  - l. Medical Microbiology;
  - m. Pathophysiology;
  - n. Scientific Research and Design; and
  - o. Principles of Engineering.

The requirement to offer two additional courses may be reduced to one by the commissioner upon application of a

district with a total high school enrollment of less than 500 students.

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 1877, World History Studies, United States Government, World Geography Studies, and Economics with Emphasis on the Free Enterprise System and Its Benefits.
5. Physical education — at least two of the following:
  - a. Foundations of Personal Fitness;
  - b. Adventure/Outdoor Education;
  - c. Aerobic Activities; or
  - d. Team or Individual Sports.
6. 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.
7. Career and technical education [see EEL] — coherent sequences of courses selected from at least three of the following 16 career clusters:
  - a. Agriculture, Food, and Natural Resources;
  - b. Architecture and Construction;
  - c. Arts, Audio/Video Technology, and Communications;
  - d. Business Management and Administration;
  - e. Education and Training;
  - f. Finance;
  - g. Government and Public Administration;
  - h. Health Science;
  - i. Hospitality and Tourism;

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (SECONDARY)

EHAC  
(LEGAL)

- j. Human Services;
  - k. Information Technology;
  - l. Law, Public Safety, Corrections, and Security;
  - m. Manufacturing;
  - n. Marketing;
  - o. Science, Technology, Engineering, and Mathematics;  
and
  - p. Transportation, Distribution, and Logistics.
8. Languages other than English — Levels I, II, and III or higher of the same language.
9. Technology applications — Computer Science I and Computer Science II or Advanced Placement (AP) Computer Science and at least two of the following:
- a. Computer Science III;
  - b. Digital Art and Animation;
  - c. Digital Communications in the 21st Century;
  - d. Digital Design and Media Production;
  - e. Digital Forensics;
  - f. Digital Video and Audio Design;
  - g. Discrete Mathematics for Computer Science;
  - h. Fundamentals of Computer Science;
  - i. Game Programming and Design;
  - j. Independent Study in Evolving/Emerging Technologies;
  - k. Independent Study In Technology Applications;
  - l. Mobile Application Development;
  - m. Robotics Programming and Design;
  - n. 3-D Modeling and Animation;
  - o. Web Communications;
  - p. Web Design; and
  - q. Web Game Development.
10. Speech — Communications Applications.

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (SECONDARY)

EHAC  
(LEGAL)

11. Each district shall provide an elective course in personal financial literacy that meets the requirements for a one-half elective credit, using materials approved by the SBOE. The instruction in personal financial literacy must include instruction on completing the application for federal student aid provided by the Department of Education. In fulfilling the requirement to provide financial literacy instruction, a district may use an existing state, federal, private, or nonprofit program that provides students without charge the described instruction.

*19 TAC 74.3(b)(2); Education Code 28.0021(b)*

A 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 a 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.

A district shall teach any course a student is specifically required to take for high school graduation at least once in any two consecutive school years. For a subject that has an end-of-course assessment, a district shall either teach the course every year or use alternate delivery systems, as described in 19 Administrative Code Chapter 74, Subchapter C, to enable students to earn credit for the course and shall maintain evidence thereof.

*19 TAC 74.3(b)(4)*

A district may offer additional courses from the complete list of courses approved by the SBOE to satisfy graduation requirements.  
*19 TAC 74.3(b)(3)*

APPLIED COURSES

A school district may offer the foundation curriculum in an applied manner. The courses delivered in an applied manner must cover the essential knowledge and skills, and the student shall be administered the applicable end-of-course assessment instrument. *Education Code 28.025(b-4)*

RESEARCH WRITING  
COMPONENT

For students entering grade 9 beginning with the 2007–08 school year, districts must ensure that one or more courses offered in the required curriculum for the Recommended and Advanced/Distinguished Achievement High School Programs include a research writing component. *19 TAC 74.3(b)(5)*

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (SECONDARY)

EHAC  
(LEGAL)

PARENTING  
AWARENESS  
PROGRAM

A district shall use the parenting and paternity awareness program developed by the SBOE in its high school health curriculum.

HIGH SCHOOL

MIDDLE AND  
JUNIOR HIGH  
SCHOOL

A district may use the program in the district's middle or junior high school curriculum.

PROGRAM  
REQUIREMENTS

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.

A 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 middle, junior high, or high schools do not have a family violence program.

At the discretion of the district, a teacher may modify the suggested sequence and pace of the program at any grade level.

LOCAL PROGRAMS  
AND MATERIALS

A district may develop or adopt research-based programs and curriculum materials for use in conjunction with the program developed by the SBOE. The programs and curriculum materials may provide instruction in:

1. Child development;
2. Parenting skills, including child abuse and neglect prevention; and
3. Assertiveness skills to prevent teenage pregnancy, abusive relationships, and family violence.

PARENT  
PERMISSION

A student under 14 years of age may not participate in the program without the permission of the student's parent or person standing in parental relation to the student.

*Education Code 28.002(p); 19 TAC 74.35(a)*

ALCOHOL  
AWARENESS  
INSTRUCTION

A district shall incorporate instruction in the dangers, causes, consequences, signs, symptoms, and treatment of binge drinking and alcohol poisoning into any course meeting a requirement for a health education credit.

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (SECONDARY)

EHAC  
(LEGAL)

A district shall choose an evidence-based alcohol awareness program to use in the district's middle school, junior high school, and high school health curriculum from a list of programs approved by the commissioner for this purpose.

"Evidence-based alcohol awareness program" means a program, practice, or strategy that has been proven to effectively prevent or delay alcohol use among students, as determined by evaluations that use valid and reliable measures and that are published in peer-reviewed journals.

*Education Code 28.002(r); 19 TAC 74.35(b)*

CPR INSTRUCTION

For all students who entered grade 7 in the 2010–11 school year and thereafter, a district shall provide instruction to students in grades 7–12 in cardiopulmonary resuscitation (CPR). The instruction may be provided as a part of any course. A student shall receive the instruction at least once before graduation from high school.

CPR instruction must include training that has been developed by the American Heart Association or the American Red Cross or using nationally recognized, evidence-based guidelines for emergency cardiovascular care and incorporating psychomotor skills to support the instruction.

A district may use emergency medical technicians, paramedics, police officers, firefighters, representatives of the American Heart Association or the American Red Cross, teachers, other school employees, or other similarly qualified individuals to provide instruction and training. Instruction is not required to result in CPR certification. If instruction is intended to result in certification, the course instructor must be authorized to provide the instruction by the American Heart Association, the American Red Cross, or a similar nationally recognized association; otherwise, an instructor is not required to be certified in CPR.

WAIVERS FOR  
STUDENTS WITH  
DISABILITIES

A district may waive this requirement for a student who, due to a disability, is unable to complete the instruction. The determination regarding a student's ability to complete the CPR requirement must be made by:

1. The student's admission, review, and dismissal (ARD) committee if the student receives special education services under Education Code, Chapter 29, Subchapter A; or
2. The committee established for the student under Section 504, if the student does not receive special education services, but is covered by Section 504.

*Education Code 28.0023 (c)–(e), (g); 19 TAC 74.38*



BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (SECONDARY)

EHAC  
(LEGAL)

DONATIONS

A district may accept from TEA donations the agency receives under Education Code 7.026 for use in providing instruction to students in the principles and techniques of CPR. A district may accept other donations, including donations of equipment, for use in providing CPR instruction. *Education Code 29.903*



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**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.

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**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 C.F.R. 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 C.F.R. 300.13, .17, .36*

**LEAST RESTRICTIVE ENVIRONMENT** A 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 C.F.R. 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 Administrative Code 89.1053. *19 TAC 89.1050(k)* [See FOF]

SPECIAL PROGRAMS  
SPECIAL EDUCATION

EHBA  
(LEGAL)

INSTRUCTIONAL  
ARRANGEMENTS AND  
SETTINGS

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

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 a 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 to nondistrict students in a single location, 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 (paid or unpaid) 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; or
11. State supported living center: providing services to a student who resides at a state supported living center when the services are provided at the state supported living center location.

OTHER PROGRAM  
OPTIONS

Other program options that may be considered for the delivery of special education and related services to a student include contracts with other districts and programs approved by TEA.

*19 TAC 89.63(c), (f)*

SHARED SERVICES  
ARRANGEMENTS

A 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 C.F.R. 300.34*

EXTENDED SCHOOL  
YEAR SERVICES

Extended school year (ESY) services are defined as individualized instructional programs beyond the regular school year for eligible students with disabilities.

A district shall ensure that 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. A district may not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of ESY services.

*34 C.F.R. 300.106; 19 TAC 89.1065*



SPECIAL EDUCATION  
ARD COMMITTEE AND INDIVIDUALIZED EDUCATION PROGRAM

EHBAB  
(LEGAL)

ADMISSION, REVIEW,  
AND DISMISSAL  
COMMITTEE

A 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 individual and initial evaluation is conducted. The ARD committee shall be the individualized education program (IEP) team defined at 34 C.F.R. 300.321.

RESPONSIBILITIES  
OF ARD  
COMMITTEE

The responsibilities of the ARD committee and the district include:

1. Evaluation, reevaluation, 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 junior high or middle school personal graduation plans;
8. Development of accelerated instruction under Education Code 28.0211 and intensive programs of instruction under Education Code 28.0213 [see EHBC];
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), .321(a)*

COMMITTEE  
MEMBERS

A district shall ensure that each ARD committee meeting includes all of the following:

1. The parents of a student with a disability;
2. At least one regular education teacher of the student (if the student 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 student;

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 students with disabilities;
  - b. Is knowledgeable about the general education curriculum; and
  - c. Is knowledgeable about the availability of resources of the district;
5. Other individuals who have knowledge or special expertise regarding the student at the discretion of the district or the parent;
6. An individual who can interpret the instructional implications of evaluation results, who may be a member of the ARD committee described in items 2–5;
7. The student, if appropriate;
8. For a student with an auditory impairment, including deaf-blindness, a teacher who is certified in the education of students with auditory impairments;
9. For a student with a visual impairment, including deaf-blindness, a teacher who is certified in the education of students with visual impairments;
10. For a student with limited English proficiency, a member of the language-proficiency assessment committee (LPAC), who may also be a member as described at items 2 or 3;
11. A representative of any participating agency likely to be responsible for providing transition services for a student, as appropriate, and with the consent of the student's parents or a student who has reached the age of majority; and
12. When considering initial or continued placement of a student in a career and technical education program, a representative from career and technical education, preferably the teacher.

*20 U.S.C. 1414(d)(1)(B); 34 C.F.R. 300.321; 19 TAC 75.1023(d)(1), 89.1050(c)*

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 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 C.F.R. 300.321(e)*

REGULAR  
EDUCATION  
TEACHER

If an ARD committee is required to include a regular education teacher, the regular education teacher must, to the extent practicable, be a teacher who is responsible for implementing a portion of the child's IEP. *Education Code 29.005(a)*

PARENT  
INVOLVEMENT

A 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 C.F.R. 300.322(a)-(b); 19 TAC 89.1050(d)*

ALTERNATIVE  
MEANS OF  
MEETING  
PARTICIPATION

If neither parent can attend an ARD meeting, the district must allow other methods of participation, such as through telephone calls or video conferencing. *20 U.S.C. 1414(f); 34 C.F.R. 300.322(c); 19 TAC 89.1050(d)*

An ARD meeting may be conducted without a parent in attendance if a district is unable to convince the parents that they should 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 C.F.R. 300.322(d)*

SPECIAL EDUCATION  
ARD COMMITTEE AND INDIVIDUALIZED EDUCATION PROGRAM

EHBAB  
(LEGAL)

MEETINGS	<p>A 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.</p> <p>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.</p> <p><i>20 U.S.C. 1414(d)(4); 34 C.F.R. 300.116(b)(1), .324(b), (c)(1), .501(b)(3)</i></p>
MEETING AT PARENT'S REQUEST	<p>Upon receipt of a written request for an ARD committee meeting from a parent, the school district must schedule and convene a meeting in accordance with the procedures in 19 Administrative Code 89.1050(d) or within five school days, provide the parent with written notice explaining why the district refuses to convene a meeting. <i>19 TAC 89.1050(e)</i></p>
WRITTEN NOTICE	<p>If a parent is unable to speak English, a district must provide the parent with a written notice regarding the ARD committee meeting required under 19 Administrative Code 89.1050(d) (notice for purposes of scheduling) or (e)(2) (notice explaining why the district refuses to convene a meeting) in the parent's native language, unless it is clearly not feasible to do so. If the parent's native language is not a written language, the school district must take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication so that the parent understands the content of the notice. <i>19 TAC 89.1050(f)</i></p>
TRANSFER STUDENTS IN-STATE TRANSFERS	<p>When a student transfers to a new district within the state in the same school year and the parents verify that the student was receiving special education services in the previous district or the previous district verifies in writing or by telephone that the student was receiving special education services, the new school district must meet the requirements of 34 C.F.R. 300.323(e) regarding the provision of special education services. The time line for completing the requirements outlined in 34 C.F.R. 300.323(e)(1) or (2) is 30 school days from the date the student is verified as being a student eligible for special education services.</p>

TRANSFERS FROM ANOTHER STATE	<p>When a student transfers from a district in another state in the same school year and the parents verify that the student was receiving special education services in the previous district or the previous district verifies in writing or by telephone that the student was receiving special education services, the new district must meet the requirements of 34 C.F.R. 300.323(f) regarding the provision of special education services. If the new district determines that an evaluation is necessary, the evaluation is considered a full individual and initial evaluation and must be completed within the time lines established by 19 Administrative Code 89.1011(c) and (e). The time line for completing the requirements in 34 C.F.R. 300.323(f)(2), if appropriate, is 30 calendar days from the date of the completion of the evaluation report. If the school district determines that an evaluation is not necessary, the time line for completing the requirements outlined in 34 C.F.R. 300.323(f)(2) is 30 school days from the date the student is verified as being a student eligible for special education services.</p>
TRANSFER OF RECORDS	<p><i>19 TAC 89.1050(j)</i></p> <p>The district in which the child enrolls shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous district.</p> <p>The previous district shall take reasonable steps to promptly respond to the request from the new district and must furnish the new school district with a copy of the student's records, including the student's special education records, not later than the tenth working day after the date a request for the information is received by the previous school district.</p> <p><i>20 U.S.C. 1414(d)(2)(C)(ii); 34 C.F.R. 300.323(g); 19 TAC 89.1050(j)(3)</i></p>
MILITARY DEPENDENTS	<p>A district shall initially provide comparable services to a military student with disabilities based on his or her current IEP. This does not preclude the district from performing subsequent evaluations to ensure appropriate placement of the student. <i>Education Code 162.002 art. V, C [See FDD]</i></p>
INDIVIDUALIZED EDUCATION PROGRAM	<p>A district shall develop, review, and revise an IEP for each child with a disability. <i>20 U.S.C. 1412(a)(4); 34 C.F.R. 300.320(a)</i></p> <p>At the beginning of each school year, a district shall have in effect, for each child with a disability in its jurisdiction, an IEP. <i>20 U.S.C. 1414(d)(2)(A); 34 C.F.R. 300.323(a)</i></p>

The term "individualized education program" means a written statement for each student with a disability that documents the decisions of the ARD committee with respect to issues discussed at each committee meeting and includes:

1. A statement of the student'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 student's progress toward the annual goals will be measured and when periodic reports on the progress of the student 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 student;
5. A statement of the program modifications or supports for school personnel that will be provided for the student;
6. An explanation of the extent, if any, to which the student will not participate with nondisabled students 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 student on state or district-wide assessments;
9. If the ARD committee determines that the student must take an alternative assessment instead of a particular regular state or district-wide assessment, a statement of why the student cannot participate in the regular assessment and why the particular assessment selected is appropriate for the student;
10. If the ARD committee determines that a student is in need of extended school year (ESY) services, identification of the goals and objectives that will be addressed during ESY services;
11. Beginning not later than the first IEP to be in effect when the student is 14, or younger if determined appropriate by the ARD committee, and updated annually thereafter, a statement of appropriate, measurable postsecondary goals and transi-

tion services needed to assist the student in reaching those goals [see EHBAD];

12. Beginning not later than one year before the student reaches the age of 17, a statement that the student has been informed of the rights that will transfer to the student upon reaching the age of majority;
13. The date of the meeting;
14. The name, position, and signature of each member participating in the meeting; and
15. An indication of whether the child's parents, the adult student, if applicable, and the administrator agreed or disagreed with the decisions of the ARD committee.

*20 U.S.C. 1414(d); 34 C.F.R. 300.320; Education Code 29.005(b-1), .0111; 19 TAC 89.1055*

The written statement of a student's IEP may be required to include only information included in the model form developed by TEA under Education Code 29.0051(a) and posted on the TEA website. A district may use the model form to comply with the requirements for an IEP under 20 U.S.C. 1414(d). *Education Code 29.005(f), .0051*

BEHAVIORAL  
INTERVENTION  
PLAN

The ARD committee may determine that a behavior improvement plan or a behavioral intervention plan (BIP) is appropriate for a student for whom the committee has developed an IEP. If the committee makes that determination, the BIP shall be included as part of the student's IEP and provided to each teacher with responsibility for educating the student. *Education Code 29.005(g); 19 TAC 89.1055(g)*

TRANSLATION OF  
IEP INTO NATIVE  
LANGUAGE

If the parent is unable to speak English and Spanish is the parent's native language, a 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, a 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)*

A written copy of the student's IEP translated into Spanish or the parent's native language means that all of the text in the student's IEP in English is accurately translated into the target language in written form. The IEP translated into the target language must be a comparable rendition of the IEP in English and not a partial translation or summary of the IEP in English.

An audio recording of the student's IEP translated into Spanish or the parent's native language means that all of the content in the student's IEP in English is orally translated into the target language and recorded with an audio device. A district is not prohibited from providing the parent with an audio recording of an ARD committee meeting at which the parent was assisted by an interpreter as long as the audio recording provided to the parent contains an oral translation into the target language of all of the content in the student's IEP in English.

If a parent's native language is not a written language, the district must take steps to ensure that the student's IEP is translated orally or by other means to the parent in his or her native language or other mode of communication.

Under 34 C.F.R. 300.322(f), a district must give a parent a written copy of the student's IEP at no cost to the parent. A school district meets this requirement by providing a parent with a written copy of the student's IEP in English or by providing a parent with a written translation of the student's IEP in the parent's native language as provided above.

*19 TAC 89.1050(i)*

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 postsecondary environments;
6. Parent/family training and support, provided by qualified personnel with experience in Autism Spectrum Disorders (ASD);

7. Suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social/behavioral progress based on the student'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 a 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 of the ARD committee concerning the required elements of the IEP shall be made by mutual agreement, if possible. The ARD committee may agree to an annual IEP or an IEP of shorter duration.

TEN-DAY RECESS

When mutual agreement about all required elements of the IEP is not achieved, the parent who disagrees must be offered a single opportunity to recess and reconvene the ARD committee meeting. The period of time for reconvening the ARD committee meeting must not exceed ten school days, unless the parties mutually agree otherwise. The ARD committee must schedule the reconvened meeting at a mutually agreed upon time and place. The opportunity to recess and reconvene 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]

These requirements do not prohibit the ARD committee from recessing an ARD committee meeting for reasons other than the failure to reach mutual agreement about all required elements of an IEP.

During the recess, the ARD committee members must consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons who may assist in enabling the ARD committee to reach mutual agreement.

FAILURE TO  
REACH  
AGREEMENT

If a recess is implemented and the ARD committee still cannot reach mutual agreement, a 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 parent who disagrees shall be offered the opportunity to write his or her own statement of disagreement.

If the IEP is not developed by agreement, the written statement of the program must include the basis of the disagreement. Each member of the ARD committee who disagrees with the IEP developed by the committee is entitled to include a statement of disagreement in the written statement of the program.

*Education Code 29.005(c); 19 TAC 89.1050(g)*

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, a 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 C.F.R. 300.324(a)(4)-(6)*

TEACHER ACCESS TO  
IEP

Each district must ensure that each teacher who provides instruction to a student with a disability has access to relevant sections of the student's current IEP, is informed of the teacher's specific responsibilities related to implementation of the IEP, and has an op-



portunity to request assistance regarding implementation of the student's IEP. *19 TAC 89.1075(c)*

TEACHER REQUEST  
TO REVIEW IEP

Each district shall develop a process to be used by a teacher who instructs a student with a disability in a regular classroom setting:

1. To request a review of the student's IEP;
2. To provide input in the development of the student's IEP;
3. That provides for a timely district response to the teacher's request; and
4. That provides for notification to the student's parent or legal guardian of that response.

*Education Code 29.001(11); 19 TAC 89.1075(d)*



SPECIAL EDUCATION  
STUDENTS IN NONDISTRICT PLACEMENT

EHBAC  
(LEGAL)

SHARED SERVICES ARRANGEMENTS	A district may enter into a written contract to jointly operate its special education program. The contract must be approved by the commissioner of education. <i>Education Code 29.007</i>
PRIVATE SCHOOL— DISTRICT PLACED STUDENT RECEIVES IEP	If a 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 individualized education program (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 a 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 can 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 a 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 C.F.R. 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 a 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 <i>34 C.F.R. 300.148(d)</i> . <i>20 U.S.C. 1412(a)(10)(C)(ii); 34 C.F.R. 300.148(c)</i>
HOME SCHOOL STUDENTS	A home school student is considered a private school student, for purposes of a 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)(2)</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 de-

SPECIAL EDUCATION  
STUDENTS IN NONDISTRICT PLACEMENT

EHBAC  
(LEGAL)

scribes the specific special education and related services that a district will provide the child.

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 C.F.R. 300.134(c) (consultation process) and 300.137(c) (attendance of private school representatives at services plan committee meetings). A district must make the final decisions with respect to the services to be provided.

*34 C.F.R. 300.137, .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 a 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.

SPECIAL EDUCATION  
STUDENTS IN NONDISTRICT PLACEMENT

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(LEGAL)

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)*

TRANSPORTATION

If a student has been placed by his or her parents in a private school or facility, a 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)*

DISTRICT CHARTER  
SCHOOLS

A 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 C.F.R. 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, a 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, a district shall annually contact the facility to offer services to eligible students with disabilities.

*19 TAC 89.1001(c)*

DISTRICT  
PLACEMENTS

A 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 C.F.R. 300.104*

If a 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)*

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Further, a district shall have the responsibilities set forth at 19 Administrative Code 89.61 regarding students in residential placements.

OUT-OF-STATE  
PLACEMENTS

If a 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)*

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

A 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, a 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), .004(a); 19 TAC 89.62*

A 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 Administrative Code 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)*

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 C.F.R. 300.43*

INDIVIDUAL  
TRANSITION  
PLANNING

In accordance with Education Code 29.011 and 29.0111, not later than when a student reaches 14 years of age, the admission, review, and dismissal (ARD) committee must consider, and if appropriate, address the following issues in the individualized education program (IEP):

1. Appropriate student involvement in the student's transition to life outside the public school system;
2. If the student is younger than 18 years of age, appropriate parental involvement in the student's transition;
3. If the student is at least 18 years of age, appropriate parental involvement in the student's transition, if the parent is invited to participate by the student or the school district in which the student is enrolled;
4. Any postsecondary education options;
5. A functional vocational evaluation;
6. Employment goals and objectives;
7. If the student is at least 18 years of age, the availability of age-appropriate instructional environments;
8. Independent living goals and objectives; and
9. Appropriate circumstances for referring a student or the student's parents to a governmental agency for services.

In accordance with 34 C.F.R. 300.320(b), beginning not later than the first IEP to be in effect when the student turns 16 years of age, or younger if determined appropriate by the ARD committee, and updated annually thereafter, the IEP must include the following:

1. Appropriate measurable postsecondary goals based upon 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 student in reaching the postsecondary goals developed under paragraph (1) of this subsection.

[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 C.F.R. 300.320(b); Education Code 29.0111; 19 TAC 89.1055(h), (j)*

#### GRADUATION

Graduation with a regular high school diploma under 19 Administrative Code 89.1070(b)(1), (b)(2)(D), (g)(1), (g)(2), (g)(3) or (g)(4)(D) terminates a student's eligibility for special education services. For students who receive a diploma according to 19 Administrative Code 89.1070(b)(2)(A), (B), or (C) or (g)(4)(A), (B), or (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.

A 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.

A 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 C.F.R. 300.102(a)(3), .305(e)(2); 19 TAC 89.1070(a), (k)*



SPECIAL EDUCATION  
PROCEDURAL REQUIREMENTS

EHBAE  
(LEGAL)

PROCEDURAL  
SAFEGUARDS

A 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 C.F.R. 300.501*

INDEPENDENT  
EDUCATIONAL  
EVALUATION

2. An opportunity for the parents to obtain an independent educational evaluation of the child. *34 C.F.R. 300.502*

ASSIGNMENT OF  
SURROGATE  
PARENT

3. Protecting the rights of a child when no parent can be identified, a district cannot locate the parents, or the child is a ward of the state, which may include the assignment of an individual to act as a surrogate parent. *34 C.F.R. 300.519*

PRIOR WRITTEN  
NOTICE

4. Prior written notice to the parents when a 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 C.F.R. 300.503* [See PRIOR NOTICE AND CONSENT, below]

MEDIATION

5. Procedures to allow parties to resolve disputes through a mediation process. *34 C.F.R. 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 DISPUTE RESOLUTION, below] *34 C.F.R. 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 C.F.R. 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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PROCEDURAL REQUIREMENTS

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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.

If the parent revokes consent in writing for his or her child's receipt of services after the child is initially provided special education and related services, the district is not required to amend the child's education records to remove any references to the child's receipt of services because of the revocation of consent.

*34 C.F.R. 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 C.F.R. 300.503(c), .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 a district makes that option available. *34 C.F.R. 300.505*

PROCEDURAL  
SAFEGUARDS NOTICE

A 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.

A district may place a current copy of the procedural safeguards notice on its website, 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;

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PROCEDURAL REQUIREMENTS

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(LEGAL)

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
  - 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 time lines, 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 C.F.R. 300.504*

PRIOR NOTICE AND  
CONSENT

A 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 C.F.R. 300.503(a)*

Notice must be provided to the parent in the parent's native language or other mode of communication at least five school days before the school district proposes or refuses the action unless the parent agrees to a shorter time frame. *19 TAC 89.1050(h)*

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;

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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;
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 C.F.R. 300.503(b)*

CONSENT TO  
INITIAL EVALUATION

Before a 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 C.F.R. 300.304(a)*

CONSENT TO  
SERVICES

A 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

A 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 U.S.C. 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, a 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 a 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.

*Education Code 29.0041(a), (b)*

DISPUTE RESOLUTION The possible options for resolving disputes that arise between a parent and a school district relating to the identification, evaluation, or educational placement of or the provision of FAPE to a student with a disability include, but are not limited to:

1. ARD committee meetings, including IEP facilitation if offered by the district, under 19 Administrative Code 89.1196;
2. Meetings or conferences with the student's teachers;
3. Meetings or conferences, subject to the district's policies, with the campus principal, special education director, superintendent, or board;
4. Requesting state IEP facilitation in accordance with 19 Administrative Code 89.1197;
5. Requesting mediation through TEA in accordance with 19 Administrative Code 89.1193;
6. Filing a complaint with TEA in accordance with 19 Administrative Code 89.1195; or
7. Requesting a due process hearing through TEA in accordance with 19 Administrative Code 89.1151-.1191.

*19 TAC 89.1150*

DUE PROCESS COMPLAINT Whenever a due process complaint has been received by a district, the parent shall have an opportunity for an impartial due process hearing, which shall be conducted by an impartial hearing officer selected by TEA. [For TEA rules on due process hearings, see 19 Administrative Code 89.1151-.1191.]

TIME LINE Such due process complaint must set forth an alleged violation that occurred not more than one year before the date the parent 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), .1170(a)*

EXCEPTION This time line shall not apply if the parent was prevented from requesting a hearing due to:

1. A specific misrepresentation by a district that it had resolved the problem forming the basis of the complaint; or

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(LEGAL)

2. A district's withholding of information from the parent that the district was required by the IDEA to provide.

*20 U.S.C. 1415(f)(3)(D); 34 C.F.R. 300.511(f), 19 TAC 89.1151(d)*

"STAY PUT"

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. *20 U.S.C. 1415(j); 34 C.F.R. 300.518, .533*

EXCEPTION

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 time line, if applicable, whichever occurs first, unless the parent and district agree otherwise. *20 U.S.C. 1415(k)(3)(A), 1415(k)(4)(A); 34 C.F.R. 300.533* [See FOF]

RESOLUTION  
PROCESS

Within 15 calendar days of receiving notice of a parent's due process complaint, and before initiating a due process hearing, a 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.

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.

If the district has not resolved the due process complaint to the satisfaction of the parent within 30 calendar 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 request for a hearing.

*34 C.F.R. 300.510, 19 TAC 89.1183*

TRANSFER OF RIGHTS  
TO ADULT STUDENTS

When a student reaches the age of 18, a 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 C.F.R. 300.520; Education Code 29.017(a), (c); 19 TAC 89.1049(c)*





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**Note:** The following contains basic requirements for districts and schools receiving Title I, Part A funds, but does not represent a complete list of legal obligations of such districts and schools. Those districts and schools that receive Title I, Part A funds should carefully review federal and state requirements concerning use of those funds.

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PARENT AND FAMILY  
ENGAGEMENT PLAN

A district may receive funds under Title I, Part A only if the district conducts outreach to all parents and family members and implements programs, activities, and procedures for the involvement of parents and family members in programs assisted under Title I, Part A, consistent with 20 U.S.C. 6318. The programs, activities, and procedures shall be planned and implemented with meaningful consultation with parents of participating children. *20 U.S.C. 6318(a)(1)*

DISTRICT POLICY

A district that receives Title I, Part A funds shall develop jointly with, agree on with, and distribute to, parents and family members of participating children a written parent and family engagement policy. The policy shall be incorporated into a district plan developed under 20 U.S.C. 6312 [TEA-approved plan to receive Title I funds], establish the district's expectations and objectives for meaningful parent and family involvement, and describe how the district will:

1. Involve parents and family members in jointly developing the district plan, and the development of support and improvement plans under paragraphs (1) and (2) of section 6311(d);
2. Provide the coordination, technical assistance, and other support necessary to assist and build the capacity of all participating schools within the district in planning and implementing effective parent and family involvement activities to improve student academic achievement and school performance, which may include meaningful consultation with employers, business leaders, and philanthropic organizations, or individuals with expertise in effectively engaging parents and family members in education;
3. Coordinate and integrate parent and family engagement strategies under Title I, Part A with parent and family engagement strategies to the extent feasible and appropriate, with other relevant federal, state, and local laws and programs;
4. Conduct, with the meaningful involvement of parents and family members, an annual evaluation of the content and effectiveness of the parent and family engagement policy in im-

proving the academic quality of all schools served under Title I, Part A, including identifying:

- a. Barriers to greater participation by parents in activities authorized by section 6318 (with particular attention to parents who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background);
  - b. The needs of parents and family members to assist with the learning of their children, including engaging with school personnel and teachers; and
  - c. Strategies to support successful school and family interactions;
5. Use the findings of the above evaluation to design evidence-based strategies for more effective parental involvement, and to revise, if necessary, the parent and family engagement policies described in section 6318; and
  6. Involve parents in the activities of the schools served under Title I, Part A, which may include establishing a parent advisory board comprised of a sufficient number and representative group of parents or family members served by the local educational agency to adequately represent the needs of the population served by such agency for the purposes of developing, revising, and reviewing the parent and family engagement policy.

*20 U.S.C. 6318(a)(2) [See BQ(LOCAL)]*

SCHOOL POLICY

Each school served under Title I, Part A shall jointly develop with, and distribute to, parents and family members of participating children a written parent and family engagement policy, agreed on by such parents, that shall describe the means for carrying out the requirements of 20 U.S.C. 6318(c)–(f). Parents shall be notified of the policy in an understandable and uniform format and, to the extent practicable, provided in a language the parents can understand. Such policy shall be made available to the local community and updated periodically to meet the changing needs of parents and the school.

*20 U.S.C. 6318(b)*

COMPARABILITY

A district may receive funds under Title I, Part A only if state and local funds will be used in Title I, Part A schools to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving Title I, Part A funds. A district may meet this requirement on a grade-span by grade-span basis or a school-by-school basis. *29 U.S.C. 6321(c)(1)*

For purposes of determining comparability, a district may exclude state and local funds expended for language instruction educational programs and the excess costs of providing services to children with disabilities as determined by the district. *29 U.S.C. 6321(c)(5)*

A district shall be considered to have met the comparability requirements if the district has filed with TEA a written assurance that the district has established and implemented:

1. A district-wide salary schedule;
2. A policy to ensure equivalence among schools in teachers, administrators, and other staff; and
3. A policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

*20 U.S.C. 6321(c)(2)*

EXCEPTION

The comparability requirements do not apply to a district that does not have more than one building for each grade span. *29 U.S.C. 6321(c)(4)*

PRIVATE SCHOOLS

After timely and meaningful consultation [as described at 20 U.S.C. 6320(b)] with appropriate private school officials, a district shall provide eligible children [as that term is defined at 20 U.S.C. 6315(c)] enrolled in private elementary and secondary schools, on an equitable basis and individually or in combination, with special educational services, instructional services (including evaluations to determine the progress being made in meeting such students' academic needs), counseling, mentoring, one-on-one tutoring, or other benefits under Title I, Part A that address their needs.

The educational services and other benefits may include dual or concurrent enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment. The services and benefits, including materials and equipment, shall be secular, neutral, and non-ideological, shall be equitable in comparison to services and other benefits for public school children participating in Title I, Part A programs, and shall be provided in a timely manner. A district may provide services directly or through contracts with public and private agencies, organizations, and institutions.

A district shall also ensure that teachers and families of the children participate, on an equitable basis, in services and activities developed pursuant to 20 U.S.C. 6318 (parent and family engagement).

*20 U.S.C. 6320*

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**Note:** See DBA for qualifications of teachers in Title I programs.

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HOMELESS CHILDREN As a condition of receiving funds under the McKinney-Vento Homeless Assistance Act, a district shall serve homeless children according to their best interests. *McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11432(g)(3)* [See FD, FDC, and FFC]

SPECIAL PROGRAMS  
FEDERAL TITLE I

EHBD  
(LOCAL)

As required by law in order to receive Title I, Part A funds, the District shall provide to TEA written assurance regarding comparability of services across the District in teachers, administrators, and other staff, as well as in the provision of curriculum materials and instructional supplies.

For information on the District salary schedule, see DEA(LOCAL).

COMPARABILITY OF  
SERVICES

As reflected in District records and as submitted to TEA, the District shall document compliance by using one of the following methods:

1. Comparison of state and local expenditures per student;
2. Comparison of per-student expenditures for state and local base salaries; or
3. Ratio of students to full-time equivalent instructional staff whose salaries are not federally funded.

In special programs, such as special education, bilingual education, or English as a second language, a lower ratio may be maintained and more money may be spent per individual campus as necessary to fulfill other legal requirements. These costs shall be excluded from the comparability of services calculations.



TITLE III REQUIREMENTS	A district that receives funds under Title III of the Every Student Succeeds Act shall comply with the statutory requirements regarding English learners and immigrant students. <i>20 U.S.C. 6801–7014</i>
STATE POLICY	It is the policy of the state that every student who has a home language other than English and who is identified as an English language learner shall be provided a full opportunity to participate in a bilingual education or English as a second language (ESL) program.
DEFINITIONS	<p>“Student of limited English proficiency (LEP)” means a student whose primary language is other than English and whose English language skills are such that the student has difficulty performing ordinary classwork in English.</p> <p>“English language learner” is a person who is in the process of acquiring English and has another language as the first native language.</p> <p>The terms English language learner and LEP student are used interchangeably.</p> <p>“Parent” includes a legal guardian of a student.</p>
DISTRICT RESPONSIBILITY	<p>Each district shall:</p> <ol style="list-style-type: none"><li>1. Identify English language learners based on criteria established by the state;</li><li>2. Provide bilingual education and ESL programs as integral parts of the regular program;</li><li>3. Seek certified teaching personnel to ensure that English language learners are afforded full opportunity to master the essential knowledge and skills; and</li><li>4. Assess achievement for essential knowledge and skills in accordance with Education Code Chapter 39 to ensure accountability for English language learners and the schools that serve them.</li></ol> <p><i>Education Code 29.052; 19 TAC 89.1201(a), .1203</i></p>
IDENTIFICATION OF LEP STUDENTS	Within the first four weeks of the first day of school, the language proficiency assessment committee (LPAC) shall determine and report to the board the number of LEP students on each campus and shall classify each student according to the language in which the student possesses primary proficiency. A board shall report that information to TEA before November 1 each year. <i>Education Code 29.053(b)</i>

LANGUAGE  
PROFICIENCY  
ASSESSMENT  
COMMITTEES  
(LPAC)

Each district that is required to offer bilingual and special language programs shall, by local board policy, establish an LPAC. A district shall establish and operate a sufficient number of LPACs to enable them to discharge their duties within 20 school days of the enrollment of LEP students. A district shall have on file policy and procedures for the selection, appointment, and training of members of the LPAC.

MEMBERSHIP OF  
LPAC

The LPAC shall include:

1. A professional bilingual educator;
2. A professional transitional language educator;
3. A parent of a LEP student; and
4. A campus administrator.

A district may add other members to the committee in any of the required categories. If a district does not have an individual in one or more of the job classifications required, it shall designate another professional staff member to serve on the LPAC.

In districts and grade levels at which a district is not required to provide a bilingual education program, the LPAC shall be composed of one or more professional personnel, a campus administrator, and a district-designated parent of a LEP student.

No parent serving on the LPAC shall be an employee of the school district.

All members of the LPAC, including parents, shall be acting for the district and shall observe all laws and rules governing confidentiality of information concerning individual students. A district shall be responsible for the orientation and training of all members, including the parents, of the LPAC.

*Education Code 29.063(a), (b); 19 TAC 89.1220(a)–(f)*

DUTIES

The LPAC shall have the duties set forth at Education Code 29.063(c) and 19 Administrative Code 89.1220(g)–(i), (k).

HOME LANGUAGE  
SURVEY

Within four weeks of each student's enrollment, a district shall conduct a home language survey to determine the language normally used in the home and the language normally used by the student. The home language survey shall be conducted in English and in the home language, and signed by the student's parents if the student is in prekindergarten through grade 8, or by the student if the student is in grades 9 through 12. The original copy of the survey shall be retained in the student's permanent record.



A district shall conduct only one home language survey of each student. The home language survey shall be administered to each student new to the district and to students previously enrolled who were not surveyed in the past.

The home language survey shall contain the following questions:

1. "What language is spoken in your home most of the time?"
2. "What language does your child speak most of the time?"

Additional information may be collected by a district and recorded on the home language survey.

The home language survey shall be used to establish the student's language classification for determining whether a district is required to provide a bilingual education or ESL program. If a student is identified through the home language survey as normally speaking a language other than English, the student shall be tested in accordance with 19 Administrative Code 89.1225 and additionally for students with disabilities, 19 Administrative Code 89.1230.

*Education Code 29.056(a)(1); 19 TAC 89.1215*

LEP  
CLASSIFICATION

The LPAC may classify a student as LEP if:

1. The student's ability in English is so limited or the student's disabilities are so severe that assessment procedures cannot be administered;
2. The student's score or relative degree of achievement on the TEA-approved English proficiency test is below the levels established by TEA as indicative of reasonable proficiency;
3. The student's primary language proficiency score as measured by a TEA-approved test is greater than the student's proficiency in English; or
4. The LPAC determines, based on other information, including a teacher evaluation, parental viewpoint, or student interview, that the student's primary language proficiency is greater than the student's proficiency in English or that the student is not reasonably proficient in English.

*Education Code 29.056(c)*

PARENTAL NOTICE  
AND CONSENT

Within ten days of the LPAC's classification of a student as LEP, the LPAC shall give written notice to the student's parent. The notice must be in English and in the parent's primary language. The notice shall inform the parents of the benefits of the program for which the student is recommended and that it is an integral part of the school program.

The entry or placement of a student in the bilingual education or ESL program must be approved in writing by the student's parent.

Pending parent approval, a district shall place the student in the recommended program, but may count only those students with parent approval for bilingual education allotment.

A district may identify, exit, or place a student in a program without written approval of the student's parent or guardian if:

1. The student is 18 years of age or has had the disabilities of minority removed;
2. Reasonable attempts to inform and obtain permission from a parent or guardian have been made and documented;
3. Approval is obtained from:
  - a. An adult whom the district recognizes as standing in parental relation to the student, including a foster parent or employee of a state or local governmental agency with temporary possession or control of the student; or
  - b. The student, if no parent, guardian, or other responsible adult is available; or
4. A parent or guardian has not objected in writing to the proposed entry, exit, or placement.

*Education Code 29.056(a), (d); 19 TAC 89.1220(j), (m), .1240(a)*

PARTICIPATION OF  
NON-LEP  
STUDENTS

With the approval of a district and a student's parents, a student who is not LEP may also participate in a bilingual education program. The number of participating students who are not LEP may not exceed 40 percent of the number of students enrolled in the program. *Education Code 29.058; 19 TAC 89.1233*

BILINGUAL AND ESL  
PROGRAMS

Each district with an enrollment of 20 or more LEP students in any language classification in the same grade level district-wide shall offer a bilingual education or special language program, as follows:

1. Kindergarten through elementary grades: a district shall provide a bilingual education program by offering dual language instruction using one of the four bilingual program models described in 19 Administrative Code 89.1210(d). [See BILINGUAL EDUCATION PROGRAM MODELS, below]
2. Post-elementary through grade 8: a district shall offer bilingual education, ESL, or other transitional language instruction approved by TEA.

3. Grades 9 through 12: a district shall provide ESL instruction by offering an ESL program using one of the two models described at 19 Administrative Code 89.1210(g). [See ESL PROGRAM MODELS, below]

If a program other than bilingual education must be used in kindergarten through the elementary grades, documentation for the exception must be filed with and approved by TEA.

*Education Code 29.053(c), (d), .054; 19 TAC 89.1205*

PROGRAM  
CONTENT

A district's bilingual education program shall be a full-time program of dual-language instruction that provides for learning basic skills in the primary language of the students enrolled in the program and for carefully structured and sequenced mastery of English language skills. The amount of instruction in each language within the bilingual education program shall be commensurate with the students' level of proficiency in each language and their level of academic achievement.

The bilingual education program shall address the affective, linguistic, and cognitive needs of English language learners as described at 19 Administrative Code 89.1210(c).

An ESL program shall be an intensive program of instruction in English from teachers trained in recognizing and dealing with language differences. Instruction in ESL shall be commensurate with the student's level of English proficiency and his or her level of academic achievement.

A district shall provide for ongoing coordination between the ESL program and the regular educational program. The ESL program shall address the affective, linguistic, and cognitive needs of English language learners as described at 19 Administrative Code 89.1210(f).

The bilingual education and ESL programs shall be an integral part of the regular educational program required under 19 Administrative Code Chapter 74 (Curriculum Requirements).

The bilingual or ESL program shall be designed to consider the students' learning experiences and shall incorporate the cultural aspects of the students' backgrounds.

A district shall modify the instruction, pacing, and materials of bilingual and ESL programs to ensure that English language learners have a full opportunity to master the essential knowledge and skills of the required curriculum. Students participating in the bilingual education program may demonstrate their mastery of the essential

knowledge and skills in either their home language or in English for each content area.

Students enrolled in the bilingual or ESL programs shall be placed in classes with other students of approximately the same age and level of educational attainment. A district shall ensure that each student's instruction is appropriate to the student's level of educational attainment, and the district shall keep adequate records of the educational level and progress of each student enrolled in the program.

LEP students shall participate fully with English-speaking students in regular classes provided in subjects such as art, music, and physical education. A district shall provide students enrolled in the bilingual or ESL program a meaningful opportunity to participate fully with other students in all extracurricular activities. Elective courses may be taught in a language other than English.

*Education Code 29.055, .057(b); 19 TAC 89.1210(a)*

BILINGUAL  
EDUCATION  
PROGRAM  
MODELS

The bilingual education program shall be implemented with consideration for each English language learner's unique readiness level through one of the following program models:

1. Transitional bilingual/early exit;
2. Transitional bilingual/late exit;
3. Dual language immersion/two-way; or
4. Dual language immersion/one-way.

*19 TAC 89.1210(d)*

ESL PROGRAM  
MODELS

The ESL program shall be implemented with consideration for each English language learner's unique readiness level through one of the following program models:

1. ESL/content-based program model; or
2. ESL/pull-out program model.

*19 TAC 89.1210(g)*

DUAL LANGUAGE  
IMMERSION  
PROGRAM

"Dual language immersion" 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. The implementation of a dual language immersion program (DLIP) model is optional. *19 TAC 89.1203*

A district may adopt a DLIP for students enrolled in elementary school grades. *Education Code 28.005(c), .0051(c)*

IMPLEMENTATION

Program implementation should:

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

*19 TAC 89.1227*

MINIMUM  
REQUIREMENTS

A DLIP must:

1. Address all curriculum requirements specified at 19 Administrative Code Chapter 74, Subchapter A (Required Curriculum) to include foundation and enrichment areas, English language proficiency standards, and college and career readiness standards.
2. Be a full-time program of academic instruction in English and another language.
3. Provide a minimum of 50 percent of instructional time in the language other than English.
4. Be developmentally appropriate and based on current best practices research.

*19 TAC 89.1227*

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. A 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 as stated in 19 Administrative Code 89.1210 (Program Content and Design); and
5. Expectations for students and parents.

*19 TAC 89.1228*

EVALUATION

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.

The success of a DLIP is evident by students in the program demonstrating high levels of language proficiency in English and the other language and mastery of the Texas essential knowledge and skills for the foundation and enrichment areas. Indicators of success may include scores on statewide student assessments in English, statewide student assessments in Spanish (if appropriate), norm-referenced standardized achievement tests in both languages, and/or language proficiency tests in both languages.

*19 TAC 89.1267*

SCHOOL  
DISTRICT  
RECOGNITION

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

1. The district must exceed the minimum requirements stated in 19 Administrative Code 89.1227.
2. The district must not receive the lowest performance rating in the state accountability system.
3. The district must not be identified for any stage of intervention for the district's bilingual and/or ESL program under the performance-based monitoring system.
4. The district must meet the adequate yearly progress participation and performance criteria in reading and mathematics for the English language learner student group under Elementary and Secondary Education Act (ESEA) regulations.

STUDENT  
RECOGNITION

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 of education.

*19 TAC 89.1269*

SPECIAL PROGRAMS  
BILINGUAL EDUCATION/ESL

EHBE  
(LEGAL)

**FACILITIES** Bilingual education and special language programs shall be located in a district's regular schools rather than in separate facilities. A district may concentrate the programs at a limited number of schools, provided that the enrollment in those schools shall not exceed 60 percent LEP students. Recent immigrant English language learners enrolled in newcomer centers shall return to home campuses no later than two years after initial enrollment in a newcomer program. *Education Code 29.057; 19 TAC 89.1235*

**COOPERATION AMONG DISTRICTS** A district may join with one or more other districts to provide the required bilingual and special education programs. The availability of the programs shall be publicized throughout the districts involved.

A district may allow a nonresident LEP student to enroll in or attend its bilingual education or special language program if the student's district of residence does not provide an appropriate program. The tuition for the student shall be paid by the district of residence.

Documentation in a student's permanent record shall be forwarded in the same manner as other student records to another school district in which the student enrolls.

*Education Code 29.059; 19 TAC 89.1220(I)*

**SUMMER PROGRAM** If a district is required to offer a bilingual education or special language program, it shall offer a voluntary summer school program for LEP children who will be eligible for admission to kindergarten or first grade at the beginning of the next school year.

A school that operates on a semester system shall offer the program during the period school is recessed for the summer and for one-half day for eight weeks or on a similar schedule approved by the board. A school that operates on any other system shall offer 120 hours of instruction on a schedule established by the board.

The program must be an intensive bilingual education or special language program that meets the standards set by TEA, and the student/teacher ratio may not exceed 18:1. A district shall comply with the requirements of 19 Administrative Code 89.1250 in providing such a program.

**OTHER PROGRAM** A district may establish on a full- or part-time basis other summer school, extended day, or extended week bilingual or special language programs for LEP students and may join with other districts in establishing such programs.

Neither the summer program nor the other programs may substitute for the program to be provided during the regular school year.

*Education Code 29.060*

PERSONNEL

Teachers assigned to a bilingual education program using one of the following program models must be appropriately certified in bilingual education:

1. Transitional bilingual/early exit program model; or
2. Transitional bilingual/late exit program model.

*Education Code 29.061(b)*

Teachers assigned to a bilingual education program using a dual language immersion/one-way or two-way program model must be appropriately certified for:

1. Bilingual education for the component of the program provided in a language other than English; and
2. Bilingual education or English as a second language for the component of the program provided in English.

A district that provides a bilingual education program using a dual language immersion/one-way or two-way program model may assign a teacher certified for the language other than English component of the program and a different teacher certified for the English language component.

*Education Code 29.061(b-1)–(b-2)*

Teachers assigned to ESL programs must be appropriately certified for ESL. *Education Code 29.061(c)*

If a district is unable to hire a sufficient number of teachers with bilingual teaching or ESL certificates, the district may file an application for exception with TEA, in accordance with 19 Administrative Code 89.1207. *Education Code 29.054; 19 TAC 89.1207*

LEP STUDENTS AND  
STATE ASSESSMENTS

In kindergarten–grade 12, a LEP student shall participate in the state assessment in accordance with commissioner’s rules at 19 Administrative Code Chapter 101, Subchapter AA. [See EKBA]

PROGRAM EXIT

A district may transfer a LEP student out of a bilingual education or special language program for the first time or a subsequent time if the student is able to participate equally in a regular all-English instructional program as determined by:

1. TEA-approved tests administered at the end of each school year to determine the extent to which the student has developed oral and written language proficiency and specific language skills in English;
2. Satisfactory performance on the reading assessment instrument under Education Code 39.023(a) or an English



language arts assessment instrument under Education Code 39.023(c), as applicable, with the assessment instrument administered in English, or, if the student is enrolled in the first or second grade, an achievement score at or above the 40th percentile in the reading and language arts sections of an English standardized test approved by TEA; and

3. TEA-approved criterion-referenced tests and the results of a subjective teacher evaluation.

*Education Code 29.056(g)*

NOTICE TO  
PARENTS

A district shall notify parents of a student's reclassification as English proficient and his or her exit from the bilingual or ESL program.  
*19 TAC 89.1240(b)*

POST-EXIT  
MONITORING

The LPAC shall reevaluate a student who is transferred out of a bilingual education or special language program if the student earns a failing grade in a subject in the foundation curriculum during any grading period in the first two school years after the student is transferred to determine whether the student should be reenrolled in a bilingual education or special language program.

During the first two school years after a student is transferred out of a bilingual education or special language program, the LPAC shall review the student's performance and consider:

1. The total amount of time the student was enrolled in bilingual education or special language programs;
2. The student's grades each grading period in each subject in the foundation curriculum;
3. The student's performance on state assessment instruments;
4. The number of credits the student has earned toward high school graduation, if applicable; and
5. Any disciplinary actions taken against the student under Education Code Chapter 37, Subchapter A.

After the evaluation, the LPAC may require intensive instruction for the student or reenroll the student in a bilingual education or special language program.

*Education Code 29.0561*

PEIMS REPORTING  
REQUIREMENTS

A district that is required to offer bilingual education or special language programs shall include the following information in the district's Public Education Information Management System (PEIMS) report:

1. Demographic information on students enrolled in district bilingual education or special language programs;
2. The number and percentage of students enrolled in each instructional model of a bilingual education or special language program offered by the district; and
3. The number and percentage of students identified as LEP students who do not receive specialized instruction.

*Education Code 29.066(a)*

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

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TUITION-FREE

A district shall offer prekindergarten classes if it identifies 15 or more eligible students who are at least four years of age. A district may offer prekindergarten if it identifies 15 or more eligible children who are at least three years of age.

A district may not charge tuition for a prekindergarten program offered under these provisions.

EXEMPTION

A district may apply to the commissioner of education (“commissioner”) for an exemption from the requirement that it provide a free prekindergarten program if the district would be required to construct classroom facilities in order to provide the program.

DEFINITIONS

In this section:

1. “Child” includes a stepchild.
2. “Parent” includes a stepparent.

ELIGIBILITY

A child is eligible for enrollment in free prekindergarten if the child is at least three years of age and:

1. Is unable to speak and comprehend the English language;
2. Is educationally disadvantaged;
3. Is homeless, as defined by federal law [see FD(LEGAL)], regardless of the residence of the child, of either parent of the child, or of the child’s guardian or other person having lawful control;
4. Is the child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority;
5. Is the child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty; or
6. Is or ever has been in the conservatorship of the Department of Family and Protective Services following an adversary hearing under Family Code 262.201.

A child who is eligible for enrollment under item 4 or 5 above remains eligible if the child’s parent leaves the armed forces, or is no

longer on active duty, after the child begins the prekindergarten class.

NOTICE

A district shall develop a system to notify the population in the district with children who are eligible for enrollment in a free prekindergarten program of the availability of the program. The system must include public notices issued in English and Spanish.

HALF-DAY BASIS

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

TRANSPORTATION

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

*Education Code 29.153*

TUITION-  
SUPPORTED  
OR DISTRICT-  
FINANCED

A district may offer on a tuition basis or use district funds to provide:

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

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

*Education Code 29.1531*

PROGRAM DESIGN

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

DAILY PHYSICAL  
ACTIVITY

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

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

If a district determines, for any particular grade level, that requiring moderate or vigorous daily physical activity is impractical due to

scheduling concerns or other factors, the district may as an alternative require a student in that grade level to participate in moderate or vigorous physical activity for at least 135 minutes during each school week.

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

*Education Code 28.002(l)*

REPORT

The district shall report annually to TEA, on a form prescribed by the commissioner, the strategies implemented by the district to increase community awareness of prekindergarten programs offered by the district. The report may be combined, at the discretion of the commissioner, with another report that the district submits to TEA. TEA shall post the report on the TEA website. *Education Code 29.1534*

HIGH-QUALITY  
PREKINDERGARTEN  
GRANT PROGRAM

From funds appropriated for that purpose, the commissioner shall establish a grant funding program under which funds are awarded to districts to implement a prekindergarten grant program under Education Code Chapter 29, Subchapter E-1 and 19 Administrative Code 102.1003.

A district may participate in and receive funding under the program if the district meets all program standards required under Subchapter E-1. A program is subject to any other requirements imposed by law that apply to a prekindergarten program.

*Education Code 29.165*

A district that receives funding under this grant shall maintain locally and provide at TEA's request the necessary documentation to ensure fidelity of high-quality prekindergarten program implementation. *19 TAC 102.1003(k)*

ELIGIBILITY FOR  
FUNDING

All eligible districts may receive grant funding for each qualifying student in average daily attendance in a high-quality prekindergarten program in the district. A school district that receives the funding may use the funding only to improve the quality of the district's prekindergarten programs. Funding for each qualifying student in attendance for the entire instructional period on a school day shall not exceed \$1,500. *Education Code 29.166; 19 TAC 102.1003(a), (j)*

To be eligible to receive grant funding under the program, a district shall:

1. Implement a curriculum for a high-quality prekindergarten grant program that addresses all of the Texas Prekindergarten Guidelines (updated 2015) in the domains identified in 19 Administrative Code 102.1003(c);
2. Measure the progress of each student in meeting the recommended end of prekindergarten year outcomes identified in the Texas Prekindergarten Guidelines, and the preparation of each student for kindergarten using a kindergarten readiness instrument for reading as described in Education Code 28.006.
3. Develop, implement, and make available on the district or campus website a family engagement plan to assist the district in achieving and maintaining high levels of family involvement and positive family attitudes toward education. [See FAMILY ENGAGEMENT PLAN below]

*19 TAC 102.1003(c), (d), (f)*

QUALIFYING  
STUDENTS

A district receiving funds under the program must provide educational services to qualifying students. A student qualifies for additional funding if the student is four years of age on September 1 of the year the student begins the program and:

1. Is unable to speak and comprehend the English language;
2. Is educationally disadvantaged;
3. Is a homeless child, as defined by 42 U.S.C. § 11434a, regardless of the residence of the child, of either parent of the child, or of the child's guardian or other person having lawful control of the child;
4. Is the child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority;
5. Is the child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty; or
6. Is or ever has been in the conservatorship of the Department of Family and Protective Services following an adversary hearing held as provided by Family Code 262.201.

*Education Code 29.153(b); 19 TAC 102.1003(b)*

SPECIAL PROGRAMS  
PREKINDERGARTEN

EHBG  
(LEGAL)

CURRICULUM  
REQUIREMENTS

A district shall select and implement a curriculum for a prekindergarten grant program that:

1. Includes the prekindergarten guidelines established by TEA;
2. Measures the progress of students in meeting the recommended learning outcomes; and
3. Does not use national curriculum standards developed by the Common Core State Standards Initiative.

The curriculum must address all of the Texas Prekindergarten Guidelines (updated 2015) in the domains identified in 19 Administrative Code 102.1003(c).

In a format prescribed by TEA, a district that receives funding under this grant shall report:

1. The curriculum used in the high-quality prekindergarten program classes as required by 19 Administrative Code 102.1003(c);
2. A description and the results of each prekindergarten instrument used in the high-quality prekindergarten program classes as required by 19 Administrative Code 102.1003(d);
3. A description of each kindergarten readiness instrument used in the district to measure the effectiveness of the district's high-quality prekindergarten program classes as required by 19 Administrative Code 102.1003(d); and
4. The results for at least 95 percent of the district's kindergarten students on the kindergarten readiness instrument.

*Education Code 29.167(a); 19 TAC 102.1003(c), (g)*

TEACHER  
REQUIREMENTS

Each teacher for a prekindergarten program class must be certified under Education Code Chapter 21, Subchapter B and have one of the following additional qualifications:

1. A Child Development Associate (CDA) credential or another early childhood education credential approved by TEA;
2. Certification offered through a training center accredited by Association Montessori Internationale or through the Montessori Accreditation Council for Teacher Education;
3. At least eight years' experience of teaching in a nationally accredited child care program;
4. A graduate or undergraduate degree in early childhood education or early childhood special education;

5. Documented completion of the Texas School Ready Training Program; or
6. Be employed as a prekindergarten teacher in a district that has ensured that:
  - a. Prior to assignment in a prekindergarten class, teachers who provide prekindergarten instruction have completed at least 150 cumulative hours of documented professional development addressing all ten domains in the Texas Prekindergarten Guidelines that were approved prior to 2015 in addition to other relevant topics related to high-quality prekindergarten over a consecutive five-year period;
  - b. Teachers who have not completed training required above prior to assignment in a prekindergarten class complete:
    - (1) The first 30 hours of 150 cumulative hours of documented professional development addressing all ten domains in the Texas Prekindergarten Guidelines (updated 2015) in addition to other relevant topics related to high-quality prekindergarten before the end of the 2016–17 school year; and
    - (2) Complete the additional hours in the subsequent four years in order to continue providing instruction in a high-quality prekindergarten classroom; and
  - c. At least half of the hours required above shall include experiential learning, practical application, and direct interaction with specialists in early childhood education or instructional coaches.

A district may allow a teacher employed by the district to receive the training required to be awarded a CDA credential from a regional education service center. Training may not include national curriculum standards developed by the Common Core State Standards Initiative.

A school district must attempt to maintain an average ratio in any prekindergarten program class of not less than one certified teacher or teacher's aide for each 11 students.

*Education Code 29.167; 19 TAC 102.1003(e), (i)*

FAMILY  
ENGAGEMENT  
PLAN

A district shall develop and implement a family engagement plan to assist the district in achieving and maintaining high levels of family involvement and positive family attitudes toward education.



An effective family engagement plan creates a foundation for the collaboration of mutual partners, embraces the individuality and uniqueness of families, and promotes a culture of learning that is child centered, age appropriate, and family driven.

The family engagement plan must be based on family engagement strategies established by TEA as set out in 19 Administrative Code 102.1003(f).

*Education Code 29.168; 19 TAC 102.1003(f)*

PROGRAM  
EVALUATION

A school district shall:

1. Select and implement appropriate methods for evaluating the district's program classes by measuring student progress; and
2. Make data from the results of program evaluations available to parents.

A district may administer diagnostic assessments to students in a program class to evaluate student progress but may not administer a state standardized assessment instrument.

An assessment instrument administered to a prekindergarten program class must be selected from a list of appropriate prekindergarten assessment instruments identified by the commissioner.

*Education Code 29.169; 19 TAC 102.1003(h)*

ELIGIBLE PRIVATE  
PROVIDERS

A district participating in the grant program may enter into a contract with an eligible private provider to provide services or equipment for the program.

To be eligible to contract with a district to provide a program or part of a program, a private provider must be licensed by and in good standing with the Department of Family and Protective Services. A private provider is in good standing with the Department of Family and Protective Services if the department has not taken an action against the provider's license during the 24-month period preceding the date of a contract with a school district. The private provider must also:

1. Be accredited by a research-based, nationally recognized, and universally accessible accreditation system approved by the commissioner;
2. Be a Texas Rising Star Program provider with a three-star certification or higher;
3. Be a Texas School Ready! participant;

SPECIAL PROGRAMS  
PREKINDERGARTEN

EHBG  
(LEGAL)

4. Have an existing partnership with a district to provide a pre-kindergarten program not provided under Subchapter E-1; or
5. Be accredited by an organization that is recognized by the Texas Private School Accreditation Commission.

A prekindergarten program provided by a private provider under Education Code 29.171 is subject to the requirements of Education Code Chapter 29, Subchapter E-1.

*Education Code 29.171*

PREKINDERGARTEN  
EXPANSION GRANT

A district may use funds from grants administered by the commissioner to expand an existing half-day prekindergarten program to a full-day basis or to implement a prekindergarten program on a campus that does not have a prekindergarten program.

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

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

*Education Code 29.155*

READY TO READ  
GRANT

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

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

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

*Education Code 29.157*

STATEWIDE  
INFORMATION  
REFERRAL  
NETWORK

A district shall provide the Texas Information and Referral Network with information regarding eligibility for and availability of child-care and education services for inclusion in the statewide information referral network. A district shall provide the information in a form

determined by the executive commissioner of the Texas Health and Human Services Commission. *Gov't Code 531.0312*

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

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

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

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

*Gov't Code 531.0312(c)-(e)*

SHARED SITE

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

PRE-K LICENSING  
STANDARDS

If a 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)*



ALTERNATIVE METHODS FOR EARNING CREDIT  
COLLEGE COURSE WORK/DUAL CREDIT

EHDD  
(LEGAL)

NOTICE TO PARENTS Each school year, a district shall notify the parent of each student enrolled in grade 9 or above of the availability of programs under which a student may earn college credit, including advanced placement programs, dual credit programs, joint high school and college credit programs, and international baccalaureate programs. The notice must include the name and contact information of any public or private entity offering such a program in the district.

A district may provide the notice on the district's Internet website.

*Education Code 28.010*

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**Note:** For information on dual credit courses available through the Texas Virtual School Network (TxVSN), see EHDE and [www.txvsn.org](http://www.txvsn.org).

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COLLEGE CREDIT  
PROGRAM

A district shall implement a program under which students may earn the equivalent of at least 12 semester credit hours of college credit in high school. If requested by the district, a public institution of higher education in this state shall assist the district in developing and implementing the program. The college credit may be earned through:

1. International baccalaureate, advanced placement, or dual credit courses;
2. Articulated postsecondary courses provided for local credit or articulated postsecondary advanced technical credit courses provided for state credit; or
3. Any combination of the courses in items 1 and 2.

Annually, a district shall report to TEA:

1. The number of students, including career and technical students, who have participated in the program and earned college credit; and
2. The cumulative number of courses in which participating students have enrolled and college credit hours the students have earned.

The program may provide a student the opportunity to earn credit for a course or activity, including an apprenticeship or training hours:

1. That satisfies a requirement necessary to obtain an industry-recognized credential or certificate or an associate degree, and is approved by the Texas Higher Education Coordinating Board; and

ALTERNATIVE METHODS FOR EARNING CREDIT  
COLLEGE COURSE WORK/DUAL CREDIT

EHDD  
(LEGAL)

2. For which a student may earn credit concurrently toward both the student's high school diploma and postsecondary academic requirements.

A district is not required to pay a student's tuition or other associated costs for taking a course under this section.

*Education Code 28.009*

COLLEGE-LEVEL  
COURSES

A board may adopt a policy that allows a student to be awarded credit toward high school graduation for completing a college-level course. The course must be provided only by an institution of higher education that is accredited by any of the following regional accrediting associations:

1. Southern Association of Colleges and Schools
2. Middle States Association of Colleges and Schools
3. New England Association of Colleges and Schools
4. North Central Association of Colleges and Schools
5. Western Association of Colleges and Schools
6. Northwest Association of Colleges and Schools

To be eligible to enroll and be awarded credit toward state graduation requirements, a student shall have the approval of the high school principal or other school official designated by a district. The course(s) for which credit is awarded shall provide advanced academic instruction beyond or in greater depth than the essential knowledge and skills for the equivalent high school course.

*19 TAC 74.25*

DUAL CREDIT  
PROGRAMS  
DEFINITIONS

For purposes of the following provisions, "college" means a public two-year associate degree-granting institution or a public university.

"Dual credit" means the process by which a high school student enrolls in a college course and receives simultaneous academic credit for the course from both the college and high school.

*19 TAC 4.83(2), (4)*

PARTNERSHIP  
AGREEMENTS WITH  
PUBLIC COLLEGES

A district may enter into an agreement with a public college to form a dual credit partnership in accordance with 19 Administrative Code Chapter 4, Subchapter D. *Education Code 130.008; 19 TAC Ch. 4, Subch. D*

ALTERNATIVE METHODS FOR EARNING CREDIT  
COLLEGE COURSE WORK/DUAL CREDIT

EHDD  
(LEGAL)

COMMUNITY COLLEGE JURISDICTION	A school district that operates a high school may enter into an agreement with a community college district, regardless of whether the high school is located within the service area of the community college district, to offer a course as provided by Education Code 130.008. <i>Education Code 130.008(d)</i>
STUDENT ELIGIBILITY	<p>A high school student is eligible to enroll in academic dual credit courses and workforce education dual credit courses as permitted by 19 Administrative Code 4.85(b).</p> <p>To be eligible for enrollment in a dual credit course offered by a public college, students must meet all the college's regular prerequisite requirements designated for that course (e.g., minimum score on a specified placement test, minimum grade in a specified previous course, etc.).</p> <p>An institution may impose additional requirements for enrollment in courses for dual credit that do not conflict with this section.</p> <p>An institution is not required, under the provisions of this section, to offer dual credit courses for high school students.</p> <p><i>19 TAC 4.85(b)</i></p>
QUALIFIED INSTRUCTOR	<p>A course offered for joint high school and junior college credit must be taught by a qualified instructor approved or selected by the public junior college. An instructor is qualified if the instructor holds:</p> <ol style="list-style-type: none"><li>1. A doctoral or master's degree in the discipline that is the subject of the course;</li><li>2. A master's degree in another discipline with a concentration that required completion of a minimum of 18 graduate semester hours in the discipline that is the subject of the course; or</li><li>3. For a course that is offered in an associate degree program and that is not designed for transfer to a baccalaureate degree program:<ol style="list-style-type: none"><li>a. A degree described above;</li><li>b. A baccalaureate degree in the discipline that is the subject of the course; or</li><li>c. An associate degree and demonstrated competencies in the discipline that is the subject of the course, as determined by the Texas Higher Education Coordinating Board.</li></ol></li></ol> <p>Not later than the 60th day after receipt, a public junior college shall approve or reject an application for approval to teach a course at a high school that is submitted by an instructor employed</p>

ALTERNATIVE METHODS FOR EARNING CREDIT  
COLLEGE COURSE WORK/DUAL CREDIT

EHDD  
(LEGAL)

by the district with which the junior college entered into an agreement to offer the course.

*Education Code 130.008(g), (h)*

ATTENDANCE  
ACCOUNTING

The time during which a student attends a dual credit course, including a course provided under the college credit program, shall be counted as part of the minimum instructional hours required for a student to be considered a full-time student in average daily attendance. [See FEB] *Education Code 42.005*

The commissioner of education may approve instructional programs provided off campus by an entity other than a district as a program in which participation by a student may be counted for purposes of determining average daily attendance. *Education Code 42.0052(a)*

Time that a student participates in an off-campus instructional program approved by the commissioner under Education Code 42.0052(a) shall be counted as part of the minimum number of instructional hours required for a student to be considered a full-time student in average daily attendance. *Education Code 42.005(h)*

PARTNERSHIP  
AGREEMENT

The board of a district and the governing board of a college must approve any dual credit partnership between the schools before offering such courses.

The partnership agreement must address:

1. Eligible courses;
2. Student eligibility;
3. Location of class;
4. Student composition of class;
5. Faculty selection, supervision, and evaluation;
6. Course curriculum, instruction, and gathering;
7. Academic policies and student support services;
8. Transcribing of credit; and
9. Funding.

*19 TAC 4.84-.85*



ALTERNATIVE METHODS FOR EARNING CREDIT  
COLLEGE COURSE WORK/DUAL CREDIT

EHDD  
(LEGAL)

INSTRUCTIONAL  
PARTNERSHIPS WITH  
COMMUNITY COLLEGE  
DISTRICTS

Types of instructional partnerships between a district and a community college district include:

1. Award of High School Credit Only (see HIGH SCHOOL CREDIT-ONLY COURSES, below).
2. Award of Dual Credit (see DUAL CREDIT PROGRAMS, above).
3. Tech-Prep Programs (see TECH-PREP PROGRAMS, below).
4. Remedial or Developmental Instruction for High School Graduates (see REMEDIAL PROGRAMS, below).
5. College Preparatory Courses for High School Students (see COLLEGE PREPARATORY COURSES, below)

*19 TAC 9.143*

AGREEMENT

For any educational partnership between a district and a community college district, an agreement must be approved by the board or designee of both the district and the college district. The partnership agreement must address the following:

1. Student eligibility requirements.
2. Faculty qualifications.
3. Location and student composition of classes.
4. Provision of student learning and support services.
5. Eligible courses.
6. Grading criteria.
7. Transcribing of credit.
8. Funding provisions.

*19 TAC 9.144*

HIGH SCHOOL  
CREDIT-ONLY  
COURSES

A district may contract with a community college district for the college district to provide coursework necessary for students to complete high school as described in 19 Administrative Code 9.125. The district and college district shall negotiate an agreed cost for instruction. *19 TAC 9.125, .143(a)*

TECH-PREP  
PROGRAMS

A district may partner with a college district to allow for the articulation of high school technical courses taught by the high school to high school students for immediate high school credit and later college credit, to be awarded upon enrollment of the students in the college district in an associate degree or certificate program. *19 TAC 9.143(c)*

ALTERNATIVE METHODS FOR EARNING CREDIT  
COLLEGE COURSE WORK/DUAL CREDIT

EHDD  
(LEGAL)

REMEDIAL  
PROGRAMS

A board may contract, as outlined in 19 Administrative Code 9.125, with the board of the community college district in which a district is located for the college district to provide remedial programs for students enrolled in a district's secondary schools in preparation for graduation from secondary school and entrance into college.

Community colleges may provide instruction to high school students for either remedial course work to prepare students to pass the required State of Texas Assessments of Academic Readiness End-of-Course (STAAR EOC) assessments or developmental course work to prepare the students to pass an assessment instrument approved by the board under 19 Administrative Code 4.56 (relating to Assessment Instruments).

High school students who have passed all of the STAAR EOC assessments with the high school graduation standard may be permitted to enroll in state-funded developmental courses offered by a community college at the college's discretion if a need for such course work is indicated by student performance on an assessment instrument approved by the board under 19 Administrative Code 4.56 (relating to Assessment Instruments).

The district and college district shall negotiate an agreed cost for instruction. Remedial and developmental courses may not be offered for dual credit.

*Education Code 130.090; 19 TAC 9.125, .143(d), .146*

COLLEGE  
PREPARATORY  
COURSES

College Preparatory Courses are locally developed through a memorandum of understanding created between school districts and community colleges. *19 TAC 9.147*

CERTAIN ACADEMIES

A district shall grant a student a maximum of two years' credit toward the academic course requirements for high school graduation for courses successfully completed at the Texas Academy of Leadership in the Humanities (at Lamar University—Beaumont), the Texas Academy of Mathematics and Science (at the University of Texas—Brownsville or University of North Texas—Denton), or the Texas Academy of International Studies (at Texas A&M University—Laredo). *Education Code 28.024*

ALTERNATIVE METHODS FOR EARNING CREDIT  
DISTANCE LEARNING

EHDE  
(LEGAL)

DISTANCE  
LEARNING AND  
CORRESPONDENCE  
COURSES

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

1. The institution offering the correspondence course is The University of Texas at Austin, Texas Tech University, or another public institution of higher education approved by the commissioner of education.
2. Students may earn course credit through distance learning technologies such as satellite, Internet, two-way videoconferencing, online courses, the Texas Virtual School Network (TxVSN), and instructional television.
3. The distance learning and correspondence courses must include the state-required essential knowledge and skills for such a course.

*19 TAC 74.23*

TEXAS VIRTUAL  
SCHOOL NETWORK

The TxVSN is a state-led initiative for online learning authorized by Education Code Chapter 30A. The TxVSN is a partnership network administered by TEA in coordination with regional education service centers (ESCs), Texas public school districts and charter schools, institutions of higher education, and other eligible entities.

The TxVSN is comprised of two components—the online school (OLS) program and the statewide course catalog.

*19 TAC 70.1001(4)*

“ONLINE SCHOOL  
(OLS) PROGRAM”

“Online School (OLS) program” is a full-time, virtual instructional program that is made available through an approved course provider and is designed to serve students in grades 3–12 who are not physically present at school. *19 TAC 70.1001(7)*

A TxVSN OLS may serve students in grades 3–12 but may not serve students in kindergarten–grade 2.

A school district that operates a TxVSN OLS that serves students in full-time virtual instruction shall, prior to the start of each academic year, notify TEA of grade levels to be served and the total number of students to be served during that academic year. A school district may not add grade levels after the start of the school year.

A TxVSN OLS or a school district wishing to add additional grade levels to its online program shall certify that the OLS has courses sufficient to comprise a full instructional program for each additional grade level to be served by the OLS prior to serving that grade level.

School districts approved to serve as TxVSN OLSs shall follow the TEA procedures related to obtaining a campus number for the virtual campus through which they serve their TxVSN OLS students.

School districts serving as TxVSN OLSs must follow all requirements in 19 Administrative Code 70.1011.

*19 TAC 70.1011*

“STATEWIDE  
COURSE CATALOG”

“Statewide course catalog” is a supplemental online high school instructional program available through approved providers. *19 TAC 70.1001(10)*

COURSE  
PROVIDERS

A TxVSN course provider is an entity that provides an electronic course through the TxVSN. Course providers include TxVSN OLSs and providers in the statewide course catalog. *19 TAC 70.1001(8)*

ELECTRONIC  
COURSE

“Electronic course” means an educational course in which:

1. Instruction and content are delivered primarily over the Internet;
2. A student and teacher are in different locations for a majority of the student’s instructional period;
3. Most instructional activities take place in an online environment;
4. The online instructional activities are integral to the academic program;
5. Extensive communication between a student and a teacher and among students is emphasized; and
6. A student is not required to be located on the physical premises of a school district or open-enrollment charter school.

An electronic course is the equivalent of what would typically be taught in one semester. For example: English IA is treated as a single electronic course and English IB is treated as a single electronic course.

*Education Code 30A.001(4); 19 TAC 70.1001(1)*

OLS ELIGIBILITY

To be eligible to serve as a TxVSN OLS, a school district shall:

1. Have a current accreditation status of Accredited under 19 Administrative Code 97.1055 (relating to Accreditation Status);
2. Be rated acceptable under Education Code 39.054;

ALTERNATIVE METHODS FOR EARNING CREDIT  
DISTANCE LEARNING

EHDE  
(LEGAL)

3. Be rated at the Standard Achievement level or higher under the state financial accountability rating system under 19 Administrative Code 109.1001 (relating to Types of Financial Accountability Ratings);
4. Have met statutory requirements for timely submission of annual audit and compliance reports, Public Education Information Management System (PEIMS) reports, and timely deposits with the Teacher Retirement System, with all records and reports reflecting satisfactory performance;
5. Be in good standing with other programs, grants, and projects administered through TEA; and
6. Have been approved to operate a TxVSN OLS as of January 1, 2013.

*19 TAC 70.1009(a)*

STATEWIDE  
COURSE  
CATALOG  
PROVIDER  
ELIGIBILITY

To be eligible to serve as a course provider in the TxVSN statewide course catalog, a district must be rated acceptable under Education Code 39.054. A Texas school district may provide an electronic course through the TxVSN to a student enrolled in that district or school, a student enrolled in another school district or school in the state, or a student who resides in Texas who is enrolled in a school other than a public school district or charter school. *19 TAC 70.1007(a)*

GENERAL  
REQUIREMENTS

TxVSN course providers shall:

1. Provide the TxVSN receiver district in which each TxVSN student is enrolled with written notice of a student's performance in the course at least once every 12 weeks;
2. Provide the TxVSN receiver district in which each TxVSN student is enrolled with written notice of a student's performance at least once every three weeks if the student's performance in the course is consistently unsatisfactory, as determined by the TxVSN course provider;
3. Notify students in writing upon enrollment to participate in the TxVSN course with specific dates and details regarding enrollment;
4. Meet all federal and state requirements for educating students with disabilities;
5. Provide a contingency plan for the continuation of instructional services to all TxVSN students allowing them to complete their TxVSN courses in the event that the contract or agreement through which the electronic courses are provided are

terminated or the TxVSN courses become unavailable to students;

6. Ensure a maximum class size limit of 40 students in a single section of a course and ensure that the class size does not exceed the maximum allowed by law, as applicable, whichever is less; and
7. Meet all reporting requirements established by TxVSN central operations, including timely submission of student performance reports, course completion results, catalog data, data required to verify instructor qualifications, and all data necessary for the TxVSN Informed Choice Report required under 19 Administrative Code 70.1031 (relating to Informed Choice Reports).

*19 TAC 70.1007(c)*

RECEIVER  
DISTRICT  
REQUIREMENTS

A district is eligible to serve as a receiver district in the TxVSN statewide course catalog. Each TxVSN receiver district shall:

1. Register as a receiver district with TxVSN central operations;
2. Assign a qualified staff member to serve as the TxVSN coordinator;
3. Enroll a student who resides in Texas and who is enrolled in a school other than a public school district or charter school upon request by the student and/or parent or guardian; and
4. In accordance with 19 Administrative Code 74.26 (relating to Award of Credit), award credit to a student enrolled in the district who has successfully completed all state and local requirements and received a grade that is the equivalent of 70 on a scale of 100, based upon the essential knowledge and skills for a course offered through the TxVSN statewide course catalog.

*19 TAC 70.1008*

COURSES

All electronic courses to be made available through the TxVSN shall be reviewed and approved prior to being offered in accordance with the course requirements at 19 Administrative Code 70.1005. *19 TAC 70.1005(a)*

An electronic course or program that was offered or could have been offered during the 2008–09 school year under former Education Code 29.909, as that section existed on January 1, 2009, may be offered during a subsequent school year through the TxVSN. *Education Code 30A.006*

ALTERNATIVE METHODS FOR EARNING CREDIT  
DISTANCE LEARNING

EHDE  
(LEGAL)

STUDENT  
ELIGIBILITY  
GENERALLY

A student is eligible to enroll in a TxVSN course only if the student:

1. On September 1 of the school year is younger than 21 years of age or is younger than 26 years of age and entitled to the benefits of the Foundation School Program under Education Code 42.003;
2. Has not graduated from high school; and
3. Is otherwise eligible to enroll in a public school in this state.

A student is eligible to enroll full-time in courses provided through the TxVSN only if:

1. The student was enrolled in a public school in this state in the preceding school year; or
2. The student has been placed in substitute care in this state, regardless of whether the student was enrolled in a public school in this state in the preceding school year.

EXCEPTION  
FOR MILITARY  
DEPENDENTS

A student is eligible to enroll in one or more TxVSN courses or enroll full-time in courses provided through the network if the student:

1. Is a dependent of a member of the United States military;
2. Was previously enrolled in high school in this state; and
3. No longer resides in this state as a result of a military deployment or transfer.

PROVISIONAL  
ENROLLMENT

If a student has not provided required evidence of eligibility to enroll, a TxVSN OLS may enroll a student provisionally for ten school days and withdraw the student from the OLS if the student does not provide the required evidence of eligibility within ten school days of the provisional enrollment.

Upon enrolling a student provisionally, the TxVSN OLS shall notify the student and the student's parents or guardians that the student will be withdrawn if documentation is not provided within the required timeframe.

*Education Code 30A.002; 19 TAC 70.1013*

ENROLLED  
STUDENTS

A student who is enrolled in the district as a full-time student may take one or more electronic courses through the TxVSN. *Education Code 30A.107(b)*

UNENROLLED  
STUDENTS

A student who resides in this state but who is not enrolled in a school district or open-enrollment charter school in this state as a full-time student may, subject to Education Code 30A.155, enroll in electronic courses through the TxVSN. The student:

ALTERNATIVE METHODS FOR EARNING CREDIT  
DISTANCE LEARNING

EHDE  
(LEGAL)

1. May not in any semester enroll in more than two electronic courses offered through the TxVSN;
2. Is not considered to be a public school student;
3. Must obtain access to a course provided through the network through the school district or open-enrollment charter school attendance zone in which the student resides;
4. Is not entitled to enroll in a course offered by a school district or open-enrollment charter school other than an electronic course provided through the network; and
5. Is not entitled to any right, privilege, activities, or services available to a student enrolled in a public school, other than the right to receive the appropriate unit of credit for completing an electronic course.

*Education Code 30A.107(c)*

ENROLLMENT,  
ADVANCEMENT,  
AND  
WITHDRAWAL

A student taking a course through the TxVSN statewide course catalog or a TxVSN OLS program is considered to:

1. Be enrolled in a TxVSN course when he or she begins receiving instruction and actively engages in instructional activities in a TxVSN subject area or course;
2. Have successfully completed a course if the student demonstrates academic proficiency and earns credit for the course, as determined by the TxVSN teacher; and
3. Be, and must be reported as, withdrawn from the TxVSN when the student is no longer actively participating in the TxVSN course or program.

A student taking a course through the TxVSN statewide course catalog:

1. Shall enroll in each TxVSN course through the TxVSN online registration system;
2. Shall be assigned a grade by the TxVSN teacher after the drop period established by TxVSN central operations;
3. May withdraw from a course taken through the TxVSN after the instructional start date without academic or financial penalty within the drop period established by TxVSN central operations; and
4. Shall have the grade assigned by the TxVSN teacher added to the student's transcript by the student's home district.



ALTERNATIVE METHODS FOR EARNING CREDIT  
DISTANCE LEARNING

EHDE  
(LEGAL)

A student enrolled full time in grades 3–8 must demonstrate academic proficiency sufficient to earn promotion to the next grade, as determined by the TxVSN teacher for the educational program.

*19 TAC 70.1015*

COMPULSORY  
ATTENDANCE

Texas public school students are not required to be in physical attendance while participating in courses through a TxVSN OLS or the TxVSN course catalog.

Based upon successful completion of a TxVSN course for students in grades 9–12 or a TxVSN OLS instructional program for students in grades 3–8, students are considered to have met attendance requirements for that course or program. A student who has successfully completed the grade level or course is eligible to receive any weighted funding for which the student is eligible.

For audit purposes, TxVSN course providers and TxVSN receiver districts shall maintain documentation to support the students' successful completion and to support verification of compulsory attendance.

"TxVSN receiver district" means a Texas public school district that has students enrolled in the school district who take one or more online courses through the TxVSN statewide course catalog.

*19 TAC 70.1001(9), .1017*

LOCAL POLICY

A district shall adopt a written policy that provides students enrolled in the district with the opportunity to enroll in electronic courses provided through the TxVSN statewide course catalog. The policy must be consistent with the requirements regarding notice, enrollment requests, and students with disabilities as described below.

A district shall, at least once per school year, send to a parent of each district student enrolled at the middle or high school level a copy of the policy. A district may send the policy with any other information that the district sends to a parent.

*Education Code 30A.007; 19 TAC 70.1033*

NOTICE

At the time and in the manner that a district informs students and parents about courses that are offered in the district's traditional classroom setting, the district shall notify parents and students of the option to enroll in an electronic course offered through the TxVSN.

REQUESTS TO  
ENROLL

Except as provided below, a district may not deny the request of a parent of a full-time student to enroll the student in an electronic course offered through the TxVSN.

A district may deny a request to enroll a student in an electronic course if:

1. A student attempts to enroll in a course load that is inconsistent with the student's high school graduation plan or requirements for college admission or earning an industry certification;
2. The student requests permission to enroll in an electronic course at a time that is not consistent with the enrollment period established by the district providing the course; or
3. The district offers a substantially similar course.

The course provider shall make all reasonable efforts to accommodate the enrollment of a student in the course under special circumstances.

If a parent of a student requests permission to enroll the student in a TxVSN course, a district has discretion to select a course provider approved by TEA for the course in which the student will enroll based on factors including the informed choice report required by Education Code 30A.108(b).

APPEALS

A parent may appeal to the commissioner a district's decision to deny a request to enroll a student in an electronic course offered through the TxVSN. The commissioner's decision under this subsection is final and may not be appealed.

*Education Code 26.0031; 19 TAC 70.1008, .1035*

STUDENTS WITH  
DISABILITIES

For purposes of the policy, the determination of whether or not an electronic course will meet the needs of a student with a disability shall be made by the student's admission, review, and dismissal (ARD) committee in a manner consistent with state and federal law, including the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794. *Education Code 30A.007(b)*

REQUIRED  
ENROLLMENT  
PROHIBITED

A school district or open-enrollment charter school may not require a student to enroll in an electronic course. *Education Code 30A.107(d)*

INDUCEMENTS FOR  
ENROLLMENT  
PROHIBITED

A course provider may not promise or provide equipment or any other thing of value to a student or a student's parent as an inducement for the student to enroll in an electronic course offered through the TxVSN. The commissioner shall revoke approval of electronic courses offered by a course provider that violates this prohibition. The commissioner's action under this section is final and may not be appealed. *Education Code 30A.1052*

ALTERNATIVE METHODS FOR EARNING CREDIT  
DISTANCE LEARNING

EHDE  
(LEGAL)

COURSE PORTABILITY	<p>A student who transfers from one educational setting to another after beginning enrollment in an electronic course is entitled to continue enrollment in the course. <i>Education Code 30A.1051; 19 TAC 10.1015(d)</i></p>
STUDENT ASSESSMENT	<p>All Texas public school students enrolled in the TxVSN are required to take the statewide assessments as required in Education Code 39.023 [see EKB]. The administration of the assessment instrument to the student enrolled in the electronic course must be supervised by a proctor.</p> <p>A district shall report to the commissioner through the Public Education Information Management System (PEIMS) the results of assessment instruments administered to students enrolled in an electronic course offered through the TxVSN separately from the results of assessment instruments administered to other students.</p> <p>All districts participating in the TxVSN OLS program are included in the state's academic accountability system.</p> <p><i>Education Code 30A.110; 19 TAC 70.1023</i></p>
FUNDING	<p>A district in which a student is enrolled is entitled to funding under Education Code Chapter 42 for the student's enrollment in a TxVSN course in the same manner that the district is entitled to funding for the student's enrollment in courses provided in a traditional classroom setting, provided that the student successfully completes the electronic course.</p> <p>Funding is limited to a student's enrollment in not more than three electronic courses during any school year, unless the student is enrolled in a full-time online program that was operating on January 1, 2013.</p> <p><i>Education Code 30A.153</i></p> <p>A district may decline to pay the cost for a student of more than three yearlong electronic courses, or the equivalent, during any school year unless the student is enrolled in a full-time online program that was operating on January 1, 2013. If the district declines to pay the cost, a student is able to enroll in additional electronic courses at the student's cost. <i>Education Code 26.0031(c-1)</i></p>
COURSE COST	<p>A district may charge the course cost for enrollment in a TxVSN course to a student who resides in this state and:</p> <ol style="list-style-type: none"><li>1. Is enrolled in the district as a full-time student with a course load greater than that normally taken by students in the equivalent grade level in other school districts; or</li></ol>

2. Elects to enroll in a TxVSN course for which the district in which the student is enrolled as a full-time student declines to pay the cost as authorized by Education Code 26.0031(c-1).

A district may charge the course cost for enrollment in a TxVSN course during the summer.

A district shall charge the course cost for enrollment in a TxVSN course to a student who resides in this state and is not enrolled in a school district or open-enrollment charter school as a full-time student.

A TxVSN course cost may not exceed the lesser of the cost of providing the course or \$400.

A district may decline to pay the course costs for a student who chooses to enroll in more than three year-long electronic courses, or the equivalent, during any school year. This does not limit the ability of the student to enroll in additional electronic courses offered through the TxVSN at the student's expense.

A district that is not the course provider may charge a student enrolled in the district a nominal fee, not to exceed \$50, if the student enrolls in a TxVSN course that exceeds the course load normally taken by students in the equivalent grade level.

A course provider in the TxVSN statewide course catalog shall receive:

1. No more than 70 percent of the catalog course cost prior to a student successfully completing the course; and
2. The remaining 30 percent of the catalog course cost when the student successfully completes the course.

*Education Code 30A.155(a)-(c-1); 19 TAC 70.1025*

EDUCATORS OF  
ELECTRONIC  
COURSES

Each instructor of an electronic course, including a dual credit course, offered through the TxVSN by a course provider must be certified under Education Code Chapter 21, Subchapter B, to teach that course and grade level or meet the credentialing requirements of the institution of higher education with which they are affiliated and that is serving as a course provider.

In addition, each instructor must successfully complete one continuing professional development course specific to online learning every three years, and:

1. Successfully complete a professional development course or program approved by TxVSN central operations before teaching an electronic course offered through the TxVSN; or

ALTERNATIVE METHODS FOR EARNING CREDIT  
DISTANCE LEARNING

EHDE  
(LEGAL)

2. Have a graduate degree in online or distance learning and have demonstrated mastery of the International Association for K–12 Learning (iNACOL) National Standards for Quality Online Teaching; or
3. Have two or more years of documented experience teaching online courses for students in grades 3–12 and have demonstrated mastery of the iNACOL National Standards for Quality Online Teaching.

Each instructor of an electronic course, including a dual credit course, offered through the TxVSN by a course provider must meet highly qualified teacher requirements under the Elementary and Secondary Education Act, as applicable.

TxVSN course providers shall affirm the preparedness of teachers of TxVSN electronic courses to teach public school-age students in a highly interactive online classroom and shall:

1. Maintain records documenting:
  - a. Valid Texas educator certification credentials appropriate for the instructor's TxVSN assignment;
  - b. Successful initial completion of TxVSN-approved professional development, evidence of prior online teaching, or a graduate degree in online or distance learning; and
  - c. Instructors' demonstrated mastery of the iNACOL National Standards for Quality Online Teaching prior to teaching through the TxVSN;
2. Conduct and maintain records for background checks;
3. Maintain records of successful completion of continuing professional development;
4. Maintain records documenting successful completion of TxVSN-approved professional development before the end of the school year for any instructor who is hired after the school year has begun; and
5. Make the records specified in this subsection available to TEA and TxVSN central operations upon request.

*19 TAC 70.1027*

REVOCATION

The commissioner may revoke the right to participation in the TxVSN based on any of the following factors:

1. Noncompliance with relevant state or federal laws;

ALTERNATIVE METHODS FOR EARNING CREDIT  
DISTANCE LEARNING

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2. Noncompliance with requirements and assurances outlined in the contractual agreements with TxVSN central operations and/or these provisions and Education Code Chapter 30A; or
3. Consistently poor student performance rates as evidenced by results on statewide student assessments, student withdrawal rates, student completion rates, successful completion rates, or campus accountability ratings.

*19 TAC 70.1029*

APPLICABILITY

Unless a district chooses to participate in providing an electronic course or an electronic diagnostic assessment under Education Code Chapter 30A to a student who is located on the physical premises of a school district or open-enrollment charter school, Chapter 30A does not affect the provision of a course to such a student.

Requirements imposed by or under Education Code Chapter 30A do not apply to a virtual course provided by a district only to district students if the course is not provided as part of the TxVSN.

*Education Code 30A.004*

ACADEMIC ACHIEVEMENT  
GRADUATION

EIF  
(LEGAL)

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

SECTION I	High School Diploma	pages 2–5
	1. Individual Graduation Committee (IGC)	
	2. Special Education	
	3. Posthumous Diploma	
	4. Diplomas for Veterans	
SECTION II	Personal Graduation Plan (PGP)	pages 6–7
	1. Junior High or Middle School PGP	
	2. High School PGP	
SECTION III	Early Graduation	page 7
SECTION IV	State Graduation Requirements	pages 8–18
	1. Students Entering Grade 9 in the 2014–15 School Year	
	2. Performance Acknowledgements	
	3. Transition to the Foundation High School Program	
	4. Students Who Entered Grade 9 Before the 2014–15 School Year	
SECTION V	Transfers from Out-of-State or Nonpublic Schools	page 18
SECTION VI	Graduation of Students Receiving Special Education Services	pages 18–22
	1. Definitions	
	2. Summary of Academic Achievement and Evaluation	
SECTION VII	Graduation of Military Dependents	pages 22–23
	1. Course Waiver	
	2. Transfers During Senior Year	
	3. Substitute Passing Standard	
SECTION VIII	Graduation of Student Who Is Homeless or in Conservatorship of DFPS	page 23

### **SECTION I: HIGH SCHOOL DIPLOMA**

A student may graduate and receive a diploma only if the student successfully completes:

1. The curriculum requirements identified by the State Board of Education (SBOE) [see STATE GRADUATION REQUIREMENTS, below] and has performed satisfactorily on applicable state assessments [see EKB]; or
2. An individualized education program (IEP) developed under Education Code 29.005. [See EHBAB]

*Education Code 28.025(c)*

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**Note:** Education Code 28.0258 related to individual graduation committees expires September 1, 2017.

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INDIVIDUAL  
GRADUATION  
COMMITTEE

Without complying with the requirements above, a student may receive a diploma if the person is eligible for a diploma as determined by an individual graduation committee (IGC) established under Education Code 28.0258. *Education Code 28.025(c-6)*

For each 11th or 12th grade student who has failed to comply with the end-of-course (EOC) assessment instrument performance requirements under Education Code 39.025 for not more than two courses, the district shall establish an IGC at the end of or after the student's 11th grade year to determine whether the student may qualify to graduate. A student may not qualify to graduate before the student's 12th grade year. A student may graduate by means of an IGC if the student has qualified for an IGC and the IGC convened prior to September 1, 2017.

A district may not establish an initial IGC for eligible students after June 10 or before the start of the next school year. Once the IGC has been established, it is the original IGC for that student.

In order for a student to be included as a graduate in the district's graduation data in the school year in which the student meets the requirements provided by law to graduate under IGC provisions, an IGC must make a decision to award a diploma no later than August 31 immediately following that school year. A student who graduates as a result of an IGC decision after August 31 shall be reported in the subsequent year's graduation data.

If a student leaves a district after an original IGC has been established and before that original IGC awards a high school diploma to the student, any other district that later enrolls the student shall request information from the student's original IGC of record and



shall implement the original IGC recommendations to the extent possible.

The IGC shall be composed of:

1. The principal or principal's designee;
2. For each EOC assessment instrument on which the student failed to perform satisfactorily, the teacher of the course;
3. The department chair or lead teacher supervising the teacher(s) above; and
4. As applicable:
  - a. The student's parent or person standing in parental relation to the student;
  - b. A designated advocate if the parent is unable to serve; or
  - c. The student, at the student's option, if the student is at least 18 years of age or is an emancipated minor.

The superintendent shall establish procedures for convening the committee.

The district shall provide an appropriate translator, if available, for a parent, advocate, or student who is unable to speak English.

In the event that the teacher identified in item 2 above is unavailable, the principal shall designate a teacher certified in the subject of the EOC assessment on which the student failed to perform satisfactorily and who is most familiar with the student's performance in that subject area as an alternate member of the committee.

In the event that the student's parent or person standing in parental relation to the student is unavailable to participate in the IGC, the principal shall designate an advocate with knowledge of the student to serve as an alternate member of the committee.

*Education Code 28.0258(a), (c), (c-2); 19 TAC 74.1025(c)-(e), (g), (l)*

NOTICE

A district shall ensure a good faith effort is made to timely notify the appropriate person described under item 4 above of the time and place for convening the IGC and the purpose of the committee. The notice must be provided in person or by regular mail or e-mail; clear and easy to understand; and written in English, in Spanish, or, to the extent practicable, in the native language of the appropriate person. *Education Code 28.0258(d)*

ACADEMIC ACHIEVEMENT  
GRADUATION

EIF  
(LEGAL)

**CURRICULUM REQUIREMENTS** To be eligible to graduate and receive a high school diploma from the IGC, a student must successfully complete the curriculum requirements required for high school graduation. [See SECTION IV, below] *Education Code 28.0258(e)*

**ADDITIONAL REQUIREMENTS TO GRADUATE** A student's IGC shall recommend additional requirements by which the student may qualify to graduate, including additional remediation; and for each EOC assessment instrument on which the student failed to perform satisfactorily:

1. The completion of a project related to the subject area of the course that demonstrates proficiency in the subject area; or
2. The preparation of a portfolio of work samples in the subject area of the course, including work samples from the course that demonstrate proficiency in the subject area.

A student may submit to the IGC coursework previously completed to satisfy a recommended additional requirement.

*Education Code 28.0258(f), (g)*

In determining whether a student is qualified to graduate, the committee shall consider the criteria at Education Code 28.0258(h) and any other academic information designated for consideration by the board. After considering the criteria, the committee may determine that the student is qualified to graduate. A student may graduate and receive a high school diploma on the basis of the committee's decision only if the student successfully completes all additional requirements recommended by the committee, the student meets applicable curriculum requirements, and the committee's vote is unanimous. The decision of a committee is final and may not be appealed. *Education Code 28.0258(i)*

**PEIMS REPORTING** Each district shall report through PEIMS the following:

1. The number of students each school year for which an IGC is established; and
2. The number of students each school year who are awarded a diploma based on the decision of an IGC.

**DOCUMENTATION** A district shall maintain documentation to support the decision of the IGC to award or not award a student a high school diploma.

**SPECIAL EDUCATION** A student receiving special education services is not subject to the IGC requirements. As provided in 19 Administrative Code 89.1070 and 19 Administrative Code 101.3023, a student's ARD committee determines whether a student is required to achieve satisfactory performance on an EOC assessment to graduate.

*19 TAC 74.1025(i)-(k), (m)*

ACADEMIC ACHIEVEMENT  
GRADUATION

EIF  
(LEGAL)

ENGLISH LANGUAGE LEARNERS	For provisions related to an IGC and English language learners (ELL), see EKB(LEGAL).
SPECIAL EDUCATION	A student receiving special education services who successfully completes the requirements of his or her IEP, including performance on a state assessment required for graduation, shall receive a high school diploma. A student's admission, review, and dismissal (ARD) committee shall determine if the student will be required to meet satisfactory performance on an assessment for purposes of graduation. [See SECTION VI: GRADUATION OF STUDENTS RECEIVING SPECIAL EDUCATION SERVICES, below, and EKB] <i>19 TAC 101.3023(a)</i>
POSTHUMOUS DIPLOMA	Beginning with students enrolled in grade 12 during the 2005–06 school year, and on request of the student's parent, a district shall issue a high school diploma posthumously to a student who died while enrolled in the district at grade level 12, provided that the student was academically on track at the time of death to receive a diploma at the end of the school year in which the student died. "School year" includes any summer session following the spring semester.
EXCEPTION	A district is not required to issue a posthumous diploma if the student was convicted of a felony offense under Title 5 or 6, Penal Code, or adjudicated as having engaged in conduct constituting a felony offense under Title 5 or 6, Penal Code.  <i>Education Code 28.0254</i>
DIPLOMAS FOR VETERANS	Notwithstanding any other provision of this policy, a district may issue a high school diploma to a person who is an honorably discharged member of the armed forces of the United States; was scheduled to graduate from high school after 1940 and before 1975 or after 1989; and left school after completing the sixth or a higher grade, before graduating from high school, to serve in: <ol style="list-style-type: none"><li>1. World War II, the Korean War, the Vietnam War, the Persian Gulf War, the Iraq War, or the war in Afghanistan; or</li><li>2. Any other war formally declared by the United States, military engagement authorized by the United States Congress, military engagement authorized by a United Nations Security Council resolution and funded by the United States Congress, or conflict authorized by the president of the United States under the War Powers Resolution of 1973, 50 U.S.C. 1541, et seq.</li></ol> <i>Education Code 28.0251</i>

**SECTION II: PERSONAL GRADUATION PLAN**

JUNIOR HIGH OR  
MIDDLE SCHOOL PGP

A principal of a junior high or middle school shall designate a school counselor, teacher, or other appropriate individual to develop and administer a personal graduation plan (PGP) for each student enrolled in the junior high or middle school who:

1. Does not perform satisfactorily on a state assessment instrument; or
2. Is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade level 9, as determined by a district.

A PGP must:

1. Identify educational goals for the student;
2. Include diagnostic information, appropriate monitoring and intervention, and other evaluation strategies;
3. Include an intensive instruction program described in Education Code 28.0213 [see EHBC];
4. Address participation of the student's parent or guardian, including consideration of the parent's or guardian's educational expectations for the student; and
5. Provide innovative methods to promote the student's advancement, including flexible scheduling, alternative learning environments, online instruction, and other interventions that are proven to accelerate the learning process and have been scientifically validated to improve learning and cognitive ability.

*Education Code 28.0212*

STUDENTS  
RECEIVING  
SPECIAL  
EDUCATION  
SERVICES

For a student receiving special education services, the student's ARD committee and the district are responsible for developing the student's PGP.

A student's IEP developed under Education Code 29.005 may be used as the student's PGP.

*Education Code 28.0212(c); 19 TAC 89.1050(a) [See EHBAB]*

HIGH SCHOOL PGP

A principal of a high school shall designate a school counselor or school administrator to review PGP options with each student entering grade 9 together with that student's parent or guardian. The PGP options reviewed must include the distinguished level of achievement and endorsements.

Before the conclusion of the school year, the student and the student's parent or guardian must confirm and sign a PGP for the student that identifies a course of study that:

1. Promotes college and workforce readiness and career placement and advancement; and
2. Facilitates the student's transition from secondary to postsecondary education.

A district may not prevent a student and the student's parent or guardian from confirming a PGP that includes pursuit of a distinguished level of achievement or an endorsement.

A student may amend the student's PGP after the initial confirmation of the plan. If a student amends the student's PGP, the school must send written notice to the student's parents regarding the change.

TEA must make available to a district information that explains the advantages of the distinguished level of achievement described by Education Code 28.025(b-15) and each endorsement described by Education Code 28.025(c-1). A district, in turn, shall publish the information from TEA on the Internet website of the district and ensure that the information is available to students in grades nine and above and the parents or legal guardians of those students in the language in which the parents or legal guardians are most proficient.

A district is required to provide this information in the language in which the parents or legal guardians are most proficient only if at least 20 students in a grade level primarily speak that language.

*Education Code 28.02121*

### **SECTION III: EARLY GRADUATION**

A parent is entitled to request, with the expectation that the request will not be unreasonably denied, that the parent's child be permitted to graduate from high school earlier than the child would normally graduate, if the child completes each course required for graduation. The decision of a board concerning the request is final and may not be appealed. *Education Code 26.003(a)(3)(C), 26.003(b)* [See FMH, FNG]

**SECTION IV: STATE GRADUATION REQUIREMENTS**

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**Note:** For current state graduation requirements, including those for students who entered grade 9 before the 2007–08 school year but that are not otherwise referenced in this policy, see Education Code 28.025 and 19 Administrative Code Chapter 74.

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STUDENTS ENTERING  
GRADE 9 IN THE 2014–  
15 SCHOOL YEAR

To receive a high school diploma, a student entering grade 9 in the 2014–15 school year and thereafter must complete:

1. Requirements of the foundation high school program under 19 Administrative Code 74.12 [see FOUNDATION HIGH SCHOOL PROGRAM, below];
2. Testing requirements for graduation under 19 Administrative Code Chapter 101 [see EKB]; and
3. Demonstrated proficiency, as determined by the district, in delivering clear verbal messages; choosing effective nonverbal behaviors; listening for desired results; applying valid critical-thinking and problem-solving processes; and identifying, analyzing, developing, and evaluating communication skills needed for professional and social success in interpersonal situations, group interactions, and personal and professional presentations.

A student shall enroll in the courses necessary to complete the curriculum requirements for the foundation high school program and the curriculum requirements for at least one endorsement.

*Education Code 28.025(c); 19 TAC 74.11(a), (c)*

FOUNDATION HIGH  
SCHOOL PROGRAM

A student must earn at least 22 credits to complete the foundation high school program and must demonstrate proficiency in the following core courses:

1. English language arts—4 credits;
2. Mathematics—3 credits;
3. Science—3 credits;
4. Social Studies—3 credits;
5. Languages other than English—2 credits;
6. Physical Education—1 credit;
7. Fine Arts—1 credit; and

8. Elective courses—5 credits.

*19 TAC 74.12*

ENDORSEMENTS

A student shall specify in writing an endorsement the student intends to earn upon entering grade 9. A student may earn any of the following endorsements:

1. Science, technology, engineering, and mathematics (STEM);
2. Business and industry;
3. Public services;
4. Arts and humanities; and
5. Multidisciplinary studies.

A district must make at least one endorsement available to students. A district that offers only one endorsement curriculum must offer multidisciplinary studies.

To earn an endorsement a student must demonstrate proficiency in the curriculum requirements for the foundation high school program and, in accordance with 19 Administrative Code 74.13(e), earn:

1. A fourth credit in mathematics;
2. An additional credit in science; and
3. Two additional elective credits.

A course completed as part of the four courses needed to satisfy an endorsement requirement may also satisfy a requirement under the foundation high school program, including an elective requirement.

A district shall permit a student to enroll in courses under more than one endorsement before the student's junior year and to choose, at any time, to earn an endorsement other than the endorsement the student previously indicated.

A student must earn at least 26 credits to earn an endorsement, but a student is not entitled to remain enrolled to earn more than 26 credits.

A district may define advanced courses and determine a coherent sequence of courses for an endorsement area, provided that prerequisites in 19 Administrative Code Chapters 110–118, 126, 127, and 130 are followed.

*Education Code 28.025; 19 TAC 74.13*

ACADEMIC ACHIEVEMENT  
GRADUATION

EIF  
(LEGAL)

EXCEPTION	<p>A student may graduate under the foundation high school program without earning an endorsement if, after the student's sophomore year:</p> <ol style="list-style-type: none"><li>1. The student and the student's parent or person standing in parental relation to the student are advised by a school counselor of the specific benefits of graduating from high school with one or more endorsements; and</li><li>2. The student's parent or person standing in parental relation to the student files with a school counselor written permission, on a form adopted by TEA, allowing the student to graduate under the foundation high school program without earning an endorsement.</li></ol> <p><i>19 TAC 74.11(d)</i></p>
DISTINGUISHED LEVEL OF ACHIEVEMENT	<p>A student may earn a distinguished level of achievement by successfully completing the curriculum requirements for the foundation high school program and the curriculum requirements for at least one endorsement, including four credits in science and four credits in mathematics, including Algebra II. <i>19 TAC 74.11(e)</i></p>
PREREQUISITES	<p>A student may not be enrolled in a course that has a required prerequisite unless:</p> <ol style="list-style-type: none"><li>1. The student has completed the prerequisite course(s);</li><li>2. The student has demonstrated equivalent knowledge as determined by the district; or</li><li>3. The student was already enrolled in the course in an out-of-state, an out-of-country, or a Texas nonpublic school and transferred to a Texas public school prior to successfully completing the course.</li></ol> <p>A district may award credit for a course a student completed without having met the prerequisites if the student completed the course in an out-of-state, an out-of-country, or a Texas nonpublic school where there was not a prerequisite.</p> <p><i>19 TAC 74.11(j), (k)</i></p>
COLLEGE COURSES	<p>Courses offered for dual credit at or in conjunction with an institution of higher education that provide advanced academic instruction beyond, or in greater depth than, the essential knowledge and skills for the equivalent high school course required for graduation may satisfy graduation requirements, including requirements for required courses, advanced courses, and courses for elective credit as well as requirements for endorsements. <i>19 TAC 74.11(i)</i></p>



ACADEMIC ACHIEVEMENT  
GRADUATION

EIF  
(LEGAL)

PHYSICAL  
EDUCATION  
SUBSTITUTIONS

In accordance with local district policy, the required physical education credit may be earned through completion of any TEKS-based course that is not being used to satisfy another specific graduation requirement. [See RESTRICTIONS, below]

OTHER PHYSICAL  
ACTIVITY

In accordance with local district policy, credit for any physical education course may be earned through participation in the following activities:

1. Athletics;
2. JROTC; and
3. Appropriate private or commercially sponsored physical activity programs conducted on or off campus. A district must apply to the commissioner of education for approval of such programs, which may be substituted for state graduation credit in physical education. Such approval may be granted under the following conditions:
  - a. Olympic-level participation and/or competition includes a minimum of 15 hours per week of highly intensive, professional, supervised training. The training facility, instructors, and the activities involved in the program must be certified by the superintendent to be of exceptional quality. Students qualifying and participating at this level may be dismissed from school one hour per day. Students dismissed may not miss any class other than physical education.
  - b. Private or commercially sponsored physical activities include those certified by the superintendent to be of high quality and well supervised by appropriately trained instructors. Student participation of at least five hours per week must be required. Students certified to participate at this level may not be dismissed from any part of the regular school day.

In accordance with local district policy, up to one credit for any one of the physical education courses listed in 19 Administrative Code Chapter 74 [see EHAC] may be earned through participation in any of the following activities:

1. Drill team;
2. Marching band; and
3. Cheerleading.

ACADEMIC ACHIEVEMENT  
GRADUATION

EIF  
(LEGAL)

**RESTRICTIONS** All substitution activities permitted by local district policy must include at least 100 minutes of moderate to vigorous physical activity per five-day school week.

No more than four substitution credits may be earned through any combination of substitutions listed above.

**STUDENT WITH DISABILITY OR ILLNESS** A student who is unable to participate in physical activity due to disability or illness may substitute an academic elective credit in English language arts, mathematics, science, social studies or a course that is offered for credit as provided by Education Code 28.002(g-1) for the required physical education credit. A credit allowed to be substituted may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The determination regarding a student's ability to participate in physical activity must be made by:

1. The student's ARD committee if the student receives special education services under Education Code Chapter 29, Subchapter A;
2. The committee established for the student under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794) if the student does not receive special education services under Education Code Chapter 29, Subchapter A but is covered by the Rehabilitation Act of 1973; or
3. A committee, established by the district, of persons with appropriate knowledge regarding the student if each of the committees described above is inapplicable. This committee must follow the same procedures required of an ARD or a Section 504 committee.

*Education Code 28.025(b-10)–(b-11); 19 TAC 74.12(b)(6)*

**COMMUNITY-BASED FINE ARTS PROGRAMS** In accordance with local district policy, the required fine arts credit may be earned through participation in a community-based fine arts program not provided by the school district in which the student is enrolled.

In accordance with local policy, credit may be earned through participation in the community-based fine arts program only if the program meets each of the following requirements:

1. The district must apply to the commissioner for approval of the community-based fine arts program;
2. The board must certify that the program provides instruction in the essential knowledge and skills for fine arts as defined by 19 Administrative Code, Chapter 117, Subchapter C;

ACADEMIC ACHIEVEMENT  
GRADUATION

EIF  
(LEGAL)

3. The district must document student completion of the approved activity;
4. The program must be organized and monitored by appropriately trained instructors;
5. The fine arts program may be provided on or off a school campus and outside the regular school day; and
6. Students may not be dismissed from any part of the regular school day to participate in the community-based fine arts program.

The district shall require that instructors of the community-based fine arts program provide the district, at its request, the information necessary to obtain the criminal history record information required for school personnel in accordance with 19 Administrative Code, Chapter 153, Subchapter DD, if the community-based program is offered on campus.

*Education Code 28.025(b-9); 19 TAC 74.12(b)(7)(B), .1030*

PERFORMANCE  
ACKNOWLEDGMENTS

In accordance with the requirements of 19 Administrative Code 74.14, a student may earn a performance acknowledgment on the student's transcript for:

1. Outstanding performance:
  - a. In a dual credit course;
  - b. In bilingualism and biliteracy;
  - c. On a College Board advanced placement test or international baccalaureate examination;
  - d. On an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument used to measure a student's progress toward readiness for college and the workplace;
  - e. On an established, valid, reliable, and nationally norm-referenced assessment instrument used by colleges and universities as part of their undergraduate admissions process; or
2. Earning a state-recognized or nationally or internationally recognized business or industry certification or license.

*Education Code 28.025(c-5); 19 TAC 74.14*

ACADEMIC ACHIEVEMENT  
GRADUATION

EIF  
(LEGAL)

TRANSITION TO  
FOUNDATION HIGH  
SCHOOL PROGRAM

A district shall allow a student who entered grade 9 prior to the 2014–15 school year to complete the curriculum requirements for high school graduation:

1. By satisfying the requirements in place when the student entered grade 9 for the Minimum, Recommended, or Advanced/Distinguished Achievement High School Program [see 19 Administrative Code Chapter 74] if the student was participating in the program before the 2014–15 school year; or
2. Under the foundation high school program by satisfying the requirements adopted by the SBOE, if the student chooses during the 2014–15 school year to take courses under the program.

A student who entered grade 9 prior to the 2014–15 school year may, at any time prior to graduation and upon request, choose to complete the curriculum requirements required for high school graduation under a different program than that selected by the student during the 2014–15 school year.

*19 TAC 74.1021*

STUDENTS WHO  
ENTERED GRADE 9  
BEFORE THE 2014–15  
SCHOOL YEAR

All credit for graduation must be earned no later than grade 12.  
*19 TAC 74.61(b), .71(b)*

MINIMUM HIGH  
SCHOOL PROGRAM

A student entering grade 9 prior to the 2014–15 school year who does not choose to complete the curriculum requirements for high school graduation under the foundation high school program must enroll in the courses necessary to complete the curriculum requirements for the Recommended High School Program or the Advanced/Distinguished Achievement High School Program, unless the student, the student's parent or other person standing in parental relation to the student, and a school counselor or school administrator agree in writing signed by each party that the student should be permitted to take courses under the Minimum High School Program, and the student:

1. Is at least 16 years of age;
2. Has completed two credits required for graduation in each subject of the foundation curriculum under Education Code 28.002(a)(1); or
3. Has failed to be promoted to the tenth grade one or more times as determined by the school district.

STUDENTS WITH  
DISABILITIES

If an ARD committee makes decisions that place a student with a disability on a modified curriculum in a subject area, the student will be automatically placed in the Minimum High School Program.

ACADEMIC ACHIEVEMENT  
GRADUATION

EIF  
(LEGAL)

APPLICABILITY	<p>A student who was permitted to take courses under the Minimum High School Program prior to the 2009–10 school year may remain in the Minimum High School Program.</p> <p><i>19 TAC 74.61(c), (d), .71(c), (d)</i></p>
REQUIREMENTS	<p>A student must earn at least 22 credits to complete the Minimum High School Program. A student who entered grade 9 in the 2007–08, 2008–09, 2009–10, 2010–11, or 2011–12 school year must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.62.</p> <p>A student who entered grade 9 in the 2012–13 or 2013–14 school year must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.72.</p> <p><i>Education Code 28.025; 19 TAC 74.62, .72</i></p>
RECOMMENDED HIGH SCHOOL PROGRAM	<p>A student who entered grade 9 in the 2007–08, 2008–09, 2009–10, 2010–11, or 2011–12 school year must earn at least 26 credits to complete the Recommended High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.63.</p> <p>A student who entered grade 9 in the 2012–13 or 2013–14 school year must earn at least 26 credits to complete the Recommended High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.73.</p> <p><i>Education Code 28.025; 19 TAC 74.63, .73</i></p>
ADVANCED / DISTINGUISHED ACHIEVEMENT HIGH SCHOOL PROGRAM	<p>A student who entered grade 9 in the 2007–08, 2008–09, 2009–10, 2010–11, or 2011–12 school year must earn at least 26 credits to complete the Advanced/Distinguished Achievement High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.64.</p> <p>A student who entered grade 9 in the 2012–13 or 2013–14 school year must earn at least 26 credits to complete the Advanced/Distinguished Achievement High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.74.</p> <p><i>Education Code 28.025; 19 TAC 74.64, .74</i></p>
SUBSTITUTIONS	<p>No substitutions are allowed for high school graduation requirements in the Recommended and Advanced/Distinguished Achievement High School Programs, except as provided by State Board rule. <i>19 TAC 74.63(d), .64(e), .73(d), .74(e)</i></p>

ACADEMIC ACHIEVEMENT  
GRADUATION

EIF  
(LEGAL)

AP OR IB COURSES College Board advanced placement and international baccalaureate courses may be substituted for required courses in appropriate areas. These courses may be used as electives in all three high school graduation programs. *19 TAC 74.61(k), .71(i)*

READING A district may offer a maximum of 3 credits of reading for state graduation elective credit for identified students if the district:

1. Adopts policies to identify students in need of additional reading instruction;
2. Has procedures that include assessment of individual student needs and ongoing evaluation of each student's progress; and
3. Monitors instructional activities to ensure that student needs are addressed.

Reading credits may be selected from Reading I, II, or III.

*19 TAC 74.61(e), .71(f)*

COLLEGE COURSES A student may comply with the curriculum requirements under the Minimum, Recommended, or Advanced/Distinguished Achievement High School Program for each subject of the foundation curriculum and for languages other than English by successfully completing appropriate courses in the core curriculum of an institution of higher education. *Education Code 28.002(b-7); 19 TAC 74.61(l), .71(j)*

PHYSICAL EDUCATION SUBSTITUTIONS In accordance with local district policy, credit for any physical education course may be earned through participation in the following activities:

OTHER PHYSICAL ACTIVITY

1. Athletics;
2. JROTC; and
3. Appropriate private or commercially sponsored physical activity programs conducted on or off campus. A district must apply to the commissioner for approval of such programs, which may be substituted for state graduation credit in physical education. Such approval may be granted under the following conditions:
  - a. Olympic-level participation and/or competition includes a minimum of 15 hours per week of highly intensive, professional, supervised training. The training facility, instructors, and the activities involved in the program must be certified by the superintendent to be of exceptional quality. Students qualifying and participating at this level

may be dismissed from school one hour per day. Students dismissed may not miss any class other than physical education.

- b. Private or commercially sponsored physical activities include those certified by the superintendent to be of high quality and well supervised by appropriately trained instructors. Student participation of at least five hours per week must be required. Students certified to participate at this level may not be dismissed from any part of the regular school day.

In accordance with local district policy, up to one credit for any one of the physical education courses listed in 19 Administrative Code Chapter 74 [see EHAC] may be earned through participation in any of the following activities:

1. Drill team;
2. Marching band; and
3. Cheerleading.

RESTRICTIONS

All substitution activities must include at least 100 minutes per five-day school week of moderate to vigorous physical activity.

No more than four substitution credits may be earned through any combination of substitutions listed above.

STUDENT WITH  
DISABILITY OR  
ILLNESS

A student who is unable to participate in physical activity due to disability or illness may substitute an academic elective credit in English language arts, mathematics, science, or social studies for the required physical education credit. A credit allowed to be substituted may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The determination regarding a student's ability to participate in physical activity must be made by:

1. The student's ARD committee if the student receives special education services under Education Code Chapter 29, Subchapter A;
2. The committee established for the student under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794) if the student does not receive special education services under Education Code Chapter 29, Subchapter A but is covered by the Rehabilitation Act of 1973; or
3. A committee, established by the district, of persons with appropriate knowledge regarding the student if each of the committees described above is inapplicable. This committee

must follow the same procedures required of an ARD or a Section 504 committee.

STUDENT WITH  
PHYSICAL  
LIMITATIONS

If a student entering grade 9 during the 2007–08 school year or thereafter is unable to comply with all of the requirements for a physical education course due to a physical limitation certified by a licensed medical practitioner, a modification to a physical education course does not prohibit the student from earning a Recommended or Advanced/Distinguished High School Program diploma. A student with a physical limitation must still demonstrate proficiency in the relevant knowledge and skills in a physical education course that do not require physical activity.

*Education Code 28.025(b-10)–(b-11); 19 TAC 74.62(b)(7), .63(b)(7), .64(b)(7), .72(b)(6), .73(b)(6), .74(b)(6)*

**SECTION V: TRANSFERS FROM OUT-OF-STATE OR  
NONPUBLIC SCHOOLS**

Out-of-state or out-of-country transfer students (including foreign exchange students) and transfer students from Texas nonpublic schools are eligible to receive Texas diplomas but shall complete all applicable high school graduation requirements. Any course credits required for graduation that are not completed before enrollment may be satisfied through credit by examination, correspondence courses, distance learning, or completing the course, according to the provisions of 19 Administrative Code 74.26. *19 TAC 74.11(f)* [See EHDB, EHDC, EHDE, and EI]

**SECTION VI: GRADUATION OF STUDENTS RECEIVING  
SPECIAL EDUCATION SERVICES**

DEFINITIONS

MODIFIED  
CURRICULUM AND  
CONTENT

Modified curriculum and modified content refer to any reduction of the amount or complexity of the required knowledge and skills in 19 Administrative Code Chapters 110–118, 126–128, and 130. Substitutions that are specifically authorized in statute or rule must not be considered modified curriculum or modified content.

EMPLOYABILITY  
AND SELF-HELP  
SKILLS

Employability and self-help skills are those skills directly related to the preparation of students for employment, including general skills necessary to obtain or retain employment.

SUMMARY OF  
ACADEMIC  
ACHIEVEMENT AND  
EVALUATION

All students graduating must be provided with a summary of academic achievement and functional performance as described in 34 C.F.R. 300.305(e)(3). This summary must consider, as appropriate, the views of the parent and student and written recommendations from adult service agencies on how to assist the student in meeting postsecondary goals. An evaluation as required by 34 C.F.R. 300.305(e)(1) (evaluation to determine that the child is no



longer a child with a disability), must be included as part of the summary for a student graduating under 19 Administrative Code 89.1070 (b)(2)(A), (B), or (C) or (g)(4)(A), (B), or (C). Students who participate in graduation ceremonies but who are not graduating under subsections (b)(2)(A), (B), or (C) or (g)(4)(A), (B), or (C) and who will remain in school to complete their education do not have to be evaluated.

STUDENTS  
ENTERING GRADE 9  
IN OR AFTER THE  
2014–15 SCHOOL  
YEAR

A student entering grade 9 in the 2014–15 school year and thereafter who receives special education services may graduate and be awarded a regular high school diploma if the student meets one of the following conditions:

1. The student has demonstrated mastery of the required state standards (or district standards if greater) in 19 Administrative Code Chapters 110-118, 126-128, and 130 and satisfactorily completed credit requirements for graduation under the foundation high school program applicable to students in general education as well as satisfactory performance on the required state assessments, unless the student's ARD committee has determined that satisfactory performance on the required state assessments is not necessary for graduation.
2. The student has demonstrated mastery of the required state standards (or district standards if greater) in 19 Administrative Code Chapters 110–118, 126–128, and 130 and satisfactorily completed credit requirements for graduation under the foundation high school program through courses, one or more of which contain modified curriculum that is aligned to the standards applicable to students in general education, as well as satisfactory performance on the required state assessments, unless the student's ARD committee has determined that satisfactory performance on the required state assessments is not necessary for graduation. The student must also successfully complete the student's IEP and meet one of the following conditions:
  - a. Consistent with the IEP, the student has obtained full-time employment, based on the student's abilities and local employment opportunities, in addition to mastering sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the local school district.
  - b. Consistent with the IEP, the student has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the local school district.

ACADEMIC ACHIEVEMENT  
GRADUATION

EIF  
(LEGAL)

- c. The student has access to services that are not within the legal responsibility of public education or employment or educational options for which the student has been prepared by the academic program.
- d. The student no longer meets age eligibility requirements.

When a student receives a diploma under item 2(a), (b), or (c), above, the ARD committee must determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age eligibility requirements.

ENDORSEMENTS

A student receiving special education services may earn an endorsement if the student:

1. Satisfactorily completes the requirements for graduation under the foundation high school program as well as the additional credit requirements in mathematics, science, and elective courses with or without modified curriculum;
2. Satisfactorily completes the courses required for the endorsement without any modified curriculum; and
3. Performs satisfactorily on the required state assessments.

A student in grade 11 or 12 receiving special education services during the 2014–15, 2015–16, or 2016–17 school year who has taken each of the state assessments required by 19 Administrative Code Chapter 101, Subchapter CC (relating to Commissioner's Rules Concerning Implementation of the Academic Content Areas Testing Program) or Subchapter DD (relating to Commissioner's Rules Concerning Substitute Assessments for Graduation) but failed to achieve satisfactory performance on no more than two of the assessments is eligible to receive an endorsement if the student has met the requirements of items 1 and 2 above.

In order for a student receiving special education services to use a course to satisfy both a requirement under the foundation high school program and a requirement for an endorsement, the student must satisfactorily complete the course without any modified curriculum.

STUDENTS  
ENTERING GRADE 9  
BEFORE THE 2014–  
15 SCHOOL YEAR

A student receiving special education services who entered grade 9 before the 2014–15 school year may graduate and be awarded a high school diploma under the foundation high school program if the student's ARD committee determines that the student should take courses under that program and the student satisfies the requirements of that program. A student transitioning to the Foundation High School Program may earn an endorsement as set out above [see ENDORSEMENTS, above].

A student receiving special education services in 11th or 12th grade during the 2014–15, 2015–16, or 2016–17 school year who has taken each of the required state assessments but failed to achieve satisfactory performance on no more than two of the assessments may graduate if the student has satisfied all other applicable graduation requirements. [See SPECIAL EDUCATION, above, and EKB]

A student receiving special education services who entered grade 9 before the 2014–15 school year may graduate and be awarded a regular high school diploma if the student meets one of the following conditions:

1. The student has demonstrated mastery of the required state standards (or district standards if greater) in 19 Administrative Code Chapters 110–118, 126–128, and 130 and satisfactorily completed credit requirements for graduation under the Recommend or Advanced/Distinguished Achievement Programs, including satisfactory performance on the required state assessments.
2. The student is in grade 11 or 12 during the 2014–15, 2015–16, or 2016–17 school year and has taken each of the state assessments required by 19 Administrative Code Chapter 101, Subchapter CC (relating to Commissioner's Rules Concerning Implementation of the Academic Content Areas Testing Program) or Subchapter DD (relating to Commissioner's Rules Concerning Substitute Assessments for Graduation) but failed to achieve satisfactory performance on no more than two of the assessments and has met all other applicable graduation requirements in item 1 above.
3. The student has demonstrated mastery of the required state standards (or district standards if greater) in 19 Administrative Code Chapters 110–118, 126–128, and 130 and satisfactorily completed credit requirements under the Minimum High School Program, including participation in state assessments. The student's ARD committee shall determine whether satisfactory performance on the required state assessments is necessary for graduation.
4. The student has demonstrated mastery of the required state standards (or district standards if greater) in 19 Administrative Code Chapters 110–118, 126–128, and 130 through courses, one or more of which contain modified content that is aligned to the standards required under the Minimum High School Program as well as the satisfactorily completed credit requirements under the Minimum High School Program, including participation in required state assessments. The student's

ARD committee shall determine whether satisfactory performance on the required state assessments is necessary for graduation. The student must also successfully complete the student's IEP and meet one of the following conditions:

- a. Consistent with the IEP, the student has obtained full-time employment, based on the student's abilities and local employment opportunities, in addition to mastering sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the local school district;
- b. Consistent with the IEP, the student has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the local school district;
- c. The student has access to services that are not within the legal responsibility of public education, or employment or educational options for which the student has been prepared by the academic program; or
- d. The student no longer meets age eligibility requirements.

When a student receives a diploma under item 3(a), (b), or (c), above, the ARD committee must determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age eligibility requirements.

*19 TAC 89.1070(b)-(l)*

#### **SECTION VII: GRADUATION OF MILITARY DEPENDENTS**

COURSE WAIVER

District officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed by a military student in another district or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the district shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

TRANSFERS DURING  
SENIOR YEAR

Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from the district after all alternatives have been considered, the sending and receiving districts shall ensure the receipt of a diploma from the sending district, if the student meets the graduation requirements of the sending district. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student.

SUBSTITUTE PASSING  
STANDARD

The commissioner shall adopt a passing standard on one or more national norm-referenced achievement tests for purposes of permitting a qualified military dependent to meet that standard as a substitute for completing a specific course otherwise required for graduation. The passing standard is available only for a student who enrolls in a public school in this state for the first time after completing the ninth grade or who reenrolls in a public school in this state at or above the tenth grade level after an absence of at least two years from the public schools of this state. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.

*Education Code 162.002 art. VII, A, C [See FDD]*

**SECTION VIII: GRADUATION OF STUDENT WHO IS HOME-  
LESS OR IN CONSERVATORSHIP OF DFPS**

If an 11th or 12th grade student who is homeless or in the conservatorship of the Department of Family and Protective Services transfers to a different school district and the student is ineligible to graduate from the district to which the student transfers, the district from which the student transferred shall award a diploma at the student's request, if the student meets the graduation requirements of the district from which the student transferred. "Student who is homeless" has the meaning assigned to the term "homeless children and youths" under 42 U.S.C. Section 11434a. *Education Code 28.025(i)*



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

SECTION I	State Assessment of Academic Skills	pages 2–3
	1. Limited English Proficient Students	
	2. Special Education	
	3. Military Dependents	
SECTION II	Administration	pages 3–4
SECTION III	Notice to Parents and Students	pages 4–5
	1. Grade Advancement Testing	
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SECTION IV	Testing in Grades 3–8	pages 5–6
	1. Exception	
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SECTION V	End-of-Course Assessments	pages 6–11
	1. Students Enrolled Below High School Level	
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SECTION VI	Reporting Results	pages 11–12
	1. To the Public	
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	3. To Parents, Students, and Teachers	
	4. Parents Right-to-Know Under ESEA	
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SECTION VII	Out-of-State Transfers	page 13
SECTION VIII	Accelerated Instruction	pages 13–14
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	1. Confidentiality	pages 14–16
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**SECTION I: STATE ASSESSMENT OF ACADEMIC SKILLS**

Every student receiving instruction in the essential knowledge and skills shall take the appropriate criterion-referenced assessments, as required by Education Code Chapter 39, Subchapter B [see TESTING IN GRADES 3–8, below]. *Education Code 39.023(a), (c), (f); 19 TAC 101.5*

A student may not receive a high school diploma until the student has performed satisfactorily on end-of-course (EOC) assessment instruments [see END-OF-COURSE ASSESSMENTS, below]. *Education Code 39.025(a); 19 TAC 101.4001*

LIMITED ENGLISH  
PROFICIENT  
STUDENTS

In grades 3–12, a limited English proficient (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 Administrative Code Chapter 101, Subchapter AA. *Education Code 39.023(l), (m)* [See EKBA]

SPECIAL EDUCATION

TEA shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program for whom a state assessment instrument adopted under Education Code 39.023(a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal (ARD) committee, including assessment instruments approved by the commissioner of education that measure growth. The assessment instruments developed or adopted, including the assessment instruments approved by the commissioner, must, to the extent allowed under federal law, provide a district with options for the assessment of students.

TEA may not adopt a performance standard that indicates that a student's performance on the alternate assessment does not meet standards if the lowest level of the assessment accurately represents the student's developmental level as determined by the student's ARD committee.

The student's ARD committee shall determine whether any allowable modification is necessary in administering to the student a required EOC assessment instrument under Education Code 39.023(c), and whether the student is required to achieve satisfactory performance on an EOC assessment instrument to receive a high school diploma.

*Education Code 39.023(b)–(c), .025(a-4)*

MILITARY  
DEPENDENTS

If the student is a military dependent, the district shall accept:



1. Exit or EOC exams required for graduation from the sending state;
2. National norm-referenced achievement tests; or
3. Alternative testing, in lieu of testing requirements for graduation in the receiving state.

In the event the above alternatives cannot be accommodated by the receiving state for a military dependent transferring in his or her senior year, then a commissioner's substitute passing standard shall apply.

SUBSTITUTE  
PASSING  
STANDARD

The commissioner shall adopt a passing standard on one or more national norm-referenced achievement tests for purposes of permitting a qualified military dependent to meet that standard as a substitute for achieving a score on an assessment instrument otherwise required for graduation. The passing standard is available only for a student who enrolls in a public school in this state for the first time after completing the ninth grade or who reenrolls in a public school in this state at or above the tenth grade level after an absence of at least two years from the public schools of this state. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.

*Education Code 162.002 art. VII, §§ B-C [See FDD]*

**SECTION II: ADMINISTRATION**

A district shall follow the test administration procedures established by TEA in the applicable test administration materials. A superintendent shall be responsible for administering tests. *19 TAC 101.25, .27*

SCHEDULE

The commissioner shall specify the schedule for testing that is in compliance with Education Code 39.023(c-3)(1) and (2), and supports reliable and valid assessments. 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 campus'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 a 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 a 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*

**SECTION III: NOTICE TO PARENTS AND STUDENTS**

A 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 101.3012*

#### **SECTION IV: TESTING IN GRADES 3–8**

Except as provided below, all students, other than students who are assessed under Education Code 39.023(b) (alternative assessment instrument) or 39.023(l) (LEP students) or exempted under Education Code 39.027, shall be assessed in:

1. Mathematics, annually in grades 3–7 without the aid of technology and in grade 8 with the aid of technology on any assessment instrument that includes algebra;
2. Reading, annually in grades 3–8;
3. Writing, including spelling and grammar, in grades 4 and 7;
4. Social studies in grade 8;
5. Science in grades 5 and 8; and
6. Any other subject and grade required by federal law.

*Education Code 39.023(a)*

#### EXCEPTION

Except as required for purposes of federal accountability, a student shall not be administered a grade-level assessment if the student:

1. Is enrolled in a course or subject intended for students above the student's enrolled grade level and will be administered a grade-level assessment instrument developed under the list above that aligns with the curriculum for that course or subject within the same content area; or
2. Is enrolled in a course for high school credit in a subject intended for students above the student's enrolled grade level and will be administered an EOC assessment instrument that aligns with the curriculum for that course or subject within the same content area.

A student is only eligible to take an assessment instrument intended for use above the student's enrolled grade if the student is receiving instruction in the entire curriculum for that subject.

A student in grade 5 or 8 described above may not be denied promotion on the basis of failure to perform satisfactorily on an assessment instrument above the student's grade level.

*Education Code 28.0211(p), 39.023(a-2); 19 TAC 101.3011*

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 a 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.

A student's ARD committee shall determine the allowable accommodations and shall document them in the student's individualized education program (IEP). [See SPECIAL EDUCATION, above]

*19 TAC 101.3013; Education Code 39.023(a)–(c), (n); 34 C.F.R. 300.320(a)(6)*

**SECTION V: END-OF-COURSE ASSESSMENTS**

Beginning with students first enrolled in grade 9 in the 2011–12 school year, a student enrolled in a course for which an EOC assessment exists as required by Education 39.023(c) shall take the appropriate assessment. *19 TAC 101.3021(a)*

STUDENTS ENROLLED  
BELOW HIGH SCHOOL  
LEVEL

Beginning in the 2011–12 school year, a student in grade 8 or lower who takes a high school course for credit is required to take the applicable EOC assessment. The EOC assessment result shall be applied toward the student's assessment graduation requirements, as specified in 19 Administrative Code 101.3022. *19 TAC 101.3021(d)*

ASSESSMENT  
REQUIREMENTS FOR  
GRADUATION

A student must meet satisfactory performance on an EOC assessment listed in Education Code 39.023(c) only for a course in which the student is enrolled and for which an EOC assessment instrument is administered in order to be eligible to receive a Texas diploma.

EXCEPTIONS  
ENGLISH I OR  
ENGLISH II

A student who was administered separate reading and writing EOC assessments under Education Code 39.023(c), for the English I or English II course has met that course's assessment graduation requirement if the student has:

1. Achieved satisfactory performance on either the reading or writing EOC assessment for that course;
2. Met at least the minimum score on the other EOC assessment for that course; and
3. Achieved an overall scale score of 3750 or greater when the scale scores for reading and writing are combined for that course.

Exceptions related to English I also apply to English language learners who meet the criteria in 19 Administrative Code 101.1007. [See EKBA]

CREDITS  
EARNED PRIOR  
TO ENROLLMENT

If a student earned high school credit for a course with an EOC assessment prior to enrollment in a Texas public school district and the credit has been accepted by a Texas public school district, or a student completed a course for Texas high school credit in a course with an EOC assessment prior to the 2011–12 spring administration, the student is not required to take the corresponding EOC assessment.

*19 TAC 101.3021(e), .3022*

SUBSTITUTE  
ASSESSMENTS

A student may use certain assessments as substitute assessments in place of an EOC assessment, to meet the student's assessment graduation requirements in accordance with the commissioner's chart at 19 Administrative Code 101.4002(b). An approved substitute assessment may be used in place of only one specific EOC assessment.

A student is eligible to use a substitute assessment if the student:

1. Was administered an approved substitute assessment for an equivalent course in which the student was enrolled;
2. Received a satisfactory score on the substitute assessment as determined by the commissioner and provided in the chart at 19 Administrative Code 101.4002(b); and
3. Using a Texas Success Initiative (TSI) assessment also meets the following criteria:
  - a. A student must have been enrolled in a college preparatory course for English language arts or mathematics and, in accordance with Education Code 39.025(a-1), have been administered an appropriate TSI assessment at the end of that course.
    - (1) A student under this provision who meets all TSI English language arts score requirements provided

in the chart at 19 Administrative Code 101.4002(b) satisfies both the English I and English II EOC assessment graduation requirements.

- (2) A student under this provision may satisfy an assessment graduation requirement in such a manner regardless of previous performance on an Algebra I, English I, or English II EOC assessment.
- b. In accordance with Education Code 39.025(a-3), a student who did not meet satisfactory performance on the Algebra I or English II EOC assessment after retaking the assessment may use the corresponding TSI assessment in place of that EOC assessment.
- (1) For a student under this provision who took separate reading and writing assessments for the English II EOC assessment and who did not meet the English II assessment graduation requirement using those tests as specified in 19 Administrative Code 101.3022(b) (relating to Assessment Requirements for Graduation), the separate TSI reading or writing assessment may not be used to substitute for the corresponding English II reading or writing EOC assessment.
  - (2) The provisions of this paragraph expire September 1, 2017. A student may meet the assessment graduation requirements under this provision using the TSI if the student has met the necessary score requirements as specified in the chart at 19 Administrative Code 101.4002(b) prior to September 1, 2017.

A student electing to substitute an assessment for graduation purposes must still take the required EOC assessment if the student does not meet the eligibility requirements above.

A student who fails to perform satisfactorily on the PSAT or the ACT-PLAN as indicated in the chart at 19 Administrative Code 101.4002(b) must take the appropriate EOC assessment to meet the assessment graduation requirements for that subject.

VERIFICATION OF  
RESULTS

An eligible student is responsible for providing a district an official copy of the student's scores from the substitute assessment.

Upon receipt of official results of an approved substitute assessment, a district must:

1. Verify the student's score on the substitute 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 101.4002, .4005*

SATISFACTORY  
PERFORMANCE

A student is required to achieve a scale score that indicates satisfactory performance, as determined by the commissioner on each EOC assessment instrument administered to the student. *Education Code 39.025(a)*

INDIVIDUAL  
GRADUATION  
COMMITTEE

A student in grade 11 or 12 who has failed to comply with the EOC assessment instrument performance requirements under Education Code 39.025 for not more than two courses may qualify to graduate on the basis of a review by an individual graduation committee (IGC). [See EIF]

Starting with the 2014-15 school year, a student who has taken but failed to achieve the EOC assessment graduation requirements for no more than two courses may receive a Texas high school diploma if the student has qualified to graduate by means of an IGC under Education Code 28.0258.

A student may not graduate under an IGC if the student did not take each required EOC assessment or an approved substitute assessment for each course in which the student was enrolled in a Texas public school for which there is an EOC assessment. A district shall determine whether the student took each required EOC assessment or an approved substitute assessment. Under this provision, a student who does not make an attempt to take all required EOC assessments may not qualify to graduate by means of an IGC.

ENGLISH  
LANGUAGE  
LEARNERS

A student who is an English language learner (ELL) and qualifies for the English I special provision in 19 Administrative Code 101.1007 [see EKBA] may graduate without an IGC if the student achieves satisfactory performance on the remaining EOC assessments that the student is required to take.

The qualifying ELL becomes eligible for IGC review by failing to achieve satisfactory performance on the English I EOC assessment and one other EOC assessment or by failing to achieve satisfactory performance on no more than two of the remaining EOC assessments if the student achieved satisfactory performance on the English I EOC assessment.

If a qualifying ELL does graduate by means of an IGC, the student is required to complete IGC requirements for each course in which the student did not achieve satisfactory performance on the EOC assessment for that course.

TESTING PROGRAMS  
STATE ASSESSMENT

EKB  
(LEGAL)

RETAKES	<p>Notwithstanding any action taken by a student's IGC, a district must provide a student an opportunity to retake an EOC assessment under Education Code 39.023(c), if the student has not previously achieved satisfactory performance on an assessment for that course. A student is not required to retake a course in order to be administered a retest of an EOC assessment.</p>
APPLICATION AND EXPIRATION	<p>This provision only applies to a student classified by the district as an 11th or 12th grade student in the 2014–15, 2015–16, or 2016–17 school year.</p> <p>This provision expires September 1, 2017. A student may graduate by means of an IGC if the student has qualified for an IGC under Education Code 28.0258 and that IGC convened prior to September 1, 2017.</p> <p><i>Education Code 28.0258, 39.025(a-2); 19 TAC 101.3022(e)</i></p>
SPECIAL EDUCATION	<p>A student receiving special education services is not subject to the IGC requirements in Education Code 28.0258. As provided in 19 Administrative Code 89.1070 (relating to Graduation Requirements) and 19 Administrative Code 101.3023 (relating to Participation and Graduation Assessment Requirements for Students Receiving Special Education Services), a student's ARD committee determines whether a student is required to achieve satisfactory performance on an EOC assessment to graduate.</p> <p>A student dismissed from a special education program who achieved satisfactory performance on an alternate EOC assessment while enrolled in a special education program is not required to take and achieve satisfactory performance on the general EOC assessment to graduate. A student who took an EOC assessment while enrolled in a special education program is not required to retake and achieve satisfactory performance on the EOC assessment if the student's ARD committee determined that the student was not required to achieve satisfactory performance on the EOC assessment to graduate. A student dismissed from a special education program must achieve satisfactory performance on any remaining EOC assessments that the student is required to take. If the student fails to achieve satisfactory performance on no more than two of the remaining EOC assessments, the student is eligible for IGC review under Education Code 28.0258 and is subject to the IGC provisions above. [See INDIVIDUAL GRADUATION COMMITTEE, above]</p> <p><i>19 TAC 101.3022(f)</i></p> <p>A student receiving special education services who successfully completes the requirements of his or her IEP, including perfor-</p>



mance on a state assessment required for graduation, shall receive a Texas high school diploma. A student's ARD committee shall determine if the student will be required to meet satisfactory performance on an assessment for purposes of graduation.

Beginning with the 2011–12 school year, all grades 9–12 students with significant cognitive disabilities who are assessed with an alternate assessment as specified in the student's IEP will be assessed using alternate versions of EOC assessments as listed in 19 Administrative Code 101.3011(b)(2).

A student who is receiving special education services and who is first enrolled in grade 9 or below in the 2011–12 school year shall be administered an EOC assessment instrument upon completion of the corresponding course as required by the student's IEP.

*19 TAC 101.3023*

CREDIT BY  
EXAMINATION

An EOC assessment administered under Education Code 39.023(c) cannot be used for purposes of credit by examination under 19 Administrative Code 74.24. [See EHDB, EHDC] *19 TAC 101.3021(c)*

ADDITIONAL STATE  
ASSESSMENTS

TEA may adopt EOC assessment instruments for courses not listed in statute, as described above. A student's performance on these EOC assessment instruments is not subject to the performance requirements established for the statutory assessments. *Education Code 39.023(c-2)*

RETAKES

Each time an EOC assessment instrument is administered, a student who failed to achieve a score requirement may retake the assessment instrument. [See SATISFACTORY PERFORMANCE, above]

A student is not required to retake a course as a condition of retaking an EOC assessment instrument.

If a student failed a course but achieved satisfactory performance on the applicable EOC assessment, that student is not required to retake the assessment if the student is required to retake the course.

*Education Code 39.025(b); 19 TAC 101.3021(f), .3022(d)*

**SECTION VI: 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 a board, after receipt from TEA. The infor-

mation shall not contain the names of individual students or teachers. *Education Code 39.030(b)*

TO THE BOARD

A superintendent shall accurately report all test results with appropriate interpretations to a board according to the schedule in the applicable test administration materials.

TO PARENTS,  
STUDENTS, AND  
TEACHERS

A district shall notify each of its students, his or her parent or guardian, and his or her teacher for that subject of test results, observing confidentiality requirements stated at CONFIDENTIALITY, below. 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. Upon receipt of the assessment results from the test contractor, a district shall disclose a student's assessment results to a student's teacher in the same subject area as the assessment for that school year. [See BQ series, FD, and FL]

*19 TAC 101.3014*

TEA shall adopt a series of questions to be included in an EOC assessment instrument administered under Education Code 39.023(c) to be used for purposes of identifying students who are likely to succeed in an advanced high school course. A district shall notify a student who performs at a high level on the questions and the student's parent or guardian of the student's performance and potential to succeed in an advanced high school course. A district may not require a student to perform at a particular level on the questions to be eligible to enroll in an advanced high school course. *Education Code 39.0233(b)*

PARENTS RIGHT-TO-KNOW UNDER ESEA

As a condition of receiving assistance under Title I, Part A of the Elementary and Secondary Education Act (ESEA) (20 U.S.C. 6301 et seq.), a district shall provide to each individual parent of a child who is a student in such school, with respect to such student information on the level of achievement and academic growth of the student, if applicable and available, on each of the state academic assessments required under Part A. *20 U.S.C. 6312(e)(1)(B)(i)*

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, .006(a)(2)*

### **SECTION VII: OUT-OF-STATE TRANSFERS**

A district shall accurately report to TEA whether that student transferred into the district from out of state during the current school year.

Procedures for the reporting of out-of-state-transfer students to TEA shall be established in the applicable test administration materials. A district shall follow procedures specified in those test administration materials.

The assessment results of the out-of-state transfer students shall be reported separately to districts from the results of the district's other students in addition to the current reporting of assessment results for all students and other student subsets.

*19 TAC 101.3014*

### **SECTION VIII: ACCELERATED INSTRUCTION**

Each time a student fails to perform satisfactorily on an assessment instrument administered under Education Code 39.023(a) in the third, fourth, fifth, sixth, seventh, or eighth grade, the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area. Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations. *Education Code 28.0211(a-1)*

A district shall provide each student who fails to perform satisfactorily on an EOC assessment instrument with accelerated instruction in the subject assessed by the assessment instrument. *Education Code 39.025(b-1)* [See EHBC]

#### COLLEGE READINESS

Each district shall partner with at least one institution of higher education to develop and provide courses in college preparatory mathematics and English language arts. The courses must be designed:

1. For students at the twelfth grade level whose performance on:
  - a. An EOC assessment instrument required under Education Code 39.023(c) does not meet college readiness standards; or
  - b. Coursework, a college entrance examination, or an assessment instrument designated under Education Code 51.3062(c) indicates that the student is not ready to perform entry-level college coursework; and

2. To prepare students for success in entry-level college courses.

A course must be provided on the campus of the high school offering the course or through distance learning or as an online course provided through the institution of higher education with which the district partners.

FACULTY

Appropriate faculty of each high school offering courses and appropriate faculty of each institution of higher education with which the district partners shall meet regularly as necessary to ensure that each course is aligned with college readiness expectations.

NOTICE

Each district shall provide a notice to each eligible student and the student's parent or guardian regarding the benefits of enrolling in a course.

CREDIT EARNED

A student who successfully completes an English language arts course may use the credit earned toward satisfying the advanced English language arts curriculum requirement for the foundation high school program under Education Code 28.025(b-1)(1). A student who successfully completes a mathematics course may use the credit earned in the course toward satisfying an advanced mathematics curriculum requirement under Education Code 28.025 after completion of the mathematics curriculum requirements for the foundation high school program under Education Code 28.025(b-1)(2).

DUAL CREDIT

A course may be offered for dual credit at the discretion of the institution of higher education with which a district partners.

INSTRUCTIONAL  
MATERIALS

Each district, in consultation with the institution of higher education with which the district partners, shall develop or purchase instructional materials for a course consistent with Education Code Chapter 31. The instructional materials must include technology resources that enhance the effectiveness of the course and draw on established best practices.

*Education Code 28.014*

**SECTION IX: SECURITY**

To ensure that each assessment instrument is reliable and valid and meets applicable federal requirements for measurement of student progress, districts must comply with all of the applicable requirements specified in the test administration materials, which include general testing program information, requirements for ensuring test security and confidentiality described in the annual Test Security Supplement, procedures for test administration, responsi-

bilities of personnel involved in test administration, and procedures for materials control.

Test coordinators and administrators must receive all applicable training as required in the test administration materials and districts must maintain records related to the security of assessment instruments for a minimum of five years.

*19 TAC 101.3031*

CONFIDENTIALITY

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)* [See FL and GBA]

PENALTIES

Violation of security or confidentiality of any test is prohibited. A person who engages in conduct prohibited by the Test Security Supplement may be subject to sanction of credentials.

Procedures for maintaining the security and confidentiality of state assessments are specified in the Test Security Supplement and in the appropriate test administration materials. Conduct that violates the security and confidentiality of a test is defined as any departure from the test administration procedures established in the Test Security Supplement and other test administration materials. Conduct of this nature may include the following acts and omissions:

1. Viewing a test before, during, or after an assessment unless specifically authorized to do so;
2. Duplicating secure examination materials;
3. Disclosing the contents of any portion of a secure test;
4. Providing, suggesting, or indicating to an examinee a response or answer to a secure test item or prompt;
5. Changing or altering a response or answer of an examinee to a secure test item or prompt;
6. Aiding or assisting an examinee with a response or answer to a secure test item or prompt;
7. Encouraging or assisting an individual to engage in the conduct described in the items listed above; or
8. Failing to report to an appropriate authority that an individual has engaged in conduct outlined in the items listed above.

Any person who violates, assists in the violation of, or solicits another to violate or assist in the violation of test security or confiden-

tiality, as well as any person who fails to report such a violation is subject to the following penalties:0.

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 either for a set term or permanently.

Release or disclosure of confidential test content could result in criminal prosecution under Education Code 39.0303, Government Code 552.352, and Penal Code 37.10. The State Board for Educator Certification may take any of the above actions based on satisfactory evidence that an educator has failed to cooperate with TEA in an investigation.

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

The superintendent and campus principal must develop procedures to ensure the security and confidentiality of the tests, and will be responsible for notifying TEA in writing of conduct that violates the security or confidentiality of a test. Failure to report can subject the person responsible to the applicable penalties.

*19 TAC 101.3031(b)(2), 249.15*

MINIMIZE  
DISRUPTIONS

In implementing the commissioner's procedures for the administration of assessment instruments adopted or developed under Education Code 39.023, including procedures designed to ensure the security of the assessment, a district shall minimize disruptions to school operations and the classroom environment. *Education Code 39.0301(a-1)*

EQUAL EDUCATIONAL OPPORTUNITY

FB  
(LEGAL)

- NONDISCRIMINATION      A district shall provide equal opportunities to all individuals within its jurisdiction or geographic boundaries. *Education Code 1.002(a)*
- No officer or employee of a district shall, when acting or purporting to act in an official capacity, refuse to permit any student to participate in any school program because of the student's race, religion, color, sex, or national origin. *Civ. Prac. & Rem. Code 106.001*
- A district may not deny services to any individual eligible to participate in its special education program, but it shall provide individuals with disabilities special educational services as authorized by law. *Education Code 1.002(b)*
- FEDERAL FUNDING RECIPIENTS      No person shall be excluded from participation in, denied the benefits of, or subjected to discrimination by any district that receives federal financial assistance, on the basis of any of the following protected characteristics:
1. Sex.
  2. Race, color, or national origin.
  3. Disability, or relationship or association with an individual with a disability. [See EHB, EHBA series, and GA]
  4. Age.
- 20 U.S.C. 1681 (Title IX); 42 U.S.C. 2000d (Title VI); 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act); 29 U.S.C. 794 (Section 504); 42 U.S.C. 12132 (Americans with Disabilities Act [ADA]); 42 U.S.C. 6101 (Age Discrimination Act of 1975)*
- SEXUAL HARASSMENT      Sexual harassment of students is discrimination on the basis of sex under Title IX. *Franklin v. Gwinnett County Schools, 503 U.S. 60 (1992)* [See also DIA and FFH]
- HUMAN RIGHTS COORDINATOR      A district shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, and the ADA. The district shall notify all students and employees of the name, office address, and telephone number of the employee(s) so designated.
- GRIEVANCE PROCEDURES      A district shall adopt and publish grievance procedures for prompt and equitable resolution of student complaints alleging discrimination under these statutes. [See FNG]
- 34 C.F.R. 106.8 (Title IX), 104.7 (Section 504)*
- RETALIATION      A district shall not coerce, intimidate, threaten, retaliate against, or interfere with any person who attempts to assert a right protected by the above laws or cooperates with investigation and enforcement proceedings under these laws. *34 C.F.R. 100.7(e) (Title VI), 104.61 (Section 504), 106.71 (Title IX)*

EQUAL EDUCATIONAL OPPORTUNITY

FB  
(LEGAL)

STUDENTS WITH  
LEARNING  
DIFFICULTIES

The Texas Education Agency shall produce and provide to school districts a written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education. The explanation must state that a parent is entitled at any time to request an evaluation of the parent's child for special education services under Education Code 29.004. Each school year, each district shall provide the written explanation to a parent of each district student by including the explanation in the student handbook or by another means.  
*Education Code 26.0081*

DISABILITY  
DISCRIMINATION  
ADA

Under the Americans with Disabilities Act (ADA), 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 a district, or be subjected to discrimination by the district. *42 U.S.C. 12132; 28 C.F.R. 35.130*

SECTION 504

Under Section 504 of the Rehabilitation Act, no otherwise qualified individual with a disability shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. *29 U.S.C. 794(a)*

DEFINITIONS  
"STUDENT WITH A  
DISABILITY"

A "student with a disability" is one who has a physical or mental impairment that substantially limits one or more of the student's major life activities, has a record of having such an impairment, or is being regarded as having such an impairment.

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

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

A student meets the requirement of being "regarded as" having an impairment if the student establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. This provision does not apply to impairments that are transitory or minor. A transitory im-



pairment is one with an actual or expected duration of 6 months or less.

*29 U.S.C. 705(20)(B), 42 U.S.C. 12102(1), (3)–(4)*

“QUALIFIED  
INDIVIDUAL WITH  
A DISABILITY”

The term “qualified individual with a disability” means 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 a district. *42 U.S.C. 12131(2)*

“MAJOR LIFE  
ACTIVITIES”

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

REASONABLE  
MODIFICATION

A 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. *28 C.F.R. 35.130(b)(7)*

DIRECT THREAT

“Direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services as provided below. *28 C.F.R. 35.104*

The ADA does not require a district to permit an individual to participate in or benefit from the services, programs, or activities of that district when that individual poses a direct threat to the health or safety of others.

In determining whether an individual poses a direct threat to the health or safety of others, a district must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain:

1. The nature, duration, and severity of the risk;
2. The probability that the potential injury will actually occur; and

3. Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

*28 C.F.R. 35.139*

FREE APPROPRIATE  
PUBLIC EDUCATION  
(FAPE)

A district shall provide a free appropriate public education to each qualified student with a disability within the district's jurisdiction, regardless of the nature or severity of the student's disability.

A student with a disability is "qualified" if he or she is between the ages of three and 21, inclusive. *20 U.S.C. 1412(b); 34 C.F.R. 104.3(l)(2)*

An appropriate education is the provision of regular or special education and related services that are:

1. Designed to meet the student's individual educational needs as adequately as the needs of students who do not have disabilities are met; and
2. Based on adherence to procedures that satisfy federal requirements for educational setting, evaluation and placement, and procedural safeguards, as set forth below.

*34 C.F.R. 104.33(b)*

Implementation of an individualized education program (IEP) under IDEA is one means for providing FAPE. *34 C.F.R. 104.33(b)(2)*

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**Note:** See EHBA series for policies regarding the provision of special education to students with disabilities under IDEA who require special education in order to benefit from a free appropriate public education.

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EDUCATIONAL  
SETTING

A district shall place a student with a disability in the regular educational environment, unless the district demonstrates that education in the regular environment with the use of supplemental aids and services cannot be achieved satisfactorily. *34 C.F.R. 104.34(a)*

In providing or arranging for nonacademic and extracurricular services and activities, a district shall ensure that a student with a disability participates with students who do not have disabilities to the maximum extent appropriate to the needs of the student with a disability. *34 C.F.R. 104.34(b), 104.37*

EVALUATION AND  
PLACEMENT

A district shall conduct an evaluation of any person who, because of disability, needs or is believed to need special education or related services before taking any action with respect to the initial

placement of the person in regular or special education and any subsequent significant change in placement.

EVALUATION  
PROCEDURES

A district shall establish standards and procedures for the evaluation and placement which ensure that:

1. Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;
2. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and
3. Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

PLACEMENT  
PROCEDURES

In interpreting evaluation data and in making placement decisions, a district shall:

1. Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior;
2. Establish procedures to ensure that information obtained from all such sources is documented and carefully considered;
3. Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
4. Ensure that the placement decision is made in conformity with 34 C.F.R. 104.34.

REEVALUATION

A district shall establish procedures for periodic reevaluation of students who have been provided special education and related services. A reevaluation procedure consistent with the Education for the Handicapped Act [now IDEA] is one means of meeting this requirement.

*34 C.F.R. 104.35*

EQUAL EDUCATIONAL OPPORTUNITY

FB  
(LEGAL)

MILITARY DEPENDENTS	In compliance with the requirements of Section 504, and with Title II of the Americans with Disabilities Act (42 U.S.C. Sections 12131–12165), the district shall make reasonable accommodations and modifications to address the needs of incoming military dependents with disabilities, subject to an existing Section 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the district from performing subsequent evaluations to ensure appropriate placement of the student. <i>Education Code 162.002 art. V, § C</i> [See FDD]
PROCEDURAL SAFEGUARDS	<p>A district shall establish a system of procedural safeguards with respect to the identification, evaluation, and educational placement of persons who need or are believed to need special instruction or related services.</p> <p>The system shall include notice, an opportunity for the student's parent or guardian to examine relevant records, an impartial hearing with the opportunity for participation by the student's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of IDEA is one means of meeting this requirement. <i>34 C.F.R. 104.36</i></p>
HOMELESS CHILDREN	A district shall adopt policies and practices to ensure that homeless children are not stigmatized or segregated on the basis of their homeless status. [See FDC]
LIAISON	<p>A district shall designate an appropriate staff person, able to carry out the required duties, as the district liaison for homeless children. A district shall inform school personnel, service providers, advocates working with homeless families, parents and guardians of homeless children, and homeless children of the duties of the liaison. [See FFC]</p> <p><i>42 U.S.C. 11432(g)(1)(J)(i), (ii), (g)(6)(B)</i></p>
RELIGIOUS FREEDOM	A district may not substantially burden a student's free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. <i>Civ. Prac. &amp; Rem. Code 110.003</i> [See also DAA and GA]
DISCRIMINATION ON THE BASIS OF SEX	<p>No person in the United States shall, on the basis of sex, be excluded from participation in, denied the benefits of, or be subjected to discrimination by any district receiving federal financial assistance. <i>20 U.S.C. 1681(a)</i></p> <p>A district shall not provide any course or otherwise carry out any of its educational programs or activities separately on the basis of sex, or require or refuse participation therein on the basis of sex, including health, physical education, industrial, business, vocation-</p>

EQUAL EDUCATIONAL OPPORTUNITY

FB  
(LEGAL)

	al, technical, home economics, music, and adult education courses. <i>34 C.F.R. 106.34</i>
SEPARATE FACILITIES	A district may provide separate toilet, locker room, and shower facilities on the basis of sex, but the facilities provided for one sex shall be comparable to the facilities provided for the other sex. <i>34 C.F.R. 106.33</i>
HUMAN SEXUALITY CLASSES	Portions of classes in elementary and secondary school that deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.
VOCAL MUSIC ACTIVITIES	A district may make requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex.  <i>34 C.F.R. 106.34</i>
SINGLE-SEX PROGRAMS	A district shall not, on the basis of sex, exclude any student from admission to an institution of vocational education or any other school or educational unit operated by the district unless the district otherwise makes available to the student, pursuant to the same policies and criteria of admission, comparable courses, services, and facilities. <i>34 C.F.R. 106.35</i>
PREGNANCY AND MARITAL STATUS	A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex. <i>34 C.F.R. 106.40</i> [See FND]
PHYSICAL EDUCATION CLASSES	A district may group students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.
SKILLS ASSESSMENT	Where use of a single standard of measuring skill or progress in physical education classes has an adverse effect on members of one sex, a district shall use appropriate standards that do not have such effect.
CONTACT SPORTS	A district may separate students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.  <i>34 C.F.R. 106.34</i>
ATHLETIC PROGRAMS	A district shall not discriminate, on the basis of sex, in interscholastic or intramural athletics or provide any such athletics separately on such basis.
SINGLE-SEX TEAMS	A district may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competi-

tive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but not for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport.

EQUAL ATHLETIC  
OPPORTUNITIES

A district that operates or sponsors interscholastic or intramural athletics shall provide equal athletic opportunity for members of both sexes. The following factors shall be considered in determining whether a district provides equal athletic opportunities:

1. Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;
2. Provision of equipment and supplies;
3. Scheduling of games and practice time;
4. Travel and per diem allowance;
5. Opportunity to receive coaching and academic tutoring;
6. Assignment and compensation of coaches and tutors;
7. Provision of locker rooms and practice and competitive facilities;
8. Provision of medical and training facilities and services;
9. Provision of housing and dining facilities and services; and
10. Publicity.

*34 C.F.R. 106.41*

ADMISSIONS

FD  
(LEGAL)

GENERAL ELIGIBILITY

A board or its designee shall admit into the public schools of a district free of tuition all persons who are over five and younger than 21 years of age on September 1 of any school year in which admission is sought, and may admit a person who is at least 21 and under 26 for the purpose of completing the requirements for a high school diploma, if any of the following conditions exist:

STUDENT AND  
PARENT

1. The person and either parent reside in the district.

CONSERVATOR

2. The person does not reside in the district, but one of the parents resides in the district and that parent is a joint managing conservator or the sole managing conservator or possessory conservator of the person.

GUARDIAN OR  
PERSON HAVING  
LAWFUL CONTROL

3. The person and his or her guardian or other person having lawful control under an order of a court reside in the district.

STUDENTS LIVING  
SEPARATE AND  
APART

4. The person is under the age of 18 and has established a separate residence in the district apart from his or her parent, guardian, or other person having lawful control under an order of a court and has established that the person's presence in the district is not for the primary purpose of participation in extracurricular activities. A board is not required to admit such person, however, if the person has:

- a. Engaged in conduct that resulted in removal to a disciplinary alternative education program or expulsion within the preceding year;
- b. Engaged in delinquent conduct or "conduct in need of supervision" and is on probation or other conditional release for that conduct; or
- c. Been convicted of a criminal offense and is on probation or other conditional release.

*Education Code 25.001(a)-(b), (d)*

HOMELESS  
STUDENTS

5. The person is homeless. [See also FDC]

- a. "Homeless children" under the McKinney-Vento Homeless Assistance Act, means children or youths who lack a fixed, regular, and adequate nighttime residence; and includes:
  - (1) Children who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alter-

native adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;

- (2) Children who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
- (3) Children who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- (4) Migratory children living in circumstances described above.

“Migratory child” means a child who made a qualifying move in the preceding 36 months:

- (a) As a migratory agricultural worker or a migratory fisher; or
- (b) With, or to join, a parent or spouse who is a migratory agricultural worker or a migratory fisher. [See EEB]

b. A person is homeless, for purposes of Education Code 25.001(b)(5), regardless of the residence of the person, of either parent, or of the person’s guardian or other person having lawful control, if:

- (1) The person lacks a fixed, regular, and adequate nighttime residence; or
- (2) The person has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
- (3) The person lives in a supervised publicly or privately operated shelter designated to provide temporary living accommodations (including hotels and motels paid for by government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing);
- (4) The person resided in a shelter or place not meant for human habitation and is exiting an institution where he or she temporarily resided;



- (5) The person will imminently lose their housing, has no subsequent residence identified, and lacks the resources or support networks needed to obtain other housing; and
- (6) The person is an unaccompanied youth or part of a homeless family with children and youth defined as homeless under other federal statutes who:
  - (a) Has experienced a long-term period without living independently in permanent housing;
  - (b) Has experienced persistent instability as measured by frequent moves over such period; and
  - (c) Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.

*Education Code 25.001(b)(5); 20 U.S.C. 6399; 42 U.S.C. 11434A(2); 42 U.S.C. 11302*

FOREIGN  
EXCHANGE  
STUDENTS

- 6. The person is a foreign exchange student placed with a host family that resides in the district by a nationally recognized foreign exchange program, unless the district has applied for and been granted a waiver by the commissioner of education because:
  - a. This requirement would impose a financial or staffing hardship on the district;
  - b. The admission would diminish the district's ability to provide high-quality education services for the district's domestic students; or
  - c. The admission would require domestic students to compete with foreign exchange students for educational resources.

*Education Code 25.001(b)(6), (e)*

STUDENTS IN  
RESIDENTIAL  
FACILITY

- 7. The person resides at a residential facility, as defined in Education Code 5.001, located in the district. For purposes of enrollment, a person who resides in a residential facility is considered a resident of the district in which the facility is located.  
*Education Code 25.001(b)(7), 29.012(c)*

ADMISSIONS

FD  
(LEGAL)

STUDENTS OVER 18	8. The person resides in the district and is 18 or older or the person's disabilities of minority have been removed. <i>Education Code 25.001(b)(8)</i>
RESIDENT GRANDPARENT	9. The person does not reside in the district but the grandparent of the person: <ol style="list-style-type: none"><li>Resides in the district; and</li><li>Provides a substantial amount of after-school care for the person as determined by the board.</li></ol> <p><i>Education Code 25.001(b)(9)</i></p>
PROOF OF ELIGIBILITY	A district may require evidence that a person is eligible to attend the public schools of the district at the time it considers an application for admission of the person. A board or its designee shall establish minimum proof of residency acceptable to a district. A board or its designee may make reasonable inquiries to verify a person's eligibility for admission. When admission is sought under item 4 above, a board shall determine whether an applicant qualifies as a resident of a district and may adopt reasonable guidelines for making that determination as necessary to protect the best interest of students. <i>Education Code 25.001(c), (d)</i>
"RESIDENCE" DEFINED	"Residence" requires living in the district and having the present intention to remain there. <i>Martinez v. Bynum, 461 U.S. 321 (1983)</i>  A district may withdraw any student who ceases to be a resident. <i>Daniels v. Morris, 746 F.2d 271 (5th Cir. 1984)</i>
IMMIGRATION STATUS	Denying enrollment based upon immigration status to children who are not legally admitted into the United States violates the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. <i>Plyler v. Doe, 457 U.S. 202 (1982)</i>
HIGH SCHOOL EQUIVALENCY CERTIFICATE	A student who has received a high school equivalency certificate is entitled to enroll in a public school in the same manner as any other student who has not received a high school diploma. <i>Education Code 29.087(h)</i>
SUBSTITUTE FOR PARENT OR GUARDIAN	A board by policy may allow a person showing evidence of legal responsibility for a child other than an order of a court to substitute for a guardian or other person having lawful control of the child under court order. <i>Education Code 25.001(j)</i>
AUTHORIZATION AGREEMENT	A parent, as defined in Family Code 101.024, or both parents of a child may enter into an authorization agreement with the child's grandparent, adult sibling, or adult aunt or uncle to authorize the relative to perform acts described in Family Code 34.002 in regard to the child, such as:

1. Authorizing medical, dental, psychological, or surgical treatment and immunization of the child, including executing any consents or authorizations for the release of information as required by law relating to the treatment or immunization;
2. Enrolling the child in the district; and
3. Authorizing the child to participate in age-appropriate extra-curricular, civic, social, or recreational activities, including athletic activities.

A parent may also enter into an authorization agreement with a relative or other person with whom a child is placed under a parental child safety placement agreement approved by the Department of Family and Protective Services (DFPS) to allow the person to perform the acts described above with regard to the child during an investigation of abuse or neglect or while the department is providing services to the parent.

The authorization agreement must conform to the requirements of Family Code Chapter 34.

Only one authorization agreement may be in effect for a child at any time. Execution of a subsequent authorization agreement does not by itself supersede, invalidate, or terminate a prior authorization agreement. An authorization agreement is void if it is executed while a prior authorization agreement remains in effect.

IMMUNITY

A person who is not a party to the authorization agreement who relies in good faith on the authorization agreement, without actual knowledge that the authorization agreement is void, revoked, or invalid, is not subject to civil or criminal liability to any person, and is not subject to professional disciplinary action, for that reliance if the agreement is completed as required by Family Code Chapter 34.

*Family Code 34.001–.009*

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**Note:** The Authorization Agreement for Nonparent Relative is available at <http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2638.pdf>.

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STUDENTS IN FOSTER CARE

A child placed in foster care by an agency of the state or a political subdivision shall be permitted to attend schools in the district in which the foster parents reside free of any charge to the foster parents or to the agency. A durational residence requirement may not be used to prohibit that child from fully participating in any activity sponsored by a district. *Education Code 25.001(f)*

A student who was enrolled in a primary or secondary public school before the student entered the conservatorship of DFPS and who is placed at a residence outside the attendance area for a school or outside a district is entitled to continue to attend the school in which the student was enrolled immediately before entering conservatorship until the student successfully completes the highest grade level offered by the school at the time of placement without payment of tuition. The student is entitled to continue to attend the school regardless of whether the student remains in the conservatorship of DFPS for the duration of the student's enrollment in the school. *Education Code 25.001(g)*

If a student who is in the conservatorship of DFPS is enrolled in a primary or secondary public school, other than the school in which the student was enrolled at the time the student was placed in the conservatorship of DFPS, the student is entitled to continue to attend that school without payment of tuition until the student successfully completes the highest grade level offered by the school at the time of enrollment in the school, even if the child's placement is changed to a residence outside the attendance area for that school or outside the district. The student is entitled to continue to attend the school regardless of whether the student remains in the conservatorship of DFPS for the duration of the student's enrollment in the school. *Education Code 25.001(g-1)*

A written case plan for any child in foster care under the responsibility of the state must include a plan for ensuring the educational stability of the child while in foster care, including:

1. Assurances that each placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and
2. An assurance that the appropriate state agency has coordinated with a district to ensure that the child remains in the school in which the child is enrolled at the time of each placement; or if remaining in that school is not in the best interests of the child, assurances by the state agency and the district to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.

*42 U.S.C. 675(1)(G), 675a [See CNA]*

TRANSFERS FROM  
OTHER STATES

A district shall charge tuition for a student who resides in a residential facility and whose maintenance or expenses are paid in whole or in part by another state or the United States. Any such tuition charge must be submitted to the commissioner for approval. The

attendance of students admitted under this provision shall not be counted for purposes of allocating state funds to a district. *Education Code 25.003*

STUDENTS HOLDING  
F-1 STUDENT VISAS

If a student is required, as a condition of obtaining or holding the appropriate U.S. student visa, to pay tuition to the district that the student attends to cover the cost of the student's education provided by the district, the district shall accept tuition for the student in an amount equal to the full unsubsidized per capita cost of providing the student's education for the period of the student's attendance at school in the district.

The commissioner shall develop guidelines for determining the amount of the full unsubsidized per capita cost of providing a student's education. A district may not accept tuition in an amount greater than the amount computed under the commissioner's guidelines unless the commissioner approves a greater amount as a more accurate reflection of the cost of education to be provided by the district.

The attendance of a student for whom a school district accepts tuition is not counted for purposes of allocating state funds to the district.

*Education Code 25.0031*

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**Note:** Enrolling students with F-1 visas is optional. If the district is interested in enrolling students with F-1 visas, it must comply with the federal Student and Exchange Visitor Program (SEVP) under the Department of Homeland Security. Detailed information regarding SEVP can be found at <http://www.ice.gov/sevis/>.

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TEXAS JUVENILE  
JUSTICE  
DEPARTMENT

A school-age child of an employee of the Texas Juvenile Justice Department (TJJD) residing in an adjacent district may attend school in a district free of charge to his or her parents or guardian. Any tuition required by the admitting district shall be paid by the district from which the student transfers out of any funds appropriated to the TJJD facility. *Education Code 25.042*

ENROLLMENT

A child must be enrolled by the child's parent, guardian, or other person with legal control under a court order. A district shall record the name, address, and date of birth of the person enrolling the child. *Education Code 25.002(f)*

LEGAL SURNAME

A student must be identified by the student's legal surname as it appears on the student's birth certificate or other document suitable

ble as proof of the student's identity, or in a court order changing the student's name. *Education Code 25.0021*

REQUIRED  
DOCUMENTATION

If a parent or other person with legal control of a child enrolls the child in a district school, the parent or other person, or the school district in which the child most recently attended school, shall furnish to the district all of the following:

1. The child's birth certificate, or another document suitable as proof of the child's identity as defined by the commissioner in the *Student Attendance Accounting Handbook*.
2. A copy of the child's records from the school the child most recently attended if he or she was previously enrolled in a school in Texas or in another state.

Students shall not be denied enrollment or be removed solely because they fail to provide the documentation required in items 1 and 2, above.

3. A record showing that the child has the immunizations required by Education Code 38.001, proof that the child is not required to be immunized, or proof that the child is entitled to provisional admission. [See FFAB]

*Education Code 25.002(a); 19 TAC 129.1(a)–(b)*

A district must furnish information under items 1 and 2 not later than the tenth working day after the date the district receives a request for the information.

A parent or other person with legal control of a child under a court order must furnish information under items 1 and 2 not later than the 30th day after the date a child is enrolled in a public school.

If a parent or other person with legal control of a child under a court order requests that a district transfer a child's student records, the district to which the request is made shall notify the parent or other person as soon as practicable that the parent or other person may request and receive an unofficial copy of the records for delivery in person to a school in another district.

*Education Code 25.002(a-1)*

SUMMER SCHOOL  
ENROLLMENT

A district shall permit a person who is eligible under Education Code 25.001 [see GENERAL ELIGIBILITY, above] to attend school in the district but who is not enrolled in school in the district to enroll in a district summer school course on the same basis as a district student, including satisfaction of any course eligibility requirement and payment of any fee authorized under Education Code 11.158 [see FP] that is charged in connection with the course.

This requirement does not apply to enrollment in a Summer Intensive Mathematics Instruction Program under Education Code 29.088, a Summer Intensive Science Instruction Program under Education Code 29.090, or an Intensive Summer Program under Education Code 29.098 or in a similar intensive program.

*Education Code 25.008*

FOOD ALLERGY  
INFORMATION

On enrollment, a district shall request, by providing a form or otherwise, that a parent or other person with legal control of the child under a court order disclose whether the child has a food allergy or a severe food allergy that, in the judgment of the parent or other person with legal control, should be disclosed to the district to enable the district to take any necessary precautions regarding the child's safety [see FB and FFAF]; and specify the food to which the child is allergic and the nature of the allergic reaction.

The district shall maintain the confidentiality of the provided information, and may disclose the information to teachers, school counselors, school nurses, and other appropriate school personnel only to the extent consistent with district policy under Education Code 38.009 and permissible under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1232g. [See FL]

"Severe food allergy" means a dangerous or life-threatening reaction of the human body to a food-borne allergen introduced by inhalation, ingestion, or skin contact that requires immediate medical attention.

*Education Code 25.0022(a)–(c)*

CHILD IN DFPS  
POSSESSION

A district shall enroll a child without the required documentation if DFPS has taken possession of the child. DFPS shall ensure that the required documentation is furnished to a district not later than the 30th day after the date the child is enrolled. *Education Code 25.002(g)*

INCONSISTENT  
DOCUMENTATION

If a child is enrolled under a name other than the name that appears in the identifying documents or records, a district shall notify the missing children and missing persons information clearinghouse of the child's name as shown on the identifying records and the name under which the child is enrolled.

MISSING  
DOCUMENTATION

If the required documents and other records are not furnished to a district within 30 days after enrollment, the district shall notify the police department of the city or the sheriff's department of the county in which the district is located and request a determination of whether the child has been reported as missing.

*Education Code 25.002(b)–(c)*

STUDENTS UNDER 11

On enrollment of a child under 11 years of age in a school for the first time at the school, the school shall:

1. Request from the person enrolling the child the name of each previous school attended by the child;
2. Request from each school identified in item 1 the school records for the child and, if the person enrolling the child provides copies of previous school records, request verification from the school of the child's name, address, date, and grades and dates attended; and
3. Notify the person enrolling the student that not later than the 30th day after enrollment, or the 90th day if the child was not born in the United States, the person must provide:
  - a. A certified copy of the child's birth certificate; or
  - b. Other reliable proof of the child's identity and age and a signed statement explaining the person's inability to produce a copy of the child's birth certificate.

If a person enrolls a child under 11 years of age in school and does not provide the valid prior school information or documentation required, the school shall notify the appropriate law enforcement agency before the 31st day after the person fails to comply.

*Code of Criminal Procedure 63.019*

FALSE INFORMATION

When accepting a child for enrollment, a district shall inform the parent or other person enrolling the child that presenting a false document or false records in connection with enrollment is a criminal offense under Penal Code 37.10 (Tampering with Governmental Records) and that enrolling the child under false documents makes the person liable for tuition or other costs as provided below. *Education Code 25.002(d)*

In addition to the penalty under Penal Code 37.10, a person who knowingly falsifies information on a form required for a student's enrollment in a district is liable to the district if the student is not eligible for enrollment, but is enrolled on the basis of false information. For the period during which the ineligible student is enrolled, the person is liable for the maximum tuition fee a district may charge [see FDA] or the amount a district has budgeted per student as maintenance and operating expense, whichever is greater. *Education Code 25.001(h)*

A district may include on its enrollment form notice of the legal penalties and liability for falsifying information on the form. *Education Code 25.001(i)*



ADMISSIONS

FD  
(LEGAL)

PLACEMENT OF  
TRANSFERS  
CREDITS AND  
RECORDS

A district shall accept all credits earned toward state graduation requirements by students in accredited Texas school districts, including credits earned in accredited summer school programs. Credits earned in local credit courses may be transferred at a district's discretion. Transfer students shall not be prohibited from attending school pending receipt of transcripts or academic records from the district the student previously attended. *19 TAC 74.26(a)(1)*

A district shall grant a student credit toward the academic course requirements for high school graduation for courses the student successfully completes in TJJD educational programs. *Education Code 30.104*

Each district shall consider course credit earned by a student while in a juvenile justice alternative education program as credit earned in a district school. *Education Code 37.011(d)*

NONPUBLIC  
SCHOOLS

Records and transcripts of students from Texas nonpublic schools or from out of state or out of the country (including foreign exchange students) shall be evaluated, and students shall be placed promptly in appropriate classes. A district may use a wide variety of methods to verify the content of courses for which a transfer student has earned credit. *19 TAC 74.26(a)(2)*

FOUNDATION SCHOOL  
PROGRAM

A person is entitled to the benefits of the available school fund for a school year if:

1. On September 1 of the year, the person:
  - a. Is at least five years of age and under 21 years of age, and has not graduated from high school;
  - b. Is at least 21 years of age and under 26 years of age and is admitted by a school district to complete the requirements for a high school diploma; or
  - c. Is at least 19 years of age and under 26 years of age and is enrolled in an adult high school diploma and industry certification charter school pilot program under Education Code 29.259.
2. The person is enrolled in prekindergarten under Education Code 29.153 or Subchapter E-1, Chapter 29 [see EHBG].
3. The person is younger than five years of age and performs satisfactorily on the state assessment instrument administered to third graders and a district has adopted a policy to admit students younger than five years of age.

ADMISSIONS

FD  
(LEGAL)

4. The person is enrolled in the first grade and is at least six years of age at the beginning of the current school year or has been enrolled in the first grade, or has completed kindergarten, in the public schools of another state before transferring to a Texas public school.

*Education Code 25.001(a), 42.003*

SCREENING

The principal of each district school shall ensure that each student admitted to that school has complied with requirements for screening of special senses and communication disorders, spinal screening, and a risk assessment for Type 2 diabetes, or has submitted an affidavit of exemption. *Health and Safety Code 36.005, 37.002, 95.003(c)* [See FFAA]

PEST CONTROL  
INFORMATION

At the time a student is registered, district personnel shall inform the parent, guardian, or managing conservator that the school periodically applies pesticides indoors and that information on the application of pesticides is available on request. *Occupations Code 1951.455(b)* [See CLB]

ADMISSIONS  
INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

FDB  
(LEGAL)

ASSIGNMENTS	<p>A board or its designee may assign and transfer any student from one school facility or classroom to another facility or classroom within its jurisdiction. <i>Education Code 25.031</i></p> <p>A board or its designee must make the decision concerning the assignment or transfer of a student on an individual basis and may not consider as a factor in its decision any matter relating to the national origin of the student or the student's ancestral language. <i>Education Code 25.032</i></p>
MULTIPLE BIRTH SIBLINGS	<p>"Multiple birth sibling" means a twin, triplet, quadruplet, or other sibling resulting from a multiple birth.</p> <p>"Parent" includes a person standing in parental relation.</p>
PLACEMENT	<p>The parent of multiple birth siblings who are assigned to the same grade level and school may request in writing, not later than the 14th day after the first day of enrollment, that the school place the siblings in the same classroom or in separate classrooms.</p> <p>A school shall provide the placement requested, except that a district is not required to place multiple birth siblings in separate classrooms if the request would require the district to add an additional class to the grade level of the siblings.</p> <p>The school may recommend to a parent the appropriate classroom placement and may provide professional educational advice to assist the parent with the decision.</p> <p>These provisions do not affect:</p> <ol style="list-style-type: none"><li>1. A right or obligation regarding the individual placement decisions of the admission, review, and dismissal (ARD) committee with respect to students receiving special education services [see EHBAB]; or</li><li>2. The right of a district or teacher to remove a student from a classroom under Chapter 37 [see FOA].</li></ol>
REASSIGNMENT BY PRINCIPAL	<p>At the end of the first grading period following the multiple birth siblings' enrollment in the school, if the principal of the school, in consultation with the teacher of each classroom in which the siblings are placed, determines that the requested classroom placement is disruptive to the school, the principal may determine the appropriate classroom placement for the siblings.</p>
APPEAL	<p>A parent may appeal the principal's classroom placement in the manner provided by district policy. During an appeal, the siblings shall remain in the classroom chosen by the parent. [See FNG]</p> <p><i>Education Code 25.043</i></p>

ADMISSIONS  
INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

FDB  
(LEGAL)

PLACEMENT OF  
OLDER STUDENTS

A person who is 21 years of age or older who is admitted by a district to complete the requirements for a high school diploma and who has not attended school in the three preceding school years may not be placed with a student who is 18 years of age or younger in a classroom setting, a cafeteria, or another district-sanctioned school activity. This restriction does not prevent the student from attending a school-sponsored event that is open to the public as a member of the public. *Education Code 25.001(b-2)*

PETITIONS AND  
OBJECTIONS

The parent or person standing in parental relation to any student may by written petition either:

1. Request the assignment or transfer of the student to a designated school or to a school to be designated by the board; or
2. File objections to the assignment of the student to the school to which the student has been assigned.

*Education Code 25.033, 26.003(a)(1)*

PROCEDURE

Upon receiving a written petition, a board shall proceed as follows:

1. If no hearing is requested, act on the petition not later than the 30th day after the petition is submitted and notify the petitioner of its conclusion; or
2. If a hearing is requested, designate a time and place for holding a hearing not later than the 30th day after the petition is submitted.

If a hearing is requested, it shall be conducted by a board in compliance with the following:

1. The petitioner may present evidence relevant to the student.
2. The board may conduct investigations as to the objection or request, examine any student involved, and employ agents, professional or otherwise, for the purpose of examinations and investigations.

BOARD'S DECISION

The board must grant the request made in the petition unless the board determines that there is a reasonable basis for denying the request. The decision of a board, with or without a hearing, is final, unless the student, or the parent, guardian, or custodian of the student as next friend, files an exception to the decision as constituting a denial of any right of the student guaranteed under the U.S. Constitution.

If such an exception is filed, a board may reconsider its decision. If a board has not ruled on the exception before the 16th day after the date of the filing, the objection is considered overruled. If the

exception is overruled, an appeal of a board's decision may be filed in the district court of the county in which the board is located.

*Education Code 25.034*

STUDENTS WHO ARE  
VICTIMS OF BULLYING

On the request of a parent or other person with authority to act on behalf of a student who is a victim of bullying, a board or its designee shall transfer the victim to:

1. Another classroom at the campus to which the victim was assigned at the time the bullying occurred; or
2. A campus in the district other than the campus to which the victim was assigned at the time the bullying occurred.

STUDENTS WHO  
ENGAGE IN BULLYING

The board may transfer the student who engaged in bullying to:

1. Another classroom at the campus to which the victim was assigned at the time the bullying occurred; or
2. A campus in the district other than the campus to which the victim was assigned at the time the bullying occurred, in consultation with a parent or other person with authority to act on behalf of the student who engaged in bullying.

The transfer of a student with a disability who receives special education services and who engaged in bullying may be made only by a duly constituted ARD committee under Education Code 37.004.

DEFINITION

"Bullying" has the meaning assigned by Education Code 37.0832. [See FFI]

VERIFICATION

A board or designee shall verify that a student has been a victim of bullying before transferring the student. A board may consider past student behavior when identifying a bully.

The determination by a board or designee is final and may not be appealed. The procedures set forth at Education Code 25.034 [see PETITIONS AND OBJECTIONS, PROCEDURE, above] do not apply to a transfer under this provision.

A district is not required to provide transportation to a student who transfers to another campus under this provision.

*Education Code 25.0342*

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**Note:** For bullying rising to the level of prohibited harassment, see FFH. For all other bullying, see FFI.

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ADMISSIONS  
INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

FDB  
(LEGAL)

OTHERS IN SPECIAL  
EDUCATION  
STUDENT'S  
HOUSEHOLD

If a district assigns a student to a district campus other than the campus the student would attend based on the student's residence, for purposes of receiving special education services, the district shall permit the student's parent, guardian, or other person standing in parental relation to the student to obtain a transfer to the assigned campus for any other student residing in the household of the student receiving special education services, provided that:

1. The other student is entitled to attend school in the district [see FD]; and
2. The appropriate grade level for the other student is offered at the campus.

This provision does not apply if the student receiving special education services resides in a residential facility.

Education Code 25.034 [see PETITIONS AND OBJECTIONS, PROCEDURE, above] does not apply to a transfer under this provision.

TRANSPORTATION

A district is not required to provide transportation to a student who transfers to another campus under this provision. This provision does not affect any transportation services provided by a district in accordance with other law for the student receiving special education services.

*Education Code 25.0343*

STUDENTS IN  
UNACCEPTABLE  
SCHOOLS

A student is eligible to attend another public school in the district in which the student resides if the student is assigned to attend a public school campus:

1. At which 50 percent or more of the students did not perform satisfactorily on the state-mandated assessment in any two of the three preceding years; or
2. That failed to satisfy any standard under Education Code 39.054(e) at any time in the preceding three years. [See AIA]

*Education Code 29.202(a)* [See FDAA]

STUDENTS IN  
SCHOOLS IDENTIFIED  
FOR SUPPORT AND  
IMPROVEMENT

A district may provide all students enrolled in a school identified by TEA for comprehensive support and improvement under 20 U.S.C. 6311(c)(4)(D)(i) with the option to transfer to another public school served by the district, unless such an option is prohibited by state law.

A district shall give priority to the lowest achieving children from low-income families. A student who uses the option to transfer

shall be enrolled in classes and other activities in the public school to which the student transfers in the same manner as all other students at the public school.

A district shall permit a student who transfers to another school to remain in that school until the child has completed the highest grade in that school. A district may spend an amount equal to not more than five percent of its allocation under 20 U.S.C. Chapter 70, Part A, Subpart 2 (Title I basic program allocations) to pay for the provision of transportation for students who transfer under these provisions to the schools to which they transfer.

*20 U.S.C. 6311(d)(1)(D)*

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**Note:** See FDE for the school safety transfer option in Title I programs.

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CLASS CHANGES

A parent or person standing in parental relation is entitled to reasonable access to the school principal, or to a designated administrator with authority to reassign a student, to request a change in the class or teacher to which the parent's child has been assigned, if the reassignment or change would not affect the assignment or reassignment of another student. The decision of a board regarding such a request is final and may not be appealed. *Education Code 26.002, .003(a)(2), (b)* [See FNG]





HOMELESS CHILDREN As a condition of receiving funds under the McKinney-Vento Homeless Assistance Act (McKinney-Vento Act), a district serving homeless children shall, according to the child's best interest:

1. Continue the child's education in the school of origin for the duration of homelessness:
  - a. If the child's family becomes homeless between academic years or during an academic year; and
  - b. For the remainder of the academic year, if the child becomes permanently housed during an academic year; or
2. Enroll the child in any school that nonhomeless students who live in the attendance area in which the child is actually living are eligible to attend.

*42 U.S.C. 11432(g)(3)(A)* [For definition of "homeless children," see FD]

DEFINITIONS

"UNACCOMPANIED YOUTH"

"Unaccompanied youth" includes a homeless child or youth not in the physical custody of a parent or guardian. *42 U.S.C. 11434A*

"ENROLLMENT"

"Enroll" and "enrollment" include attending classes and participating fully in school activities.

"SCHOOL OF ORIGIN"

"School of origin" means the school that the child attended when permanently housed or the school in which the child was last enrolled, including a preschool.

When the child completes the final grade level served by the school of origin, the term "school of origin" shall include the designated receiving school at the next grade level for all feeder schools.

*42 U.S.C. 11432(g)(3)(I)*

SCHOOL STABILITY

In determining the best interest of a homeless child, a district shall:

1. Presume that keeping the child in the school of origin is in the child's best interest, except when doing so is contrary to the request of the child's parent or guardian, or (in the case of an unaccompanied youth) the youth;
2. Consider student-centered factors related to the child's best interest, including factors related to the impact of mobility on achievement, education, health, and safety of homeless children, giving priority to the request of the child's parent or guardian or the unaccompanied youth;

3. If, after conducting the best interest determination based on consideration of the presumption in item 1 above and the student-centered factors in item 2 above, the district determines that it is not in the child's best interest to attend the school of origin or the school requested by the parent or guardian or the unaccompanied youth, provide the parent, guardian, or unaccompanied youth with a written explanation of the reasons for its determination, in a manner and form understandable to such parent, guardian, or unaccompanied youth, including information regarding the right to appeal as set forth at ENROLLMENT DISPUTES below; and
4. In the case of an unaccompanied youth, ensure that the homeless liaison [see FFC] assists in placement and enrollment decisions under these provisions, gives priority to the views of such unaccompanied youth, and provides the notice to such youth of the right to appeal as set forth at ENROLLMENT DISPUTES below.

*42 U.S.C. 11432(g)(3)(B)*

CONTACT  
INFORMATION

A district may require the parent or guardian of a homeless child to submit contact information. *42 U.S.C. 11432(g)(3)(H)*

IMMEDIATE  
ENROLLMENT

The school selected in accordance with these provisions shall immediately enroll a homeless child, even if the child:

1. Is unable to produce records normally required for enrollment, such as previous academic record, records of immunization and other required health records, proof of residency, or other document; or
2. Has missed application or enrollment deadlines during any period of homelessness.

*42 U.S.C. 11432(g)(3)(C)*

ENROLLMENT  
DISPUTES

If a dispute arises over eligibility, or school selection or enrollment in a school:

1. The child shall be immediately enrolled in the school in which enrollment is sought, pending final resolution of the dispute, including all available appeals;
2. The parent or guardian of the child or an unaccompanied youth shall be provided with a written explanation of any decisions related to school selection or enrollment made by the district, including the rights of the parent, guardian, or unaccompanied youth to appeal such decisions.

3. The parent, guardian, or unaccompanied youth shall be referred to the homeless liaison [see FFC], who shall carry out the dispute resolution process as expeditiously as possible after receiving notice of the dispute; and
4. In the case of an unaccompanied youth, the liaison shall ensure that the youth is immediately enrolled in the school in which the youth seeks enrollment pending resolution of such dispute.

*42 U.S.C. 11432(g)(3)(E)* [See FNG]

SCHOOL PLACEMENT

As a condition of receiving funds under the McKinney-Vento Act, TEA shall submit to the U.S. Secretary of Education a plan that includes assurances that a district will adopt policies and practices to ensure that homeless children are not stigmatized or segregated on the basis of their status as homeless. *42 U.S.C. 11432(g)(1)(J)(i)*

The choice regarding placement shall be made regardless of whether the child lives with the homeless parents or has been temporarily placed elsewhere. *42 U.S.C. 11432(g)(3)(F)*

RECORDS

ACADEMIC

The enrolling school shall immediately contact the school last attended by the child to obtain relevant academic and other records. *42 U.S.C. 11432(g)(3)(C)(ii)*

HEALTH

If the child needs to obtain immunizations or other required health records, the enrolling school shall immediately refer the child's parent or guardian or an unaccompanied youth to the district homeless liaison [see FFC] who shall assist in obtaining necessary immunizations or screenings, or immunization or other required health records. [See also FFAB] *42 U.S.C. 11432(g)(3)(C)(iii)*

MAINTENANCE

Any record ordinarily kept by a school, including immunization or other required health records, academic records, birth certificates, guardianship records, and evaluation for special services or programs, regarding each homeless child shall be maintained so that the records involved are available, in a timely fashion, when a child enters a new school or district, and in a manner consistent with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g) [see FL]. *42 U.S.C. 11432(g)(3)(D)*

PRIVACY

Information about a homeless child's living situation shall be treated as a student education record, and shall not be deemed to be directory information under FERPA. [See FL] *42 U.S.C. 11432(g)(3)(G)*

ADMISSIONS  
HOMELESS STUDENTS

FDC  
(LEGAL)

COMPARABLE  
SERVICES

The district shall provide a homeless child with services that are comparable to services offered to other students in the school in which the child is enrolled, including:

1. Transportation services;
2. Educational services for which the child meets the eligibility criteria;
3. Programs in career and technical education;
4. Programs for gifted and talented students; and
5. School nutrition programs.

*42 U.S.C. 11432(g)(4)*

COORDINATION

A district serving homeless children shall coordinate:

1. The provision of services with local social services agencies and other agencies or entities providing services to homeless children and their families; and
2. Transportation, transfer of school records, and other interdistrict activities with other local educational agencies.

HOUSING  
ASSISTANCE

If applicable, a district shall coordinate with state and local housing agencies responsible for developing the comprehensive housing affordability strategy described in the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705), to minimize educational disruption for children who become homeless.

PURPOSE

The coordination shall be designed to:

1. Ensure that homeless children are promptly identified and have access to, and are in reasonable proximity to, available education and related support services; and
2. Raise the awareness of school personnel and service providers of the effects of short-term stays in a shelter and other challenges associated with homelessness.

HOMELESS  
CHILDREN WITH  
DISABILITIES

For children who are to be assisted both under the McKinney-Vento Act and under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), a district shall coordinate provision of services under the McKinney-Vento Act with the provision of programs for children with disabilities served by that district and other involved local educational agencies. [See EHBA series]

*42 U.S.C. 11432(g)(5)*

BARRIERS TO  
ENROLLMENT

A district shall review and revise any policies that may act as barriers to the identification or enrollment of homeless children. A district shall give consideration to issues concerning transportation, immunization, residency, birth certificates, school records and other documentation, and guardianship. A district shall give special attention to ensuring the identification, enrollment, and attendance of homeless children who are not currently attending school. 42 U.S.C. 11432(g)(7)

WEBSITE  
INFORMATION ON  
LOCAL PROGRAMS

Each campus within a district with 3,000 or more students and located in a county with a population of at least 50,000 that maintains an Internet website shall post on the campus website information regarding local programs and services, including charitable programs and services, available to assist homeless students.

A campus shall make a good faith effort to compile information and shall post the information compiled in a format and style that is easily understandable by students or parents, as appropriate based on the grade levels the campus offers.

A representative of a local program or service available to assist homeless students may request to have information concerning the program or service posted on a campus website. A campus may determine the information that is posted on its website and is not required to post information as requested by the representative.

The district is not liable for any harm to a student that results in connection with a local program or service referred to on the website of a campus.

*Education Code 33.906*

Other Related Policies:

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AID — FEDERAL ACCOUNTABILITY STANDARDS

CNA — STUDENT TRANSPORTATION

EHBD — FEDERAL TITLE I PROGRAMS

FB — EQUAL EDUCATIONAL OPPORTUNITIES

FD — ADMISSIONS

FFAB — IMMUNIZATIONS

FFC — STUDENT SUPPORT SERVICES

FL — STUDENT RECORDS

FP — STUDENT FEES, FINES, AND CHARGES

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ADMISSIONS  
HOMELESS STUDENTS

FDC  
(LOCAL)

LIAISON FOR  
HOMELESS  
STUDENTS

The Superintendent shall designate an appropriate staff person as the District liaison for students who are homeless. [See FFC]

The liaison shall receive and provide to appropriate staff members professional development regarding services required by law to identify and meet the needs of students who are homeless. In addition, the liaison shall regularly review with campus admissions personnel the laws and administrative procedures applicable to students who are homeless.

ADMISSIONS

The District shall not stigmatize or segregate a student who is homeless.

The principal and campus admissions staff shall notify the liaison for homeless students within one school day of admission of a student who is homeless.

ENROLLMENT IN  
SCHOOL OF ORIGIN

In determining the best interest of the student for the purpose of continuing the student's education in the school of origin, as defined by law, the District shall presume that keeping the student in his or her school of origin is in the student's best interest, except when doing so is contrary to the request of the parent, guardian, or unaccompanied youth. The District shall also consider the best interests of the student with regard to the impact of moving schools on the student's achievement, education, health, and safety, including such relevant factors as:

1. Continuity of instruction;
2. Age and grade placement of the student;
3. Distance of the commute and its impact on the student's education or special needs;
4. Personal safety of the student;
5. The student's eligibility and need for any specialized services and supports, such as Section 504, special education and related services, or bilingual or English as a second language services;
6. Length of anticipated stay in a temporary shelter or other temporary location, if applicable;
7. Likely area of the family's or youth's future housing;
8. Time remaining in the school year; and
9. School placement of siblings.

Services, including transportation, that the District is required to provide shall not be considered in determining the student's school of attendance.

CONTINUATION OF  
TRANSPORTATION

The District shall provide transportation to a student who is homeless to and from the school of origin, as provided by law. If such a student ceases to be homeless and if requested by the parent, guardian, or unaccompanied youth, the District shall continue to provide transportation to and from the school of origin through the end of the school year. [See CNA]

DISPUTE RESOLUTION  
PROCESS

If the District determines that it is not in the student's best interest to attend the school of origin or the requested school, the District shall provide a written explanation, in a manner and form that is understandable to the parent, guardian, or unaccompanied youth, of the reasons for the decision, including the right to appeal.

If the student, parent, or guardian has a complaint about eligibility, school selection, or enrollment decisions made by the District, that person shall use the complaint resolution procedures set out in FNG(LOCAL), beginning at Level Two. The District shall expedite local timelines in the District's complaint process, when possible, for prompt dispute resolution.

Pending final resolution of the dispute, the District shall immediately enroll the homeless student in the school in which enrollment is sought and permit the student to attend classes, receive the requested services, and participate fully in school activities.

When the principal becomes aware of a complaint, he or she shall notify the liaison for homeless students within one school day. At all times during the dispute resolution process, the liaison for homeless students or designee shall accompany and assist the student, parent, or guardian.

[See FNG(LOCAL) for all other complaints.]



SCHOOL SAFETY  
CHOICE OPTION

TEA shall establish and implement a statewide policy requiring that a student be allowed to attend a safe public elementary or secondary school within a district, including a public charter school, if the student:

1. Attends a persistently dangerous public elementary or secondary school, as determined by TEA; or
2. Becomes a victim of a violent criminal offense, as determined by state law, while in or on the grounds of the public elementary or secondary school that the student attends.

*20 U.S.C. 7912*

SEXUAL ASSAULT  
TRANSFER

These provisions apply to:

1. A student (the "assailant"):
  - a. Who has been convicted of continuous sexual abuse of a young child or children, convicted of or placed on deferred adjudication for sexual assault or aggravated sexual assault committed against another student who, at the time the offense occurred, was assigned to the same campus as the student convicted or placed on deferred adjudication (the "conduct");
  - b. Who has been adjudicated under Family Code 53.03 for engaging in the conduct;
  - c. Whose prosecution under Family Code 53.03 for engaging in the conduct has been deferred; or
  - d. Who has been placed on probation under Family Code 54.04(d)(1) for engaging in the conduct; and
2. A student who is the victim of the conduct (the "victim").

These provisions apply regardless of whether the conduct occurred on or off of school property.

TRANSFER OF  
VICTIM

On the request of a parent or other person with authority to act on behalf of the victim of the conduct, a board shall transfer the victim to:

1. A district campus other than the campus to which:
  - a. The victim was assigned at the time the conduct occurred; or
  - b. The assailant is assigned, if the assailant has been assigned to a different campus since the conduct occurred; or

2. A neighboring school district, if there is only one campus in the district serving the grade level in which the victim is enrolled.

The transfer must be to a campus or school district, as applicable, agreeable to the parent or other person with authority to act on the victim's behalf.

TRANSFER OF  
ASSAILANT

If the victim does not wish to transfer to another campus or district, a board shall transfer the assailant to:

1. A district campus other than the campus to which the victim is assigned; or
2. A district's disciplinary alternative education program or juvenile justice alternative education program, if there is only one campus in the district serving the grade level in which the assailant is enrolled. [See FOC]

To the extent permitted under federal law [see FL], a district shall notify the parent or other person with authority to act on behalf of the victim of the campus or program to which the assailant is assigned.

Education Code 25.034 [see FDB] does not apply to a transfer under this provision.

A district is not required to provide transportation to a student who transfers to another campus or district under this provision.

*Education Code 25.0341*

STUDENT WELFARE  
STUDENT SUPPORT SERVICES

FFC  
(LEGAL)

LIAISON FOR COURT-RELATED STUDENTS

A district shall appoint at least one educator, as defined by Education Code 5.001(5), to act as a liaison officer for court-related students. The liaison officer shall provide counseling and other services for court-related students and their parents to establish or reestablish normal attendance and progress in school. *Education Code 37.014*

LIAISON FOR HOMELESS STUDENTS

As a condition of receiving funds under the McKinney-Vento Homeless Assistance Act (McKinney-Vento Act), a district shall designate an appropriate staff person, able to carry out the required duties, as the district liaison for homeless children. A district will adopt policies and practices to ensure participation by the liaison in professional development and other technical assistance activities provided and approved by the statewide coordinator for education of homeless children and youths. *42 U.S.C. 11432(g)(1)(J)*

NOTICE

A district shall inform school personnel, service providers, and advocates working with homeless families, parents and guardians of homeless children, and homeless children of the duties of the liaison. [See FD for definition of "homeless children."]

DUTIES

The liaison shall ensure that:

1. Homeless children are identified by school personnel and through outreach and coordination activities with other entities and agencies;
2. Homeless children are enrolled in, and have a full and equal opportunity to succeed in, district schools;
3. Homeless families and homeless children have access to and receive educational services for which they are eligible, including services through Head Start programs (including Early Head Start programs) under the Head Start Act, early intervention services under Part C of the Individuals with Disabilities Education Act, and other district preschool programs;
4. Homeless families and homeless children receive referrals to health care, dental, mental health and substance abuse, housing, and other appropriate services;
5. The parents or guardians of homeless children are informed of the available educational and related opportunities and are provided meaningful opportunities to participate in the education of their children;
6. Public notice of the educational rights of homeless children is disseminated in locations frequented by parents or guardians of such children, and unaccompanied youths, including schools, shelters, public libraries, and soup kitchens, in a

manner and form understandable to the parents and guardians of homeless children, and unaccompanied youths;

7. Enrollment disputes are mediated;
8. The parent or guardian of a homeless child, and any unaccompanied youth, are fully informed of all transportation services, including transportation to the school of origin, and are assisted in accessing transportation to the school of enrollment;
9. School personnel providing services under the McKinney-Vento Act receive professional development and other support; and
10. Unaccompanied youths:
  - a. Are enrolled in school;
  - b. Have opportunities to meet the same challenging state academic standards as the state establishes for other children; and
  - c. Are informed of their status as independent students under section 480 of the Higher Education Act of 1965 and that the youths may obtain assistance from the liaison to receive verification of such status for purposes of the Free Application for Federal Student Aid.

*42 U.S.C. 11432(g)(6)(A), (B)*

DETERMINATION OF  
HOMELESS STATUS

A liaison who receives training under 42 U.S.C. 11432(F)(6) may affirm, without further action by the Department of Housing and Urban Development, that a child who is eligible for and participating in a district program, or the immediate family of such a child, who meets the eligibility requirements of the McKinney-Vento Act for an authorized program or service under Title IV of the Act, is eligible for such program or service. *42 U.S.C. 11432(g)(6)(D)*

LIAISON FOR  
CHILDREN IN  
CONSERVATORSHIP  
OF THE STATE

Each district shall appoint at least one employee to act as a liaison officer to facilitate the enrollment in or transfer to a public school of a child in the district who is in the conservatorship of the state and submit the liaison's name and contact information to TEA in a format and under the schedule determined by the commissioner of education.

TEA shall provide information to the liaisons on practices for facilitating the enrollment in or transfer to a public school of children who are in the conservatorship of the state.

*Education Code 33.904*

STUDENT WELFARE  
STUDENT SUPPORT SERVICES

FFC  
(LEGAL)

CHILD WELFARE  
CONTACT

A district receiving Title 1, Part A funds must collaborate with the state or local child welfare agency to designate a point of contact if the child welfare agency notifies the district, in writing, that the agency has designated an employee to serve as a point of contact for the district. *20 U.S.C. 6312(c)(5)(A)*

SCHOOL-COMMUNITY  
GUIDANCE CENTER

A district may establish a school-community guidance center designed to locate and assist children with problems that interfere with their education, including juvenile offenders and children with severe behavioral problems or character disorders.

Each center shall coordinate efforts of district personnel, local police departments, school attendance officers, and probation officers in working with students, dropouts, and parents in identifying and correcting factors that adversely affect the education of the children.

*Education Code 37.051*

Upon request from a superintendent, a governmental agency concerned with children that has jurisdiction in a district shall cooperate with the school-community guidance center and shall designate a liaison to work with the center in identifying and correcting problems affecting school-age children in the district. The governmental agency may establish or finance a school-community guidance center jointly with a district according to terms approved by the governing body of each participating entity. *Education Code 37.053*

COOPERATIVE  
PROGRAMS

A board may develop cooperative programs with state youth agencies for children found to have engaged in delinquent conduct. *Education Code 37.052*

PARENTAL NOTICE  
AND ACCESS TO  
INFORMATION

Before a student is admitted to a school-community guidance center, the administrator of the center shall notify the student's parent or guardian that the student has been assigned to attend the center.

The notice must include:

1. The reason the student has been assigned to the center;
2. A statement that on request the parent or guardian is entitled to be fully informed in writing of any treatment method or testing program involving the student; and
3. A statement that the parent or guardian may request to be advised and to give written, signed consent for any psychological testing or treatment involving the student.

If after notification, the parent refuses to consent to testing or treatment of the student, the center may not provide any further psychological treatment or testing.

A parent or guardian of a student attending a center is entitled to inspect:

1. Any instructional or guidance material to be used by the student, including teachers' manuals, tapes, and films; and
2. The results of any treatment, testing, or guidance method involving the student.

The administrator of the center may set a schedule for inspection of materials that allows reasonable access but does not interfere with the conduct of classes or business activities of the school.

*Education Code 37.054*

PARENTAL  
INVOLVEMENT

On admitting a student to a school-community guidance center, a representative of a district, the student, and the student's parent or legal guardian shall develop an agreement that specifies the responsibilities of the parent and the student. The agreement must include:

1. A statement of the student's behavioral and learning objectives;
2. A requirement that the parent attend specified meetings and conferences for teacher review of the student's progress; and
3. The parent's acknowledgement that the parent understands and accepts the responsibilities imposed by the agreement regarding attendance at meetings and conferences and assistance in meeting objectives, defined by the district, to aid student remediation.

A superintendent may obtain a court order from a district court in the district requiring a parent to comply with such an agreement. A parent who violates such a court order may be punished for contempt of court.

COURT  
SUPERVISION

If a district, the student, and the parent or guardian for any reason fail to reach an agreement, any party may request the juvenile court or its designee to conduct a hearing and enter an order establishing the responsibilities and duties of each of the parties as the court deems appropriate.

*Education Code 37.055-.056*

STUDENT RECORDS

FL  
(LEGAL)

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

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**SECTION I: EDUCATION RECORDS**

**“EDUCATION  
RECORDS” DEFINED**

For the purposes of this policy, the term “education records” means those records, files, documents, and other materials that contain information directly related to a student and are maintained by an education agency or institution or by a person acting for such agency or institution.

The term “education records” does not include:

1. Records that are created or received by a district after an individual is no longer a student in attendance and that are not directly related to the individual’s attendance as a student.
2. Records made by district personnel that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to anyone other than a temporary substitute for the maker of the record.
3. Records maintained by a law enforcement unit of a district that were created by that law enforcement unit for the purpose of law enforcement.
4. Records on a student who is 18 years of age or older, or who is attending an institution of postsecondary education, that are:
  - a. Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;
  - b. Made, maintained, or used only in connection with treatment of the student; and
  - c. Disclosed only to individuals providing the treatment. For the purpose of this definition, “treatment” does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.
5. Grades on peer-graded papers before they are collected and recorded by a teacher.

*20 U.S.C. 1232g; 34 C.F.R. 99.3*

**SCREENING  
RECORDS**

The principal of each school shall maintain records of screening for special senses and communication disorders, spinal screening, and assessment for type 2 diabetes for each student in the school. Records shall be open for inspection by the state or local health department. The Texas-Mexico Border Health Coordination Office



STUDENT RECORDS

FL  
(LEGAL)

may, directly or through local health departments, enter a school and inspect records relating to assessment for type 2 diabetes. Individual screening records may be transferred among schools in accordance with provisions below concerning ACCESS BY OTHER PERSONS. *20 U.S.C. 1232g; Health and Safety Code 36.006, 37.003, 95.004; 25 TAC 37.148(o)* [See FFAA]

IMMUNIZATION RECORDS

A district shall maintain an individual immunization record during the period of attendance for each student admitted. The records shall be open for inspection at all reasonable times by the Texas Education Agency or by representatives of local health departments or the Texas Department of State Health Services. A district shall cooperate with other districts in transferring students' immunization records between other schools. Specific approval from students, parents, or guardians is not required prior to making such record transfers. *Education Code 38.002* [See FFAB]

MEDICAL RECORDS

The parent or guardian of a student is entitled to access to the student's medical records maintained by a district. On request of a student's parent or guardian, a district shall provide a copy of the student's medical records to the parent or guardian. A district may not impose a charge that exceeds the amount authorized by Section 552.261 of the Government Code [see GBAA]. *Education Code 38.0095*

PRIVACY RULE FOR NON-"EDUCATION RECORDS"

To the extent a district is a covered entity under the Health Insurance Portability and Accountability Act (HIPAA), the district must comply with the Privacy Rule, 45 C.F.R. Part 164, with respect to protected health information that is not an education record. *45 C.F.R. 160.103, 164.501* [See CRD]

FOOD ALLERGY INFORMATION

Information regarding a child's food allergy, regardless of how it is received by the school or school district, shall be retained in the child's student records but may not be placed in the health record maintained for the child by the district.

EXCEPTIONS

If the school receives documentation of a food allergy from a physician, that documentation shall be placed in the health record maintained for the child by the district.

A registered nurse may enter appropriate notes about a child's possible food allergy in the health record maintained for the child by the district, including a notation that the child's student records indicate that a parent has notified the district of the child's possible food allergy.

*Education Code 25.0022(d)-(f)*

STUDENT RECORDS

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(LEGAL)

ASSESSMENT  
INSTRUMENTS

The results of individual student performance on basic skills assessment instruments or other achievement tests administered by a district are confidential and may be made available only to the student, the student's parent or guardian, and to the school personnel directly involved with the student's educational program. However, overall student performance data shall be aggregated by ethnicity, sex, grade level, subject area, campus, and district, and made available to the public, with appropriate interpretations, at regularly scheduled board meetings. The information may not contain the names of individual students or teachers. *Education Code 39.030(b)* [See EKB]

ACADEMIC  
ACHIEVEMENT  
RECORD  
(GRADES 9–12)

Following guidelines developed by the commissioner of education, a district shall use an academic achievement record (transcript) form that includes student demographics, school data, student data, and the record of courses and credits earned. The academic achievement record (transcript) shall serve as the academic record for each student and shall be maintained permanently by the district. Copies of the record shall be made available to students transferring to another district. A district shall respond promptly to all requests for student records from receiving districts. *19 TAC 74.5(b)* [See EI]

ENROLLMENT  
RECORDS

If a parent or other person with legal control of a child enrolls the child in a district school, the parent or other person, or the school district in which the child most recently attended school, shall furnish to the district all of the following:

1. The child's birth certificate, or another document suitable as proof of the child's identity as defined by the commissioner in the *Student Attendance Accounting Handbook*.
2. A copy of the child's records from the school the child most recently attended if he or she was previously enrolled in a school in Texas or in another state.

*Education Code 25.002(a)*

A district must furnish information under items 1 and 2 not later than the tenth working day after the date the district receives a request for the information.

If a parent or other person with legal control of a child under a court order requests that a district transfer a child's student records, the district to which the request is made shall notify the parent or other person as soon as practicable that the parent or other person may request and receive an unofficial copy of the records for delivery in person to a school in another district.

*Education Code 25.002(a-1)* [See FD]

**SECTION II: ACCESS, DISCLOSURE, AND AMENDMENT**

ACCESS TO  
EDUCATION RECORDS  
DEFINITIONS

“ATTENDANCE”

“Attendance” includes, but is not limited to:

1. Attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and
2. The period during which a person is working under a work-study program.

“DISCLOSURE”

“Disclosure” means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

“PARENT”

“Parent” includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

“PERSONALLY  
IDENTIFIABLE  
INFORMATION”

“Personally identifiable information” includes, but is not limited to:

1. The student’s name;
2. The name of the student’s parent or other family members;
3. The address of the student or student’s family;
4. A personal identifier, such as the student’s biometric record, defined as a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual (e.g., fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting); social security number; or student number;
5. Other indirect identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name;
6. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
7. Information requested by a person who the district reasonably believes knows the identity of the student to whom the education record relates.

“RECORD”

“Record” means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

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(LEGAL)

“AUTHORIZED  
REPRESENTATIVE”

“Authorized representative” means any entity or individual designated by a state or local educational authority or an agency headed by an official listed in 34 C.F.R. 99.31(a)(3) to conduct—with respect to federal- or state-supported education programs—any audit, evaluation, or any compliance or enforcement activity in connection with federal legal requirements that relate to these programs.

“EDUCATION  
PROGRAM”

“Education program” means any program that is principally engaged in the provision of education, including, but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, and adult education, and any program that is administered by an educational agency or institution.

*34 C.F.R. 99.3*

“SIGNED AND  
DATED WRITTEN  
CONSENT”

“Signed and dated written consent” may include a record and signature in electronic form that:

1. Identifies and authenticates a particular person as the source of the electronic consent; and
2. Indicates such person’s approval of the information contained in the electronic consent.

*34 C.F.R. 99.30(d)*

ACCESS BY  
PARENTS

Access to the education records of a student who is or has been in attendance at a school in a district shall be granted to the parent of the student who is a minor or who is a dependent for tax purposes.  
*34 C.F.R. 99.10, .31(a)(8)*

A district shall presume that a parent has authority to inspect and review the student’s records unless it has been provided with evidence that there is a court order, state statute, or legally binding document that specifically revokes these rights. A court may order the custodian of records to delete all references in a child’s records to the place of residence of either party appointed as conservator before their release to another party appointed as conservator.  
*34 C.F.R. 99.4; Family Code 153.012, .073*

A parent is entitled to access to all written records of a district concerning the parent’s child, including attendance records, test scores, grades, disciplinary records, counseling records, psychological records, applications for admission, health and immunization information, teacher and school counselor evaluations, and reports of behavioral patterns. *Education Code 26.004*

STUDENT RECORDS

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(LEGAL)

ACCESS BY  
STUDENT

Whenever a student has attained 18 years of age or is attending an institution of postsecondary education, the rights accorded to, and consent required of, parents transfer from the parents to the student.

Nothing in this section prevents a district from disclosing education records, or personally identifiable information from education records, to a parent without prior written consent of an eligible student if the disclosure meets the conditions in 34 C.F.R. 99.31(a), including if the student is a dependent for tax purposes or in the case of a health or safety emergency.

*34 C.F.R. 99.5*

If material in the education record of a student includes information on another student, only the portion of the material relating to the student whose records were requested may be inspected and reviewed. *34 C.F.R. 99.12(a)*

ACCESS BY OTHER  
PERSONS

Personally identifiable information in education records shall not be released without the written consent of the student's parents, except to the following:

SCHOOL  
OFFICIALS

1. School officials, including teachers, who have legitimate educational interests. An administrator, nurse, or teacher is entitled to access to a student's medical records maintained by a district for reasons determined in district policy.

A contractor, consultant, volunteer, or other party to whom a district has outsourced institutional services or functions may be considered a school official under this paragraph provided that the outside party:

- a. Performs an institutional service or function for which the district would otherwise use employees;
- b. Is under the direct control of the district with respect to the use and maintenance of education records; and
- c. Is subject to the requirements of 34 C.F.R. 99.33(a) governing the use and redisclosure of personally identifiable information from education records.

A district must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests. A district that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it remains in

STUDENT RECORDS

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(LEGAL)

compliance with the legitimate educational interest requirement.

*34 C.F.R. 99.31, .36; Education Code 38.009*

OFFICIALS OF  
OTHER SCHOOLS

2. Officials of other schools or school systems in which the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer, provided that a district either:
  - a. Includes in its policies a statement that notifies the parent or student that it forwards education records on request of the other school to such officials; or
  - b. Makes a reasonable attempt to notify the parent (unless the record transfer is initiated by the parent).

In either case, a district shall furnish a copy of the transferred records to the parent if requested and shall give the parent an opportunity for a hearing to challenge the content of the record.

*34 C.F.R. 99.34*

AUTHORIZED  
GOVERNMENTAL  
REPRESENTATIVES

3. Authorized representatives of the officials or agencies headed by the Comptroller General of the United States, the Attorney General of the United States, the Secretary of Education, or state and local educational authorities who require access to student or other records necessary in connection with the audit and evaluation of federal- or state-supported education programs or in connection with the enforcement of or compliance with federal legal requirements that relate to such programs. *34 C.F.R. 99.35*

A district may not refuse to report information concerning a student holding an F, J, or M visa on the basis of the Family Educational Rights and Privacy Act (FERPA) and any regulation implementing FERPA. A district is authorized and required to report information that would ordinarily be protected by FERPA only to the extent required by 8 U.S.C. 1372, 8 C.F.R. 214.3, or any corresponding regulation. *8 U.S.C. 1372(c)(2); 8 C.F.R. 214.1(h)*

FINANCIAL AID  
PERSONNEL

4. Personnel involved with a student's application for, or receipt of, financial aid.

JUVENILE  
JUSTICE  
OFFICIALS

5. State and local officials to whom such information is specifically allowed to be reported or disclosed by state statute if:

- a. The allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve, prior to adjudication, the student whose records are released; and
- b. The officials and authorities to whom such information is disclosed certify in writing to the district that the information will not be disclosed to any other party except as provided under state law without the prior written consent of the parent of the student.

A school district superintendent or the superintendent's designee shall disclose information contained in a student's educational records to a juvenile service provider as required by Family Code 58.0051 [see GRAC].

*Education Code 37.084(a)*

ORGANIZATIONS  
CONDUCTING  
STUDIES

6. Organizations conducting studies for, or on behalf of, districts for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction. Such studies must be conducted so that personal identification of students and their parents will not be revealed to persons other than authorized personnel of the organizations conducting the studies who have legitimate interests in the information. Such information must be destroyed when no longer needed for the original purposes of the studies.

The district must enter into a written agreement with the organization that:

- a. Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
- b. Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;
- c. Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in this part, by anyone other than representatives of the organization with legitimate interests; and
- d. Requires the organization to destroy all personally identifiable information when the information is no longer needed for the purposes for which the study was con-

ducted and specifies the time period in which the information must be destroyed.

A district that enters into an agreement with an organization conducting a study may redisclose personally identifiable information from education records on behalf of educational agencies and institutions that disclosed the information to the district in accordance with the requirements of 34 C.F.R. 99.33(b).

A district is not required to initiate a study or agree with or endorse the conclusions or results of the study.

ACCREDITING  
ORGANIZATIONS

7. Accrediting organizations that require the information for purposes of accreditation.

HEALTH OR  
SAFETY  
EMERGENCY

8. Appropriate persons, including the student's parents, who, in an emergency, must have such information in order to protect the health or safety of the student or other person.

In making a determination, a district may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If the district determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. If, based on the information available at the time of the determination, there is a rational basis for the determination, the U.S. Department of Education (DOE) will not substitute its judgment for that of the district in evaluating the circumstances and making its determination.

*34 C.F.R. 99.36*

SECRETARY OF  
AGRICULTURE

9. The Secretary of Agriculture, or authorized representative from the Food and Nutrition Service, for the purposes of conducting program monitoring, evaluations, and performance measurements of districts receiving funding or providing benefits of programs authorized under the National School Lunch Act or the Child Nutrition Act. *20 U.S.C. 1232g(b)(1)(K)*

STATE OR LOCAL  
CHILD WELFARE  
AGENCY

10. An agency caseworker or other representative of a state or local child welfare agency who has the right to access a student's case plan when the agency is legally responsible, in accordance with state law, for the care and protection of the student. Records of the student shall not be disclosed by the agency, except to an individual or entity engaged in addressing the student's education needs and authorized by the



agency to receive the disclosure. Any subsequent disclosure must be consistent with state laws applicable to protecting the confidentiality of a student's education records. *20 U.S.C. 1232g(b)(1)(L)*

DIRECTORY  
INFORMATION

11. Any person requesting directory information after a district has given public notice of that definition. *34 C.F.R. 99.37*

*20 U.S.C. 1232g(b); 34 C.F.R. 99.31*

WRITTEN  
CONSENT

The parent shall provide a signed and dated written consent before a district discloses personally identifiable information from a student's education records to any individual, agency, or organization other than the parent, the student, or those listed above. Such consent shall specify records to be released, the reason for such release, and to whom the records are to be released. *34 C.F.R. 99.30*

INFORMATION  
COLLECTION

U.S. DOE-FUNDED  
SURVEYS

No student shall be required, as part of any program funded in whole or in part by the U.S. DOE, to submit to a survey, analysis, or evaluation that reveals information concerning the following topics without the prior consent of the student (if the student is an adult or emancipated minor), or, in the case of an unemancipated minor, without the prior written consent of the parent:

1. Political affiliations or beliefs of the student or the student's parents.
2. Mental and psychological problems of the student or the student's family.
3. Sex behavior and attitudes.
4. Illegal, anti-social, self-incriminating, and demeaning behavior.
5. Critical appraisals of other individuals with whom students have close family relationships.
6. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.
7. Religious practices, affiliations, or beliefs of the student or student's parent.
8. Income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program.

*20 U.S.C. 1232h(b)*

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(LEGAL)

INFORMATION COLLECTION FUNDED BY OTHER SOURCES	Except as provided by 20 U.S.C. 1232h(a) or (b), as a condition of receiving funds from programs funded in whole or in part by the U.S. DOE, a district shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), and provide for parent notification in accordance with 20 U.S.C. 1232h(c)(2). <i>20 U.S.C. 1232h(c)(1)–(4)</i> [See EF]
SUBPOENAED RECORDS	A district shall release student records to an entity or persons designated in a subpoena. A district shall not disclose to any person the existence or contents of the subpoena if a court orders the district to refrain from such disclosure. Unless the court or other issuing agency orders the district to refrain from such disclosure or the order is an ex parte court order obtained by the U.S. Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331, the district shall make a reasonable effort to notify the parents and the student of all such subpoenas in advance of compliance, except when a parent is a party to a court proceeding involving child abuse and neglect or dependency matters, and the order is issued in the context of that proceeding. <i>20 U.S.C. 1232g(b)(1)(J), (b)(2)(B); 34 C.F.R. 99.31(a)(9)</i>
SEX OFFENDERS	A district may disclose personally identifiable information without consent if the disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to the district under 42 U.S.C. 14071 and applicable federal guidelines. <i>34 C.F.R. 99.31(a)(16)</i>
REQUEST PROCEDURE	Upon request of a properly qualified individual, access to a student's education record shall be granted within a reasonable period of time, not to exceed 45 days. A district shall respond to reasonable requests for explanations and interpretations of the records. <i>34 C.F.R. 99.10</i>
DESTRUCTION OF RECORDS	A district shall not destroy any education records if there is an outstanding request to inspect and review the records. <i>34 C.F.R. 99.10(e)</i>
DE-IDENTIFIED RECORDS	A district, or a party that has received education records or information from education records, may release the records or information without the parent's written consent after the removal of all personally identifiable information provided that the district or other party has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information.

STUDENT RECORDS

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EDUCATION  
RESEARCH

A district, or a party that has received education records or information from education records, may release de-identified student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that:

1. A district or other party that releases de-identified data under this section does not disclose any information about how it generates and assigns a record code, or that would allow a recipient to identify a student based on a record code;
2. The record code is used for no purpose other than identifying a de-identified record for purposes of education research and cannot be used to ascertain personally identifiable information about a student; and
3. The record code is not based on a student's social security number or other personal information.

AUTHENTICATING  
REQUESTORS'  
IDENTITIES

A district must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom the district discloses personally identifiable information from education records.

*34 C.F.R. 99.31(b)–(c)*

TRANSFER NOT  
PERMITTED

Personal information from student education records shall be transferred to a third party only on the condition that such party will not permit any other party to have access to such information without the written consent of the student's parent. If a third party permits access to information in violation of this policy, a district shall not permit access to information from education records to that third party for a period of not less than five years. *20 U.S.C. 1232g(b)(4)(B); 34 C.F.R. 99.33(a)(1)*

A district shall inform a party to whom a disclosure is made of the requirements of 34 C.F.R. 99.33, unless the disclosure is made pursuant to a court order, lawfully issued subpoena, or litigation; the disclosed information is directory information; the disclosure concerns sex offenders; or the disclosure is made to a parent of a student who is not an eligible student or to a student. *34 C.F.R. 99.33(c)–(d)*

A district may disclose personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of the district if:

1. The disclosures meet the requirements of 34 C.F.R. 99.31; and

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2. The district has complied with the requirements of 34 C.F.R. 99.32(b) regarding the record of disclosure; or a state or local educational authority or federal official or agency listed requesting information through a subpoena or ex parte order has complied with the requirements of 34 C.F.R. 99.32(b)(2).

*34 C.F.R. 99.33(b)*

RECORD OF ACCESS  
TO STUDENT  
RECORDS

Each school shall maintain a record, kept with the education record of each student that indicates all individuals, agencies, or organizations that have requested or obtained access to a student's education records, as well as the names of state and local educational authorities and federal officials and agencies listed in 34 C.F.R. 99.31(a)(3) that may make further disclosures of personally identifiable information from the student's education records without consent. A district must obtain a copy of the record of further disclosures maintained by the named authorities, officials, and agencies under 34 C.F.R. 99.32(b)(2) and make it available in response to a parent's request to review the record.

A district must record the following information when it discloses personally identifiable information from education records under the health or safety emergency exception [see HEALTH OR SAFETY EMERGENCY, above]:

1. The articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and
2. The parties to whom the district disclosed the information.

*34 C.F.R. 99.32*

The records shall include at least the name of the person or agency that made the request and the legitimate interest the person or agency had in the information. The record will be maintained as long as the district maintains the student's education record. The record of access shall be available only to parents, school officials responsible for custody of the records, and those state, local, and federal officials authorized to audit the operation of the system.

*20 U.S.C. 1232g(b)(4)(A)*

The record shall not include requests for access by, or access granted to, parents of the student or officials of a district, requests accompanied by prior written consent of the parent, requests for directory information, or a party seeking or receiving records in accordance with a subpoena or ex parte order. *34 C.F.R. 99.32(d)*

RIGHT TO AMEND  
RECORDS

The parent of a student whose records are covered by this policy may ask a district to amend the student's record if the parent be-

believes it contains information that is inaccurate, misleading, or in violation of the student's right of privacy or other rights. If a district decides not to amend the education records requested, it shall inform the parent of its decision and his or her right to a hearing to challenge the content of the student's education records.

If a district decides to amend the records as a result of the hearing, it shall inform the parent in writing. If, as a result of the hearing, the district decides not to amend the records, it shall inform the parent of the right to place a statement in the records commenting on the contested information and/or stating why the parent disagrees with the decision of the district. Any explanation shall be maintained with the contested part of the record for as long as the record is maintained and shall be disclosed whenever the contested portion of the record is disclosed.

*34 C.F.R. 99.20-.21*

FEES FOR COPIES

No fee shall be charged to search for or to retrieve the education records of a student. A fee may be charged for copies of education records that are made for the parents or students under this policy provided that the fee does not effectively prevent them from exercising their right to inspect and review those records. Hardship cases shall be dealt with on an individual basis. *20 U.S.C. 1232g; 34 C.F.R. 99.11; Education Code 26.012*

RECORDS OF  
STUDENTS WITH  
DISABILITIES

A district shall permit parents to inspect and review education records collected, maintained, or used for purposes of identifying, evaluating, placing, or educating students with disabilities. *34 C.F.R. 300.613(a)*

ACCESS RIGHTS

In addition to policies applicable to all student records, the following guidelines shall apply when parents of a student with disabilities request to review or inspect district records relating to the education of their child:

1. Parents may request that a representative inspect and review the records. *34 C.F.R. 300.613(b)(3)*
2. A district shall comply with a request without unnecessary delay and before any meeting regarding an individualized education program (IEP) or hearing relating to the identification, evaluation, or placement of the child, and in no case longer than 45 days after the request. *34 C.F.R. 300.613(a)*
3. A district shall keep a record of persons obtaining access to these student records (except access by parents and authorized employees), including name, date of access, and the purpose for which the person is authorized to use the records. *34 C.F.R. 300.614*

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LIST OF TYPES AND LOCATIONS OF INFORMATION	A district shall provide parents on request a list of types and locations of education records. <i>34 C.F.R. 300.616</i>
PARENTAL CONSENT	Parental consent must be obtained before personally identifiable information is used for any purpose other than meeting a requirement under the Individuals with Disabilities Education Act or disclosed to anyone other than officials of agencies collecting or using this information. A district may not release information from these records without parental consent except as provided in FERPA. <i>34 C.F.R. 300.622</i>
CONFIDENTIALITY	A district shall protect the confidentiality of personally identifiable information in collection, storage, disclosure, and destruction of records. One official in a district shall assume responsibility for ensuring confidentiality of personally identifiable information. All persons collecting or using this information shall receive training or instruction concerning the legal requirements involved in handling these records. A district shall maintain for public inspection a current listing of the names and positions of employees who may have access to this information. <i>34 C.F.R. 300.623</i>
DESTRUCTION OF INFORMATION	<p>A district shall inform parents when personally identifiable information collected, maintained, or used to provide special education and related services is no longer needed to provide educational services to the student. Such information shall be destroyed at the request of the parents.</p> <p>A permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.</p> <p><i>34 C.F.R. 300.624</i></p>
ANNUAL NOTIFICATION OF RIGHTS	<p>A district shall give parents of students in attendance and eligible students in attendance annual notification of their rights under FERPA.</p> <p>The notice must inform parents or eligible students that they have the right to:</p> <ol style="list-style-type: none"><li>1. Inspect and review the student's education records;</li><li>2. Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;</li><li>3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the ex-</li></ol>

tent that the Act and 34 C.F.R. 99.31 authorize disclosure without consent; and

4. File with the U.S. DOE a complaint under 34 C.F.R. 99.63 and 99.64 concerning alleged failures by the district to comply with the requirements of the Act and 34 C.F.R. part 99.

The notice must include all of the following:

1. The procedure for exercising the right to inspect and review education records.
2. The procedure for requesting amendment of records under 34 C.F.R. 99.20.
3. If the district has a policy of disclosing education records under 34 C.F.R. 99.31(a)(1), a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

A district may provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights.

A district shall effectively notify parents who are disabled and parents of students who have a primary or home language other than English.

*20 U.S.C. 1232g(e); 34 C.F.R. 99.7*

### **SECTION III: DIRECTORY INFORMATION**

DIRECTORY  
INFORMATION  
DEFINITION

“Directory information” means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information includes the student’s name, address, telephone listing, electronic mail address, photograph, date and place of birth, dates of attendance, grade level, enrollment status, participation in officially recognized activities and sports, weight and height of members of athletic teams, honors and awards received, and the most recent educational agency or institution attended. “Directory information” does not include a student’s:

1. Social security number; or
2. Student identification (ID) number, unless:
  - a. The student ID number, user ID number, or other unique personal identifier used by a student for purposes of accessing or communicating in electronic systems cannot be used to gain access to education records except when used in conjunction with one or more factors that

authenticate the user's identity, such as a personal identification number (PIN), password, or other factor known or possessed only by the authorized user; or

- b. The student ID number or other unique personal identifier that is displayed on a student ID badge cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a PIN, password, or other factor known or possessed only by the authorized user.

DISCLOSURE OF  
DIRECTORY  
INFORMATION

A district may release directory information if it has given public notice of:

1. The types of personally identifiable information that it has designated as directory information.
2. The right of the parent to refuse to permit the district to designate any or all of that information about the student as directory information.
3. The period of time within which the parent must notify the district in writing that he or she does not want any or all of those types of information about the student designated as directory information.

IN CLASS

A parent or eligible student may not use the right of refusal to opt out of directory information disclosures to prevent a district from disclosing or requiring a student to disclose the student's name, identifier, or institutional e-mail address in a class in which the student is enrolled.

FORMER  
STUDENTS

A district may disclose directory information about former students without satisfying the public notice conditions above. However, the district must continue to honor any valid request to opt out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt-out request.

CONFIRMATION  
OF IDENTITY OR  
RECORDS

A district may not disclose or confirm directory information without meeting the written consent requirements in 34 C.F.R. 99.30 if a student's social security number or other non-directory information is used alone or combined with other data elements to identify or help identify the student or the student's records.

*34 C.F.R. 99.3, .37*

HOMELESS  
STUDENTS

Information about a homeless child's living situation shall be treated as a student education record, and shall not be deemed to be directory information. *42 U.S.C. 11432(g)(3)(G)*



STUDENT RECORDS

FL  
(LEGAL)

DESIGNATION OF  
DIRECTORY  
INFORMATION

A district may designate as directory information any or all information defined as directory information by FERPA. Directory information under that Act that is not designated by a district as directory information for that district is excepted from disclosure by the district under Government Code Chapter 552. [See GBA]

Directory information consented to by a parent for use only for a limited school-sponsored purpose, such as for a student directory, student yearbook, or district publication, if any such purpose has been designated by a district, remains otherwise confidential and may not be released under Government Code Chapter 552.

ANNUAL NOTICE

A district shall provide the following to the parent of each district student, at the beginning of each school year or on enrollment of the student after the beginning of the school year:

1. A written explanation of the provisions of FERPA regarding the release of directory information about the student; and
2. Written notice of the right of the parent to object to the release of directory information about the student under FERPA.

CONTENTS OF  
NOTICE

The notice must contain:

1. The following statement in boldface type that is 14-point or larger:

“Certain information about district students is considered directory information and will be released to anyone who follows the procedures for requesting the information unless the parent or guardian objects to the release of the directory information about this student. If you do not want [insert name of district] to disclose directory information from your child’s education records without your prior written consent, you must notify the district in writing by [insert date]. [Insert name of district] has designated the following information as directory information: [Here the district must include any directory information it chooses to designate as directory information for the district, such as a student’s name, address, telephone listing, electronic mail address, photograph, degrees, honors, and awards received, date and place of birth, major field of study, dates of attendance, grade level, most recent education institution attended, participation in officially recognized activities and sports, and the weight and height of members of athletic teams.]”;
2. A form, such as a check-off list or similar mechanism, that:
  - a. Immediately follows, on the same page or the next page, the required statement; and

- b. Allows a parent to record:
  - (1) The parent's objection to the release of all directory information or one or more specific categories of directory information if district policy permits the parent to object to one or more specific categories of directory information;
  - (2) The parent's objection to the release of a secondary student's name, address, and telephone number to a military recruiter or institution of higher education; and
  - (3) The parent's consent to the release of one or more specific categories of directory information for a limited school-sponsored purpose if such purpose has been designated by the district and is specifically identified, such as for a student directory, student yearbook, or district publication; and
- 3. A statement that federal law requires districts receiving assistance under the Elementary and Secondary Education Act of 1965 to provide a military recruiter or an institution of higher education, on request, with the name, address, or telephone number of a secondary student unless the parent has advised the district that the parent does not want the student's information disclosed without the parent's prior written consent.

*Education Code 26.013*

STUDENT  
RECRUITING  
INFORMATION

Notwithstanding the DIRECTORY INFORMATION provisions above, each district receiving assistance under the Elementary and Secondary Education Act of 1965 (ESEA) shall provide, on a request made by a military recruiter or an institution of higher education, access to secondary school students' names, addresses, and telephone listings unless a student's parent has submitted the prior consent request below.

CONSENT TO  
RELEASE

A student who has attained 18 years of age or a parent of a secondary school student may submit a written request to a district that the student's name, address, and telephone listing not be released for purposes described above without prior written consent. Upon receiving such request, a district may not release the student's name, address, and telephone listing for such purposes without the prior written consent of the parent or student. A district shall notify parents of the option to make a request.

NO OPT-IN  
PROCESS

Nothing in this provision shall be construed to allow a district to withhold access to a student's name, address, and telephone listing from a military recruiter or institution of higher education by im-

plementing an opt-in process or any other process other than the written consent request process above.

*20 U.S.C. 7908*

**SECTION IV: VIDEOTAPES AND RECORDINGS**

VIDEOTAPES AND  
RECORDINGS

A district employee must obtain the written consent of a child's parent before the employee may make or authorize the making of a videotape of a child or record or authorize the recording of a child's voice.

EXCEPTIONS

A district employee is not required to obtain the consent of a child's parent before the employee may make a videotape of a child or authorize the recording of a child's voice if the videotape or voice recording is to be used only for:

1. The purposes of safety, including the maintenance of order and discipline in common areas of the school or on school buses;
2. A purpose related to a cocurricular or extracurricular activity;
3. A purpose related to regular classroom instruction;
4. Media coverage of the school; or
5. A purpose related to the promotion of student safety under Education Code 29.022.

*Education Code 26.009* [See EHA, EHBAF, FM, and FO]

**SECTION V: INFORMATION FROM LAW ENFORCEMENT**

INFORMATION FROM  
LAW ENFORCEMENT

ORAL NOTICE OF  
ARREST OR  
REFERRAL

Upon receipt of oral notice from the head of a law enforcement agency or designee that the law enforcement agency has arrested a student or referred a student to the juvenile board for a specified offense [see GRAA], a superintendent shall immediately notify all instructional and support personnel who have responsibility for supervising the student. All personnel shall keep the information received confidential.

WRITTEN NOTICE  
OF ARREST OR  
REFERRAL

Upon subsequent receipt of confidential, written notice of the arrest or referral, a superintendent or designee shall send the information in the confidential notice to a district employee having direct supervisory responsibility over the student.

ORAL NOTICE OF  
CONVICTION OR  
ADJUDICATION

Upon receipt of oral notice from a prosecuting attorney of a student's conviction, deferred prosecution, or adjudication of a specified offense, including a statement as to whether the student is required to register as a sex offender, a superintendent shall, within

STUDENT RECORDS

FL  
(LEGAL)

24 hours of receiving the notice, or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student.

NOTICE OF  
TRANSFER OR  
REENROLLMENT

Upon receipt of notice from a parole, probation, or community supervision office having jurisdiction over a student that a student has transferred or reenrolled, the superintendent of the district to which the student transfers or returns shall, within 24 hours of receiving the notice, or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student.

A person who receives information described above shall not disclose it except as specifically authorized by Code of Criminal Procedure 15.27.

CONTENTS OF  
NOTICE

Required oral or written notice must include all pertinent details of the offense or conduct, including details of any:

1. Assaultive behavior or other violence;
2. Weapons used in the commission of the offense or conduct;  
or
3. Weapons possessed during the commission of the offense or conduct.

*Code of Criminal Procedure 15.27(a)–(c), (k)*

Information received by a district under this provision shall not be attached to the permanent academic file of the student who is the subject of the report. A district shall destroy the information at the end of the academic year in which the report was filed. *Education Code 37.017*

DUTY TO FLAG  
RECORDS

Upon receipt of notification from a law enforcement agency or the missing children and missing persons information clearinghouse that a child under 11 years of age who attended or who is enrolled in the school is missing, the school shall flag the child's records and maintain the records in its possession so that on receipt of a request regarding the child, the school will be able to notify law enforcement or the missing children and missing persons information clearinghouse that a request for a flagged record has been made.

REQUEST IN  
PERSON

When a request for a flagged record is made in person, the school may not advise the requesting party that the request concerns a missing child and shall:

1. Require the person requesting the flagged record to complete a form stating the person's name, address, telephone number,

STUDENT RECORDS

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(LEGAL)

and relationship to the child for whom a request is made, and the name, address, and birth date of the child;

2. Obtain a copy of the requesting party's driver's license or other photographic identification, if possible;
3. If the request is for a birth certificate, inform the requesting party that a copy of a certificate will be sent by mail; and
4. Immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and include a physical description of the requesting party, the identity and address of the requesting party, and a copy of the requesting party's driver's license or other photographic identification.

After providing the information listed above, the school shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

REQUEST IN  
WRITING

When a request for a flagged record is made in writing, the school may not advise the requesting party that the request concerns a missing child and shall immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and provide to the law enforcement agency a copy of the written request. After providing the notification, the school shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

REMOVAL OF FLAG

On the return of a missing child under 11 years of age, the law enforcement agency shall notify each school that has maintained flagged records for the child that the child is no longer missing. On receipt of this notification, the school shall remove the flag from the records.

A school that has reason to believe that a missing child has been recovered may request confirmation that the missing child has been recovered from the appropriate law enforcement agency or the missing children and missing persons information clearing-house. If a response is not received after the 45th day after the date of the request for confirmation, the school may remove the flag from the record and shall inform the law enforcement agency or the missing children and missing persons information clearing-house that the flag has been removed.

*Code of Criminal Procedure 63.020-.022*



STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT EXPRESSION

FNA  
(LEGAL)

FIRST AMENDMENT A 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 a board for a redress of grievances.  
*U.S. Const. Amend. 1*

FREEDOM OF SPEECH 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.

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.

*Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969)  
[See also FNCI]

The special characteristics of the school environment and the governmental interest in stopping student drug abuse allow a district to restrict student expression that it reasonably regards as promoting illegal drug use. *Morse v. Frederick*, 551 U.S. 393 (2007)

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. *Ponce v. Socorro Indep. Sch. Dist.*, 508 F.3d 765 (5th Cir. 2007)

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. *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675 (1986)

PRAYER AT SCHOOL ACTIVITIES 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.  
*Education Code 25.901*

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

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT EXPRESSION

FNA  
(LEGAL)

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

A 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 federal funds under the Elementary and Secondary Education Act (ESEA), a 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 this section. 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.

*20 U.S.C. 7904*

EXPRESSION OF  
RELIGIOUS  
VIEWPOINTS

A 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

A district shall adopt and implement a local policy regarding a limited public forum and voluntary student expression of religious viewpoints. If a 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.

A 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

FNA  
(LEGAL)

which a student is to publicly speak. The policy regarding the limited public forum must also require a 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. A 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 non-sponsorship of the student's speech.

*Education Code 25.152, .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 a 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

A 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)*

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

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT EXPRESSION

FNA  
(LEGAL)

WINTER  
CELEBRATIONS

A district may educate students about the history of traditional winter celebrations, and allow students and district staff to offer traditional greetings regarding the celebrations, including:

1. "Merry Christmas";
2. "Happy Hanukkah"; and
3. "Happy holidays."

A district may display on school property scenes or symbols associated with traditional winter celebrations, including a menorah or a Christmas image such as a nativity scene or Christmas tree, if the display includes a scene or symbol of more than one religion or one religion and at least one secular scene or symbol.

A display relating to a traditional winter celebration may not include a message that encourages adherence to a particular religious belief.

*Education Code 29.920*

STUDENT CONDUCT  
ALCOHOL AND DRUG USE

FNCF  
(LEGAL)

ALCOHOL	A board shall prohibit the use of alcoholic beverages at school-related or school-sanctioned activities on or off school property. <i>Education Code 38.007(a)</i>
ALCOHOL-FREE ZONES	A board shall attempt to provide a safe alcohol-free environment to students coming to or going from school.
COOPERATIVE EFFORTS	A board may cooperate with local law enforcement officials and the Texas Alcoholic Beverage Commission in attempting to provide this environment and in enforcing the alcohol-free zone provisions in the Alcoholic Beverage Code.  <i>Education Code 38.007(b)</i>
DISTRICTS IN LARGE MUNICIPALITIES	If the majority of the area of a district is located in a municipality with a population of 900,000 or more, the board may petition the commissioners court of the county in which the district is located or the governing board of an incorporated city or town in which the district is located to adopt a 1,000-foot alcohol-free zone. <i>Education Code 38.007(b); Alcoholic Beverage Code 101.75, 109.33, .59</i>
CRIMINAL OFFENSE	A person commits an offense (a Class C misdemeanor) if the person possesses an intoxicating beverage for consumption, sale, or distribution while:  <ol style="list-style-type: none"><li>1. On the grounds or in a building of a public school; or</li><li>2. Entering or inside any enclosure, field, or stadium where an athletic event sponsored or participated in by a public school is being held.</li></ol> <i>Education Code 37.122</i>
DRUG-FREE ZONES	The punishment is enhanced for offenses under the Texas Controlled Substances Act, Health and Safety Code, Chapter 481, if the offense was committed:  <ol style="list-style-type: none"><li>1. In, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school district or a playground; or</li><li>2. On a school bus.</li></ol> <i>Health and Safety Code 481.134</i>
ABUSABLE GLUES, PAINTS, OR VOLATILE CHEMICALS	A person commits an offense (Class B misdemeanor) if the person inhales, ingests, applies, uses, or possesses an abusable volatile chemical with intent to inhale, ingest, apply, or use the chemical in a manner:  <ol style="list-style-type: none"><li>1. Contrary to directions for use, cautions, or warnings appearing on a label of a container of the chemical; and</li></ol>

STUDENT CONDUCT  
ALCOHOL AND DRUG USE

FNCF  
(LEGAL)

2. Designed to affect the person's central nervous system; create or induce a condition of intoxication, hallucination, or elation; or change, distort, or disturb the person's eyesight, thinking process, balance, or coordination.

*Health and Safety Code 485.031*

MANUFACTURE OR  
DELIVERY

No student shall intentionally manufacture, deliver, or possess with intent to manufacture or deliver abusable glue, or aerosol paint that does not contain additive material in accordance with rules adopted by the commissioner of health. *Education Code 37.006; Health and Safety Code 485.032*

DELIVERY TO A  
MINOR

No student who is 18 or older shall intentionally, knowingly, or recklessly deliver abusable glue or aerosol paint to a person who is younger than 18 years old. No student who is 18 or older shall sell or deliver a substance containing a volatile chemical to a person younger than 18.

PARAPHERNALIA

No person shall intentionally or knowingly use or possess with intent to use inhalant paraphernalia to inhale, ingest, or otherwise introduce into the body an abusable glue, aerosol paint, or other substance that contains a volatile chemical.

*Education Code 37.006; Health and Safety Code 485.033*

STUDENT CONDUCT  
WEAPONS

FNCG  
(LEGAL)

POSSESSION OF  
WEAPONS

EXPULSION  
OFFENSE

A student shall be expelled from school if the student engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Penal Code 46.02, or elements of an offense relating to prohibited weapons under Penal Code 46.05, on school property or while attending a school-sponsored or school-related activity on or off school property. *Education Code 37.007(a)(1)*  
[See also FOD]

EXCEPTION

A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

1. At an approved target range facility that is not located on a school campus; and
2. While participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department or a shooting sports sanctioning organization working with the department.

This section does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored shooting sports competition or a shooting sports educational activity.

*Education Code 37.007(k)*

FEDERAL FIREARMS  
PROVISION

EXPULSION  
OFFENSE

In accordance with the Gun-Free Schools Act, a district shall expel a student who brings a firearm, as defined by federal law, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that the superintendent may modify in writing the length of expulsion in the case of an individual student.

"SCHOOL"  
DEFINED

For expulsion under this provision, "school" means any setting that is under the control and supervision of a district for the purpose of student activities approved and authorized by the district.

*20 U.S.C. 7961; Education Code 37.007(e)* [See FOD]

EXCEPTION

This provision shall not apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the district and the district adopts appropriate safeguards to ensure student safety. *20 U.S.C. 7961(g)*  
[See also DH and GKA]

UNLAWFUL CARRYING  
OF WEAPONS

Under Penal Code 46.02, a person commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun, illegal knife, or club if the person is not on the person's own premises or premises under the person's control;

STUDENT CONDUCT  
WEAPONS

FNCG  
(LEGAL)

or inside of or directly en route to a motor vehicle that is owned by the person or under the person's control. *Penal Code 46.02(a)*

DEFINITIONS

“FIREARM”

For purposes of state law, “handgun” means any firearm that is designed, made, or adapted to be fired with one hand. A “firearm” means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. *Penal Code 46.01(3),(5)*

“ILLEGAL KNIFE”

“Illegal knife” means a knife with a blade over 5-1/2 inches; hand instrument designed to cut or stab another by being thrown; dagger, including a dirk, stiletto, and poniard; bowie knife; sword; or spear. *Penal Code 46.01(6)*

“CLUB”

A “club” is an instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, including a blackjack, nightstick, mace, and tomahawk. *Penal Code 46.01(1)*

PROHIBITED  
WEAPONS

Under Penal Code 46.05, a person commits an offense if the person intentionally or knowingly possesses, manufactures, transports, repairs, or sells:

1. An explosive weapon (any explosive or incendiary bomb, grenade, rocket, or mine that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes a device designed, made, or adapted for delivery or shooting an explosive weapon). *Penal Code 46.01(2)*
2. A machine gun (any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger). *Penal Code 46.01(9)*
3. A short-barrel firearm (rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a rifle or shotgun that, as altered, has an overall length of less than 26 inches). *Penal Code 46.01(10)*
4. A firearm silencer (any device designed, made, or adapted to muffle the report of a firearm). *Penal Code 46.01(4)*
5. Knuckles (any instrument consisting of finger rings or guards made of a hard substance that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by

striking a person with a fist enclosed in the knuckles). *Penal Code 46.01(8)*

6. Armor-piercing ammunition (handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used primarily in pistols and revolvers). *Penal Code 46.01(12)*
7. A chemical dispensing device (a device, other than a small chemical dispenser sold commercially for personal protection, that is designed, made, or adapted for the purpose of dispensing a chemical capable of causing an adverse psychological or physiological effect on a human being). *Penal Code 46.01(14)*
8. A zip gun (a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance). *Penal Code 46.01(16)*
9. A tire deflation device (a device, including a caltrop or spike strip, that, when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle's tires; it does not include a traffic control device that is designed to puncture one or more of a vehicle's tires when driven over in a specific direction, and has a clearly visible sign posted in close proximity to the traffic control device that prohibits entry or warns motor vehicle operators of the traffic control device). *Penal Code 46.01(17)*

A person does not commit an offense if an item is listed at items 1–4, above, and is registered in the National Firearms Registration and Transfer Record maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives or classified as a curio or relic by the United States Department of Justice. *Penal Code 46.05(a)*





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)*

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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"><li>1. The student receives deferred prosecution under Family Code 53.03 for conduct defined as a felony offense in Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03;</li><li>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 Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03; or</li><li>3. The superintendent or designee has a reasonable belief that the student has engaged in conduct defined as a felony offense in Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03.</li></ol> <p>[See FOC(EXHIBIT) for a 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, a superintendent or a superintendent's designee may consider all available information and must consider the information furnished under Code of Criminal Procedure Article 15.27(a). <i>Education Code 37.006(e); Code of Criminal Procedure 15.27(a)</i> [See GRAA]
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"><li>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, re-</li></ol>

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ardless 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
3. There is only one campus in a district serving the grade level in which the student is enrolled.

*Education Code 25.0341, 37.0051(a)* [See FDE 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 [see REASONABLE BELIEF, above] that the student has engaged in conduct defined as a felony offense other than aggravated robbery under Penal Code 29.03, or those offenses listed in Penal Code Title 5 [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)*

CERTAIN  
ORGANIZATION AND  
GANG MEMBERSHIP  
AND SOLICITATION

A board or an educator shall recommend placing in DAEP any student who commits the misdemeanor offenses described in Education Code 37.121(a) and (c), regarding membership in or solicitation to join a public school fraternity, sorority, secret society, or gang [see FNCC]. *Education Code 37.121(b)*

OLDER STUDENTS

A person who is 21 years of age or older and is admitted by a 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

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	district shall revoke the student's admission. <i>Education Code 25.001(b-1)</i>
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. <i>Education Code 37.006(f), .007(e)</i> [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] shall be provided educational services in a DAEP. <i>Education Code 37.006(l), .007(e)(2)</i>
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 campus behavior coordinator (CBC) or other appropriate administrator shall schedule a conference among the CBC 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.
MITIGATING FACTORS	Before ordering removal to a DAEP, the CBC must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the behavior coordinator concerns a mandatory or discretionary action.
ORDER	Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the CBC, after considering any mitigating factors under Education Code 37.001(a)(4) [see FO], 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 CBC 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> [See Student Code of Conduct]

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TERM OF REMOVAL	<p>A 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, a district determines that the student is a threat to the safety of other students or to district employees. <i>Education Code 37.009(a), (d)</i></p>
BEYOND GRADING PERIOD OR 60 DAYS	<p>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 a board or designee.</p>
NO APPEAL	<p>Any decision of a board or designee concerning placement beyond 60 days or the end of the next grading period is final and cannot be appealed.</p> <p><i>Education Code 37.009(b)</i></p>
BEYOND END OF SCHOOL YEAR	<p>Before a student may be placed in a DAEP for a period that extends beyond the end of the school year, a board or designee must determine that:</p> <ol style="list-style-type: none"><li>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</li><li>2. The student has engaged in serious or persistent misbehavior that violates the Student Code of Conduct.</li></ol> <p><i>Education Code 37.009(c)</i></p>
ORDER OF REMOVAL	<p>A 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. <i>Education Code 37.009(g)</i></p> <p>Not later than the second business day after the date of the removal conference, a 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. <i>Education Code 37.010(a)</i></p>
ACTIVITIES	<p>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. <i>Education Code 37.006(g)</i></p> <p>In addition to any notice required under Code of Criminal Procedure 15.27 [see GRAA], 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</p>

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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 a 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, a board shall provide to the district in which the student enrolls a copy of the placement order at the 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

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- 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 a board and the juvenile board for the county in which a 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 school district DAEP as a condition of probation;

MULTIPLE  
REFERRALS

2. A court may not order a student to attend a DAEP without a 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.

*Education Code 37.010(c)-(d)*

SCHOOL ACTIVITIES

Any court placement in a DAEP must prohibit the student from attending or participating in school-sponsored or school-related activities. *Education Code 37.010(d)*

PLACEMENT AFTER  
COURT  
DISPOSITION

After the student has successfully completed any court disposition requirements, including conditions of deferred prosecution or conditions required by the prosecutor or probation department, a district may not refuse to admit the student if the student meets the requirements for admission into the public schools. A district may place the student in the DAEP.

Notwithstanding Education Code 37.002(d) [see FOA], the student may not be returned to the classroom of the teacher under whose

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supervision the offense occurred without that teacher's consent.  
The teacher may not be coerced to consent.

*Education Code 37.010(f)*

NOT GUILTY /  
INSUFFICIENT  
EVIDENCE / CHARGES  
DROPPED

The office of the prosecuting attorney or the office or official designated by the juvenile board shall, within two working days, notify the school district that removed a student to a DAEP under Education Code 37.006 if:0.

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; or
2. 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.

On receipt of the notice, the superintendent or designee shall review the student's placement in the DAEP. The 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.

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); Code of Criminal Procedure 15.27(g)*

APPEAL AFTER  
PLACEMENT  
UPHELD

The student or the student's parent or guardian may appeal a superintendent's decision to the board. The student may not be returned to the regular classroom pending the appeal. A board shall, at the next scheduled meeting, review the notice provided by the office of the prosecuting attorney or the office or official designated by the juvenile board; 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 a 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 of education. The student may not be returned to the regular classroom pending the appeal to the commissioner.

*Education Code 37.006(i)-(j)*



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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 a 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. The district is not required to provide a course in the DAEP, 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 who removed the student without that teacher's consent. The teacher may not 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)*

REPORTING

A district may include the number of students removed to a DAEP in its annual performance report. *Education Code 39.306(e)(5)*  
[See AIB]

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**Note:** See FOF for provisions concerning students with disabilities.

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STUDENTS YOUNGER  
THAN TEN

A student younger than ten years of age shall not be expelled but shall be placed in a disciplinary alternative education program (DAEP). *Education Code 37.007(e)(2), (h)*

OVERAGE STUDENTS

A person who is 21 years of age or older and is admitted by a district for the purpose of completing the requirements for a diploma is not eligible for placement in a juvenile justice alternative education program (JJAEP) if the person engages in conduct that would require or authorize such placement for a student under the age of 21. If the student engages in such conduct, a district shall revoke the student's admission. *Education Code 25.001(b-1)*

MANDATORY  
EXPULSION

SCHOOL RELATED

A student shall be expelled if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

1. Engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Penal Code 46.02 or elements of an offense relating to prohibited weapons under Penal Code 46.05 [see FNCG];
2. Engages in conduct that contains the elements of the offense of aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit murder or capital murder, indecency with a child, aggravated kidnapping, aggravated robbery, manslaughter, criminally negligent homicide, or continuous sexual abuse of a young child or children, as those offenses are defined in the Penal Code; or
3. Commits a drug- or alcohol-related offense described at Education Code 37.006(a)(2)(C) or (D), if that conduct is punishable as a felony.

*Education Code 37.007(a)*

EXCEPTION

A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

1. At an approved target range facility that is not located on a school campus; and
2. While participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department or a shooting sports sanctioning organization working with the department.

This section does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored

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shooting sports competition or a shooting sports educational activity.

*Education Code 37.007(k), (l)*

RETALIATION

A district shall expel a student who engages in conduct that contains the elements of any offense listed above against any district employee or volunteer in retaliation for or as a result of the person's employment or association with a district, without regard to whether the conduct occurs on or off school property or while attending a school-sponsored or school-related activity on or off of school property. *Education Code 37.007(d)*

FEDERAL  
FIREARMS  
OFFENSE

In accordance with the Gun-Free Schools Act, a district shall expel a student who brings a firearm, as defined by federal law, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that the superintendent may modify in writing the length of expulsion in the case of an individual student.

EXCEPTION

This provision shall not apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the district and the district adopts appropriate safeguards to ensure student safety. [See also GKA].

PROVISION OF  
EDUCATIONAL  
SERVICES

A district or other local educational agency shall provide educational services to an expelled student in a DAEP if the student is younger than ten years of age on the date of expulsion. A district or other local educational agency may provide educational services to an expelled student who is ten years of age or older in a DAEP.

*20 U.S.C. 7961; Education Code 37.007(e)*

DEFINITIONS

For purposes of this provision:

"SCHOOL"

"School" means any setting that is under the control and supervision of a district for the purpose of student activities approved and authorized by the district. *20 U.S.C. 7961(f)*

"FIREARM"

"Firearm" means:

1. Any weapon (including a starter gun), which will or is designed to or which may readily be converted to expel a projectile by the action of an explosive;
2. The frame or receiver of any such weapon;
3. Any firearm muffler or firearm silencer; or
4. Any destructive device. "Destructive device" means any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile

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having an explosive or incendiary charge of more than one-quarter ounce, mine, or device similar to any of the preceding described devices. It also means any type of weapon (other than a shotgun shell or a shotgun that is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and any combination of parts either designed or intended for use in converting any device into a destructive device as described in this item, and from which a destructive device may be readily assembled.

*18 U.S.C. 921, 20 U.S.C. 7961(b)(3)*

DISCRETIONARY  
EXPULSION  
THREATS

A student may be expelled if the student engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Penal Code 42.06, or terroristic threat under Penal Code 22.07.

SCHOOL- RELATED  
CONDUCT

A student may be expelled if the student, while on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

ALCOHOL OR  
DRUGS

1. Sells, gives, or delivers to another person, or possesses, uses, or is under the influence of any amount of:
  - a. Marijuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. section 801 et seq.; or
  - b. A dangerous drug, as defined by Chapter 483, Health and Safety Code; or
  - c. An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

VOLATILE  
CHEMICALS

2. Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Health and Safety Code 485.031–485.034.

ASSAULT ON AN  
EMPLOYEE OR  
VOLUNTEER

3. Engages in conduct that contains the elements of an offense under Penal Code 22.01(a)(1) against a school district employee, or a volunteer as defined by Education Code 22.053. [See FOC(EXHIBIT)]

DEADLY  
CONDUCT

4. Engages in conduct that contains the elements of the offense of deadly conduct under Penal Code 22.05.

*Education Code 37.007(b)(1)–(2)*

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CONDUCT WITHIN  
300 FEET OF  
SCHOOL

Subject to the mandatory expulsion requirement for retaliation, a student may be expelled if the student, while within 300 feet of school property, as measured from any point on the school's real property boundary line, engages in the following conduct:

1. Any conduct for which expulsion would have been mandatory under Education Code 37.007(a) [see MANDATORY EXPULSION — SCHOOL RELATED, above]; or
2. Possession of a firearm, as defined by 18 U.S.C. sec. 921 [see FEDERAL FIREARM PROVISION, above].

*Education Code 37.007(b)(3)*

RETALIATION  
AGAINST SCHOOL  
EMPLOYEE OR  
VOLUNTEER

A student may be expelled if the student engages in an assault, under Penal Code 22.01(a)(1), on an employee or volunteer in retaliation for or as a result of the person's employment or association with a district, without regard to whether the conduct occurs on or off school property or while attending a school-sponsored or school-related activity on or off school property. *Education Code 37.007(d)*

CONDUCT AGAINST  
ANOTHER STUDENT

A student may be expelled if the student engages in conduct against another student that contains the elements of the offenses of aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit capital murder, or aggravated robbery, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property. *Education Code 37.007(b)(4)*

CRIMINAL MISCHIEF

A district may use its discretion to expel a student who has engaged in conduct that contains the elements of criminal mischief, as defined in the Penal Code, if the conduct is punishable as a felony. Regardless of whether the student is expelled, a district shall refer the student to the authorized officer of the juvenile court. *Education Code 37.007(f)*

BREACH OF  
COMPUTER  
SECURITY

A student may be expelled if the student engages in conduct that contains the elements of the offense of breach of computer security under Penal Code 33.02 if:

1. The conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of a school district; and
2. The student knowingly alters, damages, or deletes school district property or information; or commits a breach of any other computer, computer network, or computer system.

*Education Code 37.007(b)(5)*

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SERIOUS  
MISBEHAVIOR IN  
DAEP

A student placed in a DAEP who engages in documented serious misbehavior while on the DAEP campus despite documented behavioral interventions may be removed from class and expelled.

“Serious misbehavior” means:

1. Deliberate violent behavior that poses a direct threat to the health or safety of others;
2. Extortion, meaning the gaining of money or other property by force or threat;
3. Conduct that constitutes coercion, as defined by Penal Code 1.07; or
4. Conduct that constitutes the offense of:
  - a. Public lewdness under Penal Code 21.07;
  - b. Indecent exposure under Penal Code 21.08;
  - c. Criminal mischief under Penal Code 28.03;
  - d. Personal hazing under Penal Code 37.152; or
  - e. Harassment, under Penal Code 42.07(a)(1), of a student or district employee.

If the student is expelled, a board or its designee shall refer the student to the authorized officer of the juvenile court for appropriate proceedings under Family Code Title 3 (Juvenile Justice Code).

*Education Code 37.007(c), .010(b)*

PROPERTY OR  
ACTIVITIES OF  
ANOTHER DISTRICT

A district may expel a student who attends school in the district if:

1. The student engages in conduct for which expulsion would have been mandatory if the conduct had occurred on district property or while attending a district-sponsored or district-related activity; and
2. The student engages in that conduct on the property of another district or while attending a school-sponsored or school-related activity of another district in this state.

*Education Code 37.007(i)*

EXPULSION  
PROCEEDINGS  
DUE PROCESS

Before a student may be expelled, a board or its designee shall provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution and which the student’s parent or guardian is invited, in writing, to attend. *Education Code 37.009(f)*

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	<p>The minimum procedural requirements necessary to satisfy due process depend upon the circumstances and the interests of the parties involved. Federal due process requires notice and some opportunity for hearing.</p>
NOTICE	<p>The notice should contain a statement of the specific charges and grounds that, if proven, would justify expulsion. In some cases, the student should be given the names of the witnesses against him or her and an oral or written report on the facts to which each witness testifies.</p>
HEARING	<p>The rights of the student may properly be determined upon the hearsay evidence of school administrators who investigate disciplinary infractions.</p> <p>[See also <i>Brewer v. Austin Indep. Sch. Dist.</i>, 779 F.2d 260 (5th Cir. 1985); <i>Keough v. Tate County Bd. of Educ.</i>, 748 F.2d 1077 (5th Cir. 1984); <i>McClain v. Lafayette County Sch. Bd. of Educ.</i>, 673 F.2d 106 (5th Cir. 1982); <i>Tasby v. Estes</i>, 643 F.2d 1103 (5th Cir. 1981); <i>Boykins v. Fairfield Bd. of Educ.</i>, 492 F.2d 697 (5th Cir. 1974), cert. denied, 420 US 962 (1975); <i>Dixon v. Alabama State Bd. of Educ.</i>, 294 F.2d 150 (5th Cir. 1961), cert. denied, 368 U.S. 930 (1961)]</p>
REPRESENTATIVE	<p>At the hearing, the student is entitled to be represented by the student's parent, guardian, or another adult who can provide guidance to the student and who is not an employee of the district. If a district makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing, the district may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends.</p>
MITIGATING FACTORS	<p>Before ordering the expulsion of a student, the board or the board's designee must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the board concerns a mandatory or discretionary action.</p> <p><i>Education Code 37.009(f)</i></p>
TERM OF EXPULSION	<p>If the period of expulsion is inconsistent with the guidelines on length of expulsion in the Student Code of Conduct, the order must give notice of the inconsistency.</p>
EXPULSION BEYOND ONE YEAR	<p>The period of expulsion may not exceed one year unless a district determines that:</p>



STUDENT DISCIPLINE  
EXPULSION

FOD  
(LEGAL)

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

*Education Code 37.009(h)*

NOTICE OF  
EXPULSION ORDER

A board or its designee shall deliver a copy of the order expelling the student to the student and the student's parent or guardian. After such notification, the parent or guardian shall provide adequate supervision for the student during the period of expulsion.

TO PARENT OR  
GUARDIAN

*Education Code 37.009(g)-(h)*

TO COURT

Not later than the second business day after the date an expulsion hearing is held, a board or its designee shall deliver a copy of the expulsion order and any information required under Family Code 52.04 to the authorized officer of the juvenile court in the county in which the student resides.

Family Code 52.04 requires the following information from a referring entity that is not a law enforcement agency or has not taken the child into custody:

1. All information in a district's possession pertaining to the identity of the child and the child's address; the name and address of the child's parent, guardian, or custodian; the names and addresses of any witnesses; and the child's present whereabouts; and
2. A complete statement of the circumstances of the alleged delinquent conduct or conduct indicating a need for supervision.

*Education Code 37.010(a); Family Code 52.04(a), .041(a)-(b)*

TO JUVENILE  
BOARD

In a county that operates a JJAEP [see FODA], no student shall be expelled without written notification by a board or its designee to the juvenile board's designated representative. The notification shall be made not later than two business days following a board's determination that the student is to be expelled. Failure to timely notify the designated representative shall result in the child's duty to continue attending a district's educational program, which shall be provided to that child until such time as the notification to the designated representative is properly made. *Family Code 52.041*

TO STAFF

In addition to providing any notice required under Code of Criminal Procedure 15.27 [see GRA], a district shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in expellable conduct.

STUDENT DISCIPLINE  
EXPULSION

FOD  
(LEGAL)

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 37.007(g)*

COMPLETION OF  
PROCEEDING UPON  
WITHDRAWAL

If a student withdraws from a district before an order for expulsion is entered, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student subsequently enrolls in the district during the same or subsequent school year, the district may enforce the order at that time except for any period of the expulsion that has been served by the student in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order.

*Education Code 37.009(i)*

ADDITIONAL  
PROCEEDINGS

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

APPEALS

A decision by a board's designee to expel a student may be appealed to the board. If the hearing is not before the board directly, the results and findings of the hearing should be presented in a report open to the student's inspection. *Education Code 37.009(f); Dixon v. Alabama State Bd. of Educ., 294 F.2d 150 (5th Cir. 1961), cert. denied, 368 U.S. 930 (1961)*

RESTRICTIONS ON  
COURT ORDERS

A court may not order an expelled student to attend a regular classroom, a regular campus, or a district DAEP as a condition of probation.

EXCEPTION

A court may order a student to attend a regular classroom, a regular campus, or a district DAEP if the district has entered into a memorandum of understanding (MOU) with the juvenile board for the county in which the district's central administrative office is located, concerning the juvenile probation department's role in supervising and providing other support services for students in DAEPs.

*Education Code 37.010(c)*

STUDENT DISCIPLINE  
EXPULSION

FOD  
(LEGAL)

DISTRICT  
RESPONSIBILITY FOR  
EXPULSED STUDENT

In a county that operates a JJAEP, a district is responsible for providing an immediate educational program to a student who engages in behavior for which expulsion is permitted but not required under Education Code 37.007, but who is not eligible for admission into the JJAEP in accordance with an MOU. [See FODA]

STUDENTS NOT  
ELIGIBLE FOR  
EXISTING JJAEP

CONTRACTING  
FOR SERVICES

A district may provide the program or the district may contract with a county juvenile board, a private provider, or one or more other school districts to provide the program.

*Education Code 37.011(l)*

CERTAIN DISTRICTS

This provision applies to a district located in a county considered to be a county with a population of 125,000 or less because it has a population of more than 200,000 and less than 220,000; has five or more school districts located wholly within the county's boundaries; and has located in the county a JJAEP that, on May 1, 2011, served fewer than 15 students. A qualifying district shall provide educational services to a student who is expelled from school. The district is entitled to count the student in the district's average daily attendance for purposes of receipt of state funds under the Foundation School Program. An educational placement under this section may include:

1. The district's DAEP.
2. A contracted placement with another school district, an open-enrollment charter school, an institution of higher education, an adult literacy council, or a community organization that can provide an educational program that allows the student to complete the credits required for high school graduation.

An educational placement other than a district's DAEP is subject to the educational and certification requirements applicable to an open-enrollment charter school under Education Code Chapter 12, Subchapter D.

*Education Code 37.011(a-3)–(a-5)*

RETURN TO CLASS

EARLY /  
PERMISSIVE

On the recommendation of the placement review committee, or on its own initiative, a district may readmit an expelled student while the student is completing any court disposition requirements.

REQUIRED

After an expelled student has successfully completed any court disposition requirements, including conditions of a deferred prosecution, or conditions required by the prosecutor or probation department, a district may not refuse to admit the student if the student meets the requirements for admission. [See FD] A district may place the student in a DAEP.

STUDENT DISCIPLINE  
EXPULSION

FOD  
(LEGAL)

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.

*Education Code 37.010(f)*

EXPELLED FROM  
ANOTHER DISTRICT

If a student has been expelled from another school district, the expelling district shall provide to a district in which the student enrolls a copy of the expulsion order and the referral to the authorized officer of the juvenile court. A district in which the student enrolls may continue the expulsion under the terms of the order, may place the student in a DAEP for the period specified by the expulsion order, or may allow the student to attend regular classes without completing the period of expulsion.

OUT-OF-STATE  
EXPULSION

A district may take any of the above actions if the student was expelled by a district in another state if:

1. The out-of-state district provides a copy of the expulsion order; and
2. The grounds for the expulsion are also grounds for expulsion in the district in which the student is enrolling.

*Education Code 37.010(g)*

If the student was expelled for more than one year and the enrolling district continues the expulsion or places the student in a DAEP, the aggregate period of expulsion or placement may not exceed one year unless the district determines that:

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

*Education Code 37.010(g-1)*

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**Note:** See FOF for provisions concerning expulsion of students with disabilities.

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PUBLIC INFORMATION PROGRAM  
ACCESS TO PUBLIC INFORMATION

GBA  
(LEGAL)

This introductory page outlines the contents of this legally referenced policy on access to public information. See the following sections for statutory provisions on:

SECTION I	Right of Access to Public Information	pages 2–5
SECTION II	Confidential Information under the Public Information Act or Other Law	pages 5–11
SECTION III	Information Excepted from Disclosure under Subchapter C of the Public Information Act	pages 11–17

**SECTION I: RIGHT OF ACCESS TO PUBLIC INFORMATION**

AVAILABILITY

Public information is available, at a minimum, to the public during a district's normal business hours. *Gov't Code 552.021*

INFORMATION THAT  
MUST BE DISCLOSED

The following categories of information are public information and not excepted from required disclosure unless made confidential under Government Code Chapter 552 or other law:

1. A completed report, audit, evaluation, or investigation made of, for, or by a 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 a 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 a board.
5. All working papers, research material, and information used to estimate the need or expenditure of public funds or taxes by a board, on completion of the estimate.
6. A description of a 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 a 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 a 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.
12. A policy statement or interpretation adopted or issued by a board.

13. Administrative manuals and instructions to staff that affect a member of the public.
14. Information regarded as open to the public under a district's policies.
15. Information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege.
16. Information that is also contained in a public court record.
17. A settlement agreement to which a board is a party.

*Gov't Code 552.022*

INVESTMENT  
INFORMATION

Certain district investment information, as specified by Government Code 552.0225, is public information and not excepted from disclosure. *Gov't Code 552.0225*

SECURITY SYSTEM  
INFORMATION

Financial information in the possession of a district that relates to the expenditure of funds by a district for a security system is public information that is not excepted from required disclosure under the Texas Public Information Act (PIA). *Gov't Code 418.182(b)*

BODY-WORN  
CAMERA

Except as set forth at Occupations Code Chapter 1701, Subchapter N, a recording from a body-worn camera that is or could be used as evidence in a criminal prosecution is subject to the requirements of the PIA.

However, a law enforcement agency may not release any portion of a recording made in a private space, or of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in arrest, without written authorization from the person who is the subject of that portion of the recording or, if the person is deceased, from the person's authorized representative.

*Occupations Code 1701.661*

PERSONAL  
INFORMATION

EMPLOYEE / BOARD  
MEMBER

Each district employee, other than a peace officer or security officer, and board member and each former employee and board member shall choose whether to allow public access to district-held information relating to the person's home address, home telephone number, emergency contact information, or social security number, or any other information that reveals whether the person has family members. However, a district may not require an employee or former employee of the district to choose whether to allow public access to the employee's or former employee's social security number.

PUBLIC INFORMATION PROGRAM  
ACCESS TO PUBLIC INFORMATION

GBA  
(LEGAL)

Employees and board members shall state their choice to a district's main personnel officer in a signed writing not later than the 14th day after employment begins, election or appointment to the board occurs, or service with the district ends. If an employee or board member fails to state his or her choice within 14 days, the information is available to the public. However, an employee or board member may make a written request at any time to the personnel officer to open or close the information. A written request made after the 14 days does not apply to an open records request made before the option was exercised.

*Gov't Code 552.024; Tex. Att'y Gen. ORD 530 (1989)*

NOTICE TO  
REQUESTOR

If an employee or board member has opted to restrict public access to his or her personal information, the district may redact the personal information from any information the district discloses without the necessity of requesting a decision from the attorney general. *Gov't Code 552.024(c)*

If a district redacts information under this provision, the district shall provide the information required by Government Code 552.024(c-2) to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter. *Gov't Code 552.024(c-2)*

SPECIAL RIGHTS OF  
ACCESS

EMPLOYEES

An employee or an employee's authorized representative has a special right of access, beyond the right of the general public, to information held by the district that relates to the employee and that is protected from public disclosure by laws intended to protect the employee's privacy interests. [See DBA] *Gov't Code 552.023*

BOARD MEMBERS

When acting in the member's official capacity, a board member has an inherent right of access to information, documents, and records maintained by the district. "Official capacity" means all duties of office and includes administrative decisions or actions. [See BBE] *Education Code 11.1512; Atty. Gen. Op. JM-119 (1983)*

INFORMATION  
DISTRICT IS NOT  
REQUIRED TO  
RELEASE

COMMERCIAL  
INFORMATION

A district is not required to allow the inspection of or to provide a copy of 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. Although information in a book or publication may be made available to the public as resource material, such as a library book, a district is not required to make a copy of the information in response to a request for public information. 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*



REQUEST FOR  
INFORMATION  
FROM  
INCARCERATED  
INDIVIDUAL

A district is not required to accept or comply with a request for information from an individual who is imprisoned or confined in a correctional facility or an agent of that individual, other than the individual's attorney when the attorney is requesting information that is subject to disclosure under the PIA. This section does not prohibit a district from disclosing to an incarcerated individual or the individual's agent information that pertains to the individual. *Gov't Code 552.028*

VOLUNTARY  
DISCLOSURE

A 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*

**SECTION II: CONFIDENTIAL INFORMATION UNDER THE  
PUBLIC INFORMATION ACT OR OTHER LAW**

INFORMATION THAT  
MAY NOT BE  
DISCLOSED

A person commits a misdemeanor offense if the person distributes information considered confidential under the terms of the PIA. A violation of this section also constitutes official misconduct. *Gov't Code 552.352*

STUDENT  
RECORDS

Information is confidential and excepted from required disclosure if it is information in a student record at a district.

"Student record" means information that constitutes education records as that term is defined by the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g(a)(4)) [see FL] and information in a record of an applicant for admission to an educational institution, including a transfer applicant.

A district may disclose or provide information included in an education record as authorized by 20 U.S.C. Section 1232g or other federal law. [See FL] In addition, a student record shall be made available upon request to district personnel, the student, the student's parents, guardian, or spouse, or a person conducting a child abuse investigation required by Family Code Chapter 261, Subchapter D.

Except as set forth in federal law (the Family Educational Rights and Privacy Act), a district shall not release personally identifiable information in education records without the written consent of the student's parents.

A district may redact information that constitutes a student record from information disclosed under the PIA without requesting a decision from the attorney general.

If an applicant for admission to an educational institution funded wholly or partly by state revenue, or a parent or legal guardian of a

PUBLIC INFORMATION PROGRAM  
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minor applicant to such an educational institution, requests information in the record of the applicant, the district shall disclose any information that is related to the application for admission and was provided to the district by the applicant.

*Gov't Code 552.026, .114 [See FL]*

EMPLOYEE SOCIAL  
SECURITY  
NUMBERS

The social security number of an employee of a district in the custody of the district is confidential. *Gov't Code 552.147(a-1)*

EVALUATIONS

A document evaluating 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 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. *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 a 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.

A district may redact credit card, debit card, charge card, or access device numbers from any information the district discloses without the necessity of requesting a decision from the attorney general. The district shall provide the information required by Government Code 552.136 to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter.

*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 a 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 a district by a person who has a contractual relationship with the district or by the contractor's agent;
2. Provided to a district by a vendor who seeks to contract with the district or by the vendor's agent;
3. Contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to a district in the course of negotiating the terms of a contract or potential contract;
4. Provided to a district on a letterhead, coversheet, printed document, or other document made available to the public; or
5. Provided to a district for the purpose of receiving orders or decisions from the district, or for the purpose of providing public comment on or receiving notices related to an application for a license. A "license" under this section includes a state agency permit, certificate, approval, registration, or similar form of permission required by law.

A 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, 2001.003(2)*

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)*

CRIME VICTIMS

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*

A district employee who is a victim under the Crime Victim Compensation Act 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. The election must be made in writing on a form developed by the district, signed by the employee, and filed with the district

before the third anniversary of the latest to occur of one of the following:

1. The date the crime was committed;
2. The date employment begins; or
3. The date the governmental body develops the form and provides it to employees.

If the employee fails to make an election, the identifying information is excepted from disclosure until the third anniversary of the date the crime was committed. In case of disability, impairment, or other incapacity of the employee, the election may be made by the guardian of the employee or former employee.

*Gov't Code 552.132*

CRIMINAL HISTORY  
RECORDS

Information collected to comply with Education Code Chapter 22, Subchapter C (criminal records), including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records, is confidential and may not be released except to comply with Subchapter C, by court order, or with the consent of the person who is the subject of the information. *Education Code 22.08391*

Criminal history record information obtained by the district from the Texas Department of Public Safety may not be disclosed to any person except:

1. The person who is the subject of the information;
2. The Texas Education Agency;
3. The State Board for Educator Certification;
4. The chief personnel officer of the transportation company if the information was obtained under Government Code 411.097(a)(2) with respect to a transportation company that contracts with the district to provide student transportation; or
5. By court order.

*Gov't Code 411.097(d)(2)* [See CJA, DBAA, and DHB]

SENSITIVE CRIME  
SCENE IMAGE

A sensitive crime scene image in the custody of a district is confidential and excepted from the requirements of the PIA, regardless of the date that the image was taken or recorded.

"Sensitive crime scene image" means a photograph or video recording taken at a crime scene, contained in or part of a closed criminal case, that depicts a deceased person in a state of

dismemberment, decapitation, or similar mutilation or that depicts the deceased person's genitalia. A district may not permit a person to view or copy the image except as provided by Government Code 552.1085.

*Gov't Code 552.1085(a)(6), (c)*

SCHOOL MARSHAL  
IDENTITY

The identity of a school marshal appointed under Education Code 37.0811 is confidential except as provided by Occupations Code 1701.260(j).

If a parent or guardian of a student enrolled at a school inquires in writing, the district shall provide the parent or guardian written notice indicating whether any employee of the school is currently appointed a school marshal. The notice may not disclose the identity of the school marshal.

*Education Code 37.0811(g), (h)*

CLOSED MEETING  
RECORDING /  
CERTIFIED AGENDA

The certified agenda or tape recording of a closed meeting is available for public inspection only under a court order issued in litigation in a district court involving an alleged violation of the Open Meetings Act. *Gov't Code 551.104(c); Att'y Gen. ORD 684 (2009)*

SECURITY  
INFORMATION

Except as provided by the Texas Homeland Security Act, Government Code 418.182, information, including access codes and passwords, in the possession of a district that relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity is confidential. *Gov't Code 418.182(a)*

The following information is confidential under Subchapter C of the PIA:

1. A computer network vulnerability report;
2. Any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a district or of a contractor of a district is vulnerable to unauthorized access or harm, including an assessment of the extent to which a district's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use; and
3. A photocopy or other copy of an identification badge issued to an official or employee of a district.

A district may disclose the information to a bidder if the district determines that providing the information is necessary for the bidder to provide an accurate bid. Such a disclosure is not a

voluntary disclosure for purposes of Government Code 552.007.

*Gov't Code 552.139(b), (c)*

MILITARY  
DISCHARGE  
RECORDS

A military veteran's Department of Defense Form DD-214 or other military discharge record that first comes into the possession of a district on or after September 1, 2003, is confidential for the 75 years following the date it comes into the possession of a district. 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; Att'y Gen. ORD 684 (2009)*

RETIREMENT  
ELIGIBILITY  
RECORDS

Records, including any identifying information, of individual members, annuitants, retirees, beneficiaries, alternate payees, program participants, or persons eligible for benefits from TRS or another retirement system, are confidential and not subject to public disclosure. This provision applies to records in the custody of the district acting in cooperation with or on behalf of the retirement system. A district acting in cooperation with or on behalf of the retirement system is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general.

For purposes of Government Code 825.507, "participant" means a member, former member, retiree, annuitant, beneficiary, or alternate payee of the retirement system, or an employee or contractor of an employer covered by the retirement system for whom records were received by the retirement system for the purpose of administering the terms of the plan, including for audit or investigative purposes.

*Gov't Code 552.0038, 825.507(g)*

PEACE / SECURITY  
OFFICER  
INFORMATION

District information related to the home address, home telephone number, emergency contact information, date of birth, or social security number of a peace officer or commissioned security officer, or information that reveals whether the officer has family members, is confidential and may not be released if the officer chooses to restrict public access to the information by notifying the district on a form provided by the district with evidence of the individual's status.

In accordance with Government Code 552.1175(h), a district may redact information that must be withheld under this section from any information the district discloses under the PIA without the necessity of requesting a decision from the attorney general. If a district redacts information under this provision, the district shall provide the information required by Government Code 552.024(c-2) to

the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter.

*Gov't Code 552.1175*

ELECTION JUDGES  
AND CLERKS

An e-mail address or personal phone number of an election judge or clerk collected or maintained by the authority conducting the election is confidential and does not constitute public information for purposes of Government Code Chapter 552.

EXCEPTION

An e-mail address or phone number of an election judge or clerk shall be made available on request to:

1. Any entity eligible to submit lists of election judges or clerks for that election; or
2. The state executive committee of a political party with a county chair eligible to submit lists of election judges or clerks for that election.

*Election Code 32.076*

CYBERSECURITY  
INFORMATION

A cyber threat indicator or defensive measure shared by or with a state, tribal, or local government under 6 U.S.C. 1503 shall be deemed voluntarily shared information and exempt from disclosure under any state or local freedom of information law, open government law, open meetings law, open records law, sunshine law, or similar law requiring disclosure of information or records. *6 U.S.C. 1503(d)(4)(B)*

A cyber threat indicator or defensive measure shared with the federal government under Title 6, United States Code, shall be:

1. Deemed voluntarily shared information and exempt from disclosure under federal public information law and any state or local provision of law requiring disclosure of information or records; and
2. Withheld, without discretion, from the public under federal public information law and any state or local provision of law requiring disclosure of information or records.

*6 U.S.C. 1504(d)(3)* [See CQ]

**SECTION III: INFORMATION EXCEPTED FROM DISCLOSURE  
UNDER SUBCHAPTER C OF THE PUBLIC INFORMATION ACT**

INFORMATION  
EXCEPTED FROM  
PUBLIC DISCLOSURE

Except for social security numbers or as otherwise provided by law, information that is not confidential, but is excepted from required disclosure under Government Code sections 552.101–.151, is pub-

lic information and is available to the public on or after the 75th anniversary of the date the information was originally created or received by a district. This paragraph does not limit the authority of a district to establish retention periods for records under applicable law. *Gov't Code 552.0215*

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*

Disclosure of employee birth dates would constitute a clearly unwarranted invasion of personal privacy, and such dates are excepted from disclosure under Government Code 552.102(a), if the employees' privacy interests substantially outweigh the public interest in the information. *Texas Comptroller of Public Accts. v. Att'y Gen'l of Texas*, 354 S.W.3d 336 (Tex. 2010) (holding that a newspaper's stated reason for requesting state employees' dates of birth did not outweigh employees' privacy rights)

3. Information in the custody of the district that relates to an employee or officer of the district if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm. *Gov't Code 552.152*
4. Information relating to litigation of a civil or criminal nature to which a district is, or may be, a party or to which an officer or employee of the district, as a consequence of the office or employment, is or may be a party, but only if the litigation is pending or reasonably anticipated at the time the district's public information officer receives the request. *Gov't Code 552.103*
5. Information that, if released, would give advantage to competitors or bidders. The requirement of Government Code 552.022 that a category of information listed under 552.022(a) is public information and not excepted from required disclosure unless expressly confidential under law does not apply to



information that is excepted from required disclosure under this paragraph. *Gov't Code 552.104*

6. Information pertaining to the location of real or personal property for a public purpose prior to public announcement of the project, or information pertaining to appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property. *Gov't Code 552.105*
7. Drafts and working papers involved in the preparation of proposed legislation. *Gov't Code 552.106*
8. Information a district's attorney is prohibited from disclosing because of a duty to the district under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct or information that a court order has prohibited from disclosure. *Gov't Code 552.107*
9. 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*

10. 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*
11. A trade secret obtained from a person and privileged or confidential by statute or judicial decision. *Gov't Code 552.110(a)*
12. 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)*
13. Interagency or intra-agency memoranda or letters that would not be available by law to a party in litigation with a district. *Gov't Code 552.111; City of Garland v. Dallas Morning News, 22 S.W.3d 351 (Tex. 2000) (concluding that the deliberative process privilege, incorporated into the exception found at Government Code 552.111, exempts communications related to a governmental agency's policymaking)*

14. An audit working paper of an audit performed by 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*
15. Information that relates to the home address, home telephone number, emergency contact information, or social security number of the following persons, or that reveals whether the person has family members:
  - a. A current or former district employee or board member, except as provided by Government Code 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 Government Code 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. 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*

- 19. The name of an applicant for superintendent, except a 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*
- 20. 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 or another state or country;
  - b. A motor vehicle title or registration issued by an agency of this state or another state or country; or
  - c. A personal identification document issued by an agency of this state, another state or country, 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.

Subject to Transportation Code Chapter 730 (the Motor Vehicle Records Disclosure Act), a district may redact motor vehicle or driver license information under this provision from any information the district discloses without the necessity of requesting a decision from the attorney general. The district shall provide the information specified at Government Code 552.130 to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter.

*Gov't Code 552.130; Att'y Gen. ORD 684 (2009)*

- 21. An informer's name or information that would substantially reveal the identity of an informer, unless:
  - a. The informer consents. If the informer is a student or former student, consent may also be given by the informer's legal guardian or spouse; or
  - b. The informer planned, initiated, or participated in the possible violation.

“Informer” means a student or former student or an employee or former employee of a district who has furnished a report of another person’s possible violation of criminal, civil, or regulatory law to the district or the proper regulatory enforcement authority.

The informer’s name may be made available to a law enforcement agency or prosecutor for official purposes upon proper request, made in compliance with applicable law and procedure. However, this exception does not impair the confidentiality of information considered to be confidential by law, including information excepted from disclosure under the PIA.

*Gov’t Code 552.135*

22. Information that relates to economic development negotiations involving a board and a business prospect that the board seeks to have locate, stay, or expand in or near a district, if that information relates to:
  - a. A trade secret of the business prospect; or
  - b. Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.

*Gov’t Code 552.131(a)*

23. 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 a 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 a board; or
- b. By another person, if the financial or other incentive may directly or indirectly result in the expenditure of public funds by a district or a reduction in revenue received by the district from any source.

*Gov’t Code 552.131(b), (c)*

24. Information that relates to computer network security, to network security information that is restricted under Government Code 2059.055, or to the design, operation, or defense of a

computer network. [See SECURITY INFORMATION, above]  
*Gov't Code 552.139(a)*

25. The social security number of a living person. The social security number of a living person other than a district employee is not confidential, however. A 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*
26. Information that would identify or tend to identify a district employee who is also a crime victim under Code of Criminal Procedure, Chapter 56, Subchapter B, regardless of whether the employee chooses to restrict public access to the information, until the third anniversary of the date the crime was committed. *Gov't Code 552.132*



COMMUNITY RELATIONS  
VISITORS TO THE SCHOOLS

GKC  
(LEGAL)

IDENTIFICATION	A district may require a person who enters a district campus to display the person's driver's license or another form of identification containing the person's photograph issued by a governmental entity.
VISITOR DATABASE	A district may establish an electronic database for the purpose of storing information concerning visitors to district campuses. Information stored in the electronic database may be used only for the purpose of school district security and may not be sold or otherwise disseminated to a third party for any purpose.
SEX OFFENDERS	<p>A district may verify whether a visitor to a district campus is a sex offender registered with the computerized central database maintained by the Department of Public Safety as provided by Code of Criminal Procedure 62.005 or any other database accessible by the district.</p> <p>A board shall adopt a policy regarding the action to be taken by the administration of a school campus when a visitor is identified as a sex offender.</p> <p><i>Education Code 38.022</i></p>
MILITARY RECRUITERS' ACCESS TO STUDENTS	Each district receiving assistance under the ESEA shall provide military recruiters the same access to secondary school students as is provided generally to institutions of higher education or to prospective employers of those students. <i>20 U.S.C. 7908(a)(3)</i>

