

## Explanatory Notes

### TASB Localized Policy Manual Update 78

District: Keller ISD

BAA (LEGAL) BOARD LEGAL STATUS  
POWERS AND DUTIES

A new item 8—on INTERNAL AUDITOR—has been added. HB 1 from the recently completed special legislative session on school finance newly requires that any internal auditor that may be employed by the district be selected by and report directly to the board.

BBB (LEGAL) BOARD MEMBERS  
ELECTIONS

**Please note:** HB 1, from the recently completed special legislative session on school finance, requires school districts to hold trustee elections on the same date as:

- The election of members of the governing body of a municipality located in the district, or
- The general election for state and county officers (November of even numbered years).

Additionally, elections held on the same date as the municipality or county must be held as joint elections, with common polling places.

Analysis by TASB Legal Services attorneys, in consultation with the Elections Division of the Office of the Texas Secretary of State, suggests that districts that held or cancelled trustee elections in May will not be required to hold another election on November 7, 2006 (the next general election). Districts should work with local counsel to determine what actions need to be taken for the 2007 election cycle.

Districts with questions about how these provisions apply to their trustee elections should contact the Secretary of State's Election Division at 1-800-252-VOTE (8683).

HB 1 does not require an immediate change in policy. Districts already committed to a November 7, 2006, election may proceed by having a joint election with the county. Preclearance from the U.S. Department of Justice may be required for November elections to the extent the district makes changes in election practices or procedures.

BBBA (LEGAL) BOARD MEMBERS  
REPORTING CAMPAIGN FUNDS

For clarity, TASB attorneys have added to this policy Election Code provisions pertaining to terminating the campaign treasurer appointment of an inactive candidate or political committee. Included are circumstances under which a candidate or committee become inactive and the process by which the board terminates the campaign treasurer appointment.

BBFA (LEGAL) ETHICS  
CONFLICT OF INTEREST DISCLOSURES

The newly enacted Local Government Code requirement that local government officers file a conflicts disclosure statement—for themselves and family members—includes by reference the Government Code definition of “family member.” That definition—a person related within the first degree by consanguinity or affinity—has been added on page 3.

FAQs about this new requirement and a chart of the various conflict disclosure requirements may be found at <https://www.tasb.org/apps/icen/icenDetail.cfm?kv=232>. (Click on the title, “Legal FAQs: HB 914.”)

BDF (LEGAL) BOARD INTERNAL ORGANIZATION  
CITIZEN ADVISORY COMMITTEES

A perceived requirement—that elementary, middle, and junior high school students each engage in physical

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activity at least 30 minutes per school day or 135 minutes per school week—has been deleted from STATEMENT FOR PUBLIC INSPECTION. TASB's Governmental Relations Division indicates that, while it may have been the intention of the 79th Legislature to require physical activity time for middle school, that intention was not enacted into law. The State Board of Education will consider this summer an extension of a physical education and/or physical activity requirement to middle schools to remedy the legislative oversight.

#### CCG (LEGAL) LOCAL REVENUE SOURCES AD VALOREM TAXES

Key local property tax provisions from HB 1, enacted by the recently completed special legislative session on school finance, are incorporated into this policy, as follows:

- TAX RATE CAP, on page 1, reflects the newly imposed limit on the tax rate adopted by a local district. The new cap may not exceed by more than 17 cents the product of the "compression percentage" and \$1.50 (or actual rate levied for 2005 if greater than \$1.50).
- 2006 TAX YEAR ELECTION, on page 4, addresses a 2006 transition provision requiring voter approval of a tax rate exceeding the rollback rate. The election must be called no later than August 31 and held on September 30. But for this transitional change, such an election would be governed by the time lines specified by Tax Code 26.08(a) and (b), subsections that appear in the policy immediately above the 2006 addition.
- COLLECTION AND DEPOSIT OF TAX INCREMENTS, on page 9, affects certain districts' payments into the tax increment funds.

At DISCOUNTS, on page 4, the text has been revised to reflect HB 2491 (from the regular session of the 79th legislature): a district now has clear statutory authority to adopt early-payment discounts even if the district contracts with another entity for the collection of taxes.

#### CE (LEGAL) ANNUAL OPERATING BUDGET

At PUBLICATION OF PROPOSED BUDGET SUMMARY, on page 3, appears a new requirement imposed by HB 1, enacted by the recently completed special legislative session on school finance. Statute now requires the district to post on the Internet—at the same time it publishes the required "notice of the meeting on the budget and proposed tax rate"—a comparison of the proposed budget with the previous year's budget. The comparison must include per-student and aggregate spending in six categories:

- Instruction
- Instructional support
- Central administration
- District operations
- Debt service
- Any other category designated by the commissioner of education

#### CHF (LEGAL) PURCHASING AND ACQUISITION PAYMENT PROCEDURES

HB 2425 from the 78th regular legislative session amends the "Prompt Payment Law" to set the rate of interest payable by the district for tardy payment of vendor invoices to one percent over the prime rate. The prime rate is established on the first weekday in July and "prime-plus-one" applies to any payments due between September 1 and August 31 of the ensuing year.

This indexing is reflected on page 1 at INTEREST.

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#### CO (LEGAL) FOOD SERVICES MANAGEMENT

SB 42 from the 79th regular session prohibits districts from barring a parent or grandparent from providing any food product of his or her choosing for a classroom birthday celebration or to students at school-related functions. The legislation, also known as “Lauren’s Law,” is effective with the 2006–2007 school year.

The Texas Department of Agriculture does not believe this more recent law conflicts with the Texas Public School Nutrition Policy (TPSNP) promulgated by the Commissioner of Agriculture and last revised in June 2004, six months before the 79th Legislature convened. TDA “policy” guidance states:

TDA recognizes that celebrating student birthdays with a classroom party is a time-honored tradition that provides the opportunity for parental involvement in the education of their children, which is beneficial for students, parents and teachers. Foods otherwise restricted by the policy are permitted in classroom student birthday parties. It is recommended such parties be scheduled at the end of the lunch period for the class so that these celebrations will not replace a nutritious lunch. Federal regulations do not permit foods of minimal nutritional value to be served in the food service area during meal periods.

In essence, TDA’s guidance does not construe such birthday celebrations as a violation. “Lauren’s Law” (and the fact that it amends, curiously, the portion of the Education Code that speaks to the required curriculum, rather than some more generalized section) blurs the picture. TASB attorneys believe that districts can still specify when classroom birthday celebrations may be held, so long as they are held after lunch service ends for that classroom.

In updated FAQs—issued January 24, 2006—TDA further notes, “‘Lauren’s Law’ does not supersede the TPSNP ‘Event Day’ provisions, which limits such [event] days to three per year; if a school permits restricted food at more than three school events per year, TDA will not reimburse the school for meals served for any days in excess of the three days permitted under the TPSNP.”

The complete document may be found at <http://www.squaremeals.org>. (Click on “Texas Public School Nutrition Policy,” then “Frequently Asked Questions.”)

#### CRD (LEGAL) INSURANCE AND ANNUITIES MANAGEMENT HEALTH AND LIFE INSURANCE

New language regarding the health care supplement appears at DESIGNATION OF COMPENSATION FOR BENEFITS, on page 5. This text, drawn from HB 1 from the recently completed special legislative session on school finance, essentially clarifies previous statutory language. [Further statutory details regarding this supplement are included at DEA(LEGAL), in this update.]

In addition to this change, the policy itself has been extensively redeveloped to more closely track statutory language, to present the various provisions in a more logical flow, and to include additional text from current statute where such text might be helpful.

#### DC (LEGAL) EMPLOYMENT PRACTICES

At INTERNAL AUDITOR, on page 1, appears a new requirement from HB 1 from the recently completed special legislative session on school finance. Also recited at BAA(LEGAL), the law now requires that any internal auditor that may be employed by the district be selected by and report directly to the board.

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#### DEA (LEGAL) COMPENSATION AND BENEFITS SALARIES, WAGES, AND STIPENDS

HB 1, from the recently completed special legislative session on school finance, prompts two additions:

- At STATE FUNDING, on page 1, new statute provides, subject to recapture and inclusive of the compensation supplement, \$2,500 for each classroom teacher, full-time librarian, full-time counselor, and full-time school nurse. This increase in compensation becomes effective with the 2006–2007 school year.
- At DESIGNATION OF COMPENSATION FOR BENEFITS, on page 3, revised statutory language addresses the (health care) compensation supplement. Eligible employees will annually elect in writing, (at the same time that the employee may elect to participate in a cafeteria plan) to earmark a portion of the supplement for the cafeteria plan or for payment of health care premiums.

In addition to these key changes, the policy has been restructured and its provisions revised for clarity:

- On page 1, DEFINITIONS have been added from TEA rules to further explain the introductory paragraph addressing the MINIMUM SALARY SCHEDULE.
- Education Code language has been added to EMPLOYEES FORMERLY ON CAREER LADDER—beginning on page 2—to more precisely define the salary guarantee to teachers and librarians on the career ladder in 1993 (when the career ladder was repealed).
- Repeated at PAY INCREASES, on page 3, are prohibitions—also found at CE(LEGAL)—against:
  - An employee’s receiving a supplementary financial benefit after services are rendered or performance of a contract begun.
  - An employee’s receiving a salary advance and loan.
- Further material from federal regulations implementing the Fair Labor Standards Act has been added to pages 4–6.
- The section on PRINCIPAL PERFORMANCE INCENTIVES, previously at the end of the policy, has been deleted to avoid redundancy, as these provisions also appear at BQB(LEGAL).

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

This policy has been extensively supplemented with key Education Code provisions and State Board of Education rules regarding state and local textbook selection responsibilities. On page 1 is found the critical distinction between “conforming” (covering all Texas Essential Knowledge and Skills [TEKS] elements) and “nonconforming” (covering at least half but less than all TEKS elements). On page 2 is included the DURATION OF SELECTION provision, previously at CMD but more appropriately expressed here. Similarly, the CRIMINAL OFFENSE provision on page 2 echoes language found at DBD.

While the policy contains no other substantive changes, TASB attorneys have adjusted text throughout to more closely track statutory language.

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

A new section titled COMPENSATORY EDUCATION ALLOTMENT—appearing on page 1—has been drawn from the Education Code to anchor the policy.

At OPTIONAL FLEXIBLE SCHOOL DAY PROGRAM, beginning on page 4, we have incorporated provisions from HB 1, enacted by the recently completed special legislative session on school finance, effective for the

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2006–2007 school year. Districts may apply to the commissioner of education for permission to offer an “optional flexible school day program” to at-risk students in grades 9–12 that would allow them to work at their own pace, with flexible hours, flexible days, and even on a part-time schedule. When approved by the commissioner, credits and funding are determined based on accumulation of time spent, not on a calendar year or semester.

Other changes to the policy are nonsubstantive, more closely tracking statutory language or the statutory order of topics and omitting, where appropriate, excessive detail.

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

New state law regarding assessment of limited English proficient students anchors revision of this policy. HB 1, arising from the recently completed special legislative session on school finance, establishes new requirements (found at PROGRAM EXIT on page 5) for exiting students from a bilingual or English as a Second Language program. Exiting may occur if the student is found to be able to participate equally in a regular all-English program. English proficiency is determined by TEA-approved tests; local tests are no longer permitted in making this determination. Proficiency in the student’s primary language is no longer considered; the student must perform satisfactorily on English language assessments, and parental evaluation is no longer considered.

On page 6 may be found HB 1 provisions regarding POST–EXIT MONITORING: the language proficiency assessment committee must reevaluate an exited student if he or she earns a failing grade in a foundation curriculum subject within the first two years of leaving the bilingual or ESL program.

These revisions allow for redevelopment of the policy to more closely track statute and to present the legal provisions in a more comprehensible manner.

**EHBG (LEGAL) SPECIAL PROGRAMS  
PREKINDERGARTEN**

HB 1 from the recently completed special legislative session broadens prekindergarten eligibility to include:

- A child of an active duty member of the U.S. armed forces.
- A child of a member of the state military forces or reserves called to active duty.
- A child of a member injured or killed while on active duty.

These new provisions may be found at ELIGIBILITY on page 1.

**EKB (LEGAL) TESTING PROGRAMS  
STATE ASSESSMENT**

Prompted by SB 658 from the 79th regular session, the commissioner of education adopted rules, effective April 3, 2006, concerning exceptions to the statewide testing calendar and restrictions on University Interscholastic League activities on test dates. The rule, summarized on pages 1 and 2 under ALTERNATE TEST DATES, defines four exceptional circumstances whereby a requesting district may be granted an alternate test date:

- Inclement weather or natural disasters severely impacting attendance on a test date.
- Health epidemics resulting in extensive absenteeism.
- Death of a student or school official that might impact student performance.

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- Sudden emergencies on the day of testing (e.g., power outages, water main break, fire on campus). If the commissioner approves an alternate test date, the commissioner may also prohibit the district or campus from participating in UIL competition on the new date.

Although not recited in this policy, it is of note that the legislation also requires the commissioner to provide UIL a three-year calendar of dates earmarked for testing, to develop a procedure for changing—in exceptional circumstances—these dates, and to establish criteria for determining whether a UIL competition must be cancelled if it conflicts with a changed date.

#### FDAA (LEGAL) INTERDISTRICT TRANSFERS PUBLIC EDUCATION GRANTS

While this policy has been redeveloped for clarity and to more closely reflect statutory language, a key change is shown in the first paragraph on page 1. Eligibility for public education grants or intradistrict transfers previously hinged on two conditions regarding the student’s assigned school:

- Fifty or more students at the school failed to perform satisfactorily on state mandated assessments in any two of the three preceding years, OR
- The school was identified as “low performing” in any of the three preceding years. HB 1, from the recent special legislative session on school finance, revamped the terminology and replaced “low performing” with “academically unacceptable.”

Now, an eligible student may attend a public school in the district in which the student resides, or the student may use a public education grant to attend any other district chosen by the student’s parent.

#### FDB (LEGAL) ADMISSIONS INTRADISTRICT TRANSFERS

Beginning on page 2, at OTHERS IN SPECIAL EDUCATION STUDENT’S HOUSEHOLD, appears new text drawn from HB 1 from the recently completed special session on school finance. Under this provision, a student living in the same household as a special education intradistrict transfer student must be allowed to attend the same campus (if the student is otherwise eligible to attend school in the district and the campus includes the appropriate grade level). The district is not required to provide transportation to such a student.

As at FDAA(LEGAL), the text at STUDENTS IN ACADEMICALLY UNACCEPTABLE SCHOOLS (on page 3) has been updated to reflect the shift in terminology from “low performing” to “academically unacceptable.”

#### FEA (LEGAL) ATTENDANCE COMPULSORY ATTENDANCE

Several revisions, intended for clarity and completeness, appear under EXCUSED ABSENCES, on pages 3–4:

- At SPECIAL EDUCATION MATTERS, text from longstanding State Board of Education rule has been added. That provision allows students to miss school for special education assessments and related services without triggering compulsory attendance enforcement.
- At COURT PROCEEDINGS, a State Board of Education rule has been added allowing the excused absence—for compulsory attendance purposes—of a student who has been referred to juvenile court (for delinquent conduct or conduct indicating a need for supervision). This provision is recoded from FEB (Attendance Accounting) to this more appropriate code.



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- At HUMAN SERVICES ACTIVITIES has been added the State Board compulsory attendance exemption for abused or neglected students who have been referred to the Texas Department of Human Services or a county or local welfare unit. This provision has been recoded from FEB since it pertains to compulsory attendance rather than attendance accounting.

FEB (LEGAL) ATTENDANCE  
ATTENDANCE ACCOUNTING

As noted at FEA(LEGAL), above, various provisions specific to compulsory attendance have been moved from FEB(LEGAL). Remaining provisions—dealing with attendance accounting—have been re-examined for clarity and consistency with statutory language. As a result of that inspection, various nonsubstantive changes have been made throughout this policy.

Please note that the third paragraph on page 1, dealing with the superintendent’s responsibility for safekeeping of attendance records and reports, has existed in State Board of Education rule since 1996. It has been added to policy for a more complete rendering of legal requirements.

FFAB (LEGAL) WELLNESS AND HEALTH SERVICES  
IMMUNIZATIONS

At MILITARY DEPENDENTS, on page 2, appears a 2004 Texas Department of State Health Services rule allowing provisional admission of military dependents transferring from one school to another while awaiting receipt of immunization records.

**Please note:** On page 1 of this policy, we include a pointer to [http://www.dshs.state.tx.us/immunize/imm\\_sched.shtml](http://www.dshs.state.tx.us/immunize/imm_sched.shtml) where the Texas Department of State Health Services displays its updated immunization charts. To ensure that your policy manual does not present out-of-date immunization requirements, we recommend deletion of FFAB(EXHIBIT) in favor of this pointer. See the explanatory note below for further information.

FFAC (LEGAL) WELLNESS AND HEALTH SERVICES  
MEDICAL TREATMENT

HB 1, from the recently completed special legislative session on school finance, enacted law allowing a student suffering from a severe allergic reaction (“anaphylaxis”) to self-administer appropriate medicine, within the same constraints that apply to asthmatics.

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

At COMPLETION OF PROCEEDINGS UPON WITHDRAWAL, on page 6, text has been added from current law—enacted in 2003—to close a troublesome Chapter 37 loophole that allowed a student facing disciplinary proceedings for a violation of the Student Code of Conduct to withdraw and avoid disciplinary consequences. The law authorizes a district to complete the proceedings for a withdrawing student and, if the student reenrolls at a later date within the same or subsequent school year, to impose the consequences at that time. Also, a district to which the student may have transferred to avoid the proceedings and consequences may complete the proceedings and impose the appropriate disciplinary consequence.

This provision echoes similar language found at FOD(LEGAL) and was contained within HB 1314 from the 78th Legislature.