NOTICE
This notice is posted pursuant to the Texas Open Meetings Act.
[TEXAS GOVERNMENT CODE SECTION 551]

BRYAN ISD BOARD OF TRUSTEES WORKSHOP
Boardroom
801 South Ennis Street
Bryan, TX 77803
Monday, February 5, 2024 – 12:00 PM

AGENDA

CALL TO ORDER REGULAR MEETING
Welcome
Citizens' Comments
Standing Committees
1. Teaching and Learning Committee - Two-Way Dual Language, Bryan Collegiate High School Update, and the Annual Report

Information Items
1. Board Policy Update 122 2

Policy Service

Localized Policy Manual Update 122

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Update 122 contains local policies that require board action and adoption notification before we can incorporate the revisions into your district's Policy Online® manual.

Please note that legal policies will not be published on Policy Online until the board acts on the local policies or specifically requests earlier publication.

What should I do to prepare for board adoption?

1. Log in to Policy Online[1], select **Local Manual Updates** from the **My Policy Manual** drop-down menu, click **Numbered Updates**, then click **UPDATE 122**.
2. Download and save the numbered update resource materials for Update 122.
3. Present the local policies to your board for adoption. Provide your board with the explanatory notes and encourage them to review those along with the local policies.

How do I notify Policy Service that the board has adopted the update?

1. Following board action, go to **Numbered Updates**[2], select the appropriate numbered update, then click **Notify TASB of Board Action**.
2. Fill out and submit the electronic form so we can incorporate the adopted policies into your district's Policy Online manual.
3. If there are additional changes, submit the annotated changes with your adoption notification.

Questions?

- For questions about Policy Online, visit the User's Guide[3] or contact pol-support@tasb.org.
- For questions about policy text, contact your district's assigned policy consultant.[4]

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[1] Policy Online: https://pol.tasb.org/
[2] Policy Online Numbered Updates: https://pol.tasb.org/Member/LocalManualUpdates
[3] Policy Online User's Guide: https://www.tasb.org/services/policy-service/resources/policy-online-user-s-guide.aspx
[4] Policy Consultant contact information: https://pol.tasb.org/Member/PolicyConsultant/Details

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Localized Policy Manual Update 122

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You can download a PDF of this update packet, annotated copies of the local policies, editable local policy text, and more under Local Manual Updates on Policy Online®.[1]

Other materials, including an overview video of the local policy changes and a document outlining common legal issues specific to the local policies in this update, are also available in Local Manual Updates.

Need help? Please contact your policy consultant[2], or call Policy Service at 800-580-7529 or email policy.service@tasb.org.

Overview

Update 122 encompasses changes in law from the 88th Regular Legislative Session that have an immediate effect on the governance and management of the district. See the Explanatory Notes for a full listing of the legal policies affected. Changes to local policies offered for consideration address the following topics:

- cybersecurity
- employment of bus drivers
- dyslexia and related disorders
- accelerated instruction
- career investigation days
- opioid antagonists
- threat assessments
- student records
- safety and security

Please see the Explanatory Notes included in this update packet for a description of the specific changes for each policy.

Board action on the local policies included in the update must occur within a properly posted, open meeting of the board. Instructions for placing policy changes on the agenda for board action and keeping minutes are included with the Update 122 materials under Local Manual Updates[3] on Policy Online.

For more guidance on reviewing and adopting TASB numbered updates, including information on incorporating the update into the district's policy manual and maintaining a historical record of policies, please refer to *The Administrator's Guide to Policy Management*[4], available in the Policy Online Governance and Management Library[5] *(TASB login required)*.

(LEGAL) vs. (LOCAL): Remember the Difference

Legal policies:

- Reflect the ever-changing legal context for governance and management of the district
- Inform local decision making
- Are NOT adopted, but only reviewed

Local policies:

- Require close attention by the administration and the board
- Reflect the practices of the district and the intentions of the board
- Are changed only by board action (adopt, revise, or repeal)

Keep Your Administrative Regulations Current

Regulations Resource Manual[6] Update 68, which includes revisions to model regulations and forms corresponding with Update 122, is now available through the Governance and Management Library (*TASB login required*).

Inspect your district's administrative procedures and documents — including exhibits, regulations, handbooks, and guides — that may be affected by Update 122 policy changes.

If you need to make changes to the regulations or exhibits contained in your board policy manual, please notify your policy consultant.

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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.

[1] Policy Online: https://pol.tasb.org/
[2] Policy Consultant contact information: https://pol.tasb.org/Member/PolicyConsultant/Details
[3] Local Manual Updates: https://pol.tasb.org/Member/LocalManualUpdates
[4] *The Administrator's Guide to Policy Management*: https://pol.tasb.org/Member/Collections/Details?id=10
[5] Governance and Management Library: https://pol.tasb.org/Member/Collections
[6] *TASB Regulations Resource Manual*: https://www.tasb.org/services/policy-service/mytasb/regulations-resource-manual.aspx

Instruction Sheet

TASB Localized Policy Manual Update 122

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Code	Type	Action To Be Taken	Note
ATTN	(NOTE)	No policy enclosed	See explanatory note
AF	(LEGAL)	Replace policy	Revised policy
AIB	(LEGAL)	Replace policy	Revised policy
BBB	(LEGAL)	Replace policy	Revised policy
BBBA	(LEGAL)	Replace policy	Revised policy
BBBB	(LEGAL)	Replace policy	Revised policy
BBBC	(LEGAL)	Replace policy	Revised policy
BBC	(LEGAL)	Replace policy	Revised policy
BBD	(LEGAL)	Replace policy	Revised policy
BBI	(LEGAL)	Replace policy	Revised policy
BE	(LEGAL)	Replace policy	Revised policy
C	(LEGAL)	Replace table of contents	Revised table of contents
CCA	(LEGAL)	Replace policy	Revised policy
CDA	(LEGAL)	Replace policy	Revised policy
CDB	(LEGAL)	Replace policy	Revised policy
CHE	(LEGAL)	Replace policy	Revised policy
CJA	(LEGAL)	Replace policy	Revised policy
CK	(LEGAL)	Replace policy	Revised policy
CKA	(LEGAL)	Replace policy	Revised policy
CKC	(LEGAL)	Replace policy	Revised policy
CKE	(LEGAL)	Replace policy	Revised policy
CKEA	(LEGAL)	Replace policy	Revised policy
CKEB	(LEGAL)	Replace policy	Revised policy
CKEC	(LEGAL)	Replace policy	Revised policy
CLA	(LEGAL)	Replace policy	Revised policy
CLE	(LEGAL)	Replace policy	Revised policy
CMD	(LEGAL)	Replace policy	Revised policy
CNA	(LEGAL)	Replace policy	Revised policy
CNC	(LEGAL)	Replace policy	Revised policy
CQA	(LEGAL)	Replace policy	Revised policy
CQB	(LEGAL)	Replace policy	Revised policy
CQB	(LOCAL)	Replace policy	Revised policy
CQC	(LEGAL)	Replace policy	Revised policy
CS	(LEGAL)	Replace policy	Revised policy

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Code	Type	Action To Be Taken	Note
CSA	(LEGAL)	ADD policy	See explanatory note
CSA	(LOCAL)	ADD policy	See explanatory note
CSB	(LEGAL)	ADD policy	See explanatory note
CSC	(LEGAL)	ADD policy	See explanatory note
CV	(LEGAL)	Replace policy	Revised policy
DBAA	(LEGAL)	Replace policy	Revised policy
DBE	(LEGAL)	Replace policy	Revised policy
DC	(LOCAL)	Replace policy	Revised policy
DEAA	(LEGAL)	Replace policy	Revised policy
DEC	(LEGAL)	Replace policy	Revised policy
DF	(LEGAL)	Replace policy	Revised policy
DG	(LEGAL)	Replace policy	Revised policy
DGC	(LEGAL)	Replace policy	Revised policy
DH	(LEGAL)	Replace policy	Revised policy
DI	(LEGAL)	Replace policy	Revised policy
DIA	(LEGAL)	Replace policy	Revised policy
DL	(LEGAL)	Replace policy	Revised policy
DLB	(LEGAL)	Replace policy	Revised policy
DMA	(LEGAL)	Replace policy	Revised policy
DP	(LEGAL)	Replace policy	Revised policy
DP	(LOCAL)	No policy enclosed	See explanatory note
EEB	(LEGAL)	Replace policy	Revised policy
EF	(LEGAL)	Replace policy	Revised policy
EFA	(LEGAL)	Replace policy	Revised policy
EFB	(LEGAL)	Replace policy	Revised policy
EHAA	(LEGAL)	Replace policy	Revised policy
EHAB	(LEGAL)	Replace policy	Revised policy
EHAC	(LEGAL)	Replace policy	Revised policy
EHB	(LEGAL)	Replace policy	Revised policy
EHB	(LOCAL)	Replace policy	Revised policy
EHBAA	(LEGAL)	Replace policy	Revised policy
EHBAB	(LEGAL)	Replace policy	Revised policy
EHBAD	(LEGAL)	Replace policy	Revised policy
EHBC	(LEGAL)	Replace policy	Revised policy

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Code	Type	Action To Be Taken	Note
EHBC	(LOCAL)	DELETE policy	See explanatory note
EHBCA	(LEGAL)	Replace policy	Revised policy
EHBCA	(LOCAL)	ADD policy	See explanatory note
EHBG	(LEGAL)	Replace policy	Revised policy
EHBK	(LEGAL)	Replace policy	Revised policy
EHDD	(LEGAL)	Replace policy	Revised policy
EHDE	(LEGAL)	Replace policy	Revised policy
EHDF	(LEGAL)	DELETE policy	See explanatory note
EI	(LEGAL)	Replace policy	Revised policy
EIA	(LEGAL)	Replace policy	Revised policy
EIC	(LOCAL)	No policy enclosed	See explanatory note
EIE	(LEGAL)	Replace policy	Revised policy
EIF	(LEGAL)	Replace policy	Revised policy
EKB	(LEGAL)	Replace policy	Revised policy
F	(LEGAL)	Replace table of contents	Revised table of contents
FA	(LEGAL)	ADD policy	See explanatory note
FD	(LEGAL)	Replace policy	Revised policy
FDA	(LEGAL)	Replace policy	Revised policy
FDB	(LEGAL)	Replace policy	Revised policy
FEA	(LEGAL)	Replace policy	Revised policy
FEA	(LOCAL)	Replace policy	Revised policy
FEB	(LEGAL)	Replace policy	Revised policy
FEC	(LEGAL)	Replace policy	Revised policy
FED	(LEGAL)	Replace policy	Revised policy
FFAC	(LEGAL)	Replace policy	Revised policy
FFAC	(LOCAL)	Replace policy	Revised policy
FFAF	(LEGAL)	Replace policy	Revised policy
FFB	(LEGAL)	Replace policy	Revised policy
FFB	(LOCAL)	Replace policy	Revised policy
FFBA	(LEGAL)	Replace policy	Revised policy
FFEA	(LEGAL)	Replace policy	Revised policy
FFG	(LEGAL)	Replace policy	Revised policy
FL	(LEGAL)	Replace policy	Revised policy
FL	(LOCAL)	Replace policy	Revised policy

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Code	Type	Action To Be Taken	Note
FM	(LEGAL)	Replace policy	Revised policy
FNCA	(LEGAL)	Replace policy	Revised policy
FNCC	(LEGAL)	Replace policy	Revised policy
FNCD	(LEGAL)	Replace policy	Revised policy
FNCF	(LEGAL)	Replace policy	Revised policy
FNCG	(LEGAL)	Replace policy	Revised policy
FNG	(LEGAL)	Replace policy	Revised policy
FO	(LEGAL)	Replace policy	Revised policy
FOC	(LEGAL)	Replace policy	Revised policy
FOCA	(LEGAL)	Replace policy	Revised policy
FOD	(LEGAL)	Replace policy	Revised policy
FODA	(LEGAL)	Replace policy	Revised policy
GBA	(LEGAL)	Replace policy	Revised policy
GBAA	(LEGAL)	Replace policy	Revised policy
GC	(LEGAL)	Replace policy	Revised policy
GKA	(LEGAL)	Replace policy	Revised policy
GKC	(LEGAL)	Replace policy	Revised policy
GKG	(LEGAL)	Replace policy	Revised policy
GRAC	(LEGAL)	Replace policy	Revised policy
GRB	(LEGAL)	Replace policy	Revised policy

Explanatory Notes
TASB Localized Policy Manual Update 122

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ATTN(NOTE) GENERAL INFORMATION ABOUT THIS UPDATE

Please note:

Changes at Update 122 are based almost exclusively on legislation from the 88th Regular Legislative Session.

Unless otherwise noted, references to legislative bills throughout these explanatory notes refer to Senate Bills (SB) or House Bills (HB) from the 88th Regular Legislative Session. All referenced bills have already gone into effect unless otherwise noted.

Each regular legislative session, legislation is passed that makes nonsubstantive additions, revisions, or corrections to existing statutes. HB 4595 was passed for this purpose in the 88th Regular Legislative Session. Minor nonsubstantive changes throughout Update 122 result from HB 4595 and are not otherwise mentioned in the explanatory notes.

For more information about the bills mentioned throughout and other changes from the 88th Legislative Session, download the free *2023 Legislative Summary for TASB Members* PDF from the TASB store.

The *Local Policy Overview* for Update 122, available with your Update 122 materials under Local Manual Updates on Policy Online® (TASB login required), provides a general, high-level overview of the changes to the local policies included in the update. **Legal policies provide the legal framework for key areas of district operations and are not adopted by the board.**

Changes to the policy manual based on bills from the special called sessions will be included in Update 123.

AF(LEGAL) INNOVATION DISTRICTS

New and amended Administrative Code rules, effective June 20, 2023, revise the process and timeline for renewing an innovation plan. (See pages 5-6.)

AIB(LEGAL) ACCOUNTABILITY: PERFORMANCE REPORTING

Provisions regarding remote instruction expired on September 1, 2023, and have been removed from this legal policy.

BBB(LEGAL) BOARD MEMBERS: ELECTIONS

This legal policy has been updated to increase the population threshold for certain districts to conduct elections jointly with a hospital district. (HB 4559)

BBBA(LEGAL) ELECTIONS: CONDUCTING ELECTIONS

HB 1217 repeals Election Code provisions creating different requirements for days and hours of early voting at temporary branch polling places in counties with a population under 100,000. The same requirements now apply regardless of county size.

BBBB(LEGAL) ELECTIONS: POST-ELECTION PROCEDURES

HB 2559 adds retired justices of the peace, the comptroller of public accounts, and former comptrollers to the list of persons authorized to administer an oath in Texas. Because this legal policy includes only the four broadest categories of authorized persons, it has been amended to include retired justices of the peace. (See Oath of Office on page 4.)

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BBBC(LEGAL) ELECTIONS: CAMPAIGN FINANCE

HB 2626 requires all districts, regardless of size, to post campaign finance reports filed with the district on the district website not later than the 10th business day after receipt. Certain address information may be removed before posting, and the reports must remain accessible on the website for five years.

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

SB 232 implements automatic removal from office for certain criminal offenses. If a board member is removed, the board must fill the vacancy at the first regular meeting following the removal. (See page. 4.)

HB 17 makes nonsubstantive changes to existing law regarding removal of a board member by written petition and trial. (See page 3.)

BBD(LEGAL) BOARD MEMBERS: TRAINING AND ORIENTATION

The attorney general (AG) may require board members to complete Public Information Act (PIA) training if the AG determines the district has failed to comply with a requirement of the PIA (see page 1). (HB 3033)

BBI(LEGAL) BOARD MEMBERS: TECHNOLOGY RESOURCES AND ELECTRONIC COMMUNICATIONS

The Note at the beginning of this policy has been updated to include a reference to CQC(LEGAL), where provisions from SB 1893 regarding prohibited applications on district-owned devices have been added.

BE(LEGAL) BOARD MEETINGS

HB 3440 requires all districts to post both the notice *and* agenda for a board meeting on the district website under the Open Meetings Act. (See Internet Posting — Notice on page 4.) The bill repeals the previous provision that tied the requirement to post the agenda to the size of a municipality in the district.

C(LEGAL) BUSINESS AND SUPPORT SERVICES

The Section C table of contents has been revised to rename CKA as Safety Program/Risk Management: Safety and Security Audits and Monitoring. Provisions regarding asbestos management have been moved to a new code CSC, Facility Standards: Asbestos Management.

CCA(LEGAL) LOCAL REVENUE SOURCES: BOND ISSUES

For bonds authorized at an election after September 1, 2023, HB 3 allows the use of bond proceeds to pay for compliance with school safety and security requirements for school facilities. If TEA finds that the district is not in compliance, the district must use bond proceeds to achieve compliance before using the proceeds for other purposes. (See page 3.)

CDA(LEGAL) OTHER REVENUES: INVESTMENTS

SB 1246 amends the Public Funds Investment Act to authorize districts to invest in repurchase agreements through a joint account.

CDB(LEGAL) OTHER REVENUES: SALE, LEASE, OR EXCHANGE OF SCHOOL-OWNED PROPERTY

HB 2518 requires a public property lease between a district and another person to include terms requiring the person to include payment and performance bond requirements in any construction contract the person enters related to the leased property. In addition, the person must provide notice of commencement to the district at least 90 days before any construction begins. (See pages 3-4.)

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CHE(LEGAL) PURCHASING AND ACQUISITION: VENDOR DISCLOSURES AND CONTRACTS

HB 1817 specifies the circumstances under which a district contract is voidable for the vendor's failure to provide the required disclosure of interested parties. (See page 2.)

A provision has been added from HB 900 prohibiting the purchase of library material from vendors included on a list created by TEA. Other provisions of HB 900 are set out in EFB(LEGAL). (See page 10.)

CJA(LEGAL) CONTRACTED SERVICES: CRIMINAL HISTORY

HB 4123 makes significant changes to the laws regarding criminal history record information (CHRI) reviews by the district and "qualified school contractors," as defined in the bill, and repeals provisions relating to CHRI reviews for certain public works contractors. The bill creates a single statutory approach to CHRI reviews for contractors and their employees.

CK(LEGAL) SAFETY PROGRAM/RISK MANAGEMENT

Several legislative changes affect this legal policy on safety programs and risk management:

- HB 3 requires sheriffs in counties with a population of less than 350,000 to conduct semiannual meetings to discuss issues related to school safety.
- HB 1905 allows districts to make school safety training courses, including active shooter training courses, available at no cost to employees of private schools or child-care facilities in the district.
- SB 29 prohibits districts from implementing mandates related to COVID-19.

To better present legislative changes related to school safety and make the associated policies easier to use, provisions in this policy related to safety and security audits have been relocated to CKA(LEGAL).

CKA(LEGAL) SAFETY PROGRAM/RISK MANAGEMENT: SAFETY AND SECURITY AUDITS AND MONITORING

To better present legislative changes related to school safety and make the associated policies easier to use, this legal policy has been renamed Safety and Security Audits and Monitoring, and provisions regarding asbestos management have been relocated to CSC(LEGAL) in the policy series related to facility standards. Provisions regarding safety and security audits have been moved from CK(LEGAL) and amended by HB 3.

Other revisions from HB 3 include new provisions related to the following:

- Monitoring by TEA of district implementation and operation of safety and security requirements through a new office of school safety and security
- Vulnerability assessments by TEA
- Intruder detection audits by regional school safety review teams
- Assignment of a conservator by the commissioner if a district fails to comply with specified safety and security requirements

CKC(LEGAL) SAFETY PROGRAM/RISK MANAGEMENT: EMERGENCY PLANS

Numerous legislative changes affect this legal policy on emergency plans.

Under HB 3, a district must:

- Adopt a policy for providing notice regarding violent activity at a district campus or facility or at a district-sponsored activity. (See page 1.) [TEA issued a To the Administrator Addressed letter to provide

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guidance to educational leaders on September 7, 2023, with Guidance on Model Standards for Parental Notification that can be used to develop administrative procedures.]

- Provide the Department of Public Safety (DPS) and local law enforcement with emergency response maps and an opportunity to conduct a walk-through using the maps. (See page 1.)
- Follow TEA guidelines in adopting and implementing the district's multihazard emergency operations plan (EOP) to ensure the safety of students and personnel with disabilities or impairments in a disaster or emergency. TEA must develop the guidelines. (See page 3.)
- Submit its multihazard EOP no later than the 30th day after the Texas School Safety Center (TxSSC) requests it. HB 3 modifies the timelines related to submitting the plan and correcting any deficiencies. (See page 5.)
- Provide information from DPS and TxSSC regarding safe storage of firearms to parents. (See pages 6-7.) [TxSSC released information on September 1, 2023.]

Provisions have been added to this policy from the Texas Disaster Act regarding confidentiality of certain types of information the district may have related to safety and disaster response. (See pages 7-8.)

CKE(LEGAL) SAFETY PROGRAM/RISK MANAGEMENT: SECURITY PERSONNEL

Several revisions to this legal policy on security personnel result from HB 3.

- The board must determine the appropriate number of armed security officers for each campus. The board must ensure that at least one armed security officer, as defined by the bill, is present during regular school hours at each campus or claim a good cause exception due to availability of funding or qualified personnel. A board that claims a good cause exception must develop an alternative standard. (See page 1.)
- The board's options as to who may be hired for security purposes are expanded. (See pages 1-2.)
- Security personnel are no longer required to be commissioned peace officers to carry weapons, but a person permitted to carry a firearm on campus may not perform certain law enforcement duties, except in an emergency, unless they are commissioned peace officers. (See page 5.)

HB 3 and SB 999 modify requirements related to active shooter response training. (See page 3.)

HB 1133 allows peace officers providing volunteer security services at school events to wear their uniforms under certain circumstances. (See pages 3-4.)

For more information, see TASB Legal Services' School Law eSource article "Armed Security Officer Requirement in House Bill 3 (2023)."

CKEA(LEGAL) SECURITY PERSONNEL: COMMISSIONED PEACE OFFICERS

This legal policy has been updated to include existing provisions regarding the circumstances under which a body-worn camera recording may be released. (See page 5.)

CKEB(LEGAL) SECURITY PERSONNEL: SCHOOL MARSHALS

HB 3623 allows a district to enter into a memorandum of understanding with another district, open-enrollment charter school, or private school to share a school marshal on the other school's campus for certain events. (See page 4.)

CKEC(LEGAL) SECURITY PERSONNEL: SCHOOL RESOURCE OFFICERS

HB 3 implements requirements for a memorandum of understanding for the provision of school resource officers.

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CLA(LEGAL) BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT: SECURITY

SB 2069 revises the requirements for schools to post human trafficking signs. The signs must now be posted in a conspicuous place reasonably likely to be viewed by employees and visitors.

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

HB 2012 allows a classroom teacher to display the national motto in a classroom if the poster or framed copy meets existing requirements.

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

HB 1605 makes numerous changes to this legal policy on instructional materials care and accounting, including revisions to permitted expenditures, requisition procedures, requirements related to open education resources (OER), and certification. In addition, districts may be entitled to additional state aid for certain instructional materials.

Administrative code provisions have been deleted to the extent they are superseded by new laws.

CNA(LEGAL) TRANSPORTATION MANAGEMENT: STUDENT TRANSPORTATION

Duplicative information regarding the transportation of students to accelerated instruction programs has been replaced with a reference on page 7 to EHBCA for more information.

CNC(LEGAL) TRANSPORTATION MANAGEMENT: TRANSPORTATION SAFETY

HB 2190 changes all references in state law from "accident" to "collision."

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

The list of required internet postings has been updated to include:

- Campaign finance filings at item 18 (HB 2626)
- Item 46 regarding annual reports on measurable outcomes for dropout recovery education programs (SB 1647)

A district may now either post online or provide physical copies of the report on library materials (see item 4 at Optional Internet Postings). (HB 900)

CQB(LEGAL) TECHNOLOGY RESOURCES: CYBERSECURITY

SB 768 shortens the deadline to notify the attorney general of a system security breach from 60 to 30 days and requires the notice to be submitted electronically. (See page 4.)

SB 271 creates additional notification requirements for "security incidents" as defined in the bill. (See page 6.)

CQB(LOCAL) TECHNOLOGY RESOURCES: CYBERSECURITY

Based on the new notification requirements imposed by SB 271, the security breach notification provisions have been revised to include security incidents.

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CQC(LEGAL) TECHNOLOGY RESOURCES: EQUIPMENT

HB 18 amends requirements related to transferring data processing equipment or electronic devices to students. Beginning with the 2023-24 school year, in addition to existing requirements, districts must adopt rules establishing programs that promote parents as partners in cybersecurity and online safety and install filters to block pornographic or obscene materials or applications. TEA must adopt standards for permissible devices and applications used by a district. If necessary, Policy Service will recommend policy revisions following publication of the TEA standards.

SB 1893 requires the district to adopt a policy prohibiting the installation or use of a "covered application," as defined in the bill, on any device owned or leased by the district. (See page 3.) The Department of Information Resources (DIR) and the Department of Public Safety (DPS) must develop a model policy for districts to use in developing the required policy, and the district must adopt the required policy no later than 60 days after the model is released. Policy Service will recommend local policy revisions, as appropriate, following publication of the DIR/DPS model policy.

CS(LEGAL) FACILITY STANDARDS

For clarity and ease of use, this legal policy on Facility Standards has been divided into four codes:

- CS: Facility Standards
- CSA: Safety and Security
- CSB: Gas and Pipelines
- CSC: Asbestos Management

CS includes the existing school facility standards that apply to all district capital improvement projects. Accessibility standards as well as provisions related to portable buildings and outdoor lighting also remain in this policy code.

CSA(LEGAL) FACILITY STANDARDS: SAFETY AND SECURITY

This new policy code regarding safety and security includes existing provisions moved from CS(LEGAL) as well as the commissioner's new school safety rules for facilities, effective May 31, 2023.

HB 3 implements additional safety and security requirements for facilities.

SB 838 requires a district to provide each classroom with silent panic alert technology that allows immediate contact with emergency services and law enforcement. This applies beginning with the 2025-26 school year. (See page 9.)

CSA(LOCAL) FACILITY STANDARDS: SAFETY AND SECURITY

This new local policy on facility safety and security includes recommended provisions addressing audits of building access control to comply with the commissioner’s new school safety rules for facilities, effective May 31, 2023.

CSB(LEGAL) FACILITY STANDARDS: SAFETY AND SECURITY

To present legal requirements more clearly, this new legal policy regarding gas and pipelines includes existing provisions moved from CS(LEGAL).

CSC(LEGAL) FACILITY STANDARDS: ASBESTOS MANAGEMENT

To present legal requirements more clearly, existing provisions related to asbestos management have been moved from CKA(LEGAL) to this new policy code.

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CV(LEGAL) FACILITIES CONSTRUCTION

This legal policy regarding facilities construction includes several revisions:

- HB 679 prohibits requiring a specified experience modifier in construction contracts or solicitations. (See pages 5-6.)
- HB 3485 allows vendors and subcontractors to elect not to proceed with additional work without a properly executed change order. (See page 8.)
- HB 2518 adds the failure to include required lease terms to the circumstances under which a district may be liable for failure to obtain a payment bond. (See page 13.)
- HB 2965 prohibits the waiver of Government Code Chapter 2272 regarding construction liability claims. (See page 20.)

DBAA(LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS: PRE-EMPLOYMENT REVIEWS

Changes to the laws regarding the use, confidentiality, and destruction of criminal history record information (CHRI) are from HB 4123. (See pages 4-5.) Other revisions are to better reflect statutory sources.

DBE(LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS: NEPOTISM

HB 1789 provides an exception to the nepotism prohibition for hiring bus drivers if the board approves the employment. (See page 4.)

DC(LOCAL) EMPLOYMENT PRACTICES

HB 1789 creates a nepotism exception for hiring bus drivers, regardless of county population, if the *board* approves employment. We recommend adding a note referring to DBE(LEGAL) (concerning nepotism) to this policy that delegates hiring authority for noncontractual employees to the superintendent as a reminder of the special requirements related to this nepotism exception for bus drivers.

The *Legal Issues in Update 122* memo describes common legal concerns and best practices specific to this policy's topic.

DEAA(LEGAL) COMPENSATION PLAN: INCENTIVES AND STIPENDS

For at least two school years, a district must assign a mentor teacher to a teacher who has been issued a temporary certificate for military service members and first responders to teach career and technology education (see page 5). (HB 621)

DEC(LEGAL) COMPENSATION AND BENEFITS: LEAVES AND ABSENCES

Two bills impact leave requirements for district police officers and emergency personnel.

- HB 1486 adds full-time telecommunicators authorized under the Occupations Code to those entitled to paid mental health leave after experiencing a traumatic event in the scope of employment. (See page 6.)
- HB 471 requires a district to extend a leave of absence to a police officer or emergency medical services personnel for an illness or injury related to the person's line of duty. (See pages 6-7.)

DF(LEGAL) TERMINATION OF EMPLOYMENT

HB 4520 adds conviction of or placement on deferred adjudication community supervision for sale, distribution, or display of harmful material to a minor as a basis for mandatory termination. (See page 2.)

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DG(LEGAL) EMPLOYEE RIGHTS AND PRIVILEGES

Revisions to this legal policy incorporate recent state and federal legislative changes.

- HB 1605 prohibits a district from penalizing a teacher for failure to follow the pacing of instructional materials for a subject in the required curriculum. A classroom teacher is also immune from disciplinary proceedings for violating certain state and federal laws if the teacher used only approved and adopted instructional material and delivered the instruction with fidelity. (See pages 4-5.)
- The federal Providing Urgent Maternal Protections (PUMP) for Nursing Mothers Act, effective December 29, 2022, repealed and replaced prior law requiring breaks for employees to express breast milk. The provisions are not limited to nonexempt employees. (See pages 6-7.)

DGC(LEGAL) EMPLOYEE RIGHTS AND PRIVILEGES: IMMUNITY

HB 2059 adds local behavioral health authorities to the list of providers of mental health first aid training who receive immunity when assisting an individual experiencing a mental health crisis. (See page 4.)

DH(LEGAL) EMPLOYEE STANDARDS OF CONDUCT

HB 4520 adds Penal Code 43.24 (sale, distribution, or display of harmful material to minor) to the qualifying felonies that render a person ineligible for a TRS service retirement annuity if convicted. (See item 4 on page 2.)

DI(LEGAL) EMPLOYEE WELFARE

HB 915 requires a district to post information for reporting workplace violence to the Department of Public Safety.

Other changes are to improve online accessibility of the policy.

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

Revisions to this legal policy incorporate recent state and federal legislative changes.

- HB 567 provides that the prohibition against racial discrimination includes discrimination based on an employee's hair texture or protective hairstyle commonly or historically associated with race. A district commits an unlawful employment practice if it adopts a dress or grooming policy that discriminates against such hair texture or protective hairstyle. (See page 4.)
- The federal Pregnant Workers Fairness Act, effective June 27, 2023, requires employers to provide reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of a qualified employee. (See pages 9-11.)

Additional changes have been made to include citations to Administrative Code provisions and update other citations.

DL(LEGAL) WORK LOAD

HB 1605 allows supplemental agreements between a district and a classroom teacher related to lesson planning or selecting instructional material during planning and preparation time. This applies beginning with the 2024-25 school year.

DLB(LEGAL) WORK LOAD: REQUIRED PLANS AND REPORTS

HB 1605 allows a unit or weekly lesson plan included in instructional material adopted by the board to satisfy a requirement to prepare such a plan. (See item 6 at Restrictions on Written Reports.)

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DMA(LEGAL) PROFESSIONAL DEVELOPMENT: REQUIRED STAFF DEVELOPMENT

Several legislative changes impact this legal policy on staff development.

- A district may satisfy a requirement to implement a program related to substance abuse and prevention and intervention by providing instruction related to fentanyl abuse prevention and drug poisoning awareness (see page 4). (HB 3908)
- A district must require all district employees who regularly interact with students to complete an evidence-based mental health training program (see pages 5-6). (HB 3)
- An athletic trainer who serves as a member of a district's concussion oversight team must take a course that meets the requirements set by the Texas Department of Licensing and Regulation (TDLR) (see page 9). (HB 2495)

Other revisions have been made to clarify the training requirements for other employees related to concussions.

DP(LEGAL) PERSONNEL POSITIONS

Revisions to this legal policy include new Administrative Code provisions, effective May 21, 2023, regarding school counselors, including requirements that they track time spent on various work duties and that the district assess its compliance with its counselor policy. (See pages 5-6.)

The policy also includes provisions from SB 763 authorizing a district to employ or accept as a volunteer a chaplain to provide support, services, and programs for students as assigned by the board. (See pages 8-9.)

DP(LOCAL) PERSONNEL POSITIONS

SB 763 authorizes districts to employ chaplains or accept chaplains as volunteers to provide support, services, and programs for students as assigned by the board. These provisions apply beginning with the 2023-24 school year. While your district currently may allow chaplains along with other visitors or volunteers on campus, SB 763 requires each board to take a record vote not later than six months after the effective date, September 1, 2023, on whether to adopt a policy authorizing a campus to employ or accept as a volunteer a chaplain. To facilitate this record vote, TASB Policy Service sent a draft resolution with the 2023 Post-Legislative Policy Changes Policy Alert, available in the Policy Online® Governance and Management Library (TASB login required), for consideration by the board between September 1, 2023, and March 1, 2024. If the board approves the option to adopt a policy to authorize district campuses to employ or accept as a volunteer a chaplain, send your TASB policy consultant a copy of the resolution for TASB to update the district's DP(LOCAL) policy to reflect the board's decision. If the board would prefer only to accept chaplains as volunteers like other district or campus volunteers, contact your policy consultant for assistance with language at GKG(LOCAL).

EEB(LEGAL) INSTRUCTIONAL ARRANGEMENTS: CLASS SIZE

HB 2729 requires a district or an entity with which a district contracts to provide a prekindergarten program to attempt to maintain an average ratio of at least one *qualified*, rather than certified, teacher or aide for each 11 students. (See High-Quality Prekindergarten Program on page 1.)

EF(LEGAL) INSTRUCTIONAL RESOURCES

This legal policy includes the following revisions from HB 1605:

- Changes to timelines and other requirements related to parental review of tests and instructional materials

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- New requirements pertaining to district instructional material review on request of a parent or group of parents

The district must adopt a process for a parent to request a district instructional material review. TEA must adopt standards for a district to use in this review. Policy Service will recommend local policy revisions following publication of the TEA standards.

Provisions related to parental rights regarding consent to surveys and information collection have been relocated to new policy FA(LEGAL), dedicated to parental rights.

EFA(LEGAL) INSTRUCTIONAL RESOURCES: INSTRUCTIONAL MATERIALS

Numerous revisions throughout this legal policy on instructional materials are the result of HB 1605.

- Expanded definition of "instructional materials”
- Revised provisions regarding the SBOE's review, selection, and approval or rejection of instructional materials
- New provisions related to TEA's instructional materials website and other support for districts
- New and revised provisions pertaining to open education resource (OER) instructional material

EFB(LEGAL) INSTRUCTIONAL RESOURCES: LIBRARY MATERIALS

HB 900 required revisions throughout this legal policy on library materials.

- A district must adhere to the standards for library collection development adopted by the Texas State Library and Archives Commission (TSLAC) with approval of the SBOE. TSLAC must develop standards by January 1, 2024; Policy Service will recommend local policy revisions following publication of the standards.
- Written parental consent is required before a student may check out library material rated by a vendor as "sexually relevant."
- A district must conduct a biennial review of library contents and post a report not later than January 1 of every odd-numbered year.
- Library material vendors may not sell library materials unless they have issued ratings regarding sexually explicit and sexually relevant material previously sold to the district. No sexually explicit material may be sold and any in use must be recalled. Vendors must submit a list to TEA of rated materials sold and in use, and TEA must post the list online.

EHAA(LEGAL) BASIC INSTRUCTIONAL PROGRAM: REQUIRED INSTRUCTION (ALL LEVELS)

HB 1605 requires districts, when adopting instructional materials, to ensure sufficient time for teachers to teach and students to learn the essential knowledge and skills for the subject and grade level. (See Scope and Sequence and Instructional Materials on page 3.)

HB 3908 expands the scope of instruction regarding the dangers of opioids about which the school health advisory council (SHAC) must make recommendations. (See item 7 on page 7.)

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

HB 1605 prohibits any instruction that incorporates three-cueing in the required phonics curriculum.

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

Several bills impact this legal policy on required secondary instruction.

- SB 2124 requires districts to develop an advanced mathematics program and automatically enroll certain sixth grade students unless the student's parent opts out. (See page 3.)
- HB 3908 requires a district to provide annual instruction regarding fentanyl abuse prevention and drug poisoning awareness to students in grades 6 through 12. (See page 7-8.)
- HB 4375 requires a district to provide instruction in using an automated external defibrillator (AED) to students in grades 7 through 12 and allows a district to accept donations to provide such instruction. (See pages 8-9.)

A reference to policy EHBAD has been added on page 9 for more information on new notice requirements regarding the driving with disability program from SB 2304.

EHB(LEGAL) CURRICULUM DESIGN: SPECIAL PROGRAMS

HB 3928 impacts this legal policy on special programs as follows:

- Further outlines the district's obligations when a student is suspected of having dyslexia or a related disorder (See pages 1-2.)
- Requires the board to adopt a local policy requiring the district to comply with all SBOE and commissioner rules, standards, and guidance related to implementing the program to test students for dyslexia and related disorders (See pages 2-3.)
- Requires the multidisciplinary evaluation team to include a dyslexia specialist when determining a student's eligibility for special education services (See page 3.)
- Implements requirements for progress reports for students receiving dyslexia services (See page 5.)
- Specifies required qualifications for providers of dyslexia instruction (See pages 5-6.)

EHB(LOCAL) CURRICULUM DESIGN: SPECIAL PROGRAMS

New provisions are recommended to comply with HB 3928, which requires the board to adopt and implement a policy requiring the district to comply with all rules and standards adopted by the SBOE and guidance published by the commissioner to implement the program to test students for dyslexia and related disorders.

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

This policy on identification, evaluation, and eligibility has been updated to include a reference on page 5 to policy EHB for more information on special education of students with dyslexia and related disorders.

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

Changes reflect revised Administrative Code provisions regarding the admission, review, and dismissal (ARD) committee, effective July 18, 2023. The revisions include requirements related to students new to a district (see pages 4-6), including students who register in the summer, and requirements related to interpretation to ensure parent participation and understanding (see Collaborative Process on page 11).

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EHBAD(LEGAL) SPECIAL EDUCATION: TRANSITION SERVICES

SB 2304 requires a district to provide information regarding the Texas Driving with Disability Program to specified students. (See pages 3-4.)

EHBC(LEGAL) SPECIAL PROGRAMS: COMPENSATORY SERVICES AND INTENSIVE PROGRAMS

The requirements for dropout recovery education programs are revised and supplemented by SB 1647. New provisions, beginning on page 6, address who can operate a program, when a district administrator or counselor may refer a student to a program, and reporting requirements.

EHBC(LOCAL) SPECIAL PROGRAMS: COMPENSATORY SERVICES AND INTENSIVE PROGRAMS

This local policy containing provisions on accelerated instruction has been moved to EHBCA(LOCAL) (see below) to align with the legal policy created at that code in Update 121.

EHBCA(LEGAL) COMPENSATORY SERVICES AND INTENSIVE PROGRAMS: ACCELERATED INSTRUCTION

HB 1416 impacts this legal policy on accelerated instruction in numerous ways, including the following:

- Implements exceptions to accelerated instruction for certain students (See pages 1-2.)
- Modifies requirements for supplemental instruction, including requirements regarding the hours of instruction and the instructional group size (See page 3.)
- Provides parents an option to modify or remove a requirement for supplemental instruction for students who failed to perform satisfactorily on certain assessment instruments (See page 4.)
- Excepts a district from the requirement to provide transportation for students to accelerated instruction programs if the district does not operate or contract for a transportation system
- Expands the requirements to provide notice to parents and requires TEA to develop a model notice [TEA released information on July 13, 2023.]
- Requires a district to develop an accelerated education plan for a student who does not perform satisfactorily on an assessment instrument for two or more school years in the same subject (See pages 6-7.)
- Requires the district to make a good faith attempt to provide a parent conference for a student with an accelerated education plan
- Adds circumstances under which the commissioner may waive a district's accelerated instruction requirements (See pages 8-9.)
- Repeals several provisions, including provisions related to accelerated learning committees
- Amends the ARD committee meeting requirements

EHBCA(LOCAL) COMPENSATORY SERVICES AND INTENSIVE PROGRAMS: ACCELERATED INSTRUCTION

This local policy has been recoded from EHBC(LOCAL) to align with EHBCA(LEGAL) created in Update 121. HB 1416 made several changes to the requirements for accelerated instruction. Recommended changes to this local policy reflect that a parent's ability to request a particular teacher after a student fails to perform satisfactorily on a state assessment is no longer limited to students in grades 3, 5, and 8. Other changes delete references to the accelerated learning committee, which has been eliminated. A

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district now must develop an accelerated learning plan for certain students, and parents still may file a complaint about the plan in accordance with FNG.

EHBG(LEGAL) SPECIAL PROGRAMS: PREKINDERGARTEN

HB 2729 makes several changes related to prekindergarten programs:

- Expands teacher qualifications (See page 5.)
- Requires a district or an entity with which a district contracts to provide a prekindergarten program to attempt to maintain an average ratio of at least one *qualified*, rather than certified, teacher or aide for each 11 students (See page 6.)
- Prescribes new supervisor requirements for entities with which a district contracts to provide a prekindergarten program (See page 6.)

EHBK(LEGAL) SPECIAL PROGRAMS: OTHER INSTRUCTIONAL INITIATIVES

HB 3991 designates the first Friday in April as Texas Fruit and Vegetable Day and requires appropriate instruction. (See page 4.)

HB 3908 requires the governor to designate Fentanyl Poisoning Awareness Week, which may include age-appropriate instruction. (See page 7.)

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

HB 8 implements the Financial Aid for Swift Transfer (FAST) program to allow certain students to enroll at no cost in a dual credit course. A district must provide notice to parents about the program and determine student eligibility. (See pages 7-8.)

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

Provisions related to attendance calculation for off campus electronic instruction expired on September 1, 2023, and have been removed from this legal policy.

EHDF(LEGAL) ALTERNATIVE METHODS FOR EARNING CREDIT: LOCAL REMOTE LEARNING PROGRAM

Provisions related to local remote learning programs expired on September 1, 2023. This legal policy has been deleted in its entirety.

EI(LEGAL) ACADEMIC ACHIEVEMENT

Changes reflect new Administrative Code provisions regarding the academic achievement record of a student who earns a diploma for completing the Texas First Early High School Completion Program, effective June 15, 2023. (See page 4.)

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

This policy on grading/progress reports to parents has been updated to include a reference on page 2 to policy EHB for more information on progress reports for students receiving dyslexia instruction.

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EIC(LOCAL) ACADEMIC ACHIEVEMENT: CLASS RANKING

HB 3803 permits parents to elect to have their student repeat a high school course in which the student was enrolled during the previous school year unless the district determines the student has met all requirements for graduation. Absent local policy, TEA guidance provides that the original passing grade must be retained.

Contact your policy consultant for assistance with policy language that reflects the district's option regarding the use of grades from retaken courses in the calculation of class rank and on the transcript.

EIE(LEGAL) ACADEMIC ACHIEVEMENT: RETENTION AND PROMOTION

HB 3803 permits a parent to elect for a student to repeat the grade in which the student was enrolled in the previous school year up to grade 8. In addition, a parent may elect for a student to repeat a course taken for high school credit in the previous school year unless the district determines the student has met all requirements for graduation. (See page 1.)

EIF(LEGAL) ACADEMIC ACHIEVEMENT: GRADUATION

Provisions related to diplomas for certain students who entered ninth grade before the 2011-12 school year expired on September 1, 2023, and have been removed from this legal policy.

SB 2294 requires a district to allow a student to graduate and receive a diploma under the Texas First Early High School Completion Program if the student satisfies other requirements. (See page 7.)

EKB(LEGAL) TESTING PROGRAMS: STATE ASSESSMENT

This legal policy has been updated to include legislative changes regarding state assessments.

- In establishing the district's calendar and the dates for the administration of state assessment instruments, the board may consider religious holy days or periods of observance likely to be observed by students during the period for administering those instruments (see page 5). (HB 1883)
- A district may administer a state assessment instrument in paper format to up to three percent of students upon request of a student's parent, guardian, or teacher (see pages 6-7). (HB 1225)

F(LEGAL) STUDENTS

The Section F table of contents has been revised to add the new code FA, Parent Rights and Responsibilities. We have also added for future expansion a new code addressing identification of students at FI.

FA(LEGAL) PARENT RIGHTS AND RESPONSIBILITIES

Many of the legal provisions regarding parent rights have been moved to this new policy code so that information is available in a single location. In addition, this policy catalogs the other policy codes that address specific parents' rights throughout the policy manual.

FD(LEGAL) ADMISSIONS

SB 1008 extends the deadline for an active-duty military parent to provide proof of residence in the district from 10 to 90 days after arrival. (See pages 3-4.)

HB 3 requires a parent enrolling a child or the district the child most recently attended to provide the new district a copy of the child's disciplinary record and any threat assessment involving the child's behavior. (See page 8.)

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FDA(LEGAL) ADMISSIONS: INTERDISTRICT TRANSFERS

HB 3 requires a transfer student's district of residence to provide the receiving district with the student's disciplinary record and any threat assessment involving the student's behavior. (See page 1.)

HB 1959 and HB 2892 require the board to grant the request of a peace officer who is a parent of a student or a servicemember who is a parent of a student to transfer the student to another campus or to another district under an agreement between the districts under Education Code 25.035. (See pages 2-3.)

FDB(LEGAL) ADMISSIONS: INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

A reference to information regarding intradistrict transfers requested by a parent who is a servicemember or peace officer has been added to page 3 of this legal policy. The referenced information is located in FDA(LEGAL).

FEA(LEGAL) ATTENDANCE: COMPULSORY ATTENDANCE

HB 1212 prohibits a district from requiring documentation from a clergy member or other religious leader and requires the district to accept a note from a parent when excusing a student's absence to observe a religious holy day. (See page 4.)

SB 68 allows a district to excuse a student from attending school for career investigation days to visit a professional's workplace during the student's junior and senior years to determine the student's interest in a career in the professional's field. (See page 6.)

HB 4559 increases the population threshold for constitutional county courts in certain counties to be designated as truancy courts. (See page 8.)

FEA(LOCAL) ATTENDANCE: COMPULSORY ATTENDANCE

SB 68 allows a district to excuse a student from attending school for career investigation days to visit a professional's workplace during the student's junior and senior years to determine the student's interest in a career in the professional's field. Districts that choose to excuse students for absences to visit a professional’s workplace to explore a career in that professional’s field must adopt a policy to determine when an absence will be excused for this purpose and a procedure to verify the visit. A new provision offered for the board's consideration at Career Investigation permits such absences for the maximum amount allowed in law — up to two days during a student’s junior year and up to two days during the student’s senior year. Contact your policy consultant for revisions if the district will allow fewer excused absences or will not allow any excused absences for this purpose.

The *Legal Issues in Update 122* memo describes common legal concerns and best practices specific to this policy's topic.

FEB(LEGAL) ATTENDANCE: ATTENDANCE ACCOUNTING

References regarding funding for courses taken with the Texas Virtual School Network have been updated.

FEC(LEGAL) ATTENDANCE: ATTENDANCE FOR CREDIT

Provisions allowing a district to adopt a policy to exempt students from the 90 percent rule for courses offered under a local remote learning program exception expired on September 1, 2023, and have been removed from this legal policy.

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FED(LEGAL) ATTENDANCE: ATTENDANCE ENFORCEMENT

HB 3917 allows a parent against whom a complaint for contributing to nonattendance has been filed to enter a written agreement to complete counseling, training, or another program designated by the district. (See page 10.)

FFAC(LEGAL) WELLNESS AND HEALTH SERVICES: MEDICAL TREATMENT

SB 629 requires a district to adopt a policy regarding maintenance, administration, and disposal of opioid antagonists at each campus that serves students in grades 6 through 12; a district may adopt a policy at campuses serving students in grades below 6. Provisions have been added beginning on page 4 regarding reporting, training, immunity, and other topics.

General provisions related to the administration of opioid antagonists have been deleted in light of the new requirements.

SB 294 revises provisions related to a district's option to adopt a policy regarding maintenance, administration, and disposal of medication for respiratory distress. A district that adopts a policy must require each campus to have at least one authorized and trained person present during regular school hours. Provisions have been added beginning on page 11 regarding required referrals after medication is administered, training, reporting, parental notice of the policy, and other topics.

Also under SB 294, a district that implements a policy for the maintenance, administration, and disposal of epinephrine auto-injectors must give notice *of the policy* to parents before the policy is implemented or before the start of each school year. (See page 10.)

Finally, SB 294 prohibits disciplinary action against an employee or volunteer who refuses to administer or receive training to administer epinephrine auto-injectors or medication for respiratory distress in accordance with board policy. (See pages 13-14.)

FFAC(LOCAL) WELLNESS AND HEALTH SERVICES: MEDICAL TREATMENT

Recommended revisions to this policy are based on SB 629, which requires a district to adopt a policy regarding maintenance, administration, and disposal of opioid antagonists at each campus that serves students in grades 6 through 12. The enclosed policy reflects the grade levels to which this new provision will apply based on information recently received from the district.

The *Legal Issues in Update 122* memo describes common legal concerns and best practices specific to this policy's topic.

FFAF(LEGAL) WELLNESS AND HEALTH SERVICES: CARE PLANS

SB 1506 requires a student's seizure management and treatment plan to be on a form adopted by TEA. TEA must adopt the form by December 1, 2023, and post the form on the TEA website. (See page 5.)

FFB(LEGAL) STUDENT WELFARE: CRISIS INTERVENTION

The required policies and procedures for the district's threat assessment and safe and supportive school team are changed as follows (see pages 1-2):

- Under HB 3, the policy must require each campus to establish a procedure for students to report concerning behavior by another student.
- SB 1720 requires the policy to allow employees who report a potential threat to elect to keep their identities confidential.

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Before the threat assessment and safe and supportive school team may conduct a threat assessment, HB 473 requires the team to notify a student's parent regarding the assessment. The team must also notify the parent of its findings and conclusions after the assessment.

HB 3 also requires that materials and information from a threat assessment be maintained in the student's school record until the student's 24th birthday.

FFB(LOCAL) STUDENT WELFARE: CRISIS INTERVENTION

Recommended revisions to this local policy on crisis intervention include the following:

- In accordance with HB 3, provisions have been added at Student Reports to require each campus to establish a clear procedure for students to report concerning behavior by another student.
- Revisions at Employee Confidentiality are based on SB 1720 and allow employees who report a potential threat to elect to keep their identities confidential.

FFBA(LEGAL) CRISIS INTERVENTION: TRAUMA-INFORMED CARE

This policy on trauma-informed care has been updated to include a reference to policy DMA for more information on mental health training for district employees.

FFEA(LEGAL) COUNSELING AND MENTAL HEALTH: COUNSELING

HB 1605 clarifies that materials required to be made available for parent review are those that are not available digitally through an instructional materials parent portal. (See page 1.)

HB 4363 requires that notice be given to students, teachers, counselors, and parents of Future Texas Teachers Scholarship programs. (See page 3.)

FFG(LEGAL) STUDENT WELFARE: CHILD ABUSE AND NEGLECT

HB 63 prohibits the Department of Family and Protective Services from taking anonymous reports of abuse or neglect. Revisions have been made to the required contents of a report, including the name and contact information of the person making the report. (See page 3.) Other provisions have been rearranged for clarity.

FL(LEGAL) STUDENT RECORDS

Information regarding enrollment records has been deleted from this policy to avoid unnecessary duplication of the same information in policy FD. A reference to that policy has been added on page 4.

The following provisions have been relocated to new policy FA(LEGAL) dedicated to parental rights:

- Parental rights regarding consent to surveys and information collection.
- Parental consent requirements related to videotaping or recording students.

FL(LOCAL) STUDENT RECORDS

HB 1416 repeals provisions related to accelerated learning committees. The references to the accelerated learning committee have been replaced with references to the accelerated education plan that now must be created for certain students who fail to perform satisfactorily on state assessments.

The *Legal Issues in Update 122* memo describes common legal concerns and best practices specific to this policy's topic.

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FM(LEGAL) STUDENT ACTIVITIES

HB 1002 allows a licensed chiropractor or physical therapist to serve on the concussion oversight team if the person meets the training requirements. (See pages 4-5.) This bill also allows a physical therapist to remove a student from practice or competition if the physical therapist believes the student has sustained a concussion. (See page 5.)

HB 2484 requires a district to provide a peace officer, SRO, administrator, or security personnel at an athletic event on district property to ensure the safety of an official of the activity under certain circumstances. (See page 8.) This bill also requires a district to prohibit a spectator from attending athletic activities for at least a year if the spectator causes bodily injury to an official because of the official's actions. (See page 18.)

HB 59 implements new requirements for organized water activities including parental affirmation of whether a child can swim and provision of flotation devices for children who cannot swim. (See pages 9-10.)

HB 699 requires UIL, in assigning league classification, to use the same student enrollment calculation formula for a school that allows homeschooled students to participate in UIL activities as for one that does not. (See pages 15-16.)

HB 3708 provides an allotment of $1,500 for each UIL activity in which a district allows a homeschooled student to participate. (See page 16.)

An existing provision that a nurse or health-care professional who is not in compliance with training requirements may not serve on a concussion oversight team has been relocated from GKG. (See page 5.)

FNCA(LEGAL) STUDENT CONDUCT: DRESS CODE

HB 567 prohibits a student dress or grooming policy, including an extracurricular dress code, that discriminates against a hair texture or protective hairstyle commonly or historically associated with race. In light of this new Education Code provision, citations to older caselaw have been deleted.

FNCC(LEGAL) STUDENT CONDUCT: PROHIBITED ORGANIZATIONS AND HAZING

SB 1900 expands the offense of coercing, inducing, or soliciting membership in a criminal street gang to include a foreign terrorist organization. (See page 1.)

SB 37 allows a report of hazing to be made to a peace officer or law enforcement agency. Provisions regarding immunity for reporting hazing have been added to this legal policy. (See page 2.)

FNCD(LEGAL) STUDENT CONDUCT: TOBACCO USE AND POSSESSION

This legal policy on tobacco use and possession has been updated to include a reference to policy FOC regarding the new disciplinary consequences for conduct involving e-cigarettes.

FNCF(LEGAL) STUDENT CONDUCT: ALCOHOL AND DRUG USE

This legal policy has been updated on page 1 to increase the population threshold for certain districts to petition for an alcohol-free zone. (HB 4559)

FNCG(LEGAL) STUDENT CONDUCT: WEAPONS

HB 114 clarifies that the procedural requirements of Education Code 37.009(a) regarding conference and mitigating factors apply to expulsion. (See Possession of Weapons on page 1.)

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FNG(LEGAL) STUDENT RIGHTS AND RESPONSIBILITIES: STUDENT AND PARENT COMPLAINTS/GRIEVANCES

Provisions outlining parental rights have been relocated to new policy FA(LEGAL) dedicated to parent rights.

FO(LEGAL) STUDENT DISCIPLINE

A district peace officer or security personnel may not restrain or use a chemical irritant or Taser on a student in fifth grade or below unless the student poses a serious risk of harm (see page 6). (SB 133)

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

Several bills impact this legal policy regarding placement in a DAEP.

- HB 114:
- Clarifies that the procedural requirements of Education Code 37.009(a) regarding conference and mitigating factors apply to placement in a DAEP (see page 1).
- Requires DAEP placement for certain conduct involving e-cigarettes (see item 5 on page 2).
- Allows placement in in-school suspension of students who engaged in certain conduct when DAEP is at capacity (see page 9).
- HB 2187 expands the Title V felony offense of abandoning or endangering a child to include elderly or disabled individuals. (See item 25 on page 4.)
- HB 3928 requires the district, upon placement of a student in DAEP, to provide information to the parent about the process to request an evaluation of the student for special education services. (See page 8.)

FOCA(LEGAL) PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING: DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM OPERATIONS

HB 114 allows a program of educational and support services to be provided to a student and the student's parents when a DAEP offense involves e-cigarettes. (See page 5.)

HB 3928 requires the personalized transition plan for a student exiting a DAEP to include the provision of information to the parent about the process to request an evaluation of the student for special education services. (See pages 6-7.)

FOD(LEGAL) STUDENT DISCIPLINE: EXPULSION

HB 114 clarifies that the procedural requirements of Education Code 37.009(a) regarding conference and mitigating factors apply to expulsion. For ease of reference, content related to pre-placement proceedings has been duplicated in this policy. (See page 6.)

This legal policy also has been updated to increase the population threshold for certain counties considered to be a county with a population of 125,000 or less for purposes of JJAEP requirements (see page 10). (HB 4559)

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FODA(LEGAL) EXPULSION: JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

This legal policy has been updated to increase population thresholds for certain counties considered to be a county with a population of 125,000 or less for purposes of JJAEP requirements. (See pages 1-2.) (HB 4559)

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

Several legislative changes affect this legal policy on access to public information.

- HB 1161 adds victims of child abduction to those covered by the address confidentiality program. (See page 10.)
- HB 3130 restricts the release of information about certain persons who hold or apply for a license issued by the district. (See page 12.)
- HB 4123 prohibits the release of criminal history record information (CHRI) obtained from the FBI and limits the release of CHRI obtained from other Texas criminal justice agencies. (See page 12.)
- HB 3033 provides that the litigation exception to disclosure does not apply to election information in the possession of the entity that administers elections. (See page 16.)
- HB 30 and HB 3033 address the release of information related to certain arrests and crimes. (See page 17.)

GBAA(LEGAL) ACCESS TO PUBLIC INFORMATION: REQUESTS FOR INFORMATION

Numerous revisions throughout this legal policy on requests for information are the result of HB 3033, including the following:

- The attorney general (AG) may require board members and the officer for public information to complete Public Information Act (PIA) training if the AG determines the district has failed to comply with a requirement of the PIA. (See page 4.)
- "Business day" is defined. A board may designate 10 nonbusiness days each calendar year. (See page 7.)
- With limited exceptions, a district must submit a request for an AG decision through the AG's electronic filing system. (See page 14.)
- A district must take certain actions as soon as practicable after receiving an AG decision. (See pages 20-21.)
- A district may request photo identification from a requestor to establish the requestor has not exceeded a personnel time limit and concealed the requestor's identity. A requestor may decline to provide identification and pay a charge for exceeding the time limit. (See page 30.)

The list of state and national holidays has been added on page 8.

GC(LEGAL) PUBLIC NOTICES

This legal policy has been updated to increase the population threshold for the selection of the newspaper for publication of notice in certain counties (see page 2). (HB 4559)

Bryan ISD

GKA(LEGAL) COMMUNITY RELATIONS: CONDUCT ON SCHOOL PREMISES

HB 1760 modifies the Penal Code regarding places where weapons are prohibited to require that grounds on which a school-sponsored activity is occurring be owned by and under the control of a school. (See page 7.)

GKC(LEGAL) COMMUNITY RELATIONS: VISITORS

HB 3 allows a district to eject a person on district property who fails or refuses to provide identification on request if the person reasonably appears to have no legitimate reason to be on district property.

GKG(LEGAL) COMMUNITY RELATIONS: SCHOOL VOLUNTEER PROGRAM

HB 4123 allows a district to obtain criminal history record information (CHRI) from the Department of Public Safety, in addition to other agencies, about a volunteer who is excepted from the required CHRI check but subject to a discretionary check by the district. (See page 2.)

Provisions related to the concussion oversight team have been relocated to FM(LEGAL).

GRAC(LEGAL) STATE AND LOCAL GOVERNMENTAL AUTHORITIES: JUVENILE SERVICE PROVIDERS

HB 446 changed terminology used in statutes to refer to intellectual disability. (See item 8 on page 2.)

GRB(LEGAL) RELATIONS WITH GOVERNMENTAL ENTITIES: INTERLOCAL COOPERATION CONTRACTS

This policy has been updated to increase the population threshold for municipalities to contract with one or more school districts to provide school crossing guards. (HB 4559)

Definitions

“District-level committee” means the committee established under Education Code 11.251, or a comparable committee if the district is exempted (or has exempted itself) from this provision.

“Innovation plan committee” means a committee appointed by the board of trustees to develop the innovation plan in accordance with statutory requirements. The district-level committee may also serve in this role.

“Public hearing” means an open meeting held by the board of trustees that allows members of the public to hear facts about the proposed plan and designation and provides the opportunity for the public to give opinions and comments on the proposed actions.

“Public meeting” means an open meeting held by the board of trustees that allows members of the public to hear facts about the proposed plan and designation.

“Unacceptable academic performance rating” means a rating of Improvement Required or Unacceptable Performance or as otherwise indicated in the applicable year's academic accountability manual.

“Unacceptable financial accountability rating” means a Financial Integrity Rating System of Texas (FIRST) rating of Substandard Achievement as indicated in the applicable year's financial accountability system manual.

19 TAC 102.1301

District of Innovation

A district is eligible for designation as a district of innovation if the district's final and most recent performance rating under Education Code 39.054 reflects at least acceptable performance.

A board may not vote on the final approval of the innovation plan if the district is assigned either a final or preliminary rating below acceptable performance. In the event the preliminary rating is changed, the board may then vote to become an innovation district.

Consideration of designation as a district of innovation may be initiated by a resolution adopted by the board or a petition signed by a majority of the members of the district-level committee [see BQA].

Education Code 12A.001; 19 TAC 102.1303

Public Hearing

After adopting a resolution or receiving a petition for consideration as a district of innovation, a board shall hold a public hearing as soon as possible, but not later than 30 days, to consider whether the district should develop a local innovation plan for the designation of the district as a district of innovation.

At the conclusion of the public hearing or within 30 days after conclusion of the public hearing, the board may decline to pursue designation of the district as a district of innovation or appoint a committee to develop a local innovation plan.

The board may outline the parameters around which the innovation plan committee may develop the plan.

Education Code 12A.002; 19 TAC 102.1305

Local Innovation Plan

A local innovation plan meeting all legal requirements must be developed for a district before the district may be designated as a district of innovation.

The local innovation plan must provide for a comprehensive educational program for the district, which program may include:

1. Innovative curriculum, instructional methods, and provisions regarding community participation, campus governance, and parental involvement;
2. Modifications to the school day or year [see EB, EC];
3. Provisions regarding the district budget and sustainable program funding;
4. Accountability and assessment measures that exceed the requirements of state and federal law; and
5. Any other innovations prescribed by the board of trustees.

The plan must also identify requirements imposed by the Education Code that inhibit the goals of the plan and from which the district should be exempted on adoption of the plan, subject to Education Code 12A.004. [See Exceptions, below]

The commissioner of education shall maintain a list of provisions from which designated districts of innovation are exempt. The commissioner shall notify the legislature of each provision from which districts enrolling a majority of students in this state are exempt.

Education Code 12A.003, .004(b); 19 TAC 102.1305(d)

Prohibited Exemptions

A local innovation plan may not provide for the exemption of a district designated as a district of innovation from the provisions listed in Education Code 12A.004 and 19 Administrative Code 102.1309.
Education Code 12A.004; 19 TAC 102.1309

An innovation district may not be exempted from the following sections of the Education Code and the rules adopted thereunder:

1. A state or federal requirement, imposed by statute or rule, applicable to an open-enrollment charter school operating under Education Code Chapter 12, Subchapter D, including, but not limited to, the requirements listed in Education Code 12.104(b), and:
    a. Education Code Chapter 22, Subchapter B;
    b. Education Code Chapter 25, Subchapter A, sections 25.001, .002, .0021, .0031, and .004;
    c. Education Code Chapter 28, sections 28.002, .0021, .0023, .005, .0051, .006, .016, .0211, .0213, .0217, .025, .0254, .02541, .0255, .0258, .0259, and .026;
    d. Education Code Chapter 29, Subchapter G;
    e. Education Code Chapter 30, Subchapter A;
    f. Education Code 30.104;
    g. Education Code Chapter 34;
    h. Education Code Chapter 37, sections 37.005, .006(l), .007(e), .011, .012, .013, and .020;
    i. Education Code Chapter 39; and
    j. Education Code Chapter 39A.
2. Education Code Chapter 11, Subchapters A, C, D, and E, except that a district may be exempt from Education Code 11.1511(b)(5) and (14) and 11.162;
3. Education Code Chapter 12, Subchapter C;
4. Education Code Chapter 12A;
5. Education Code Chapter 13;
6. Education Code Chapter 44, sections 44.0011, .002, .003, .004, .0041, .005, .0051, .006, .007, .0071, .008, .009, .011, .0312, .032, .051, .052, .053, and .054;
7. Education Code Chapter 45, sections 45.003, .0031, .005, .105, .106, .202, and .203;
8. Education Code Chapter 46;
9. Education Code Chapter 48; and
10. Education Code Chapter 49.

In addition to the prohibited exemptions specified above, an innovation district may not be exempted from:

1. A requirement of a grant or other state program in which the district voluntarily participates;
2. Duties that the statute applies to the execution of that power if a district chooses to implement an authorized power that is optional under the terms of the statute;
3. A requirement of a grant or other state program authorized in the Education Code that would otherwise entitle the district to participation in that program; and
4. Requirements imposed by provisions outside the Education Code, including requirements under Government Code Chapter 822.

19 TAC 102.1309; Education Code 12A.004

Adoption of Local Innovation Plan

The board may not vote on adoption of a proposed local innovation plan unless:

1. The final version of the proposed plan has been available on the district's website for at least 30 days;
2. The board has notified the commissioner of the board's intention to vote on adoption of the proposed plan; and
3. The district-level committee [see BQA] has held a public meeting to consider the final version of the proposed plan and has approved the plan by a majority vote of the committee members. The public meeting may occur at any time, including up to or on the same date at which the board intends to vote on final adoption of the proposed plan.

The board may adopt a proposed local innovation plan by an affirmative vote of two-thirds of the membership of the board.

On adoption of a local innovation plan, the district is designated as a district of innovation for the term specified in the plan, but no longer than five calendar years, and shall begin operation in accordance with the plan. In addition, the district is exempt from state requirements identified under Education Code 12A.003(b)(2). [See Local Innovation Plan, above]

The district shall notify the commissioner of approval of the plan along with a list of approved exemptions by completing the agency’s form provided at 19 Administrative Code 102.1307(d).

A district's exemption under the plan includes any subsequent amendment or redesignation of an identified state requirement, un-

less the subsequent amendment or redesignation specifically applies to an innovation district.

The district shall ensure that a copy of the plan is posted on the district's website in accordance with Education Code 12A.0071, for the term of the designation as an innovation district.

Education Code 12A.005; 19 TAC 102.1307

Notice to TEA

Not later than the 15th day after the date on which the board finalizes a local innovation plan either through adoption, amendment, or renewal, the district shall provide a link to the local innovation plan as posted on the district's website to the Texas Education Agency (TEA). TEA shall promptly post the current local innovation plan on the agency's website. *19 TAC 102.1307(g); Education Code 12A.0071(b)*

Term

The term of a district's designation as a district of innovation may not exceed five years and is effective upon district approval and notification of the plan to the TEA. A district may only have one innovation plan at any given time. *Education Code 12A.006; 19 TAC 102.1311*

Amendment, Rescission, or Renewal of Local Innovation Plan

A local innovation plan may be amended, rescinded, or renewed if the action is approved by a vote of the district-level committee [see BQA] and a two-thirds majority vote of the board.

An amendment to an approved plan does not change the date of the term of designation as an innovation district. Exemptions that were already formally approved are not required to be reviewed.

A district must notify TEA within five business days of rescission and provide a date at which time it will be in compliance with all sections of the Education Code, but no later than the start of the following school year.

During renewal, all sections of the plan and exemptions shall be reviewed, and the district must follow all components outlined in 19 Administrative Code 102.1307 relating to Adoption of Local Innovation Plans, except that a district is not required to notify the commissioner of the board's intention to vote on the adoption of the proposed plan.

The district shall notify the commissioner of any actions taken along with the associated exemptions and local approval dates.

A district must meet eligibility requirements under 19 Administrative Code 102.1303 in order to renew an innovation plan.

Education Code 12A.007; 19 TAC 102.1313

Renewal Timeline

In the event that a district fails to renew a plan prior to the expiration of its term, a district may renew the plan in the six months subsequent to the plan's date of expiration in order to maintain a continuous designation as a district of innovation.

The term of a renewed plan, subject to 19 Administrative Code 102.1311, may not begin prior to the date on which the board votes to adopt the renewed plan, unless the plan is adopted during the six months subsequent to the plan's date of expiration.

If a plan is renewed during the timeline described in this provision, the renewed plan will have a term not to exceed five calendar years, beginning on the date of expiration of the prior term.

If a plan is renewed during the timeline described in this provision and changes are made to the plan during the renewal process, those changes will be in effect from the date of adoption of the renewed plan through the expiration date of the renewed plan, unless amended, rescinded, or terminated.

If changes are made to the plan during the renewal process, the district shall mark the changes with the date of the vote to renew the plan in order to denote the earliest date those changes may take effect.

A district whose plan is not renewed during the timeline described in this provision shall comply with all previously adopted exemptions immediately upon expiration of the plan and begin the adoption process over again in its entirety should the district wish to pursue designation as a district of innovation in the future.

19 TAC 102.1313(a)(3)(B)

Website Posting

A district designated as a district of innovation shall ensure that a copy of the district's current local innovation plan is available to the public by posting and maintaining the plan in a prominent location on the district's internet website. *Education Code 12A.0071(a); 19 TAC 102.1307(f)*

The district's innovation plan must be clearly posted on the district's website for the term of the designation as an innovation district. *19 TAC 102.1307(f)*

Criminal History Background Checks

A prohibition, restriction, or requirement imposed by Education Code Chapter 22, Subchapter C (district employee and volunteer criminal history records), applies to the same extent to a district of innovation or other charter entity.

The failure of a district of innovation to provide information required under Education Code 22.0832 (National Criminal History Record

Information Review of Certain Open-Enrollment Charter School Employees) may result in termination of the district's designation as a district of innovation.

Education Code 22.0815(b)-(c)

Termination by Commissioner

The commissioner may terminate a district's designation as a district of innovation if the district receives for two consecutive school years:

Discretionary Termination

1. A final unacceptable academic performance rating under Education Code 39.054;
2. A final unacceptable financial accountability rating under Education Code 39.082; or
3. A final unacceptable academic performance rating under Education Code 39.054 for one of the school years and an unacceptable financial accountability rating under Education Code 39.082 for the other school year.

The commissioner may permit the district to amend the local innovation plan to address concerns specified by the commissioner in lieu of terminating the district's designation.

Education Code 12A.008(a)-(b); 19 TAC 102.1315(a)(1)-(a)(2)

The commissioner may terminate a district's designation as a district of innovation if the district fails to comply with the duty to discharge or refuse to hire:

1. Certain employees or applicants for employment under Education Code 12.1059;
2. Certain employees or applicants convicted of certain offenses under Education Code 22.085; or
3. Certain employees or applicants not eligible for employment in public schools under Education Code 22.092.

19 TAC 102.1315(a)(3); Education Code 12A.008(b-1) [See DBAA, DF]

Mandatory Termination

The commissioner shall terminate a district's designation as a district of innovation if the district receives for three consecutive school years:

1. A final unacceptable academic performance rating under Education Code 39.054;
2. A final unacceptable financial accountability rating under Education Code 39.082; or

3. Any combination of one or more unacceptable ratings Education Code 39.054 and one or more unacceptable ratings under Education Code 39.082.

Education Code 12A.008(c); 19 TAC 102.1315(b)

No Appeal

The commissioner's decision to terminate a district's designation as a district of innovation is final and may not be appealed. *Education Code 12A.008(d); 19 TAC 102.1315(d)*

District Annual Report

The board shall publish an annual report describing the educational performance of the district and of each campus in the district that includes uniform student performance and descriptive information as determined under rules adopted by the commissioner of education. *Education Code 39.306(a)*

Texas Academic Performance Report (TAPR)

The performance report provided by the Texas Education Agency (TEA) under Education Code 39.306 shall be termed the 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.

19 TAC 61.1022(a)-(b), (e); Education Code 39.306(d)

Other Annual Report Information

The annual report must also include:

1. Campus performance objectives established under Education Code 11.253 and the progress of each campus toward those objectives, which shall be available to the public;
2. Information indicating the district's accreditation status and identifying each district campus awarded a distinction designation or considered an unacceptable campus under Education Code Chapter 39A;
3. The district's current special education compliance status with the agency;
4. A statement of the number, rate, and type of violent or criminal incidents that occurred on each district campus, to the extent permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g);
5. Information concerning school violence prevention and violence intervention policies and procedures that the district is using to protect students;
6. The findings that result from evaluations conducted under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. 7101 et seq.);

7. Information received under Education Code 51.403(e) for each high school campus in the district, presented in a form determined by the commissioner; and

8. Progress of the district and each campus in the district toward meeting the goals set in the district's early childhood literacy and mathematics proficiency plans and college, career, and military readiness plans [see EA].

Education Code 39.306(a)

The report must include a statement of the amount, if any, of the district's unencumbered surplus fund balance as of the last day of the preceding fiscal year and the percentage of the preceding year's budget that the surplus represents. *Education Code 39.306(g)*

The report must also include the number of school counselors providing counseling services at each campus. *Education Code 39.306(d-1)*

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.

Education Code 39.306(e)

Supplemental information to be included in the reports shall be determined by the board. *Education Code 39.306(b)*

Public Hearing

The board shall hold a hearing for public discussion of the report. 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)*

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. *19 TAC 61.1022(c)*

Publication

The TAPR must be published within two weeks after the public hearing, in the same format as it was received from TEA. *19 TAC 61.1022(d)*

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

Report Uses

The information in the annual report 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. *Education Code 39.307*

Campus Performance Report

Each school year, TEA shall prepare and 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

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.

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.

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.

Education Code 39.305; 19 TAC 61.1021

Website Notices

Not later than the 10th day after the first day of instruction of each school year, a district that maintains an internet website shall make the following information available:

1. The information in the most recent campus report card for each campus in the district;
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

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*

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 in the notice 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

Quality of Learning Indicators

The commissioner shall also adopt indicators of the quality of learning for the purpose of preparing performance reports. Performance on the indicators shall be evaluated in the same manner provided for evaluation of the achievement indicators under Education Code 39.053(c) [see Achievement Indicators, AIA].

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 distinguished 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, 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, aggregated by grade level, provided accelerated instruction under Education Code 28.0211 [see EHBC] after unsatisfactory performance on a state assessment; the results of assessment instruments administered under the accelerated instruction program; the subject of the assessment instrument on which each student failed to perform satisfactorily under each performance standard; and the performance of those students in the subsequent 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(a)-(c)

Results Driven Accountability (RDA)

In accordance with Education Code 7.028(a), the purpose of the Results Driven Accountability (RDA) framework is to evaluate and report annually on the performance of districts for certain populations of students included in selected program areas. The performance of a district is included on the RDA report through indicators of student performance and program effectiveness and corresponding performance levels established by the commissioner. *19 TAC 97.1005; Education Code 7.028(a)*

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 assessments 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 mem-

bers 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)

District Data on Academic Achievement

On request by the board, TEA shall create a website that members of the board may use to review campus and district academic achievement data. The website must also be made available to campuses in a similar manner that access is provided to the board.

The website must:

1. Include district information, disaggregated by campus, grade, sex, race, academic quarter or semester, as applicable, and school year, regarding the following:
    a. Student academic achievement and growth;
    b. Teacher and student attendance; and
    c. Student discipline records; and
2. Be updated at least once each quarter of the school year.

The commissioner shall provide information that permits a board member to compare the district's academic performance with the academic performance of other districts of similar size and racial and economic demographics.

A district must provide requested information to the commissioner for the creation of the website. Confidential information received by the commissioner remains confidential. The commissioner shall design the website to ensure that public information is made available to the public, and information submitted by districts noted as confidential is not made available to the public.

A request for public information under this provision shall be submitted to the district that provides the agency with the information. TEA may not release information submitted by a district that is noted as confidential information.

Education Code 11.1516

Note: If the district is subject to a court order or other binding legal determination, the district shall conduct its elections in accordance with that court order or determination, applicable law, and this policy. To the extent of any conflict, the court order or other legal determination shall prevail. [See BBB(LOCAL)]

Membership

The board consists of the number of members that the district had on September 1, 1995. *Education Code 11.051(b)*

Increase in Membership

A board that has three or five members may by resolution increase the membership to seven. A board that votes to increase its membership must consider whether the district would benefit from also adopting a single-member election system under Education Code 11.052. [See Single-Member Districts, below.]

A resolution increasing the number of trustees takes effect with the second regular election of trustees that occurs after the adoption of the resolution. The resolution must provide for a transition in the number of trustees so that when the transition is complete, trustees are elected as provided by Education Code 11.059 (terms).

Education Code 11.051(c)

Terms

A trustee of a district serves a term of three or four years.

Elections for trustees with three-year terms shall be held annually. The terms of one-third of the trustees, or as near to one-third as possible, expire each year.

Elections for trustees with four-year terms shall be held biennially. The terms of one-half of the trustees, or as near to one-half as possible, expire every two years.

Board policy must state the schedule on which specific terms expire.

Education Code 11.059

Note: For website posting requirements regarding trustee information, see CQA.

Uniform Election Dates

Each general or special election of board members shall be on one of the following dates:

1. The first Saturday in May.

2. The first Tuesday after the first Monday in November.

Election Code 41.001(a)

Joint Elections

Required

A district trustee election shall be held on the same date as:

1. The election for the members of the governing body of a municipality located in the district;

2. The general election for state and county officers, which is held on the first Tuesday after the first Monday in November in even-numbered years under Election Code 41.002;

3. The election for the members of the governing body of a hospital district, if the school district:

   a. Is wholly or partly located in a county with a population of less than 50,000 that is adjacent to a county with a population of more than three million; and

   b. Held its election for board members jointly with the election for the members of the governing body of the hospital district before May 2007; or

4. The election for the members of the governing board of a public junior college district in which the school district is wholly or partly located.

Elections held on the same date as provided above shall be held as a joint election under Election Code Chapter 271, and the voters shall be served by common polling places consistent with Election Code 271.003(b).

Education Code 11.0581(a)-(c)

A board may enter into an agreement with another political subdivision holding an election on the same day in all or part of the same county to hold the elections jointly. The terms of a joint election agreement must be stated in an order, resolution, or other official action adopted by the board. *Election Code 271.002*

Methods of Election — Options

At Large

In a district in which the positions of trustees are not designated by number or in which the trustees are not elected from single-member trustee districts, the candidates receiving the highest number of votes shall fill the positions the terms of which are normally expiring. *Education Code 11.057(b)*

Position or Place

The positions on the board shall be designated by number in any district in which the board by resolution orders that all candidates for trustee be voted on and elected separately for positions on the board and that all candidates be designated on the official ballot

according to the number of the positions for which they seek election.

Not later than the 60th day before the date of an election, the board must make the resolution and number the positions on the board in the order in which the terms of office expire. Once a board has ordered the election of trustees by numbered positions, neither the board nor their successors may rescind the action.

Education Code 11.058(c)-(f)

Single-Member Districts

On Board's Motion

Except as provided below, the board, on its own motion, may order that trustees of the district are to be elected from single-member districts or that not fewer than 70 percent of the members of the board are to be elected from single-member districts with the remaining board members to be elected from the district at large.

If a majority of the area of a district is located in a county with a population of less than 10,000, a board, on its own motion, may order that trustees of the district are to be elected from single-member districts or that not fewer than 50 percent of the members of the board are to be elected from single-member districts with the remaining board members to be elected from the district at large.

Before adopting an order, a board must:

1. Hold a public hearing at which registered voters of a district are given an opportunity to comment on whether or not they favor the election of trustees in the manner proposed by the board; and

2. Publish notice of the hearing in a newspaper that has general circulation in the district, not later than the seventh day before the date of the hearing.

An order adopted by the board must be entered not later than the 120th day before the date of the first election at which all or some of the trustees are elected from single-member districts authorized by the order.

Education Code 11.052(a)-(d)

By Voter Petition

If at least 15 percent or 15,000 of the registered voters of the district, whichever is less, sign and present to the board a petition requesting submission to the voters of the proposition that trustees be elected in a specific manner, which must be generally described on the petition and which must be a manner of election the board could have ordered on its own motion, the board shall order that the appropriate proposition be placed on the ballot at the first regular election of trustees held after the 120th day after the date the

petition is submitted to the board. The proposition must specify the number of trustees to be elected from single-member districts. Beginning with the first regular election of trustees held after an election at which a majority of the registered voters voting approve the proposition, trustees shall be elected in the manner prescribed by the approved proposition. *Education Code 11.052(e)*

Board Member Districts

If single-member districts are adopted or approved by either method described above, the board shall divide the district into the appropriate number of trustee districts, based on the number of members that are to be elected from single-member districts, and shall number each trustee district. The trustee districts must be compact and contiguous and must be as nearly as practicable of equal population. In a district with 150,000 or more students in average daily attendance, the boundary of a trustee district shall not cross a county election precinct boundary except at a point at which the district boundary crosses the county election precinct boundary. Trustee districts must be drawn not later than the 90th day before the date of the first election of trustees from those districts. *Education Code 11.052(f)*

Residency for First Election

Residents of each trustee district are entitled to elect one trustee to the board. A trustee elected to represent a trustee district at the first election of members must be a resident of the district the trustee represents not later than the 90th day after the date election returns are canvassed, or the 60th day after the date of a final judgment in an election contest filed concerning that trustee district. A trustee vacates the office if the trustee fails to move into the district the trustee represents within the time provided. [For more information on residency, see BBA and BBC.] *Education Code 11.052(g)*

Number and Term

At the first election at which some or all of the trustees are elected from single-member trustee districts and after each redistricting, all positions on a board shall be filled. The trustees then elected shall draw lots for staggered terms as provided by Education Code 11.059 (terms). *Education Code 11.052(h)*

Redistricting

Not later than the 90th day before the date of the first regular board election at which trustees may officially recognize and act on the last preceding federal census, a board shall redivide a district into the appropriate number of trustee districts if the census data indicates that the population of the most populous district exceeds the population of the least populous district by more than 10 percent. Redivision of a district shall be in the manner provided above at Board Member Districts. *Education Code 11.052(i)*

Phase-in Option

The board of a district that adopts a redistricting plan may provide for the trustees in office when the plan is adopted or the district is

redistricted to serve for the remainder of their terms in accordance with this provision. The trustee district and any at-large positions provided by the district's plan shall be filled as the staggered terms of trustees then in office expire. Not later than the 90th day before the date of the first election from trustee districts and after each redistricting, a board shall determine the order in which the positions will be filled. *Education Code 11.053*

Boundary Change Notice

A district that changes its boundaries or the boundaries of districts used to elect members to the board shall not later than the 30th day after the date the change is adopted:

1. Notify the voter registrar of the county in which the area subject to the boundary change is located of the adopted boundary change; and
2. Provide the voter registrar with a map of an adopted boundary change in a format that is compatible with the mapping format used by the registrar's office.

Election Code 42.0615

Methods of Voting — Options

Except as otherwise provided at Majority, below, to be elected to a public office, a candidate elected at large, at large by position, or by single-member districts must receive more votes than any other candidate for the office. *Education Code 11.057(a), (b); Election Code 2.001*

Plurality

Cumulative

The board of a district that elects its trustees at large or at large by position may order that elections for trustees be held using the cumulative voting procedure.

If a board adopts an order requiring the use of cumulative voting, only the board member positions that were scheduled to be filled at the election are filled through the use of cumulative voting.

At an election at which more than one board member position is to be filled, all of the positions that are to be filled at the election shall be voted on as one race by all the voters of a district. Each voter is entitled to cast a number of votes equal to the number of positions to be filled at the election.

A voter may cast one or more of the specified number of votes for any one or more candidates in any combination. Only whole votes may be cast and counted. If a voter casts more than the number of votes to which the voter is entitled in the election, none of the voter's votes may be counted in that election. If a voter casts fewer votes than entitled, all of the voter's votes are counted in that election.

The candidates who are elected are those, in the number to be elected, receiving the highest number of votes.

A district that adopts an order requiring the use of cumulative voting may not elect its members by position as provided by Education Code 11.058.

Education Code 11.054

Majority

The board of a district in which the positions of trustees are designated by number or in which the trustees are elected from single-member districts may provide by resolution, not later than the 180th day before the date of an election, that a candidate must receive a majority of the votes cast for a position or in a trustee district, as applicable, to be elected.

The resolution is effective until rescinded by a subsequent resolution adopted not later than the 180th day before the date of the first election to which the rescission applies.

Education Code 11.057(c)

Note: If the district is subject to a court order or other binding legal determination, the district shall conduct its elections in accordance with that court order or determination, applicable law, and this policy. To the extent of any conflict, the court order or other legal determination shall prevail. [See BBB(LOCAL)]

Notice of Polling Place

Any written notice of a polling place location must state the building name, if any, and the street address, including the suite or room number, if any, of the polling place. *Election Code 1.021*

Election Order

The board shall order an election. An election to be held on a uniform election date shall be ordered not later than the 78th day before election day. *Election Code 3.004, .005*

Each election order must state:

1. The date of the election;
2. The offices or measures to be voted on;
3. The early voting clerk's official mailing address or street address at which the clerk may receive delivery by common or contract carrier, if different, phone number, email address, and internet website, if the early voting clerk has an internet website;
4. The location of the main early voting polling place;
5. The dates and hours for early voting; and
6. The dates and hours of any Saturday and Sunday early voting.

Election Code 3.006, 83.010, 85.004, .007

A board shall preserve the election order for the period for preserving the precinct election records. The date and nature of each election shall be entered in the official records of the board. For an election on a measure, the entry must include a description of the measure. *Election Code 3.008*

Failure to Order an Election

Failure to order a general election does not affect the validity of the election. *Election Code 3.007*

Election Notice

Contents

Notice of the election must state:

1. The nature and date of the election;
2. The location of each polling place;

3. The hours the polls will be open;

4. The internet website of the authority conducting the election;

5. The early voting clerk's official mailing address or street address at which the clerk may receive delivery by common or contract carrier, if different, phone number, email address, and internet website, if the early voting clerk has an internet website;

6. The location of the main early voting polling place; and

7. The dates and hours for early voting, including the dates and hours of any Saturday and Sunday early voting.

Election Code 4.004(a), 83.010, 85.004, .007

Notice of Special Election

The notice of a special election must also state each office to be filled or the proposition stating each measure to be voted on. *Election Code 4.004(b)*

Publication

Notice of the election shall be published at least once, not earlier than the 30th day or later than the 10th day before election day, in a newspaper published within the district's boundaries or in a newspaper of general circulation in the district if none is published within the district's boundaries. The board shall retain a copy of the published notice that contains the name of the newspaper and the date of publication. *Election Code 4.003(a)(1), (c), .005(a)*

Posting

In addition to the notice described above, not later than the 21st day before election day, a county shall post a copy of a notice of election provided to the county [see Notice to County Clerk and Voter Registrar, below], which must include the location of each polling place, on the county's internet website, if the county maintains a website. A district may post a copy of the notice on the bulletin board used for posting notices of the meetings of the board. If a county does not maintain a website, the district shall post a copy of the notice of the election on the bulletin board used for posting notice of meetings of the board. The notice must remain posted continuously through election day. The person posting the notice shall make a record at the time of posting stating the date and place of posting. The person shall sign the record and deliver it to the board after the last posting is made. *Election Code 4.003(b), .005(b)*

A district that maintains a website must post the notice described above on the internet website of the district. *Election Code 85.007(d)*

Note: For additional website posting requirements regarding the date and location of the next election, see CQA.

Notice to County Clerk and Voter Registrar

The board shall deliver notice of the election, including the location of each polling place, to the county clerk and voter registrar of each county in which the district is located not later than the 60th day before election day. The county clerk shall post notice of the election, including the location of each polling place, on the county's internet website, if the county maintains a website, as provided by Election Code 4.003(b). *Election Code 4.008(a)* [See Posting, above]

Notice to Election Judge

Not later than the 15th day before election day or the seventh day after the date the election is ordered, whichever is later, the board shall deliver to the presiding judge of each election precinct in which the election is to be held in the district a written notice of:

1. The nature and date of the election;
2. The location of the polling place for the precinct served by the judge;
3. The hours that the polls will be open;
4. The judge's duty to hold the election in the precinct specified by the notice; and
5. The maximum number of clerks that the judge may appoint for the election.

Election Code 4.007

Failure to Give Notice of Election

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

Internet Posting

Not later than the 21st day before election day, a district that holds an election and maintains an internet website shall post on the public internet website for the district:

1. The date of the next election;
2. The location of each polling place;
3. Each candidate for an elected office on the ballot; and
4. Each measure on the ballot.

Election Code 4.009(b)

Filing Information

Notice to Candidates

A district shall post notice of the dates of the filing period in a public place in a building in which the district has an office not later than the 30th day before the first day on which a candidate may file an application for a place on the ballot. A district shall designate an email address in the notice for the purpose of filing an application for a place on the ballot under Election Code 143.004, below. *Election Code 141.040*

Note: For additional website posting requirements regarding the requirements and deadline for filing for candidacy of board member, see CQA.

Application

To be entitled to a place on the ballot, a candidate must make an application for a place on the ballot. An application, other than an application required to be accompanied by fee, may be filed through email transmission of the completed application in a scanned format to the email address designated by the filing authority in the notice required under Election Code 141.040, above. *Election Code 143.004*

A candidate application for a place on the ballot must:

1. Be in writing;
2. Be signed and sworn to before a person authorized to administer an oath in this state by the candidate and indicate the date that the candidate swears to the application;
3. Be timely filed with the appropriate authority; and
4. Include all statutorily required information.

Election Code 141.031, .039

Deadline

An application for a place on the ballot may not be filed earlier than the 30th day before the date of the filing deadline.

An application must be filed not later than 5:00 p.m. of the 78th day before the date of the election for an election to be held on a uniform election date.

Education Code 11.055(a); Election Code 144.005(a), (d)

Death of Candidate

If a candidate dies on or before the deadline for filing an application for a place on the ballot:

1. The authority responsible for preparing the ballots may choose to omit the candidate from the ballot; and
2. If the authority omits the candidate's name under item 1, the filing deadline for an application for a place on the ballot for

the office sought by the candidate is extended until the fifth day after the filing deadline.

Election Code 145.098(b)

Write-in Candidate

A declaration of write-in candidacy must be filed not later than 5:00 p.m. of the 74th day before election day for an election to be held on a uniform election date. *Education Code 11.056(b); Election Code 146.054*

Special Election

An application for a place on a special election ballot may not be filed before the election is ordered.

An application must be filed not later than:

1. 5:00 p.m. of the 62nd day before election day if election day is on or after the 70th day after the election is ordered; or
2. 5:00 p.m. of the 40th day before election day if election day is on or after the 46th day and before the 70th day after the date the election is ordered.

Exception

For a special election to be held on the date of the general election for state and county officers (the first Tuesday after the first Monday in November in even-numbered years under Election Code 41.002), the day of the filing deadline is 6:00 p.m. of the 75th day before election day.

Write-in Candidate

A declaration of write-in candidacy for a special election must be filed not later than the filing deadline.

Election Code 201.054

Delivery or Submission of Documents

When the Election Code provides for the delivery, submission, or filing of an application, notice, report, or other document or paper with an authority having administrative responsibility under that code, a delivery, submission, or filing with an employee of the district at the district's usual place for conducting official business constitutes filing with the district. The district may accept the document or paper at a place other than the district's usual place for conducting official business.

A delivery, submission, or filing of a document or paper under the Election Code may be made by personal delivery, mail, telephonic facsimile machine, email, or any other method of transmission.

Election Code 1.007

Election of Unopposed Candidate

Certification of Unopposed Status

The authority responsible for having the official ballot prepared shall certify in writing that a candidate is unopposed for election to an office if, were the election held, only the votes cast for that candidate in the election for that office may be counted. The certification shall be delivered to the board as soon as possible after the filing deadlines for placement on the ballot and list of write-in candidates.

A certification may be made following the filing of a withdrawal request by a candidate after the deadline prescribed by Election Code 145.092 if:

1. The withdrawal request is valid except for the untimely filing;
2. Ballots have not been prepared; and
3. The other conditions for certification are met.

A certification under these circumstances shall be delivered to the board as soon as possible.

Election Code 2.052

Special Election

For purposes of these provisions, a special election of a district is considered to be a separate election with a separate ballot from a general election for board members or another special election of the district held at the same time. *Election Code 2.051(a)*

Single-Member Districts

In the case of an election in which any members of the board are elected from single-member districts, these provisions apply to the election in a particular single-member district if each candidate for an office that is to appear on the ballot in that single-member district is unopposed and no opposed at-large race is to appear on the ballot. These provisions apply to an unopposed at-large race in such an election regardless of whether an opposed race is to appear on the ballot in a particular territorial unit. *Election Code 2.051(b)*

Action on Certification

On receipt of the certification, the board by order or ordinance shall declare each unopposed candidate elected to office. If a declaration is made, the election is not held.

If no election is to be held on election day by the district, a copy of the order or ordinance shall be posted on election day at each polling place used or that would have been used in the election.

The ballots used at a separate election held at the same time as an election that would have been held if the candidates were not declared elected shall include the offices and names of the candidates declared elected listed separately after the measures or contested races in the separate election under the heading

"Unopposed Candidates Declared Elected." The candidates shall be grouped in the same relative order prescribed for the ballot generally. No votes are cast in connection with the unopposed candidates.

Election Code 2.053

[See BBBB regarding issuance of a certificate of election to an unopposed candidate declared elected and qualification for office.]

Ballot

The ballot shall be prepared in accordance with Election Code Chapter 52.

Drawing

The district shall conduct a drawing to determine the order of the candidates' names in an election at which the names of more than one candidate for the same office are to appear on the ballot. The district shall post in the district's office a notice of the date, hour, and place of the drawing. The notice must remain posted continuously for 72 hours immediately preceding the scheduled time of the drawing. The district shall provide notice of the date, hour, and place of the drawing to each candidate by:

1. Written notice:
    a. Mailed to the address stated on the candidate's application for a place on the ballot, not later than the fourth day before the date of the drawing; or
    b. Provided at the time the candidate files an application with the district;
2. Telephone, if a telephone number is provided on the candidate's application for a place on the ballot; or
3. Email, if an email address is provided on the candidate's application for a place on the ballot.

Each candidate affected by a drawing is entitled to be present or have a representative present at the drawing.

Election Code 52.093-.094 [See BBBB regarding ballot order in a runoff election or election to resolve a tie.]

Ballots for an election by position must clearly show the position for which each person is a candidate. A board shall arrange by lot the names of the candidates for each position. *Education Code 11.058(g)*

Election Services Contract

The county election officer, as defined by Election Code 31.091(1), may contract with the board of a district situated wholly or partly in the county served by the officer to perform election services, as

provided by Election Code Chapter 31, Subchapter D, in any one or more elections ordered by the board.

If requested to do so by a district, the county elections administrator, as defined under Election Code Chapter 31, Subchapter B, shall enter into a contract to furnish the election services requested in accordance with a cost schedule agreed on by the contracting parties. A county elections administrator is not required to enter into a contract to furnish elections services for an election held on the first Saturday in May in an even-numbered year.

Election Code 31.092, .093, 41.001(d)

Election Judges and Clerks

By written order, a board shall appoint a presiding election judge and an alternate presiding judge for each election precinct in which an election is held. A board shall prescribe the maximum number of clerks that each presiding judge may appoint for each election. The judges and clerks shall be selected and serve in accordance with Election Code Chapter 32. *Election Code 32.001(a), .008, .033*

Confidentiality

An email 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 (Public Information Act).

Exception

An email 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

Polling Places

A board shall designate polling places for election day and early voting. Each polling place shall be accessible to and usable by the elderly and persons with physical disabilities. *Election Code 43.004, .034, Ch. 85 (early voting by personal appearance)*

In an election held on the November uniform election date, a district shall use the regular county election precincts. The district shall designate as the polling places for the election the regular county polling places in the county election precincts that contain territory from the district. *Election Code 42.002(a)(5), .0621, 43.004(b)*

Electioneering

A person commits an offense if, during the voting period and within 100 feet of an outside door through which a voter may enter the building in which a polling place is located, the person loiters or electioneers for or against any candidate, measure, or political party.

A district that owns or controls a public building being used as a polling place or early voting polling place may not, at any time during the voting period or early voting period, as applicable, prohibit electioneering on the building's premises outside of the area described above, but may enact reasonable regulations concerning the time, place, and manner of electioneering.

Definitions

"Electioneering" includes the posting, use, or distribution of political signs or literature. The term does not include the distribution of a notice of a party convention authorized under Election Code 172.1114.

"Voting period" means the period beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later.

"Early voting period" means the period prescribed by Election Code 85.001.

Election Code 61.003, 85.036

Early Voting

In each election, early voting shall be conducted by personal appearance at an early voting polling place and by mail, in accordance with Election Code Title 7, Chapters 81-114. *Election Code 81.001*

November Early Voting Polling Places

In an election on the November uniform election date in which the district is not holding a joint election with a county and has not executed a contract with a county elections officer under which the district and the county share early voting polling places, the district:

1. Shall designate as an early voting polling place for the election an eligible county polling place located in the district; and
2. May not designate as an early voting polling place a location other than an eligible county polling place unless each eligible county polling place located in the district is designated as an early voting polling place by the district.

"Eligible county polling place" means an early voting polling place established by a county.

Election Code 85.010(a), (a-1), (b)

Temporary Branch Days and Hours

Early voting by personal appearance at each temporary branch polling place shall be conducted on the days that voting is required to be conducted at the main early voting polling place under Election Code 85.005 and remain open for at least:

1. Eight hours each day; or
2. Three hours each day if the city or county clerk does not serve as the early voting clerk for the territory holding the election and the territory has fewer than 1,000 registered voters.

The authority authorized under Election Code 85.006 to order early voting on a Saturday or Sunday may also order, in the manner prescribed by that section, early voting to be conducted on a Saturday or Sunday at any one or more of the temporary branch polling places.

Election Code 85.064

Records

Branch Daily Register

The early voting clerk shall provide, in a downloadable database format, a current copy of the register for posting on the internet website of the district, if the district maintains a website, each day early voting is conducted. At a minimum, the voter registration number for each voter listed in the register must be posted. *Election Code 85.072*

Early Voting Rosters

The early voting clerk shall maintain for each election a roster listing each person who votes an early voting ballot by personal appearance and a roster listing each person to whom an early voting ballot to be voted by mail is sent. Information on the roster for a person who votes an early voting ballot by personal appearance shall be made available for public inspection as provided below not later than 11 a.m. on the day after the date the information is entered on the roster. Information on the roster for a person who votes an early voting ballot by mail shall be made available for public inspection as provided below not later than 11 a.m. on the day following the day the early voting clerk receives any ballot voted by mail.

The information must be made available:

1. For an election in which the county clerk is the early voting clerk:
    a. On the publicly accessible internet website of the county; or

b. If the county does not maintain a website, on the bulletin board used for posting notice of meetings of the commissioners court; or

2. For an election not described by item 1:

a. On the publicly accessible internet website of the district; or

b. If the district does not maintain a website, on the bulletin board used for posting notice of board meetings.

Election Code 87.121(a), (g)-(i)

Conducting Elections

Elections shall be conducted in accordance with Election Code Title 6, Chapters 61-68.

Bilingual Materials

Spanish

Bilingual election materials shall be used in each election precinct situated wholly or partly in a county in which five percent or more of the inhabitants are persons of Spanish origin or descent according to the most recent federal decennial census that may be officially recognized or acted upon by the state or political subdivisions. *Election Code 272.002*

Other Languages

If the director of the census determines that a district must provide election materials in a language other than English or Spanish, the district shall provide election materials in that language in the same manner in which the district would be required to provide materials in Spanish, to the extent applicable. *Election Code 272.011; 52 U.S.C. 10503*

Voting Systems

A voting system shall be adopted and utilized in accordance with Election Code Title 8.

Accessible Voting Stations

Except as provided below, each polling place must provide at least one voting station that complies with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794) and its subsequent amendments, Title II of the Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) and its subsequent amendments, and the requirements for accessibility under 52 U.S.C. Section 21081(a)(3) [formerly 42 U.S.C. Section 15481(a)(3)] and its subsequent amendments, and that provides a practical and effective means for voters with physical disabilities to cast a secret ballot. *Election Code 61.012*

Electronic Voting System Exceptions

For an election other than an election of a district that is held jointly with another election in which a federal office appears on the ballot, a district is not required to meet the requirements for accessibility under Election Code 61.012(a)(1)(C) if the district is located in a county that meets certain population and other requirements set

forth in Election Code 61.013(a). A district that intends to use this provision to provide fewer voting stations that meet the requirements for accessibility than required must provide notice under Election Code 61.013(d). *Election Code 61.013*

Note: If the district is subject to a court order or other binding legal determination, the district shall conduct its elections in accordance with that court order or determination, applicable law, and this policy. To the extent of any conflict, the court order or other legal determination shall prevail. [See BBB(LOCAL)]

Tie Votes

Second Election

In an election requiring a plurality, if two or more candidates for the same office tie for the number of votes required to be elected, a second election to fill the office shall be held in accordance with the deadlines and other requirements of Election Code 2.002.

Other Options

Casting Lots

The tying candidates may agree to cast lots to resolve the tie. The agreement must be filed with the board. The board president shall supervise the casting of lots.

Withdrawal

A tying candidate may resolve the tie by filing with the board a signed and acknowledged written statement of withdrawal. On receipt of the statement, the remaining candidate is the winner, and a second election or casting of lots is not held.

Automatic Recount

If the tie is not resolved by casting lots or withdrawal, an automatic recount shall be conducted under Election Code Chapter 216 before the second election is held. If the recount resolves the tie, the second election is not held.

If the recount does not resolve the tie, the tied candidates may cast lots not later than the day before the date the board must order the second election under Election Code 2.002(b) or withdraw from the election not later than 5:00 p.m. of the day after the date the automatic recount is held.

Election Code 2.002

Runoff Election

In a district in which trustees are elected by majority vote under Education Code 11.057(c) [see BBB], if no candidate for a particular office receives the vote necessary to be elected, a runoff election for that office is required. *Election Code 2.021 et seq.*

If the candidates in a runoff election tie, an automatic recount shall be conducted under Election Code Chapter 216. If the recount does not resolve the tie, the tied candidates shall cast lots to determine the winner. The board president shall supervise the casting of lots. A tying candidate may resolve the tie by filing with the board president a signed and sworn to written statement of withdrawal. If the statement of withdrawal is received before the automatic recount is conducted, the remaining candidate is the winner, and the automatic recount is not conducted. If the statement of withdrawal

is received not later than 5:00 p.m. the day after the date the automatic recount is conducted, the remaining candidate is the winner, and a casting of lots is not held. *Election Code 2.028*

Ballot Order

The order of the candidates' names on the ballot of any resulting runoff election or election held to resolve a tie vote shall be the relative order of names on the original election ballot. *Election Code 2.002(d), 52.094(a)*

Recounts

The district shall conduct an authorized recount in accordance with Election Code Title 13. *Election Code 211.001*

A candidate in a board election may obtain an initial recount in an election if the difference in the number of votes received by the candidate and any candidate for the office who is shown by the election returns to be elected, tied, or entitled to a place on a runoff ballot, if applicable, is less than 10 percent of that candidate's number of votes, or the total number of votes received by all candidates for the office is less than 1,000. *Election Code 212.022*

A ground for obtaining an initial recount is not required to obtain an initial recount of electronic voting system results. A candidate may obtain an initial recount of electronic voting system results in an election only if the candidate is shown by the election returns not to be elected. *Election Code 212.0241*

An initial recount may not be conducted unless an authorized candidate submits a petition for the recount to the presiding officer of the local canvassing authority in accordance with Election Code Chapter 212, Subchapter B, accompanied by a deposit to cover the costs of the recount in accordance with Subchapter E. *Election Code 212.025, .026, .111*

Effect of Petition

The submission of a recount petition before a board completes its canvass does not delay the canvass for the office involved in the recount. The board shall make a notation on the tabulation of any office involved in a recount. The submission of a recount petition delays the issuance of a certificate of election and qualification for the office involved in the recount pending completion of the recount. A candidate may not qualify for an office involved in a recount before completion of the recount. This provision does not affect a candidate who has received a certificate of election and qualified for office before the submission of a recount petition involving the office. *Election Code 212.033, .0331*

Canvass Returns

General Rule

Except as provided below, a board shall convene to conduct the local canvass at the time set by the presiding officer not later than the 11th day after election day and not earlier than the later of:

1. The third day after election day;

2. The date on which the early voting ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election; or

3. The date on which all timely received ballots cast from addresses outside of the United States are counted, if a ballot to be voted by mail in the election was provided to a person outside of the United States.

Election Code 67.003(b)

November Election — Even-Numbered Years

For an election held on the date of the general election for state and county officers (the first Tuesday after the first Monday in November in even-numbered years under Election Code 41.002), the time for the canvass may be set not later than the 14th day after election day. *Election Code 65.051(a-1), 67.003(c)*

Quorum for Canvass

Two members of a board constitute a quorum for purposes of canvassing an election.

At the time set for convening the board for the local canvass, the presiding officer shall deliver the sealed precinct returns to the board. The board shall open the returns for each precinct and canvass them as provided by Election Code 67.004.

Minutes

The presiding officer shall note the completion of the canvass in the minutes or in the recording required by the Open Meetings Act (Government Code 551.021). [See BE]

Election Code 67.004(a), (g)

Internet Posting of Election Results

A district that holds an election and maintains an internet website shall post on its public internet website:

1. The results of each election;

2. The total number of votes cast;

3. The total number of votes cast for each candidate or for or against each measure;

4. The total number of votes cast by personal appearance on election day;

5. The total number of votes cast by personal appearance or mail during the early voting period; and

6. The total number of counted and uncounted provisional ballots cast.

The information described above must be:

1. Posted as soon as practicable after the election; and

2. Accessible without having to make more than two selections or view more than two network locations after accessing the internet website home page of the district.

Election Code 65.016(b), (c)

Qualifying for Office

Certificate of Election

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

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

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

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

Election Code 67.016

Certificate for Unopposed Candidate

A certificate of election shall be issued to each unopposed candidate declared elected in the same manner and at the same time as provided for a candidate elected at the election. The candidate must qualify for the office in the same manner as provided for a candidate elected at the election. *Election Code 2.053(e)* [See BBBA regarding the election of an unopposed candidate.]

Officer's Statement

All elected and appointed board members, before taking the oath or affirmation of office and entering upon the duties of office, shall sign the required officer's statement. The statement shall be retained with the official records of the office. *Tex. Const. Art. XVI, Sec. 1(b), (c)*

Oath of Office

All elected and appointed trustees, before they enter upon the duties of the office, shall take the official oath or affirmation of office. Newly elected trustees shall file their official oaths with the board president. *Tex. Const. Art. XVI, Sec. 1(a); Education Code 11.061(a)*

The oath may be administered and a certificate of the fact given by the individuals listed at Government Code 602.002, including:

1. A judge, retired judge, or clerk of a municipal court.
2. A judge, retired judge, senior judge, clerk, or commissioner of a court of record.
3. A justice of the peace, retired justice of the peace, or clerk of a justice court.
4. A notary public.

Gov't Code 602.002

Election Records

Except as otherwise provided by the Election Code, a district shall preserve the precinct election records distributed to it for at least 22 months after election day. *Election Code 66.058(a)* [See CPC]

Destruction of Records

After expiration of the prescribed period for preserving election records under the Election Code, the records may be destroyed or otherwise disposed of unless, at the expiration of the preservation period, an election contest or a criminal investigation or proceeding connected with the election is pending. In that case, the records shall be preserved until the contest, investigation, or proceeding is completed and the judgment, if any, becomes final. *Election Code 1.013*

Campaign Treasurer Appointment

Each candidate shall appoint a campaign treasurer as provided by Election Code, Chapter 252. An individual may appoint himself or herself as campaign treasurer. *Election Code 252.001, .004*

Contents

A campaign treasurer appointment by a candidate must be in writing and include:

1. The campaign treasurer's name, residence or business street address, and telephone number;
2. The name of the person making the appointment;
3. The candidate's telephone number; and
4. A statement, signed by the candidate, that the candidate is aware of the nepotism law. [See DBE]

Election Code 252.002, .0032

Filing Authority

A candidate for a school board must file the campaign treasurer appointment and all required financial statements with the clerk or secretary of the board or, if the district has no clerk or secretary, with the board's presiding officer. *Election Code 252.005(3)*

A specific-purpose committee for supporting or opposing a candidate for the board must file its campaign treasurer appointment with the same authority. *Election Code 251.001(13), 252.006*

A specific-purpose committee for supporting or opposing a measure must file its campaign treasurer appointment with the secretary of the board or, if the district has no secretary, with the board's presiding officer. *Election Code 252.007(3)*

Period of Effectiveness

A campaign treasurer appointment takes effect at the time it is filed and continues in effect until terminated. *Election Code 252.011*

Termination of Appointment

Removal

A campaign treasurer may be removed at any time by the appointing authority by filing the written appointment of a successor in the same manner as the original appointment. The appointment of a successor terminates the appointment of the campaign treasurer who is removed. *Election Code 252.012*

Board Action

A board by order may adopt a process by which the clerk or secretary, as applicable, of the district may terminate the campaign treasurer appointment of an inactive candidate or political committee that is required to file a campaign treasurer appointment with the clerk or secretary.

The order must:

1. Define "inactive candidate or political committee" for purposes of terminating the campaign treasurer appointment; and

2. Require written notice to the affected candidate or committee of the proposed termination; the date, time, and place of the meeting at which the board will consider the proposed termination; and the effect of termination of the campaign treasurer appointment.

For purposes of this section, a candidate or political committee is inactive if the candidate or committee:

1. Has never filed or has ceased to file reports under Election Code Chapter 254 (Political Reporting);

2. In the case of a candidate, has not been elected to an office for which a candidate is required to file a campaign treasurer appointment with the board; and

3. Has not filed a final report under Election Code 254.065 or 254.125, or a dissolution report under Election Code 254.126 or 254.159.

Before the clerk or secretary of the district may terminate a campaign treasurer appointment, the board must consider the proposed termination in a regularly scheduled open meeting.

The termination of a campaign treasurer appointment under this section takes effect on the 30th day after the date of the meeting at which the board votes to terminate the appointment. Following that meeting, the clerk or secretary of the district shall promptly notify the affected candidate or political committee that the appointment has been terminated. The notice must state the effective date of the termination.

Election Code 252.0131

Contributions and Expenditures

A candidate may not knowingly accept a campaign contribution or make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect. *Election Code 253.031(a)*

Recordkeeping

Each candidate and each officeholder shall maintain a record of all reportable activity. The record must contain the information necessary for filing the reports required by Election Code Chapter 254. *Election Code 254.001*

Reporting

Candidates and Officeholders

Reports by candidates and officeholders shall be filed with the authority with whom the campaign treasurer appointment is required to be filed. *Election Code 254.066, .097* [See Filing Authority, above]

Specific-Purpose Committee

Except as provided below at Bonds, reports by a specific-purpose committee shall be filed with the authority with whom the political committee's campaign treasurer appointment is required to be filed.

Bonds

A specific-purpose committee created to support or oppose a measure on the issuance of bonds by a district shall file reports with the Ethics Commission.

Election Code 254.130

Internet Posting

The clerk or secretary of the board or, if the board does not have a clerk or secretary, the board's presiding officer shall make a report filed with the district by a candidate, officeholder, or specific-purpose committee under Election Code Chapter 254, Subchapter B (Political Reporting Generally) available to the public on the district's internet website not later than the 10th business day after the date the report is received.

Internet access to these reports is in addition to the public's access to the information through other electronic or print distribution of the information.

Before making a report available on the internet as required above, the district may remove each portion, other than city, state, and zip code, of the address of a person listed as having made a political contribution to the person filing the report. The address information removed must remain available on the report maintained in the district's office.

A report made available on an internet website must be accessible on that website until the fifth anniversary of the date the report is first made available.

Electronic report data saved in a temporary storage location of the district for later retrieval and editing before the report is filed is confidential and may not be disclosed. After the report is filed with the district, the information disclosed in the filed report is public information to the extent provided by Election Code Title 15 (Regulating Political Funds and Campaigns).

Election Code 254.0401(b), (d), (e-1), (g), (h)

Note: If the district is subject to a court order or other binding legal determination, the district shall conduct its elections in accordance with that court order or determination, applicable law, and this policy. To the extent of any conflict, the court order or other legal determination shall prevail. [See BBB(LOCAL)]

Resignation

To be effective, a board member's resignation must be in writing and signed by the board member and delivered to the presiding officer of the board. A board may not refuse to accept a resignation. *Election Code 201.001*

Effective Date

If a board member submits a resignation, whether to be effective immediately or at a future date, a vacancy occurs on the date the resignation is accepted by the board or on the eighth day after the date of its receipt by the board, whichever is earlier. *Election Code 201.023*

Holdover Doctrine

All public officers shall continue to perform the duties of their offices until their successors shall be duly qualified (i.e., sworn in). Until the vacancy created by a board member's resignation is filled by a successor, the board member continues to serve and have the duties and powers of office and continues to be subject to the nepotism provisions. A holdover board member may not vote on the appointment of his or her successor. *Tex. Const., Art. XVI, Sec. 17; Atty. Gen. Ops. JM-636 (1987), O-6259 (1945)* [See DBE for more information on nepotism]

Residency

A person elected or appointed to serve as a board member must remain a resident of the district throughout the term of office. A board member who ceases to reside in the district vacates the office. *Tex. Const., Art. XVI, Sec. 14; Prince v. Inman, 280 S.W.2d 779 (Tex. Civ. App.—Beaumont 1955, no writ); Whitmarsh v. Buckley, 324 S.W.2d 298 (Tex. Civ. App.—Houston 1959, no writ)* [See BBA]

Single-Member District

A trustee vacates the office if the trustee ceases to reside in the district the trustee represents. *Education Code 11.052(g)*

Filling a Vacancy

If a vacancy occurs on the board, the remaining board members may fill the vacancy by appointment until the next trustee election, or may order a special election to fill the vacancy. If more than one year remains in the term of the position vacated, the vacancy shall be filled not later than the 180th day after the date the vacancy occurs. *Education Code 11.060*

Appointment — To be eligible to be appointed to a board, a person must have the qualifications set forth at Election Code 141.001(a). *Election Code 141.001(a)* [See BBA]

Special Election — A special election to fill a vacancy shall be conducted in the same manner as the district's general election. *Education Code 11.060(c)*

An election to fill a vacancy shall be to fill the unexpired term only. *Tex. Const. Art. XVI, Sec. 27*

Date of Election — A special election to fill a vacancy shall be held on an authorized uniform election date occurring within the required period after the vacancy occurs. If no uniform election date affords enough time to hold the election in the manner required by law, the election shall be held on the first authorized uniform election date occurring after the expiration of the period. *Election Code 41.001(a), .004(a); Atty. Gen. Op. KP-102 (2016)* [See BBB]

Ordering Election — If a vacancy is to be filled by special election, the election shall be ordered as soon as practicable after the vacancy occurs. *Election Code 201.051(a)*

Except as otherwise provided by the Election Code, a special election to fill a vacancy shall be held on the first authorized uniform election date occurring on or after the 46th day after the date the election is ordered. *Election Code 201.052(a)*

If the special election is to be held on the date of the general election for state and county officers, the election shall be ordered not later than the 78th day before election day. The general election for state and county officers is the first Tuesday after the first Monday in November in even-numbered years. *Election Code 41.002, 201.051*

Officer's Statement and Oath — For requirements regarding the officer's statement and oath of office, see BBBB(LEGAL).

Former Board Member Employment — A trustee may not accept employment with the district until the first anniversary of the date the trustee's membership on a board ends. *Education Code 11.063*

Involuntary Removal from Office

Quo Warranto — On his or her own motion or at the request of an individual, the attorney general or the county or district attorney may petition the district court for leave to file an information in the nature of quo warranto. An action in the nature of quo warranto is available if:

1. A person usurps, intrudes into, or unlawfully holds or executes an office; or

2. A public officer does an act or allows an act that by law causes forfeiture of office.

If the person against whom the information is filed is found guilty as charged, the court:

1. Shall enter judgment removing the person from the office and for the costs of prosecution; and

2. May fine the person for usurping, intruding into, or unlawfully holding and executing the office.

Civ. Prac. & Rem. Code 66.001-.003

Removal by Petition and Trial

A proceeding for the removal of a board member is begun by filing a written petition for removal in district court of the county in which the board member resides. A petition for removal of board member may be filed by any resident of the state who has lived for at least six months in the county in which the petition is to be filed and who is not currently under indictment in the county. *Local Gov't Code 87.015(a), (b)*

Reasons for Removal

A board member may be removed from office for:

1. "Incompetency," which means:

   a. Gross ignorance of official duties;

   b. Gross carelessness in the discharge of those duties; or

   c. Unfitness or inability to promptly and properly discharge official duties because of a serious physical or mental defect that did not exist at the time of election.

2. "Official misconduct," which means intentional, unlawful behavior relating to official duties by a board member entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of a board member to perform a duty imposed on the board member by law.

3. Intoxication on or off duty caused by drinking an alcoholic beverage, but not if it was caused by drinking an alcoholic beverage on the direction and prescription of a licensed physician.

4. Conviction of a board member by a jury for any felony or for misdemeanor official misconduct. The conviction of a public officer by a petit jury for any felony or for a misdemeanor in-

volving official misconduct operates as an immediate removal from office of that officer.

Tex. Const., Art. V, Sec. 24; Local Gov't Code 87.011, .012(14), .013, .031

Removal for Certain Criminal Offenses

Qualifying Offense

"Qualifying offense" means a criminal offense involving:

1. Bribery;
2. Theft of public money;
3. Perjury;
4. Coercion of public servant or voter;
5. Tampering with governmental record;
6. Misuse of official information;
7. Abuse of official capacity; or
8. Conspiracy or the attempt to commit any of the offenses described by this provision.

Automatic Removal

A person who holds an elected or appointed office of a district is automatically removed from and vacates the office on the earlier of the date the person:

1. Enters a plea of guilty or nolo contendere to a qualifying offense;
2. Receives deferred adjudication for a qualifying offense; or
3. Is convicted of a qualifying offense.

Filling Vacancy Upon Removal

The board shall fill the vacancy in the manner provided by law at the first regularly scheduled meeting following the date a board member is removed from office.

Local Gov't Code 180.010(a), (b), (c)(2)

Removal for Purchasing Violations

See CH for information regarding removal for purchasing violations.

Temporary Replacement of Board Member on Military Active Duty

A board member who enters active duty in the armed forces of the United States as a result of being called to duty, drafted, or activated does not vacate the office held, but the board may appoint a replacement to serve as a temporary board member if the elected or appointed board member will be on active duty for longer than 30 days.

The board member who is temporarily replaced may recommend to the board the name of a person to temporarily fill the office. The board shall appoint the temporary board member to begin service on the date specified in writing by the board member being temporarily replaced as the date the board member will enter active military service.

A temporary board member has all the powers, privileges, and duties of the office as the board member who is temporarily replaced. A temporary board member shall perform the duties of office for the shorter period of:

1. The term of the active military service of the board member who is temporarily replaced; or
2. The term of office of the board member who is temporarily replaced.

“Armed forces of the United States” means the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, the United States Coast Guard, any reserve or auxiliary component of any of those services, or the National Guard.

Tex. Const., Art. XVI, Sec. 72

Open Meetings Act Training

Not later than the 90th day after taking the oath of office, each board member shall complete training of not less than one and not more than two hours regarding the responsibilities of the board and its members under Government Code Chapter 551 (Open Meetings Act).

The attorney general may provide the training and may also approve other acceptable sources of training.

The board shall maintain and make available for public inspection the record of its members' completion of the training. The failure of one or more members of the board to complete the training does not affect the validity of an action taken by the board.

Gov't Code 551.005

Public Information Act Training

Not later than the 90th day after taking the oath of office, each board member shall complete training of not less than one and not more than two hours regarding the responsibilities of the board and its officers and employees under Government Code Chapter 552 (Public Information Act [PIA]). A board member may designate a public information coordinator to satisfy the training for the board member if the public information coordinator is primarily responsible for administering the responsibilities of the board member or board under the PIA. The attorney general may require a board member to complete the course of training if the attorney general determines that the district has failed to comply with a requirement of the PIA. *Gov't Code 552.012(b), (b-1), (c)* [See GBAA regarding public information coordinator training.]

SBOE-Required Training

A trustee must complete any training required by the State Board of Education (SBOE). *Education Code 11.159*

The SBOE's framework for governance leadership [see BBD(EXHIBIT)] shall be distributed annually by the board president to all current board members and the superintendent. *19 TAC 61.1(a)*

The continuing education required under Education Code 11.159 applies to each member of the board. To the extent possible, an entire board shall participate in continuing education programs together. *19 TAC 61.1(b), (i)*

No continuing education shall take place during a board meeting unless that meeting is called expressly for the delivery of board member continuing education. Continuing education may take place prior to or after a legally called board meeting in accordance with Government Code 551.001(4) (definition of "meeting"). *19 TAC 61.1(e)*

A regional education service center (ESC) board member continuing education program shall be open to any interested person, including a current or prospective board member. A district is not responsible for any costs associated with individuals who are not current board members. *19 TAC 61.1(f)*

Annually, the SBOE shall commend those board-superintendent teams that complete at least eight hours of the continuing education specified at Team Building and Additional Continuing Education, below, as an entire board-superintendent team.

Annually, the SBOE shall commend board-superintendent teams that effectively implement the commissioner of education's trustee improvement and evaluation tool developed under Education Code 11.182 [see BG] or any other tool approved by the commissioner.

19 TAC 61.1(k), (l)

Verification

For each training described below, the provider of continuing education shall provide verification of completion of board member continuing education to the individual participant and to the participant's school district. The verification must include the provider's authorization or registration number. *19 TAC 61.1(h)*

Reporting

At the last regular board meeting before an election of trustees, the board president shall announce the name of each board member who has completed the required continuing education, who has exceeded the required hours of continuing education, and who is deficient in meeting the required continuing education as of the anniversary of the date of each board member's election or appointment to the board or two-year anniversary of his or her previous training, as applicable. The announcement shall state that completing the required continuing education is a basic obligation and expectation of any board member under SBOE rule. The minutes of the last regular board meeting held before an election of trustees must reflect whether each trustee has met or is deficient in meeting the training required for the trustee as of the first anniversary of the date of the trustee's election or appointment or two-year anniversary of his or her previous training, as applicable. The president shall cause the minutes to reflect the announcement and, if the minutes reflect that a trustee is deficient in training as of the anniversary of his or her joining the board, the district shall post the minutes on the district's internet website within 10 business days of the meeting and maintain the posting until the trustee meets the requirements. *19 TAC 61.1(j); Education Code 11.159(b)*

Local District Orientation

Each board member shall complete a local district orientation session. The purpose of the local orientation is to familiarize new

board members with local board policies and procedures and district goals and priorities.

A candidate for school board may complete the training up to one year before he or she is elected or appointed. A newly elected or appointed board member who did not complete this training in the year preceding his or her election or appointment must complete the training within 120 calendar days after election or appointment.

The orientation shall:

1. Be at least three hours in length.
2. Address local district practices in the following, in addition to topics chosen by the local district:
    a. Curriculum and instruction;
    b. Business and finance operations;
    c. District operations;
    d. Superintendent evaluation; and
    e. Board member roles and responsibilities.

Each board member should be made aware of the continuing education requirements of 19 Administrative Code 61.1 and those of the following:

1. Open meetings act in Government Code 551.005 [see Open Meetings Act Training above];
2. Public information act in Government Code 552.012 [see Public Information Act Training above]; and
3. Cybersecurity in Government Code 2054.5191 [see CQB].

The orientation shall be open to any board member who chooses to attend.

19 TAC 61.1(b)(1)

Education Code Orientation

Each board member shall complete a basic orientation to the Education Code and relevant legal obligations. The orientation shall have special, but not exclusive, emphasis on statutory provisions related to governing Texas school districts.

A candidate for school board may complete the training up to one year before he or she is elected or appointed. A newly elected or appointed board member who did not complete this training in the year preceding his or her election or appointment must complete the training within 120 calendar days after election or appointment.

The orientation shall be at least three hours in length. Topics shall include, but not be limited to, Education Code Chapter 26 (Parental Rights and Responsibilities) and Education Code 28.004 (Local School Health Advisory Council and Health Education Instruction).

The orientation shall:

1. Be provided by an ESC.

2. Be open to any board member who chooses to attend.

The continuing education may be fulfilled through online instruction, provided that the training incorporates interactive activities that assess learning and provide feedback to the learner and offers an opportunity for interaction with the instructor.

19 TAC 61.1(b)(2)

Legislative Update

After each session of the Texas Legislature, including each regular session and called session related to education, each board member shall complete an update to the basic orientation to the Education Code.

The update session shall be of sufficient length to familiarize board members with major changes in statute and other relevant legal developments related to school governance.

The update shall be provided by an ESC or a registered provider [see Registered Provider, below].

A board member who has attended an ESC basic orientation session described at Education Code Orientation, above, that incorporated the most recent legislative changes is not required to attend an update.

The continuing education may be fulfilled through online instruction, provided that the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor.

19 TAC 61.1(b)(3)

Team Building

The entire board shall participate with their superintendent in a team-building session.

The purpose of the team-building session is to enhance the effectiveness of the board-superintendent team and to assess the continuing education needs of the board-superintendent team.

The session shall be held annually and shall be at least three hours in length.

The session shall include a review of the roles, rights, and responsibilities of the board as outlined in the framework for governance leadership. [See BBD(EXHIBIT)] The assessment of needs shall be based on the framework for governance leadership and shall be used to plan continuing education activities for the year for the governance leadership team.

The team-building session shall be provided by an ESC or a registered provider [see Registered Provider and Authorized Provider, below].

19 TAC 61.1(b)(4)

Additional Continuing Education (Based on Assessed Needs)

In addition to the continuing education requirements set out above, each board member shall complete additional continuing education based on the framework for governance leadership. [See BBD(EXHIBIT)]

The purpose of continuing education is to address the continuing education needs referenced at Team Building above.

The continuing education shall be completed annually.

At least 50 percent of the continuing education shall be designed and delivered by persons not employed or affiliated with the board member's school district. No more than one hour of the required continuing education that is delivered by the district may use self-instructional materials.

The continuing education shall be provided by an ESC or a registered provider [see Registered Provider, below].

The continuing education may be fulfilled through online instruction, provided that the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor.

First Year

In a board member's first year of service, he or she shall complete at least 10 hours of continuing education in fulfillment of assessed needs.

Subsequent Years

Following a board member's first year of service, he or she shall complete at least five hours of continuing education annually in fulfillment of assessed needs.

Board President

A board president shall complete continuing education related to leadership duties of a board president as some portion of the annual requirement.

19 TAC 61.1(b)(5)

Evaluating Student Academic Performance

Each board member shall complete continuing education on evaluating student academic performance and setting individual campus goals for early childhood literacy and mathematics and college, career, and military readiness.

The purpose of the training on evaluating student academic performance is to provide research-based information to board members that is designed to support the oversight role of the board of trustees outlined in Education Code 11.1515. [See BAA]

The purpose of the continuing education on setting individual campus goals for early childhood literacy and mathematics and college, career, and military readiness is to facilitate boards meeting the requirements of Education Code 11.185 and 11.186.

A candidate for school board may complete the training up to one year before he or she is elected or appointed. A newly elected or appointed board member who did not complete this training in the year preceding his or her election or appointment must complete the training within 120 calendar days after election or appointment.

The continuing education shall be completed every two years and shall be at least three hours in length.

The continuing education required by this provision shall include, at a minimum:

1. Instruction in school board behaviors correlated with improved student outcomes with emphasis on:
    a. Setting specific, quantifiable student outcome goals; and
    b. Adopting plans to improve early literacy and numeracy and college, career, and military readiness for applicable student groups evaluated in the Closing the Gaps domain of the state accountability system established under Education Code Chapter 39;
2. Instruction in progress monitoring practices to improve student outcomes; and
3. Instruction in state accountability with emphasis on the Texas Essential Knowledge and Skills, state assessment instruments administered under Education Code Chapter 39, and the state accountability system established under Chapter 39.

The continuing education shall be provided by an authorized provider [see Authorized Provider, below].

If the training is attended by an entire board and its superintendent, includes a review of local school district data on student achieve-

ment, and otherwise meets the requirements described at Team Building above, the training may serve to meet a board member's obligation to complete training described at Team Building and at Evaluating Student Academic Performance, above, as long as the training complies with the Open Meetings Act.

19 TAC 61.1(b)(6)

Identifying and Reporting Abuse

Each board member shall complete continuing education on identifying and reporting potential victims of sexual abuse, human trafficking, and other maltreatment of children in accordance with Education Code 11.159(c)(2).

A candidate for school board may complete the training up to one year before he or she is elected or appointed. A newly elected or appointed board member who did not complete this training in the year preceding his or her election or appointment must complete the training within 120 calendar days after election or appointment.

The training shall be completed every two years and shall be at least one hour in length.

The training must familiarize board members with the requirements of Education Code 38.004 and 38.0041, and 19 Administrative Code 61.1051 (relating to Reporting Child Abuse or Neglect, Including Trafficking of a Child).

The training required by this provision shall include, at a minimum:

1. Instruction in best practices of identifying potential victims of child abuse, human trafficking, and other maltreatment of children;
2. Instruction in legal requirements to report potential victims of child abuse, human trafficking, and other maltreatment of children; and
3. Instruction in resources and organizations that help support victims and prevent child abuse, human trafficking, and other maltreatment of children.

The training sessions shall be provided by a registered provider [see Registered Provider, below].

This training may be completed online, provided that the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor.

19 TAC 61.1(b)(7)

School Safety

The SBOE shall require a trustee to complete training on school safety. *Education Code 11.159(b-1)*

The continuing education required under Education Code 11.159(b-1) applies to each member of an independent school district board of trustees.

Each member shall complete the training on school safety adopted by the SBOE. The training requirement shall be fulfilled by completing the online course adopted by the SBOE and made available by the commissioner of education. The training shall be completed every two years.

A candidate for school board may complete the training up to one year before he or she is elected or appointed. A newly elected or appointed trustee who did not complete the training in the year preceding his or her election or appointment must complete the training within 120 calendar days after election or appointment.

A district shall maintain verification of completion for each trustee.

19 TAC 61.3

Training Provider

Registered Provider

For the purposes of 19 Administrative Code 61.1, a registered provider has demonstrated proficiency in the content required for a specific training. A private or professional organization, school district, government agency, college/university, or private consultant shall register with the Texas Education Agency (TEA) to provide the board member continuing education required by 19 Administrative Code 61.1(b)(3), (5), and (7) [see Legislative Update, Additional Continuing Education, and Identifying and Reporting Abuse, above].

A district that provides continuing education exclusively for its own board members is not required to register under 19 Administrative Code 61.1(c)(1)-(2).

19 TAC 61.1(c)

Authorized Provider

An authorized provider meets all the requirements of a registered provider and has demonstrated proficiency in the content required by 19 Administrative Code 61.1(b)(4) and (6). Proficiency may be demonstrated in accordance with 19 Administrative Code 61.1(d).

A private or professional organization, school district, government agency, college/university, or private consultant may be authorized by TEA to provide the board member training required in 19 Administrative Code 61.1(b)(4) and (6).

An ESC shall be authorized by TEA to provide the board member training required in 19 Administrative Code 61.1(b)(4) and (6).

19 TAC 61.1(d)

[See above for 19 Administrative Code 61.1(b)(4) on Team Building and (b)(6) on Evaluating Student Academic Performance.]

Note: For cybersecurity training requirements, see CQB(LEGAL).

Note: For employee and student use of district technology resources, see CQ.

For prohibited applications on district-owned devices, see CQC.

Public Information on Private Device

A current or former board member or employee of a district who maintains public information on a privately owned device shall:

1. Forward or transfer the public information to the district or a district server to be preserved as provided by Government Code 552.004(a); or
2. Preserve the public information in its original form in a backup or archive and on the privately owned device for the time described under Government Code 552.004(a).

Gov't Code 552.004(b) [See GB]

Online Message Board

A communication or exchange of information between board members about public business or public policy over which the board has supervision or control does not constitute a meeting or deliberation for purposes of Government Code Chapter 551 (Open Meetings Act) if:

1. The communication is in writing;
2. The writing is posted to an online message board or similar internet application that is viewable and searchable by the public; and
3. The communication is displayed in real time and displayed on the online message board or similar internet application for no less than 30 days after the communication is first posted.

A board may have no more than one online message board or similar internet application to be used for the purposes described above. The online message board or similar internet application must be owned or controlled by the board, prominently displayed on the district's primary internet web page, and no more than one click away from the district's primary internet web page.

The online message board or similar internet application may only be used by members of the board or district staff members who have received specific authorization from a member of the board. In the event that a staff member posts a communication to the online message board or similar internet application, the name and title of the staff member must be posted along with the communication.

If a board removes from the online message board or similar internet application a communication that has been posted for at least 30 days, the board shall maintain the posting for a period of six years. This communication is public information and must be disclosed in accordance with Government Code Chapter 552 (Public Information Act).

The board may not vote or take any action that is required to be taken at a meeting under the Open Meetings Act by posting a communication to the online message board or similar internet application. In no event shall a communication or posting to the online message board or similar internet application be construed to be an action of the board.

Gov't Code 551.006

Majority Vote

The board may act only by majority vote of the members present at a meeting held in compliance with Government Code Chapter 551 (Open Meetings Act), at which a quorum of the board is present and voting. A majority vote is generally determined from a majority of those present and voting, excluding abstentions, assuming a quorum is present. *Education Code 11.051(a-1); Atty. Gen. Op. GA-689 (2009)*

No Secret Ballot

No vote shall be taken by secret ballot. *Atty. Gen. Op. JH-1163 (1978)*

Definitions

Deliberation

"Deliberation" means a verbal or written exchange between a quorum of a board, or between a quorum of a board and another person, concerning an issue within the jurisdiction of the board. *Gov't Code 551.001(2)*

Meeting

"Meeting" means:

1. A deliberation between a quorum of a board, or between a quorum of the board and another person, during which public business or public policy over which the board has supervision or control is discussed or considered, or during which the board takes formal action; or
2. Except as otherwise provided below, a gathering:
    a. That is conducted by the board or for which the board is responsible;
    b. At which a quorum of members of the board is present;
    c. That has been called by the board; and
    d. At which board members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the district, about the public business or public policy over which the board has supervision or control.

Gov't Code 551.001(4)

Exceptions to Meeting

Social Function, Convention, or Candidate Event

The term does not include the gathering of a quorum of a board at a social function unrelated to the public business that is conducted by the board, the attendance by a quorum of a board at a regional, state, or national convention or workshop, ceremonial event, or press conference, or the attendance by a quorum of a board at a candidate forum, appearance, or debate to inform the electorate, if formal action is not taken and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, press conference, forum, appearance, or debate. *Gov't Code 551.001(4)*

Legislative Committee or Agency Meeting

The attendance by a quorum of a board at a meeting of a committee or agency of the legislature is not considered to be a meeting of the board if the deliberations at the meeting by the board members consist only of publicly testifying, publicly commenting, and publicly responding to a question asked by a member of the legislative committee or agency. *Gov't Code 551.0035(b)*

Online Message Board

For information on communications posted to an online message board, see BBI.

Quorum

"Quorum" means a majority of the number of members fixed by statute. *Gov't Code 551.001(6); 311.013(b)*

Disaster Exception

Notwithstanding any other law, a quorum is not required for the board to act if:

1. The district's jurisdiction is wholly or partly located in the area of a disaster declared by the president of the United States or the governor; and
2. A majority of the members of the board are unable to be present at a board meeting as a result of the disaster.

Gov't Code 418.1102

Recording

"Recording" means a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire, film, electronic storage drive, or other medium now existing or later developed. *Gov't Code 551.001(7)*

Prohibited Series of Communications

A board member commits an offense if the member:

1. Knowingly engages in at least one communication among a series of communications that each occur outside of a meeting authorized by the Open Meetings Act and that concern an issue within the jurisdiction of the board in which the members engaging in the individual communications constitute fewer than a quorum of members but the members engaging in the series of communications constitute a quorum of members; and
2. Knew at the time the member engaged in the communication that the series of communications:
    a. Involved or would involve a quorum; and
    b. Would constitute a deliberation once a quorum of members engaged in the series of communications.

Gov't Code 551.143

Superintendent Participation

The board shall provide the superintendent an opportunity to present at a meeting an oral or written recommendation to the board on any item that is voted on by the board at the meeting. *Education Code 11.051(a-1)*

Access to Board Meetings

Open to Public

Every regular, special, or called meeting of a board shall be open to the public, except as provided by the Open Meetings Act. *Gov't Code 551.002* [See BEC for exceptions for closed meetings.]

Parental Access

A parent is entitled to complete access to any meeting of the board, other than a closed meeting held in compliance with Government Code Chapter 551, Subchapters D and E. *Education Code 26.007(a)*

Exclusion of Witnesses

A board that is investigating a matter may exclude a witness from a hearing during the examination of another witness in the investigation. *Gov't Code 551.084*

Location

A board must hold each public meeting within the boundaries of the district, except:

1. As required by law; or
2. To hold a joint meeting with another district or with another governmental entity, as defined by Government Code 2051.041, if the boundaries of the governmental entity are in whole or in part within the boundaries of the district.

Education Code 26.007(b)

Required Meeting Records

Minutes or Recording

A board shall prepare and keep minutes or make a recording of each open meeting. The minutes must state the subject matter of each deliberation and indicate each vote, order, decision, or other action taken. *Gov't Code 551.021*

Board Member Attendance

The minutes, certified agenda, or recording, as applicable, of a regular or special meeting of the board must reflect each member's attendance at or absence from the meeting. *Education Code 11.0621*

Availability

The minutes and recordings of an open meeting are public records and shall be available for public inspection and copying on request to the superintendent or designee. *Gov't Code 551.022; Education Code 11.0621*

Note: For website posting requirements regarding the record of a board meeting, see CQA.

Notice Required

A board shall give written notice of the date, hour, place, and subject of each meeting held by the board. *Gov't Code 551.041*

Continued Meeting

Government Code 551.041, above, does not require a board that recesses an open meeting to the following regular business day to post notice of the continued meeting if the action is taken in good faith and not to circumvent the Open Meetings Act. If an open meeting is continued to the following regular business day and, on that following day, the board continues the meeting to another day, the board must give the required written notice of the meeting continued to that other day. *Gov't Code 551.0411(a)*

Inquiry During Meeting

If, at a meeting of a board, a member of the public or of the board inquires about a subject for which notice has not been given, the notice provisions do not apply to a statement of specific factual information given in response to the inquiry or a recitation of existing policy in response to the inquiry. Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting. *Gov't Code 551.042*

Time and Accessibility of Notice

The notice of a meeting of a board must be posted in a place readily accessible to the general public at all times for at least 72 hours before the scheduled time of the meeting, except as provided at Emergency Meeting or Emergency Addition to Agenda, below. A district shall post notice of each meeting on a bulletin board at a place convenient to the public in the central administrative office of the district. *Gov't Code 551.043(a), .051*

If a district is required to post notice of a meeting on the internet:

1. The district satisfies the requirement that the notice must be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the internet during the prescribed period;

2. The district must still comply with any duty imposed by the Open Meetings Act to physically post the notice at a particular location; and

3. If the district makes a good-faith attempt to continuously post the notice on the internet during the prescribed period, the notice physically posted must be readily accessible to the general public during normal business hours.

Gov't Code 551.043(b)

Internet Posting — Notice

If a district maintains an internet website, in addition to the other place at which notice or an agenda of a meeting is required to be posted, a board must also concurrently post notice of a meeting and the agenda for the meeting on the internet website.

The validity of a posted notice of a meeting or an agenda by a board subject to these provisions that made a good-faith attempt to comply with these requirements is not affected by a failure to comply that is due to a technical problem beyond the control of the district.

Gov't Code 551.056

[See CQA for other website posting requirements.]

Specificity of Agenda/Notice

Agendas for all meetings must be sufficiently specific to inform the public of the subjects to be discussed at the meeting, setting out any special matters to be considered or any matter in which the public has a particular interest. *Cox Enterprises, Inc. v. Austin Indep. Sch. Dist., 706 S.W.2d 956 (Tex. 1986); Point Isabel Indep. Sch. Dist. v. Hinojosa, 797 S.W.2d 176 (Tex. App.—Corpus Christi 1990, writ denied); Atty. Gen. Op. JH-1045 (1977)*

Emergency Meeting or Emergency Addition to Agenda

In an emergency or when there is an urgent public necessity, the notice of a meeting to deliberate or take action on the emergency or urgent public necessity, or the supplemental notice to add the deliberation or taking of action on the emergency or urgent public necessity as an item to the agenda for a meeting for which notice has been posted in accordance with Government Code Chapter 551, Subchapter C, is sufficient if the notice or supplemental notice is posted for at least one hour before the meeting is convened.

A board may not deliberate or take action on a matter at a meeting for which notice or supplemental notice is posted as described above other than:

1. A matter directly related to responding to the emergency or urgent public necessity identified in the notice or supplemental notice of the meeting; or
2. An agenda item listed on a notice of the meeting before the supplemental notice was posted.

An emergency or urgent public necessity exists only if immediate action is required of a board because of:

1. An imminent threat to public health and safety, including a threat described in item 2, below, if imminent; or
2. A reasonably unforeseeable situation, including:
    a. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
    b. Power failure, transportation failure, or interruption of communication facilities;

c. Epidemic; or

d. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

The board shall clearly identify the emergency or urgent public necessity in the notice of an emergency meeting or supplemental notice.

The sudden relocation of a large number of residents from the area of a declared disaster to a district's jurisdiction is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation.

Gov't Code 551.045

Catastrophe

A board that is prevented from convening an open meeting that was otherwise properly posted under Government Code 551.041 because of a catastrophe may convene the meeting in a convenient location within 72 hours pursuant to Government Code 551.045 if the action is taken in good faith and not to circumvent the Open Meetings Act. If the board is unable to convene the open meeting within those 72 hours, the board may subsequently convene the meeting only if the board gives the required written notice of the meeting.

"Catastrophe" means a condition or occurrence that interferes physically with the ability of a board to conduct a meeting, including:

1. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;

2. Power failure, transportation failure, or interruption of communication facilities;

3. Epidemic; or

4. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

Gov't Code 551.0411(b), (c)

Special Notice to News Media

A district shall provide special notice of each meeting to any news media that has requested special notice and agreed to reimburse the district for the cost of providing the special notice. The notice shall be by telephone, facsimile transmission, or electronic mail. *Gov't Code 551.052*

The board president or board member who calls an emergency meeting or adds an emergency item to the agenda of a board meeting shall notify the news media of the emergency meeting or

emergency item. The president or member is required to notify only those members of the news media that have previously filed a request containing all pertinent information for the special notice and agreed to reimburse the board for the cost of providing the special notice. The president or member shall give the notice by telephone, facsimile transmission, or electronic mail at least one hour before the meeting is convened. *Gov't Code 551.047*

Meeting by Telephone Conference Call

A board may hold a meeting by telephone conference call only if an emergency or public necessity exists within the meaning of Government Code 551.045 and the convening at one location of a quorum of the board is difficult or impossible, or if the meeting is held by an advisory board.

Technical Requirements and Recording

Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting and shall be recorded. The recording shall be made available to the public.

The location designated in the notice as the location of the meeting shall provide two-way communication during the entire telephone conference call meeting and the identification of each party to the telephone conference shall be clearly stated prior to speaking.

Notice of Location

The telephone conference call meeting is subject to the notice requirements applicable to other meetings. The notice must specify as the location of the meeting the location where meetings of the board are usually held.

Gov't Code 551.125

Meeting by Videoconference

"Videoconference call" or "videoconference" means a communication conducted between two or more persons in which one or more of the participants communicate with the other participants through audio and video signals transmitted over a telephone network, a data network, or the internet. *Gov't Code 551.001(8); 1 TAC 209.1(5)*

A board member or district employee may participate remotely in a board meeting by means of a videoconference call if the video and audio feed of the board member's or employee's participation, as applicable, is broadcast live at the meeting and complies with the provisions below. A board member who participates by videoconference call shall be counted as present at the meeting for all purposes. A board member who participates in a meeting by video conference call shall be considered absent from any portion of the meeting during which audio or video communication with the member is lost or disconnected. The board may continue the meeting

only if a quorum remains present at the meeting location or, if applicable, continues to participate in a meeting conducted as specified at Multiple Counties, below. *Gov't Code 551.127(a-1)-(a-3)*

Quorum in One Location

A meeting may be held by videoconference call only if a quorum of the board is physically present at one location of the meeting, except as provided at Multiple Counties, below.

Multiple Counties

A meeting of a board of a district that extends into three or more counties may be held by videoconference call only if the board member presiding over the meeting is physically present at one location of the meeting that is open to the public during the open portions of the meeting.

Additional Notice Requirements

A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements applicable to meetings by videoconference call.

The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where a quorum of the board will be physically present and specify the intent to have a quorum present at that location, except that the notice of a meeting held by videoconference call described above at Multiple Counties must specify as a location of the meeting the location where the board member presiding over the meeting will be physically present and specify the intent to have that member present at that location.

Gov't Code 551.127(b)-(e)

Quality of Audio and Video Signals

Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible to the public at the location specified in the notice. If a problem occurs that causes a meeting to no longer be visible and audible to the public at that location, the meeting must be recessed until the problem is resolved. If the problem is not resolved in six hours or less, the meeting must be adjourned.

The location specified in the notice, and each remote location from which a member of the board participates, shall have two-way audio and video communication with each other location during the entire meeting. The face of each participant in the videoconference call, while that participant is speaking, shall be clearly visible, and the voice audible, to each other participant and, during the open portion of the meeting, to the members of the public in attendance at the physical location described by the notice and at any other location of the meeting that is open to the public.

The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed minimum standards spec-

ified by the Department of Information Resources (DIR). The audio and video signals perceptible by members of the public at the location of the meeting described by the notice and at each remote location from which a member participates must be of sufficient quality so that members of the public at each location can observe the demeanor and hear the voice of each participant in the open portion of the meeting.

Gov't Code 551.127(f), (h)-(j)

Minimum Standards

No requirements found in subchapter B of 1 Administrative Code Chapter 209 (minimum standards for meetings held by videoconference by governmental bodies) shall be interpreted to overrule any section of the Open Meetings Act or any rules adopted or opinions issued by the Office of the Attorney General interpreting the Open Meetings Act. *1 TAC 209.4*

Boards conducting open or closed meetings by videoconference call shall review and consider any applicable guidelines promulgated by DIR. *1 TAC 209.5(b)*

Computer-Based Videoconferencing Applications

"Computer-based videoconferencing application" means a commercially available application designed to facilitate videoconferencing between a personal computer to another personal computer or mobile device either one-to-one or in a group environment. *1 TAC 209.1(1)*

All computer-based videoconferencing applications shall employ a minimum bandwidth transmission speed and/or adequate data compression algorithm to produce a sufficient quality for audio and video such that audio volume and clarity and video clarity are sufficient to hear and view all speaking participants on the videoconference clearly.

Computer-based videoconferencing applications may specify unique minimum requirements for computer central processing units, memory, and video capability to run the computer-based videoconferencing application. A board shall comply with these minimum requirements.

If the videoconference call hosts a public audience at a location or locations specified by the official notice of the open meeting posted in compliance with Open Meetings Act requirements, then the district shall establish a minimum of one host computer at the location(s) that will run the computer-based videoconferencing application. This host computer shall then be connected to:

1. Either a separate video monitor of size proportional to the room and clearly visible to all in the room or multiple video

monitors so that all attendees may clearly view the video stream; and

2. External speakers of suitable volume and sound quality such that all meeting attendees at the host location may clearly hear the meeting.

Any personal computer used by a board member for the purpose of videoconferencing for an open meeting subject to the Open Meetings Act shall contain a camera and speakers of sufficient quality to permit all meeting attendees to see the individual who is using the personal computer and for the individual to hear all speaking attendees.

1 TAC 209.10

Dedicated Video Room Environments

If a board uses a dedicated video room environment (DVRE) for dedicated camera and speaker equipment but is using a computer-based videoconferencing application that is not part of a proprietary DVRE setup, then the district must comply with all minimum standards for computer-based application software, above, and is not subject to the DIR requirements for a DVRE. *1 TAC 209.11(e)*

Note: The minimum standards for videoconference meetings hosted between dedicated video room environments are outlined in 1 Administrative Code 209.1 and 209.11.

Security Requirements

Each board subject to the Open Meetings Act shall review and comply with any additional internal security requirements of their district that may apply to a meeting held by videoconference. *1 TAC 209.12(a)*

Recording

The board shall make at least an audio recording of the meeting. The recording shall be made available to the public.

Remote Participation by the Public

Without regard to whether a member of the board is participating in a meeting from a remote location by videoconference call, a board may allow a member of the public to testify at a meeting from a remote location by videoconference call.

Gov't Code 551.127(g), (k)

Internet Broadcast

Except as provided by Government Code 551.128(b-1), below, and subject to the requirements at Video and Audio Recording of Meeting, below, a board may broadcast an open meeting over the internet.

Except as provided by Government Code 551.128(b-2) [see Existing Website, below], a board that broadcasts a meeting over the internet shall establish an internet site and provide access to the

broadcast from that site. The board shall provide on the internet site the same notice of the meeting that the board is required to post under Government Code Chapter 551, Subchapter C. The notice on the internet must be posted within the time required for posting notice under Subchapter C.

Gov't Code 551.128(b), (c)

Note: The provisions at Video and Audio Recording of Meeting apply to a board for a district that has a student enrollment of 10,000 or more.

Video and Audio Recording of Meeting

A board shall:

Required Recording

1. Make a video and audio recording of reasonable quality of each:
   a. Regularly scheduled open meeting that is not a work session or a special called meeting; and
   b. Open meeting that is a work session or special called meeting at which the board votes on any matter or allows public comment or testimony [see BED for requirements regarding public testimony]; and
2. Make available an archived copy of the video and audio recording of each meeting described in item 1.

Internet Posting — Recordings

A board shall:

1. Make the archived recording of each meeting to which these provisions apply available on the internet not later than seven days after the date the recording was made; and
2. Maintain the archived recording on the internet for not less than two years after the date the recording was first made available.

Existing Website

A board may make available the required archived recording on an existing internet site, including a publicly accessible video-sharing or social networking site. The board is not required to establish a separate internet site and provide access to archived recordings of meetings from that site.

District Website

A district that maintains an internet site shall make available on that site, in a conspicuous manner, the archived recording of each meeting or an accessible link to the archived recording of each such meeting.

Exemption A board is exempt from the internet posting requirements if the board's failure to make the required recording of a meeting available is the result of a catastrophe, as defined by Government Code 551.0411 [see Catastrophe, above], or a technical breakdown. Following a catastrophe or breakdown, a board must make all reasonable efforts to make the required recording available in a timely manner.

Television Broadcast A board may broadcast a regularly scheduled open meeting on television.

Gov't Code 551.128(b-1)-(b-6)

Recording by Attendee A person in attendance may record all or any part of an open meeting of a board by means of a recorder, video camera, or other means of aural or visual reproduction. A board may adopt reasonable rules to maintain order at a meeting, including rules relating to the location of recording equipment and the manner in which the recording is conducted. A rule adopted under this provision may not prevent or unreasonably impair a person from exercising a right granted under this provision. *Gov't Code 551.023*

Attorney Consultation A board may use a telephone conference call, videoconference call, or communications over the internet to conduct a public consultation with its attorney in an open meeting of the board or a private consultation with its attorney in a closed meeting of the board. [See BEC]

Each part of a public consultation by a board with its attorney in an open meeting must be audible to the public at the location specified in the notice of the meeting as the location of the meeting.

These provisions do not authorize the members of a board to conduct a meeting of the board by telephone conference call, video conference call, or communications over the internet; or create an exception to the application of Government Code Chapter 551, Subchapter F (meetings using telephone, videoconference, or internet).

Exception These provisions do not apply to a consultation with an attorney who is an employee of a district. An attorney who receives compensation for legal services performed, from which employment taxes are deducted by the district, is an employee of the district.

Gov't Code 551.129

Persons with Hearing Impairments In a proceeding before a board in which the legal rights, duties, or privileges of a party are to be determined by the board after an adjudicative hearing, the board shall supply for a party who is deaf or

hearing impaired an interpreter who has qualifications approved by the Texas Commission for the Deaf and Hard of Hearing.

“Deaf or hearing impaired” means having a hearing impairment, regardless of the existence of a speech impairment, that inhibits comprehension of an examination or proceeding, or communication with others.

Gov’t Code 558.001, .003

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

SECTION C: BUSINESS AND SUPPORT SERVICES

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

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SECTION C: BUSINESS AND SUPPORT SERVICES

CH	PURCHASING AND ACQUISITION
CHB	Petty Cash Account
CHD	Purchasing Procedures
CHE	Vendor Disclosures and Contracts
CHF	Payment Procedures
CHG	Real Property and Improvements
CHH	Financing Personal Property Purchases
CI	SCHOOL PROPERTIES DISPOSAL
CJ	CONTRACTED SERVICES
CJA	Criminal History
CK	SAFETY PROGRAM/RISK MANAGEMENT
CKA	Safety and Security Audits and Monitoring
CKB	Accident Prevention and Reports
CKC	Emergency Plans
CKD	Emergency Medical Equipment and Procedures
CKE	Security Personnel
CKEA	Commissioned Peace Officers
CKEB	School Marshals
CKEC	School Resource Officers
CKED	Other Security Arrangements
CL	BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT
CLA	Security
CLB	Maintenance
CLC	Traffic and Parking Controls
CLD	Records and Reports
CLE	Flag Displays
CM	EQUIPMENT AND SUPPLIES MANAGEMENT
CMA	Receiving and Warehousing
CMB	Authorized Uses of Equipment and Supplies
CMD	Instructional Materials Care and Accounting
CN	TRANSPORTATION MANAGEMENT
CNA	Student Transportation
CNB	District Vehicles
CNBA	Bus Maintenance
CNC	Transportation Safety
CO	FOOD AND NUTRITION MANAGEMENT
COA	Procurement
COB	Free and Reduced-Price Meals
COC	Vending Machines

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SECTION C: BUSINESS AND SUPPORT SERVICES

CP	OFFICE MANAGEMENT
CPA	Office Communications
CPAA	Printing and Duplicating
CPAB	Mail and Delivery
CPAC	Telephone
CPC	Records Management
CQ	TECHNOLOGY RESOURCES
CQA	District, Campus, and Classroom Websites
CQB	Cybersecurity
CQC	Equipment
CR	INSURANCE AND ANNUITIES MANAGEMENT
CRA	Property Insurance
CRB	Liability Insurance
CRD	Health and Life Insurance
CRE	Workers' Compensation
CRF	Unemployment Insurance
CRG	Deferred Compensation and Annuities
CS	FACILITY STANDARDS
CSA	Safety and Security
CSB	Gas and Pipelines
CSC	Asbestos Management
CT	FACILITIES PLANNING
CV	FACILITIES CONSTRUCTION
CVA	Competitive Bidding
CVB	Competitive Sealed Proposals
CVC	Construction Manager-Agent
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Bonds and Bond Taxes

The board may issue bonds for:

1. The construction, acquisition, and equipment of school buildings in the district;
2. The acquisition of property or the refinancing of property under a contract entered under the Public Property Finance Act (Local Government Code, Chapter 271, Subchapter A), regardless of whether payment obligations under the contract are due in the current year or a future year;
3. The purchase of the necessary sites for school buildings;
4. The purchase of new school buses;
5. The retrofitting of school buses with emergency, safety, or security equipment; and
6. The purchase or retrofitting of vehicles to be used for emergency, safety, or security purposes.

The board may levy, pledge, assess, and collect annual ad valorem taxes sufficient to pay the principal of and interest on the bonds as or before the principal and interest become due, subject to the provisions at Bond Elections, below.

Education Code 45.001(a)

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

Limitation

A district may not issue general obligation bonds to purchase, improve, or construct one or more improvements to real property, to purchase one or more items of personal property, or to do both, if the weighted average maturity of the issue of bonds exceeds 120 percent of the reasonably expected weighted average economic life of the improvements and personal property financed with the issue of bonds. *Gov't Code 1253.002*

Use of Proceeds for Utilities

The proceeds of bonds issued by school districts for the construction and equipment of school buildings in the district and the purchase of the necessary sites for school buildings may be used, among other things, to pay the cost of acquiring, laying, and installing pipes or lines to connect with the water, sewer, or gas lines of a municipality or private utility company, whether or not the water, sewer, or gas lines adjoin the school, so that the school district may provide its public school buildings the water, sewer, or gas services. *Education Code 45.101*

Use of Proceeds for Safety

The proceeds of bonds issued by a school district for the construction and equipment of school buildings in the district and the purchase of the necessary sites for school buildings may be used to pay the costs associated with complying with school safety and security requirements for school facilities in accordance with Education Code 37.351. [See CKA]

A district that has been determined by the Texas Education Agency (TEA) to not be in compliance with safety and security requirements must use the proceeds of bonds described above to achieve compliance with applicable safety and security requirements in accordance with Education Code 37.351 before the district may use those proceeds for any other authorized purpose.

Education Code 45.1011

State Facilities Funding

“Instructional facility” means real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the required curriculum. *Education Code 46.001*

Instructional Facilities Allotment

Under the Instructional Facilities Allotment, Education Code Chapter 46, Subchapter A, for each year, except as provided by Education Code 46.005 (limitation on the guaranteed amount) and 46.006 (shortage or excess of appropriated funds), a district is guaranteed a specified amount per student in state and local funds for each cent of tax effort, up to the statutory maximum in Education Code 46.003(b), to pay the principal of and interest on eligible bonds issued to construct, acquire, renovate or improve an instructional facility. *Education Code 46.003(a)* [See 19 Administrative Code 61.1032 for commissioner’s rules related to the instructional facilities allotment.]

Existing Debt Allotment

A district is guaranteed a specified amount per student in state and local funds for each cent of tax effort to pay the principal and interest on eligible bonds under Education Code Chapter 46, Subchapter B. Bonds are eligible to be paid with state and local funds under Subchapter B if the district made payments on the bonds during the final school year of the preceding state fiscal biennium or taxes levied to pay the principal and interest on the bonds were included in a district’s audited debt service collections for that school year, and the district does not receive state assistance under the Instructional Facilities Allotment for payment of the principal and interest on the bonds. *Education Code 46.032(a), .033* [See 19 Administrative Code 61.1035 for commissioner’s rules related to the existing debt allotment.]

Note: For information on the new instructional facility allotment, see CBA.

Investment of Bond Proceeds

For legal requirements regarding investment of bond proceeds, see CDA(LEGAL).

Unspent Bond Proceeds

A district may use unspent proceeds of issued general obligation bonds only:

1. For the specific purposes for which the bonds were authorized;
2. To retire the bonds; or
3. For a purpose other than the specific purposes for which the bonds were authorized if:
    a. The specific purposes are accomplished or abandoned; and
    b. The board at a public meeting held only for the purpose of considering the use of the unspent bond proceeds approves in separate votes the use of the proceeds for:
        (1) A purpose other than to retire the bonds; and
        (2) The purpose specified at the time the vote is taken.

In addition to other requirements, notice of a public meeting held under this provision must include a statement that the board will consider the use of unspent bond proceeds for a purpose other than the specific purposes for which the bonds were authorized. A public meeting held under this provision must provide the public an opportunity to address the board on the question of using the unspent bond proceeds for a purpose other than the specific purposes for which the bonds were authorized.

Education Code 45.1105

Capital Appreciation Bonds

For purposes of the following policy provisions, a "capital appreciation bond" is a bond that accrues and compounds interest from its date of delivery, the interest on which by its terms is payable only upon maturity or prior redemption.

Limitation on Issuance

A school district may not issue capital appreciation bonds that are secured by ad valorem taxes unless:

1. The bonds have a scheduled maturity date that is not later than 20 years after the date of issuance;

2. The board has received a written estimate of the cost of the issuance, including:

    a. The amount of principal and interest to be paid until maturity;

    b. The amount of fees to be paid to outside vendors, including vendors who sell products to be financed by the bond issuance;

    c. The amount of fees to be paid to each financing team member; and

    d. The projected tax impact of the bonds and the assumptions on which the calculation of the projected tax impact is based;

3. The board has determined in writing whether any personal or financial relationship exists between the members of the board and any financial advisor, bond counsel, bond underwriter, or other professional associated with the bond issuance and submitted the determination to the Ethics Commission; and

4. The board posts prominently on the district's internet website and enters in the minutes of the board:

    a. The total amount of the proposed bonds;

    b. The length of maturity of the proposed bonds;

    c. The projects to be financed with bond proceeds;

    d. The intended use of bond proceeds not spent after completion of the projects identified;

    e. The total amount of the district's outstanding bonded indebtedness at the time of the election on the bonds, including the amount of principal and interest to be paid on existing bond indebtedness until maturity;

    f. The total amount of the district’s outstanding bonded indebtedness, including the amount of principal and interest to be paid until maturity; and

    g. The information received at item 2 above and determined under item 3 above.

The board shall regularly update the debt information posted on the district’s internet website under item 4.f above to ensure that the information is current and accurate.

Limitation on Use of Proceeds

Capital appreciation bond proceeds may not be used to purchase the following items, unless an item has an expected useful life that exceeds the bond's maturity date:

1. Items more regularly considered maintenance items, including replacement HVAC units, upgraded plumbing, or similar items; or
2. Transportation-related items, including buses.

Unspent Proceeds

Capital appreciation bond proceeds unspent after completion of the project identified as the proceeds' intended use may be used only for a use identified on the district's website as required above, unless another use is approved by the voters of the district at an election held for that purpose.

Total Amount of Capital Appreciation Bonds

The total amount of capital appreciation bonds may not exceed 25 percent of the district's total outstanding bonded indebtedness at the time of the issuance, including the amount of principal and interest to be paid on the outstanding bonds until maturity.

Extension

A district may not extend the maturity date of an issued capital appreciation bond, including through the issuance of refunding bonds that extend the maturity date, unless:

1. The extension of the maturity date will decrease the total amount of projected principal and interest to maturity; or
2. The maximum legally allowable tax rate for indebtedness has been adopted and TEA certifies in writing that the solvency of the permanent school fund's bond guarantee program would be threatened without the extension.

Gov't Code 1201.0245

The foregoing provisions of Government Code 1201.0245 do not apply to the issuance of refunding bonds under Government Code Chapter 1207 or capital appreciation bonds for the purpose of financing transportation projects. *Gov't Code 1201.0245(j)*

Bond Elections

Bonds may not be issued and taxes may not be levied unless authorized by a majority of the qualified voters of the district, voting at an election held for such purpose, at the expense of the district, in accordance with the Election Code, except as provided by Education Code 45.003. The election shall be called by resolution or order of the board. The resolution or order must state the date of the election, the proposition or propositions to be submitted and voted on, the polling place or places, and any other matters considered necessary or advisable by the board. *Education Code 45.003(a)*

Each special election in this state shall be held on one of the following dates:

1. The first Saturday in May; or
2. The first Tuesday after the first Monday in November.

Election Code 41.001(a) [See BBB]

Call for Election

For an election to be held on a uniform election date, the election shall be ordered not later than the 78th day before election day. *Election Code 3.005* [See BBBA]

Election Order

In addition to other legal requirements regarding the election order [see BBBA(LEGAL)], the document ordering an election to authorize a district to issue debt obligations must distinctly state:

1. The proposition language that will appear on the ballot;
2. The purpose for which the bonds are to be authorized;
3. The principal amount of the bonds to be authorized;
4. That taxes sufficient to pay the principal of and interest on the bonds may be imposed;
5. The estimated tax rate if the bonds are authorized or the maximum interest rate of the bonds or any series of the bonds, based on the market conditions at the time of the election order;
6. The maximum maturity date of the bonds to be authorized or that the bonds may be issued to mature over a specified number of years not to exceed the maximum number of years authorized by law;
7. The aggregate amount of the outstanding principal of the district's debt obligations as of the date the election is ordered;
8. The aggregate amount of the outstanding interest on the district's debt obligations as of the date the election is ordered, which may be based on the district's expectations relative to variable rate debt obligations; and
9. The district's ad valorem debt service tax rate at the time the election is ordered, expressed as an amount per $100 valuation of taxable property.

Election Code 3.009(b)

Posting

The election order must be posted:

1. On election day and during early voting by personal appearance, in a prominent location at each polling place;
2. Not later than the 21st day before the election in three public places in the boundaries of the district; and
3. During the 21 days before the election, on the district's internet website, prominently and together with the notice of the election, the contents of the proposition, and any sample ballot prepared for the election, if the district maintains an internet website.

Election Code 4.003(f) [See Voter Information, below]

Election Notice

The notice of election must comply with Election Code Chapter 4. [For specific requirements regarding contents of the election notice, see BBBA(LEGAL).]

Publication and Posting

The notice of election must be published and posted in accordance with Election Code requirements. [For specific requirements regarding publication and posting, see BBBA(LEGAL).]

Notice to Election Officials

Notice must be given to the county clerk, voter registrar, and election judge in accordance with Election Code Chapter 4. [For specific requirements, see BBBA(LEGAL).]

Propositions

A proposition submitted to authorize the issuance of bonds must include the question of whether the board may levy, pledge, assess, and collect annual ad valorem taxes, on all taxable property in the district, either:

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

The ballot proposition must include the following statement: "THIS IS A PROPERTY TAX INCREASE."

Education Code 45.003(b), (b-1)

A district that submits to the voters a proposition for the approval of the issuance of debt obligations shall prescribe the wording of the proposition that is to appear on the ballot in accordance with the requirements of Government Code Chapter 1251, Subchapter B. *Election Code 52.072(f)*

The district shall assign a letter to each measure on the ballot that corresponds to its order on the ballot. Each proposition on the ballot must identify the name of the authority ordering the election on the measure. *Election Code 52.095*

Ballot Contents

The ballot for a measure seeking voter approval of the issuance of debt obligations by a district shall specifically state:

1. A plain language description of the single specific purposes for which the debt obligations are to be authorized;
2. The total principal amount of the debt obligations to be authorized; and
3. That taxes sufficient to pay the principal of and interest on the debt obligations will be imposed.

Each single specific purpose for which debt obligations requiring voter approval are to be issued must be printed on the ballot as a separate proposition. A proposition may include as a specific purpose one or more structures or improvements serving the substantially same purpose and may include related improvements and equipment necessary to accomplish the specific purpose.

Gov't Code 1251.052(a)-(a-1)

Exception

Notwithstanding the requirements at Ballot Contents, above, the question of whether to approve the issuance of bonds for the construction, acquisition, and equipment of school buildings in the district, the purchase of new school buses, and the purchase of necessary sites for school buildings may be submitted to the voters in a single ballot proposition, except that bonds for each of the following purposes must be stated in a separate proposition:

1. The construction, acquisition, or equipment of:
    a. A stadium with seating capacity for more than 1,000 spectators;
    b. A natatorium;
    c. Another recreational facility other than a gymnasium, playground, or play area;
    d. A performing arts facility;
    e. Housing for teachers as determined by the district to be necessary to have a sufficient number of teachers for the district; and

2. An acquisition or update of technology equipment, other than equipment used for school security purposes or technology infrastructure integral to the construction of a facility.

The question of whether to approve the issuance of bonds for a building described by items 1a-e above must be printed on the ballot as a separate ballot proposition regardless of whether that building is proposed as part of the same complex or building that contains traditional classroom facilities. Each separate ballot proposition must state the principal amount of the bonds to be issued that constitutes the cost for construction of that portion of the building or complex attributable to the building described by items 1a-e above or to the traditional classroom facilities, as applicable.

Education Code 45.003(g)-(h)

Definition

"Debt obligation" means a public security, as defined by Government Code 1201.002, secured by and payable from ad valorem taxes. The term does not include public securities that are designated as self-supporting by the political subdivision issuing the securities. *Gov't Code 1251.051(1)*

Voter Information

A district with at least 250 registered voters on the date the board adopts the debt obligation election order must prepare a voter information document for each proposition to be voted on at the election.

Posting Requirements

The district shall post the voter information document in the same manner as a debt obligation election order is required to be posted under Election Code 4.003(f) [see Posting, above] and may include the voter information document in the debt obligation election order.

A district that maintains an internet website shall provide the information described at Contents, below, on its website in an easily accessible manner beginning not later than the 21st day before election day and ending on the day after the date of the debt obligation election.

Contents

The voter information document must distinctly state:

1. The language that will appear on the ballot;

2. The following information formatted as a table:

    a. The principal of the debt obligations to be authorized;

    b. The estimated interest for the debt obligations to be authorized;

c. The estimated combined principal and interest required to pay on time and in full the debt obligations to be authorized; and

d. As of the date the district adopts the debt obligation election order:

(1) The principal of all outstanding debt obligations of the district;

(2) The estimated remaining interest on all outstanding debt obligations of the district, which may be based on the district's expectations relative to the interest due on any variable rate debt obligations; and

(3) The estimated combined principal and interest required to pay on time and in full all outstanding debt obligations of the district, which may be based on the district's expectations relative to the interest due on any variable rate debt obligations;

3. The estimated maximum annual increase in the amount of taxes that would be imposed on a residence homestead in the district with an appraised value of $100,000 to repay the debt obligations to be authorized, if approved, based upon assumptions made by the board; and

4. Any other information that the board considers relevant or necessary to explain the information required by these provisions.

Assumptions

The board shall identify in the voter information document the major assumptions made in connection with the statement required by item 3 above, including:

1. The amortization of the district's debt obligations, including outstanding debt obligations and the proposed debt obligations;

2. Changes in estimated future appraised values within the district; and

3. The assumed interest rate on the proposed debt obligations.

Gov't Code 1251.052(b)-(d)

Electioneering and Political Advertising

For additional information and prohibitions related to electioneering and political advertising, see BBBD(LEGAL).

50 Cent Test for New Debt

Before issuing bonds, a district must demonstrate to the attorney general that, with respect to the proposed issuance, the district has a projected ability to pay the principal of and interest on the pro-

posed bonds and all previously issued bonds, other than bonds authorized to be issued at an election held on or before April 1, 1991, and issued before September 1, 1992, from a tax at a rate not to exceed $0.50 per $100 of valuation (the "50 Cent Test").

A district may demonstrate the ability to comply with the 50 Cent Test by using the most recent taxable value of property in the district, combined with state assistance to which the district is entitled under Education Code Chapter 46 or 48 that may be lawfully used for the payment of bonds.

Future Taxable Value

A district may demonstrate the ability to comply with the 50 Cent Test by using a projected future taxable value of property in the district anticipated for the earlier of the tax year five years after the current tax year or the tax year in which the final payment is due for the bonds submitted to the attorney general, combined with state assistance to which the district is entitled under Education Code Chapter 46 or 48 that may be lawfully used for the payment of bonds.

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

The certification of a district's projected taxable value must be signed by the superintendent. The attorney general must base a determination of whether a district has complied with the 50 Cent Test on a taxable value that is equal to 90 percent of the value certified.

Education Code 45.0031

Attorney General Review and Approval

Unless exempt under Government Code 1202.007, before the issuance of a public security, the issuer shall submit the public security and the record of proceedings to the attorney general. *Gov't Code 1202.003(a); see, e.g., 1 TAC 53.3 (Content of Transcripts), 53.16 (Submission and Approval of Transcripts), and 53.61 (School District Tax Bond Elections)*

Refunding Bonds

A board may refund or refinance all or any part of any of the district's outstanding bonds and matured or unmatured but unpaid interest on those bonds payable from ad valorem taxes by issuing refunding bonds payable from ad valorem taxes. *Education Code 45.004; Gov't Code Ch. 1207*

Instructional Facilities Allotment for Refunding Bonds

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

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

Education Code 46.007

Authorized Unissued Bonds

If a district has authorized school bonds for a specific purpose and that purpose has been accomplished by other means or has been abandoned and all or a portion of the authorized bonds remains unissued, a board may order an election [see BBBA] to submit to the qualified voters of the district the proposition of whether or not the authorized but unissued bonds may be issued, sold, and delivered for other and different purposes specified in the election order and notice. The election shall be ordered, held, and conducted in the same form and manner as that at which the bonds were originally authorized. If a majority of those voting at the election vote in favor of the sale and delivery of the unissued bonds for the purposes specified in the election order and notice, the board may issue, sell, and deliver the bonds and use the proceeds for the purposes authorized at the election. *Education Code 45.110*

Bond Guarantee Program

Eligibility

A district seeking guarantee of eligible bonds under the Bond Guarantee Program shall apply to the commissioner of education using a form adopted by the commissioner. To be eligible for approval, district bonds must be issued under Education Code Chapter 45, Subchapter A, or under Government Code Chapter 1207. *Education Code 45.054, .055(a); 19 TAC 33.6(b)(5)*

Application

An application must include:

1. The name of the district and the principal amount of the bonds to be issued;
2. The name and address of the district's paying agent, which means the financial institution designated by a district as its agent for payment of principal and interest on guaranteed bonds; and

3. The maturity schedule, estimated interest rate, and date of the bonds.

Education Code 45.051(2), .055

An application must be accompanied by a fee set by rule of the State Board of Education. *Education Code 45.055(c); 19 TAC 33.6(f)(1)*

On approval by the commissioner, bonds issued by a district are guaranteed by the corpus and income of the permanent school fund. The guarantee remains in effect until the date those bonds mature or are defeased in accordance with state law. *Education Code 45.052*

If a district does not receive approval for the guarantee or for any reason does not receive approval of the bonds from the attorney general within the specified time period, the district may reapply in a subsequent month. Applications that were denied approval for the guarantee will not be retained for consideration in subsequent months. *19 TAC 33.6(f)(5)*

A district may not represent bonds as guaranteed for the purpose of pricing or marketing the bonds before the date of the letter granting approval for the guarantee. *19 TAC 33.6(g)(4)(D)*

Credit Enhancement Program

If a district's application for guarantee of district bonds by the permanent school fund is rejected, the district may apply under Education Code Chapter 45, Subchapter I for credit enhancement of bonds described by Education Code 45.054 (eligibility for the Bond Guarantee Program) by money appropriated for the Foundation School Program, other than money that is appropriated to districts specifically:

1. As required under the Texas Constitution; or

2. For assistance in paying debt service.

The credit enhancement remains in effect until the date the bonds mature or are defeased in accordance with state law.

Education Code 45.252

Eligibility

To be eligible for approval by the commissioner for credit enhancement:

1. Bonds must be issued in the manner provided by Education Code 45.054;

2. Payments of all of the principal of the bonds must be scheduled during the first six months of the state fiscal year;

3. The district's lowest credit rating from any credit rating agency may not be the same as or higher than that of the School District Bond Enhancement Program;

4. The bonded debt for which the credit enhancement is sought must be structured so that no single annual debt service payment exceeds two times the quotient produced by dividing the total proposed annual debt service, as defined in 19 Administrative Code 61.1038(b)(10), for the term of the bonds by the number of years in the amortization schedule; and

5. The district must agree in its application that the total annual debt service on bonds approved for the credit enhancement will be paid on or before August 15 of each state fiscal year.

Education Code 45.254; 19 TAC 61.1038(f)

Application

A district seeking credit enhancement of eligible bonds shall apply to the commissioner using a form adopted by the commissioner for the purpose. The application must:

1. Include the information required by Education Code 45.055(b), at Bond Guarantee Program—Application, above; and

2. Be accompanied by a fee set by the State Board of Education. *19 TAC 61.1038(d)(1)*

Education Code 45.255

The district may not submit an application for a guarantee or credit enhancement before the successful passage of an authorizing proposition.

If a district does not receive a credit enhancement or for any reason does not receive approval of the bonds from the attorney general within the specified time period, the district may reapply in a subsequent month. Applications that were denied a credit enhancement will not be retained for consideration in subsequent months.

A district may not represent the bonds as approved for credit enhancement for the purposes of pricing or marketing the bonds before the date of the letter granting approval for the credit enhancement.

19 TAC 61.1038(e)(1), (8), (10)

Authority to Contract for Services

An issuer has exclusive authority to select, contract with, and determine the basis for compensation of a person to provide legal and other services as may be determined by the issuer to be nec-

essary in connection with the issuer's issuance of public securities or administration of its affairs that pertain to the issuance of public securities. The selection of legal counsel shall be made in accordance with the provisions of Government Code Chapter 2254, Subchapter A, applicable to the selection by a governmental entity of a provider of professional engineering services. *Gov't Code 1201.027(a)* [See CH(LEGAL) regarding contingent fee contracts for legal services and Government Code 2254.102(e) for additional requirements.]

Federal Securities Law

Prior to publicly offering bonds, a school district must prepare and deliver to an underwriter an official statement containing the terms of the bond offering, a description of the district itself, financial and operating data of the district, and any other information that may be material to an investor interested in purchasing the district's bonds or otherwise required by Rule 15c2-12 of the Securities Exchange Commission (SEC) (SEC Rule 15c2-12(b)). *17 C.F.R. 240.15c2-12* [See Note, below]

Disclosure Obligations for Bond and Other Debt Offerings

Except for exempt offerings, SEC Rule 15c2-12(b) requires underwriters to obtain a continuing disclosure agreement (CDA) from the district when the district issues bonds. A CDA obligates the district to prepare and file continuing disclosures of financial information and operating data annually after the bonds are issued. A CDA also requires filing notice regarding the occurrence of events listed under SEC Rule 15c2-12(b)(5)(i)(C) within 10 business days following the occurrence of any such event. *17 C.F.R. 240.15c2-12* [See Note, below]

Continuing Disclosure after Issuing Bonds

School districts, board members, and certain employees of the district are subject to liability under the antifraud provisions of the federal securities laws contained in Section 17(a) of the Securities Act of 1933 (the "Securities Act"), Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b-5 of the SEC. The antifraud provisions generally prohibit false or misleading statements made in connection with the offer or sale of a district's bonds (or the omission of material facts from such statements), including the official statement itself and any other statement reasonably expected to reach bond investors (disclosures). *SEC Exchange Act Release No. 33741 (Mar. 9, 1994)*

Liability under Federal Securities Law

The antifraud provisions also apply to a district's continuing disclosure obligations under SEC Rule 15c2-12(b) after a district's bonds are issued. [See Continuing Disclosure after Issuing Bonds, above] *SEC Report on the Municipal Securities Market (July 31, 2012) (the "SEC 2012 Report") at pg. 29*

Note: In preparing an official statement, a district may reasonably rely on the advice of outside professionals who are also subject to the antifraud provisions, but a district is primarily liable for the content of its official statement and other disclosures. *SEC Exchange Act Release No. 36761 (Jan. 24, 1996)*

A district may engage qualified consultants, including qualified disclosure or securities counsel and a financial adviser, to assist with preparing an official statement and other primary disclosures relating to a bond offering. Creation of internal procedures may help to insulate a district against criticism or liability under federal securities laws.

Districts may also engage disclosure counsel and/or other professionals to assist with secondary disclosure, including advice and assistance ensuring that (1) reporting requirements imposed by a CDA are satisfied and (2) information disclosed in periodic and occasional reports is accurate and complete.

Internal procedures may provide for (1) appointment of, and disclosure training for, district officials and employees who will be part of the financing team, (2) a procedure of accountability for review of the disclosures, and (3) ensuring that any procedures established are in fact followed.

[See SEC Report on the Municipal Securities Market (July 31, 2012)]

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

Definitions

Bond Proceeds — "Bond proceeds" means the proceeds from the sale of bonds, notes, and other obligations issued by a district, and reserves and funds maintained by a district for debt service purposes.

Investment Pool — "Investment pool" means an entity created under the Texas Government Code to invest public funds jointly on behalf of the entities that participate in the pool and whose investment objectives in order of priority are preservation and safety of principal, liquidity, and yield.

Pooled Fund Group — "Pooled fund group" means an internally created fund of a district in which one or more institutional accounts of a district are invested.

Separately Invested Asset — "Separately invested asset" means an account or fund of a district that is not invested in a pooled fund group.

Gov't Code 2256.002(1), (6), (9), (12)

Pledged Revenue — "Pledged revenue" means money pledged to the payment of or as security for:

1. Bonds or other indebtedness issued by a district;
2. Obligations under a lease, installment sale, or other agreement of a district; or
3. Certificates of participation in a debt or obligation described by item 1 or 2.

Gov't Code 2256.0208(a)

Joint Account — "Joint account" means an account maintained by a custodian bank and established on behalf of two or more parties to engage in aggregate repurchase agreement transactions.

Repurchase Agreement — "Repurchase agreement" means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations, described by Government Code 2256.009(a)(1) (obligations of governmental entities) or 2256.013 (commercial paper) or if applicable, 2256.0204 (corporate bonds), at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement.

Gov't Code 2256.011(b)

Hedging — "Hedging" means acting to protect against economic loss due to price fluctuation of a commodity or related investment by entering into an offsetting position or using a financial agreement or producer price agreement in a correlated security, index, or other commodity.

Eligible Entity — "Eligible entity" means a political subdivision that has:

1. A principal amount of at least $250 million in outstanding long-term indebtedness, long-term indebtedness proposed to be issued, or a combination of outstanding long-term indebtedness and long-term indebtedness proposed to be issued; and
2. Outstanding long-term indebtedness that is rated in one of the four highest rating categories for long-term debt instruments by a nationally recognized rating agency for municipal securities, without regard to the effect of any credit agreement or other form of credit enhancement entered into in connection with the obligation.

Eligible Project — "Eligible project" has the meaning assigned by Government Code 1371.001 (issuance of obligations for certain public improvements).

Gov't Code 2256.0207(a)

Corporate Bond — "Corporate bond" means a senior secured debt obligation issued by a domestic business entity and rated not lower than "AA-" or the equivalent by a nationally recognized investment rating firm. The term does not include a debt obligation that, on conversion, would result in the holder becoming a stockholder or shareholder in the entity, or any affiliate or subsidiary of the entity, that issued the debt obligation, or is an unsecured debt obligation. *Gov't Code 2256.0204(a)*

Written Policies — The board shall adopt by rule, order, ordinance, or resolution, as appropriate, a written investment policy regarding the investment of its funds and funds under its control. The investment policies must primarily emphasize safety of principal and liquidity and must address investment diversification, yield, and maturity and the quality and capability of investment management. The policies must include:

1. A list of the types of authorized investments in which the district's funds may be invested;
2. The maximum allowable stated maturity of any individual investment owned by the district;

3. For pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date of the portfolio;

4. Methods to monitor the market price of investments acquired with public funds;

5. A requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis; and

6. Procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the provisions of Government Code 2256.021 [see Loss of Required Rating, below].

Gov't Code 2256.005(a), (b)

Annual Review

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

Annual Audit

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

Investment Strategies

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

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

2. Preservation and safety of principal;

3. Liquidity;

4. Marketability of the investment if the need arises to liquidate the investment before maturity;

5. Diversification of the investment portfolio; and

6. Yield.

Gov't Code 2256.005(d)

Investment Officer

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

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

Investment Training

Investment training must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with the Public Funds Investment Act. *Gov't Code 2256.008(c)*

Initial

Within 12 months after taking office or assuming duties, the treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a district shall attend at least one training session from an independent source approved by the board or a designated investment committee advising the investment officer. This initial training must contain at least 10 hours of instruction relating to their respective responsibilities under the Public Funds Investment Act. *Gov't Code 2256.008(a)*

Ongoing

The treasurer, or the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a district shall attend an investment training session not less than once in a two-year period that begins on the first day of the district's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than eight hours of instruction relating to investment responsibilities under the Public Funds Investment Act from an independent source approved by the board or by a designated

investment committee advising the investment officer. *Gov't Code 2256.008(a-1)*

Exception

The ongoing training requirement does not apply to the treasurer, chief financial officer, or investment officer of a district if:

1. The district does not invest district funds or only deposits those funds in interest-bearing deposit accounts or certificates of deposit as authorized by Government Code 2256.010; and
2. The treasurer, chief financial officer, or investment officer annually submits to the agency a sworn affidavit identifying the applicable criteria under item 1 that apply to the district.

Gov't Code 2256.008(g)

Standard of Care

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

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

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

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

Gov't Code 2256.006

Personal Interest

A district investment officer who has a personal business relationship with a business organization offering to engage in an investment transaction with the district shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree by affinity or consanguinity, as determined by Government Code Chapter 573 (nepotism prohibition), to an individual seeking to sell an investment to the investment officer's district shall file a statement disclosing that relationship. A required statement must be filed with the board and with the Texas

Ethics Commission. For purposes of this policy, an investment officer has a personal business relationship with a business organization if:

1. The investment officer owns 10 percent or more of the voting stock or shares of the business organization or owns $5,000 or more of the fair market value of the business organization;
2. Funds received by the investment officer from the business organization exceed 10 percent of the investment officer's gross income for the previous year; or
3. The investment officer has acquired from the business organization during the previous year investments with a book value of $2,500 or more for the personal account of the investment officer.

Gov't Code 2256.005(i)

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

1. Describe in detail the investment position of the district on the date of the report;
2. Be prepared jointly and signed by all district investment officers;
3. Contain a summary statement of each pooled fund group that states the:
    a. Beginning market value for the reporting period;
    b. Ending market value for the period; and
    c. Fully accrued interest for the reporting period;
4. State the book value and market value of each separately invested asset at the end of the reporting period by the type of asset and fund type invested;
5. State the maturity date of each separately invested asset that has a maturity date;
6. State the account or fund or pooled group fund in the district for which each individual investment was acquired; and

7. State the compliance of the investment portfolio of the district as it relates to the investment strategy expressed in the district's investment policy and relevant provisions of the Public Funds Investment Act.

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

Gov't Code 2256.023

Selection of Broker

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

Bond Proceeds

The investment officer of a district may invest bond proceeds or pledged revenue only to the extent permitted by the Public Funds Investment Act, in accordance with:

1. Statutory provisions governing the debt issuance or the agreement, as applicable; and
2. The district's investment policy regarding the debt issuance or the agreement, as applicable.

Gov't Code 2256.0208(b)

Authorized Investments

A board may purchase, sell, and invest its funds and funds under its control in investments described below, in compliance with its adopted investment policies and according to the standard of care set out in this policy. *Gov't Code 2256.003(a)*

The board may specify in its investment policy that any authorized investment is not suitable. Gov't Code 2256.005(j)

Investment Management Firm

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

A district that contracts with an investment management firm may authorize the firm to invest the district's public funds or other funds

under the district's control in repurchase agreements as provided by Government Code 2256.011 using a joint account.

An investment management firm responsible for managing a repurchase agreement transaction using a joint account on behalf of a district must ensure that:

1. Accounting and control procedures are implemented to document the district's aggregate daily investment and pro rata share in the joint account;
2. Each party participating in the joint account retains the sole rights of ownership to the party's pro rata share of assets invested in the joint account, including investment earnings on those assets; and
3. Policies and procedures are implemented to prevent a party participating in the joint account from using any part of a balance of the joint account that is credited to another party.

Gov't Code 2256.003(b), .011(f), (g)

Obligations of Governmental Entities

The following are authorized investments:

1. Obligations, including letters of credit, of the United States or its agencies and instrumentalities, including the Federal Home Loan Banks;
2. Direct obligations of this state or its agencies and instrumentalities;
3. Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;
4. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state, the United States, or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or by the explicit full faith and credit of the United States;
5. Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent;
6. Bonds issued, assumed, or guaranteed by the state of Israel;

7. Interest-bearing banking deposits that are guaranteed or insured by the FDIC or its successor, or the National Credit Union Share Insurance Fund or its successor; and

8. Interest-bearing banking deposits other than those described at item 7 above if:

   a. The funds are invested through a broker with a main office or a branch office in this state that the district selects from a list the board or designated investment committee of the district adopts as required at Selection of Broker above or a depository institution with a main office or a branch office in this state and that the district selects;

   b. The broker or depository institution selected as described above arranges for the deposit of the funds in the banking deposits in one or more federally insured depository institutions, regardless of where located, for the district's account;

   c. The full amount of the principal and accrued interest of the banking deposits is insured by the United States or an instrumentality of the United States; and

   d. The district appoints as the district's custodian of the banking deposits issued for the district's account the depository institution selected as described above, an entity described by Government Code 2257.041(d) (custodian with which to deposit securities), or a clearing broker-dealer registered with the Securities and Exchange Commission and operating under Rule 15c3-3 (17 C.F.R. Section 240.15c3-3).

Gov't Code 2256.009(a)

Unauthorized Obligations

The following investments are not authorized:

1. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;

2. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;

3. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and

4. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

Gov't Code 2256.009(b)

Certificates of Deposit and Share Certificates

A certificate of deposit or share certificate is an authorized investment if the certificate is issued by a depository institution that has its main office or a branch office in Texas and is:

1. Guaranteed or insured by the FDIC or its successor or the National Credit Union Share Insurance Fund or its successor;

2. Secured by obligations described at Obligations of Governmental Entities, above, including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage backed securities described at Unauthorized Obligations, above; or

3. Secured in accordance with Government Code Chapter 2257 (Public Funds Collateral Act) or in any other manner and amount provided by law for the deposits of the district.

Gov't Code 2256.010(a)

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

1. The funds are invested by the district through a broker that has its main office or a branch office in this state and is selected from a list adopted by the district as required at Selection of Broker, above or a depository institution that has its main office or a branch office in this state and that is selected by the district;

2. The broker or depository institution selected by the district arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the district;

3. The full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States; and

4. The district appoints the depository institution selected by the district, an entity described by Government Code 2257.041(d) (custodian with which to deposit securities), or a clearing broker-dealer registered with the Securities and Exchange Com-

mission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3) as custodian for the district with respect to the certificates of deposit issued for the account of the district.

Gov't Code 2256.010(b)

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

Repurchase Agreements

A fully collateralized repurchase agreement is an authorized investment if it:

1. Has a defined termination date;
2. Is secured by a combination of cash and obligations described by Government Code 2256.009(a)(1) (obligations of governmental entities) or 2256.013 (commercial paper) or if applicable, 2256.0204 (corporate bonds);
3. Requires the securities being purchased by the district or cash held by the district to be pledged to the district either directly or through a joint account approved by the district, held in the district's name either directly or through a joint account approved by the district, and deposited at the time the investment is made with the district or a third party selected and approved by the district; and
4. Is placed through a primary government securities dealer, as defined by the Federal Reserve or a financial institution doing business in Texas.

The term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered. Money received by a district under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

Government Code 1371.059(c) (validity and incontestability of obligations for certain public improvements) applies to the execution of a repurchase agreement by a district.

Gov't Code 2256.011(a), (c), (d), (e)

Securities Lending Program

A securities lending program is an authorized investment if:

1. The value of securities loaned is not less than 100 percent collateralized, including accrued income;

2. A loan allows for termination at any time;

3. A loan is secured by:

   a. Pledged securities described at Obligations of Governmental Entities, above;

   b. Pledged irrevocable letters of credit issued by a bank that is organized and existing under the laws of the United States or any other state, and continuously rated by at least one nationally recognized investment rating firm at not less than A or its equivalent; or

   c. Cash invested in accordance with Government Code 2256.009 (obligations of governmental entities), 2256.013 (commercial paper), 2256.014 (mutual funds), or 2256.016 (investment pools);

4. The terms of a loan require that the securities being held as collateral be pledged to the district, held in the district's name, and deposited at the time the investment is made with the district or with a third party selected by or approved by the district; and

5. A loan is placed through a primary government securities dealer, as defined by 5 C.F.R. Section 6801.102(f), as that regulation existed on September 1, 2003, or a financial institution doing business in this state.

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

Gov't Code 2256.0115

Banker's Acceptances

A banker's acceptance is an authorized investment if it:

1. Has a stated maturity of 270 days or fewer from the date of issuance;

2. Will be, in accordance with its terms, liquidated in full at maturity;

3. Is eligible for collateral for borrowing from a Federal Reserve Bank; and

4. Is accepted by a bank organized and existing under the laws of the United States or any state, if the short-term obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than A-1 or P-1 or

an equivalent rating by at least on nationally recognized credit rating agency.

Gov't Code 2256.012

Commercial Paper

Commercial paper is an authorized investment if it has a stated maturity of 365 days or fewer from the date of issuance; and is rated not less than A-1 or P-1 or an equivalent rating by at least:

1. Two nationally recognized credit rating agencies; or
2. One nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States law or any state.

Gov't Code 2256.013

Mutual Funds

A no-load money market mutual fund is an authorized investment if the mutual fund:

1. Is registered with and regulated by the Securities and Exchange Commission;
2. Provides the district with a prospectus and other information required by the Securities and Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); and
3. Complies with federal Securities and Exchange Commission Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.).

Gov't Code 2256.014(a)

In addition to the no-load money market mutual fund authorized above, a no-load mutual fund is an authorized investment if it:

1. Is registered with the Securities and Exchange Commission;
2. Has an average weighted maturity of less than two years; and
3. Either has a duration of:
   a. One year or more and is invested exclusively in obligations approved by the Public Funds Investment Act, or
   b. Less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

Gov't Code 2256.014(b)

Limitations

A district is not authorized to:

1. Invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in mutual funds described in Government Code 2256.014(b);

2. Invest any portion of bond proceeds, reserves and funds held for debt service, in mutual funds described in Government Code 2256.014(b); or

3. Invest its funds or funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund described in Government Code 2256.014(a) or (b) in an amount that exceeds 10 percent of the total assets of the mutual fund.

Gov't Code 2256.014(c)

Guaranteed Investment Contracts

A guaranteed investment contract is an authorized investment for bond proceeds if the guaranteed investment contract:

1. Has a defined termination date;

2. Is secured by obligations described at Obligations of Governmental Entities, above, excluding those obligations described at Unauthorized Obligations, in an amount at least equal to the amount of bond proceeds invested under the contract; and

3. Is pledged to the district and deposited with the district or with a third party selected and approved by the district.

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

To be eligible as an authorized investment:

1. The board must specifically authorize guaranteed investment contracts as eligible investments in the order, ordinance, or resolution authorizing the issuance of bonds;

2. The district must receive bids from at least three separate providers with no material financial interest in the bonds from which proceeds were received;

3. The district must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received;

4. The price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested; and

5. The provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

Government Code 1371.059(c) (validity and incontestability of obligations for certain public improvements) applies to the execution of a guaranteed investment contract by a district.

Gov't Code 2256.015

Investment Pools

A district may invest its funds or funds under its control through an eligible investment pool if the board by rule, order, ordinance, or resolution, as appropriate, authorizes the investment in the particular pool. *Gov't Code 2256.016, .019*

To be eligible to receive funds from and invest funds on behalf of a district, an investment pool must furnish to the investment officer or other authorized representative of the district an offering circular or other similar disclosure instrument that contains the information specified in Government Code 2256.016(b). To maintain eligibility, an investment pool must furnish to the investment officer or other authorized representative investment transaction confirmations and a monthly report that contains the information specified in Government Code 2256.016(c). A district by contract may delegate to an investment pool the authority to hold legal title as custodian of investments purchased with its local funds. *Gov't Code 2256.016(b)-(d)*

Corporate Bonds

A district that qualifies as an issuer as defined by Government Code 1371.001 [see CCF], may purchase, sell, and invest its funds and funds under its control in corporate bonds (as defined above) that, at the time of purchase, are rated by a nationally recognized investment rating firm "AA-" or the equivalent and have a stated final maturity that is not later than the third anniversary of the date the corporate bonds were purchased.

A district is not authorized to:

1. Invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds, reserves, and other funds held for the payment of debt service, in corporate bonds; or

2. Invest more than 25 percent of the funds invested in corporate bonds in any one domestic business entity, including subsidiaries and affiliates of the entity.

A district subject to these provisions may purchase, sell, and invest its funds and funds under its control in corporate bonds if the board:

1. Amends its investment policy to authorize corporate bonds as an eligible investment;

2. Adopts procedures to provide for monitoring rating changes in corporate bonds acquired with public funds and liquidating the investment in corporate bonds; and

3. Identifies the funds eligible to be invested in corporate bonds.

The district investment officer, acting on behalf of the district, shall sell corporate bonds in which the district has invested its funds not later than the seventh day after the date a nationally recognized investment rating firm:

1. Issues a release that places the corporate bonds or the domestic business entity that issued the corporate bonds on negative credit watch or the equivalent, if the corporate bonds are rated “AA-” or the equivalent at the time the release is issued; or

2. Changes the rating on the corporate bonds to a rating lower than “AA-” or the equivalent.

Gov’t Code 2256.0204

Hedging Transactions

The board of an eligible entity (as defined above) shall establish the entity’s policy regarding hedging transactions. An eligible entity may enter into hedging transactions, including hedging contracts, and related security, credit, and insurance agreements in connection with commodities used by an eligible entity in the entity’s general operations, with the acquisition or construction of a capital project, or with an eligible project. A hedging transaction must comply with the regulations of the federal Commodity Futures Trading Commission and the federal Securities and Exchange Commission.

Government Code 1371.059(c) (validity and incontestability of obligations for certain public improvements) applies to the execution by an eligible entity of a hedging contract and any related security, credit, or insurance agreement.

An eligible entity may:

1. Pledge as security for and to the payment of a hedging contract or a security, credit, or insurance agreement any general or special revenues or funds the entity is authorized by law to pledge to the payment of any other obligation.

2. Credit any amount the entity receives under a hedging contract against expenses associated with a commodity purchase.

An eligible entity's cost of or payment under a hedging contract or agreement may be considered an operation and maintenance expense, an acquisition expense, or construction expense of the eligible entity; or a project cost of an eligible project.

Gov't Code 2256.0206

Prohibited Investments

Except as provided by Government Code 2270 (prohibited investments), a district is not required to liquidate investments that were authorized investments at the time of purchase. *Gov't Code 2256.017*

Note: As an "investing entity" under Government Code 2270.0001(7)(A), a district must comply with Chapter 2270, including reporting requirements, regarding prohibited investments in scrutinized companies listed by the comptroller in accordance with Government Code 2270.0201.

Loss of Required Rating

An investment that requires a minimum rating does not qualify as an authorized investment during the period the investment does not have the minimum rating. A district shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating. *Gov't Code 2256.021*

Sellers of Investments

A written copy of the investment policy shall be presented to any business organization (as defined below) offering to engage in an investment transaction with a district. The qualified representative of the business organization offering to engage in an investment transaction with a district shall execute a written instrument in a form acceptable to the district and the business organization substantially to the effect that the business organization has:

1. Received and reviewed the district investment policy; and
2. Acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the district and the organization that are not authorized by the district's investment policy, except to the extent that this authorization:
   a. Is dependent on an analysis of the makeup of the district's entire portfolio;

b. Requires an interpretation of subjective investment standards; or

c. Relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

The investment officer of a district may not acquire or otherwise obtain any authorized investment described in the district's investment policy from a business organization that has not delivered to the district the instrument required above.

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

Nothing in this section relieves the district of the responsibility for monitoring investments made by the district to determine that they are in compliance with the investment policy.

Business Organization

For purposes of the provisions at Sellers of Investments above, "business organization" means an investment pool or investment management firm under contract with a district to invest or manage the district's investment portfolio that has accepted authority granted by the district under the contract to exercise investment discretion in regard to the district's funds.

Gov't Code 2256.005(k)

Donations

A gift, devise, or bequest made to a district to provide college scholarships for district graduates may be invested by the board as provided in Property Code 117.004 (Uniform Prudent Investor Act), unless otherwise specifically provided by the terms of the gift, devise, or bequest. *Education Code 45.107*

Investments donated to a district for a particular purpose or under terms of use specified by the donor are not subject to the requirements of the Public Funds Investment Act. *Gov't Code 2256.004(b)*

Electronic Funds Transfer

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

Note: For legal requirements applicable to the disposition of real property acquired with federal funds, see CBB.

Sale or Exchange of Real Property

The board may, by resolution, authorize the sale of any property, other than minerals, held in trust for public school purposes. The board president shall execute a deed to the purchaser reciting the board resolution authorizing the sale. A district may employ, retain, contract with, or compensate a licensed real estate broker or salesperson for assistance in the acquisition or sale of real property. *Education Code 11.154*

Publication of Notice and Bidding Requirements

Except for the types of land and interests described at Exceptions, below, before land owned by a district may be sold or exchanged for other land, notice to the general public of the offer of the land for sale or exchange must be published in a newspaper of general circulation in either the county in which the land is located or, if there is no such newspaper, in an adjoining county. The notice must include a description of the land, including its location, and the procedure by which sealed bids to purchase the land or offers to exchange the land may be submitted. The notice must be published on two separate dates and the sale or exchange may not be made until after the 14th day after the date of the second publication. Local Government Code 272.001 does not require the board to accept any bid or offer or to complete a sale or exchange. *Local Gov't Code 272.001(a), (d)*

Open-Enrollment Charter School Offer

The board of a district that intends to sell, lease, or allow use for a purpose other than a district purpose of an unused or underused district facility must give each open-enrollment charter school located wholly or partly within the boundaries of the district the opportunity to make an offer to purchase, lease, or use the facility, as applicable, in response to any terms established by the board, before offering the facility for sale or lease or to any other specific entity. The board is not required to accept an offer made by an open-enrollment charter school. *Education Code 11.1542*

Exceptions

Generally

The notice and bidding requirements set out above do not apply to the types of land and real property interests described below and owned by a district. The land and those interests described below may not be conveyed, sold, or exchanged for less than the fair market value of the land or interest unless the conveyance, sale, or exchange is with one or more abutting property owners who own the underlying fee simple. The fair market value is determined by an appraisal obtained by the district that owns the land or interest. The appraisal price is conclusive of the fair market value of the land or interest. This applies to:

1. Narrow strips of land, or land that because of its shape, lack of access to public roads, or small area cannot be used independently under its current zoning or under applicable subdivision or other development control ordinances;
2. Streets or alleys, owned in fee or used by easement;
3. Land or a real property interest originally acquired for streets, rights-of-way, or easements that the district chooses to exchange for other land to be used for streets, rights-of-way, easements, or other public purposes, including transactions partly for cash;
4. Land that the district wants to have developed by contract with an independent foundation;
5. A real property interest conveyed to a governmental entity that has the power of eminent domain; or
6. The land or interests described by items 1 and 2, above, may be sold to abutting property owners:
    a. In the same subdivision if the land has been subdivided; or
    b. In proportion to their abutting ownership, and the division between owners must be made in an equitable manner.

Local Gov't Code 272.001(b)-(c)

Higher Education Institutions

A district may donate, exchange, convey, sell, or lease land, improvements, or any other interest in real property to an institution of higher education for less than its fair market value and without complying with the notice and bidding requirements in order to promote a public purpose related to higher education. The district shall determine the terms and conditions of the transaction so as to effectuate and maintain the public purpose. *Local Gov't Code 272.001(j)*

Other Political Subdivisions

A district may donate or sell for less than fair market value and without complying with the notice and bidding requirements a designated parcel of land or an interest in real property to another political subdivision if:

1. The land or interest will be used by the political subdivision to which it is donated or sold in carrying out a purpose that benefits the public interest of the donating or selling district;
2. The donation or sale of the land or interest is made under terms that effect and maintain the public purpose for which the donation or sale is made; and

3. The title and right to possession of the land or interest revert to the donating or selling district if the acquiring political subdivision ceases to use the land or interest in carrying out the public purpose.

Local Gov't Code 272.001(l)

Sale of Instructional Facility Financed with State Allotment

If an instructional facility financed by bonds paid with state and local funds under Education Code Chapter 46, Subchapter A, is sold before the bonds are fully paid, a district shall send to the comptroller a percentage of the district's net proceeds as determined by Education Code 46.011(a). *Education Code 46.011* [See also CCA]

Lease of Public Property

To promote a public purpose of the district, a district may:

To a Governmental Entity

1. Lease property owned by the district to another political subdivision or an agency of the state or federal government; or
2. Make an agreement to provide office space in property owned by the district to the other political subdivision or agency.

The district:

1. Shall determine the terms of the lease or agreement so as to promote and maintain the public purpose;
2. May provide for the lease of the property or provision of the office space at less than fair market value; and
3. Is not required to comply with any competitive purchasing procedure or any notice and publication requirement imposed by Local Government Code Chapter 272 or other law.

Local Gov't Code 272.005

Required Terms for All Leases

A lease between a district and another person regarding public property must contain lease terms requiring the person to:

Payment and Performance Bonds

1. Include in each contract for the construction, alteration, or repair of an improvement to the leased property a condition that the contractor:
    a. Execute a payment bond that conforms to Property Code Chapter 53, Subchapter I (Bond to Pay Lien or Claims); and
    b. Execute a performance bond in an amount equal to the amount of the contract for the protection of the district and conditioned on the faithful performance of the contractor's work in accordance with the plans, specifications, and contract documents; and

2. Provide to the district a notice of commencement at least 90 days before the date the construction, alteration, or repair of any improvement to the leased property begins.

Notice of Commencement

A notice of commencement must:

1. Identify the public property where the work will be performed;
2. Describe the work to be performed;
3. State the total cost of the work to be performed;
4. Include copies of the required performance and payment bonds; and
5. Include a written acknowledgment signed by the contractor stating that copies of the required performance and payment bonds will be provided to all subcontractors not later than the fifth day after the date a subcontract is executed.

On or before the 10th day after the date a district receives a notice of commencement for the construction, alteration, or repair of an improvement to leased property, the district may notify the lease-holder that the construction, alteration, or repair may not proceed.

Gov't Code 2252.909(b), (c), (d)

A district is not liable as a surety if a person leasing property from the district fails to submit the required notice of commencement. *Gov't Code 2253.027(c)*

Sale or Lease of Minerals

Minerals in land belonging to a district may be sold to any person. The sale must be authorized by a resolution adopted by majority vote of the board. *Education Code 11.153(a)-(b)*

After the board determines that it is advisable to lease land belonging to the district, it shall give notice of its intention to lease the land. The notice shall be published once a week for three consecutive weeks in a newspaper published in the county and with general circulation in the county, and shall:

1. Describe the land to be leased; and
2. Designate the time and place at which the board will receive and consider bids for the lease.

Natural Resources Code 71.005

After adoption of a resolution authorizing sale, the board president may execute an oil or gas lease or sell, exchange, and convey the minerals. The mineral deed or lease must recite the approval of the resolution of the board authorizing the sale. *Education Code 11.153(c)*

Donation of Former School Campus

The board may, by resolution, authorize the donation of real property and improvements formerly used as a school campus to a municipality, county, state agency, or nonprofit organization if:

1. Before adopting the resolution, the board holds a public hearing concerning the donation and, in addition to any other notice required, gives notice of the hearing by publishing the subject matter, location, date, and time of the hearing in a newspaper having general circulation in the territory of a district;
2. The board determines that:
    a. The improvements have historical significance;
    b. The transfer will further the preservation of the improvements; and
    c. At the time of the transfer, the district does not need the real property or improvements for educational purposes; and
3. The entity to whom the transfer is made has shown, to the satisfaction of the board, that the entity intends to continue to use the real property and improvements for public purposes.

The board president shall execute a deed transferring ownership of the real property and improvements to the municipality, county, state agency, or nonprofit organization. The deed must:

1. Recite the resolution of a board authorizing the donation; and
2. Provide that ownership of the real property and improvements revert to a district if the municipality, county, state agency, or nonprofit organization:
    a. Discontinues use of the real property and improvements for public purposes; or
    b. Executes a document that purports to convey the property.

Education Code 11.1541(a)-(b)

Note: Regarding disposal of school buses, see CNB.

Regarding disposal of school-owned personal property, see CI.

Regarding geospatial data products, see CQA.

Note: For additional legal requirements applicable to purchases with federal funds, see CBB.

Required Vendor Disclosures

Disclosure of Interested Parties

A district may not enter into a contract described below 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.

The requirement above applies only to a contract of a district that:

1. Requires an action or vote by the board before the contract may be signed;
2. Has a value of at least $1 million; or
3. Is for services that would require a person to register as a lobbyist under Government Code Chapter 305.

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)*

Exclusions

The disclosure requirement does not apply to a contract with:

1. A publicly traded business entity, including a wholly owned subsidiary of the entity;
2. An electric utility, as defined by Utilities Code 31.002; or
3. A gas utility, as defined by Utilities Code 121.001.

Gov't Code 2252.908(c)(4)-(6)

Required Form

The disclosure of interested parties must be submitted on a form prescribed by the Texas Ethics Commission (TEC) that includes a list of each interested party for the contract of which the contracting business entity is aware; and a written, unsworn declaration subscribed by the authorized agent of the contracting business entity as true under penalty of perjury that is in substantially the form set out in Government Code 2252.908(e)(2). *Gov't Code 2252.908(e); 1 TAC 46.5(a)*

The certification of filing and the completed disclosure of interested parties form generated by TEC's electronic filing application must be printed, signed by an authorized agent of the contracting business entity, and submitted to the district that is the party to the contract for which the form is being filed. *1 TAC 46.5(b)*

Deadline

A district that receives a completed disclosure of interested parties form and certification of filing shall notify TEC, in an electronic format prescribed by TEC, of the receipt of those documents not later than the 30th day after the date the board receives the disclosure. *1 TAC 46.5(c); Gov't Code 2252.908(f)*

Contract Voidable

A contract subject to this requirement entered into by a district is voidable for failure to provide the required disclosure of interested parties only if:

1. The district submits to the business entity written notice of the business entity's failure to provide the required disclosure; and
2. The business entity fails to submit to the district the required disclosure on or before the 10th business day after the date the business entity receives the written notice.

Gov't Code 2252.908(f-1)

Contract Changes

The disclosure requirements do not apply to a change made to an existing contract, including an amendment, change order, or extension of a contract except as set out below.

The disclosure requirements apply to a change made to an existing contract, including an amendment, change order, or extension of a contract if:

1. A disclosure of interested parties form was not filed for the existing contract; and either the changed contract requires an action or vote by the board or the value of the changed contract is at least $1 million; or
2. The business entity submitted a disclosure of interested parties form to the district that is a party to the existing contract; and either there is a change to the disclosure; or the changed contract requires an action or vote by the board; or the value of the changed contract is at least $1 million greater than the value of the existing contract.

1 TAC 46.4

Definitions

"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 en-

tity 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 10 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 10 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 provision 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 the business entity from the district under the contract. *1 TAC 46.3(g)*

Conflict of Interest Questionnaire

Note: See BBFA for additional information applicable to disclosures under Local Government Code Chapter 176, including:

- Definitions;
- Conflicts disclosure statements required to be filed by certain local government officers, including vendors who are also local government officers; and
- Internet posting requirements for conflicts disclosure statements and questionnaires.

A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with the district and:

1. Has an employment or other business relationship with a local government officer of the district, or a family member of the officer, described by Local Government Code 176.003(a)(2)(A);

2. Has given a local government officer of the district, or a family member of the officer, one or more gifts with the aggregate value specified by Local Government Code 176.003(a)(2)(B), excluding any gift described by Local Government Code 176.003(a-1); or

3. Has a family relationship with a local government officer of the district.

Local Gov't Code 176.006(a)

The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

1. The date that the vendor:

   a. Begins discussions or negotiations to enter into a contract with a district;

   b. Submits to the district an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the district; or

2. The date the vendor becomes aware:

   a. Of an employment or other business relationship with a local government officer, or a family member of the officer described by Local Government Code 176.006(a);

   b. That the person has given one or more gifts described by Local Government Code 176.006(a); or

   c. Of a family relationship with a local government officer.

Local Gov't Code 176.006(a-1)

Electronic Filing

The requirements of Local Government Code Chapter 176, including signature requirements, may be satisfied by electronic filing in a form approved by the TEC. *Local Gov't Code 176.008*

Updating Incomplete or Inaccurate Questionnaires

A vendor shall file an updated completed questionnaire with the appropriate records administrator not later than the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in the questionnaire incomplete or inaccurate. *Local Gov't Code 176.006(d)*

Validity of Contract

The validity of a contract between a vendor and the district is not affected solely because the vendor fails to comply with these requirements. *Local Gov't Code 176.006(i)*

Violations

A vendor commits an offense if the vendor is required to file a conflict of interest questionnaire under Local Government Code 176.003 and either:

1. Knowingly fails to file the required questionnaire with the appropriate records administrator not later than 5:00 p.m. on the seventh business day after the date on which the vendor becomes aware of the facts that require the filing of the questionnaire; or

2. Knowingly fails to file an updated questionnaire with the appropriate records administrator not later than 5:00 p.m. on the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in a questionnaire previously filed by the vendor incomplete or inaccurate.

It is an exception to the application of this provision that the vendor filed the required questionnaire not later than the seventh business day after the date the vendor received notice from the district of the alleged violation.

A board may, at its discretion, declare a contract void if the board determines that a vendor failed to file a conflict of interest questionnaire required by Local Government Code 176.006.

Local Gov't Code 176.013(b), (e), (g)

Required Contract Provisions

Boycott Prohibitions

Israel

A district may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it does not boycott Israel and will not during the term of the contract.

The requirement above applies only to a contract that:

1. Is between a district and a company with 10 or more full-time employees; and

2. Has a value of $100,000 or more that is to be paid wholly or partly from public funds of the district.

Gov't Code 2271.002

"Boycott Israel" has the meaning assigned by Government Code 808.001.

"Company" has the meaning assigned by Government Code 808.001, except that the term does not include a sole proprietorship.

Gov't Code 2271.001(1), (2)

Energy Companies

A district may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it does not boycott energy companies and will not boycott energy companies during the term of the contract.

The requirement above applies only to a contract that:

1. Is between a district and a company with 10 or more full-time employees; and
2. Has a value of $100,000 or more that is to be paid wholly or partly from public funds of the district.

The requirement above does not apply to a district that determines the requirements are inconsistent with the district's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds.

Gov't Code 2274.002

"Boycott energy company" has the meaning assigned by Government Code 808.001.

"Company" has the meaning assigned by Government Code 809.001, except that the term does not include a sole proprietorship.

Gov't Code 2274.001(1), (2)

No Discrimination Against Firearm and Ammunition Industries

A district may not enter into a contract with a company for the purchase of goods or services unless the contract contains a written verification from the company that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of the contract against a firearm entity or firearm trade association.

The requirement above applies only to a contract that:

1. Is between a district and a company with at least 10 full-time employees; and
2. Has a value of $100,000 or more that is paid wholly or partly from public funds of the district.

The requirement above does not apply to a district that contracts with a sole-source provider or does not receive bids from a company that is able to provide the required written verification.

Gov't Code 2274.002

[For definitions, see Government Code 2274.001.]

Retention of Contracting Information

These provisions apply to a contract that:

Application

1. Has a stated expenditure of at least $1 million in public funds for the purchase of goods or services by the district; or
2. Results in the expenditure of at least $1 million in public funds for the purchase of goods or services by the district in a fiscal year of the district.

A board may not accept a bid for a contract described above or award the contract to an entity that the board has determined has knowingly or intentionally failed to comply with Government Code Chapter 552, Subchapter J (Additional Provisions Relating to Contracting Information) in a previous bid or contract described above unless the board determines and documents that the entity has taken adequate steps to ensure future compliance with the requirements of that subchapter. [For additional information and requirements, see GBA and GBAA.]

Requirements

A contract described above must require a contracting entity to:

1. Preserve all contracting information related to the contract as provided by the records retention requirements applicable to the district for the duration of the contract;
2. Promptly provide to the district any contracting information related to the contract that is in the custody or possession of the entity on request of the district; and
3. On completion of the contract, either:
    a. Provide at no cost to the district all contracting information related to the contract that is in the custody or possession of the entity; or
    b. Preserve the contracting information related to the contract as provided by the records retention requirements applicable to the district.

Bid and Contract Language

Except as described at Exception, below, a bid for a contract described above and the contract must include the following statement: "The requirements of Subchapter J, Chapter 552, Government Code, may apply to this (include "bid" or "contract" as applicable) and the contractor or vendor agrees that the contract

can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter."

Notice of Noncompliance

A board that is the party to a contract described above shall provide notice to the entity that is a party to the contract if the entity fails to comply with a requirement of Government Code Chapter 552, Subchapter J applicable to the entity. The notice must:

1. Be in writing;
2. State the requirement that the entity has violated; and
3. Unless the exception described below applies, advise the entity that the board may terminate the contract without further obligation to the entity if the entity does not cure the violation on or before the 10th business day after the date the board provides the notice.

Contract Termination

Except as provided below, a governmental body may terminate a contract described above if:

1. The board provides the required notice to the entity that is party to the contract;
2. The contracting entity does not cure the violation in the prescribed period;
3. The board determines that the contracting entity has intentionally or knowingly failed to comply with a requirement of Government Code Chapter 552, Subchapter J; and
4. The board determines that the entity has not taken adequate steps to ensure future compliance with the requirements of that subchapter.

An entity has taken adequate steps to ensure future compliance with Government Code Chapter 552, Subchapter J if:

1. The entity produces contracting information requested by the board that is in the custody or possession of the entity not later than the 10th business day after the date the board makes the request; and
2. The entity establishes a records management program to enable the entity to comply with Government Code Chapter 552, Subchapter J.

Exception

A board may not terminate a contract under these provisions if the contract is related to the purchase or underwriting of a public security, the contract is or may be used as collateral on a loan, or the contract's proceeds are used to pay debt service of a public security or loan.

Gov't Code 552.371(a), .372-.374 [See GBA]

Prohibitions

Entertainment Event Contracts

A person, including a board, may not include a provision in a contract related to a parade, concert, or other entertainment event paid for in whole or in part with public funds that prohibits or would otherwise prevent the disclosure of information relating to the receipt or expenditure of public or other funds by a board for the event. A contract provision that violates Government Code 552.104(c) is void. *Gov't Code 552.104(c)* [See GBA for information related to competition or bidding.]

Taxpayer Resource Transactions

A district may not enter into a taxpayer resource transaction with an abortion provider or an affiliate of an abortion provider. *Gov't Code 2273.003(a)*

"Taxpayer resource transaction" means a sale, purchase, lease, donation of money, goods, services, or real property, or any other transaction between a governmental entity and a private entity that provides to the private entity something of value derived from state or local tax revenue, regardless of whether the governmental entity receives something of value in return.

"Affiliate" means a person or entity who enters into with another person or entity a legal relationship created or governed by at least one written instrument, including a certificate of formation, a franchise agreement, standards of affiliation, bylaws, or a license, that demonstrates:

1. Common ownership, management, or control between the parties to the relationship;
2. A franchise granted by the person or entity to the affiliate; or
3. The granting or extension of a license or other agreement authorizing the affiliate to use the other person's or entity's brand name, trademark, service mark, or other registered identification mark.

Gov't Code 2273.001(3), (5)

Lobbying Restriction — Tobacco Education Grant Funds

A district receiving funds or grants from the Permanent Fund for Health and Tobacco Education and Enforcement may not use the funds to pay:

1. Lobbying expenses incurred by the district;
2. A person or entity that is required to register with the Texas Ethics Commission under Government Code Chapter 305 (Registration of Lobbyists);

3. Any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity described by 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(a)

Contracts with Listed Companies

A district may not enter into a governmental contract with a company identified on a list prepared and maintained under Government Code 806.051 (now Government Code 2270.0201) (companies with business operations in Sudan), 807.051 (now Government Code 2270.0102) (companies with business operations in Iran), and 2252.153 (companies known to have contracts with or provide supplies or services to foreign terrorist organization). *Gov't Code 2252.152*

"Governmental contract" means a contract awarded by a governmental entity for general construction, an improvement, a service, or a public works project or for a purchase of supplies, materials, or equipment. The term includes a contract to obtain professional services subject to Government Code 2254. *Gov't Code 2252.151(3)*

Certain Library Material Vendors

A district may not purchase library material from a library material vendor on the list created by the Texas Education Agency under Education Code 35.003(c). [See EFB] *Education Code 35.003(d)*

Contractor's Notification of Felony Conviction

A person or business entity that enters into a contract with a district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. A district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give such notice or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract. *Education Code 44.034*

National Criminal History Record Information (NCHRI) Reviews

Definitions

"Contracting entity" means an entity that contracts directly with a district to provide services to the district.

"Public works contractor" means an entity that contracts directly or subcontracts with an entity that contracts with a district, to provide services to the district.

"Qualified school contractor" means an entity that:

1. Contracts or subcontracts to provide services to a district; and
2. Is determined eligible by the Department of Public Safety (DPS) to obtain criminal history record information under the National Child Protection Act of 1993 (34 U.S.C. Section 40101 et seq.) for an employee, applicant for employment, or volunteer of the qualified school contractor.

"Subcontracting entity" means an entity that contracts with another entity that is not a district to provide services to a district.

Education Code 22.0834(p); Gov't Code 411.12505(a)

"Continuing duties related to contracted services" are work duties that are performed pursuant to a contract to provide services to a district on a regular, repeated basis rather than infrequently or one-time only. *19 TAC 153.1101(2)*

"Direct contact with students" is the contact that results from activities that provide substantial opportunity for verbal or physical interaction with students that is not supervised by a certified educator or other professional district employee. Contact with students that results from services that do not provide substantial opportunity for unsupervised interaction with a student or students, such as addressing an assembly, officiating a sports contest, or judging an extracurricular event, is not, by itself, direct contact with students. However, direct contact with students does result from any activity that provides substantial opportunity for unsupervised contact with students, which might include, without limitation, the provision of coaching, tutoring, or other services to students. *19 TAC 153.1101(7)*

Contractors with Continuing Duties and Direct Contact with Students

These requirements apply to a person who is not an applicant for or holder of a certificate under Education Code Chapter 21, Subchapter B (Certified Educators), and who is offered employment by an entity or a subcontractor of an entity that contracts with a district if:

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

Education Code 22.0834(a)

If a contracting or subcontracting entity determines that these criteria do not apply to an employee, the entity shall make a reasonable effort to ensure that the conditions or precautions that resulted in that determination continue to exist throughout the time that the contracted services are provided. *Education Code 22.0834(l)*

Exception — Public Works Contractors

These requirements do not apply to an employee or applicant of a public works contractor if:

1. The public work does not involve the construction, alteration, or repair of an instructional facility as defined by Education Code 46.001;
2. For public work that involves construction of a new instructional facility, the person's duties related to the contracted services will be completed not later than the seventh day before the first date the facility will be used for instructional purposes; or
3. For a public work that involves an existing instructional facility:
    a. The public work area contains sanitary facilities and is separated from all areas used by students by a secure barrier fence that is not less than six feet in height; and
    b. The contracting entity adopts a policy prohibiting employees, including subcontracting entity employees, from interacting with students or entering areas used by students, informs employees of the policy, and enforces the policy at the public work area.

Education Code 22.0834(a-1)

Qualified School Contractors

If the contracting entity is a qualified school contractor [see Definitions, above], a person must submit to a NCHRI review by the qualified school contractor before being employed or serving in a capacity described above.

Subcontracting Entities	A qualified school contractor acting as a contracting entity shall require that any of its subcontracting entities obtain all criminal history record information (CHRI) that relates to an employee if the subcontracting entity is also a qualified school contractor. A qualified school contractor shall require that any of its subcontracting entities that are not qualified school contractors comply with the requirements at Other Contractors, below. *Education Code 22.0834(b), (d-1), (d-2)*
Other Contractors	If the contracting entity or subcontracting entity is not a qualified school contractor, a person must submit to a NCHRI review by the district. *Education Code 22.0834(b-1)* The requirements for qualified school contractors and subcontracting entities, above, do not apply to a qualified school contractor if a district obtains the CHRI of a person through the criminal history clearinghouse. *Education Code 22.0834(e)*
DPS Criminal History Clearinghouse	Before or immediately after employing or securing the services of a person, the qualified school contractor or district shall send or ensure that the person sends to DPS information that is required by DPS for obtaining NCHRI, which may include fingerprints and photographs. DPS obtains the person's NCHRI and reports the results through the criminal history clearinghouse as provided by Government Code 411.0845. A qualified school contractor or a district shall obtain all CHRI that relates to a person through the criminal history clearinghouse. *Education Code 22.0834(c), (d)*
Emergency	In the event of an emergency, a district may allow a person to whom these requirements apply to enter district property if the person is accompanied by a district employee. A district may adopt rules regarding an emergency situation under this provision. *Education Code 22.0834(f)*
Criminal History Record Information	A district or qualified school contractor may obtain from any law enforcement or criminal justice agency all CHRI that relates to a person. *Education Code 22.0834(h)*
Certification to District	A qualified school contractor shall certify to the district or shared services arrangement that the entity has received all CHRI relating to a person who is employed by or under a current offer of employment by the qualified school contractor. *Education Code 22.0834(q)*

Disqualifying Conviction

A district, qualified school contractor, contracting entity, or subcontracting entity may not permit a person to provide services at a school if the employee has been convicted of a felony or misdemeanor offense that would prevent a person from being employed under Education Code 22.085(a). *Education Code 22.0834(o)*

District Responsibility to Ensure Compliance

A district may not allow a person who is an employee of or applicant for employment by a qualified school contractor or an entity that contracts with the district to serve at the district if the district obtains information showing a disqualifying conviction through a CHRI review concerning the employee or applicant. A district must ensure that an entity that the district contracts with for services has obtained all required CHRI. *Education Code 22.085(c)*

Note: See DBAA for definitions and provisions regarding confidentiality, unauthorized disclosure, destruction, consumer credit reports, records retention, and criminal history record checks of employees.

Contractors Providing Transportation Services

Except as provided below at Commercial Transportation Company, a district that contracts with a person for transportation services shall obtain from any law enforcement or criminal justice agency all CHRI that relates to a person employed by the person as a bus driver or a person the person intends to employ as a bus driver. A person who contracts with a district to provide transportation services shall submit to the district the name and other identification data required to obtain the CHRI of such persons. If a district obtains information that such a person has been convicted of a felony or a misdemeanor involving moral turpitude, the district shall inform the chief personnel officer of the person with whom the district has contracted, and the person may not employ that person to drive a bus on which students are transported without the permission of the board of the district. *Education Code 22.084(a)-(b)*

Commercial Transportation Company

A commercial transportation company that contracts with a district to provide transportation services may obtain from any law enforcement or criminal justice agency all CHRI that relates to a person employed by the company as a bus driver, bus monitor, or bus aide, or a person the company intends to employ in one of these positions. If the company obtains information that a person employed or to be employed has been convicted of a felony or a misdemeanor involving moral turpitude, the company may not employ that person to drive or to serve as a bus monitor or bus aide on a bus on which students are transported without the permission of the board of the district. If a commercial transportation company obtains CHRI, a district is not required to do the same. *Education Code 22.084(c)-(d)*

Authority to Obtain CHRI

A district or an entity that contracts to provide services to a district is entitled to obtain CHRI that the district or entity is required or authorized to obtain under Education Code Chapter 22, Subchapter C, that relates to a person who is:

1. An employee of or an applicant for employment with a public or commercial transportation company that contracts with the district to provide transportation services if the employee drives or the applicant will drive a bus in which students are transported or is employed or is seeking employment as a bus monitor or bus aide on a bus in which students are transported;
2. An employee of or applicant for employment by an entity that contracts to provide services to a district or shared services arrangement as provided by Education Code 22.0834, above;
3. An employee of or applicant for employment by a subcontractor of an entity that contracts to provide services to a district or shared services arrangement as provided by Education Code 22.0834, above; or
4. A tutor who provides services on behalf of a service provider that offers accelerated or supplemental instruction under Education Code 28.0211.

Gov't Code 411.097(a)

Safety and Security Committee

Responsibilities

In accordance with guidelines established by the Texas School Safety Center (TxSSC), each district shall establish a school safety and security committee. The committee shall:

1. Participate on behalf of the district in developing and implementing emergency plans consistent with the district multihazard emergency operations plan to ensure that the plans reflect specific campus, facility, or support services needs;
2. Periodically provide recommendations to the board and district administrators regarding updating the district multihazard emergency operations plan [see CKC] in accordance with best practices identified by the Texas Education Agency (TEA), the TxSSC, or a person included in the registry of persons providing school safety or security consulting services established by the TxSSC;
3. Provide the district with any campus, facility, or support services information required in connection with a safety and security audit, a safety and security audit report, or another report required to be submitted by the district to the TxSSC;
4. Review each report required to be submitted by the district to the TxSSC to ensure that the report contains accurate and complete information regarding each campus, facility, or support service in accordance with criteria established by the center; and
5. Consult with local law enforcement agencies on methods to increase law enforcement presence near district campuses.

Membership

The committee, to the greatest extent practicable, must include:

1. One or more representatives of an office of emergency management of a county or city in which the district is located;
2. One or more representatives of the local police department or sheriff's office;
3. One or more representatives of the district's police department, if applicable;
4. The president of the board;
5. A member of the board other than the president;
6. The superintendent;
7. One or more designees of the superintendent, one of whom must be a classroom teacher in the district;

8. If the district partners with an open-enrollment charter school to provide instruction to students, a member of the open-enrollment charter school's governing body or a designee of the governing body; and

9. Two parents or guardians of students enrolled in the district.

Meetings

Except as otherwise provided for year-round schools, the committee shall meet at least once during each academic semester and at least once during the summer. A committee established by a district that operates schools on a year-round system or in accordance with another alternative schedule shall meet at least three times during each calendar year, with an interval of at least two months between each meeting.

The committee is subject to Government Code Chapter 551 (Open Meetings Act) and may meet in executive session as provided by that chapter. Notice of a committee meeting must be posted in the same manner as notice of a board meeting. [See BE]

Education Code 37.109

Sheriff-Led School Safety Meetings

The sheriff of a county with a total population of less than 350,000 in which a public school is located shall call and conduct semiannual meetings to discuss:

1. School safety;

2. Coordinated law enforcement response to school violence incidents;

3. Law enforcement agency capabilities;

4. Available resources;

5. Emergency radio interoperability;

6. Chain of command planning; and

7. Other related subjects proposed by a person in attendance at the meeting.

The sheriff of a county to which this requirement applies in which more than one public school is located is only required to hold one semiannual meeting. This requirement does not require public schools located within the same county to adopt the same school safety policies.

The following persons shall attend the meeting:

1. The sheriff or the sheriff's designee;

2. The police chief of a municipal police department in the county or the police chief's designee;

3. Each elected constable in the county or the constable's designees;

4. Each police chief of a school district's police department or school district security coordinator from each school district located in the county;

5. A representative of DPS assigned to the county;

6. A representative of each other state agency with commissioned peace officers assigned to the county;

7. A person appointed to a command staff position at an emergency medical service in the county;

8. A person appointed to a command staff position at a municipal emergency medical service in the county;

9. A person appointed to a command staff position at a fire department in the county;

10. The superintendent or the superintendent's designee of each school district located in the county;

11. The person who serves the function of superintendent, or that person's designee, in each open-enrollment charter school located in the county; and

12. Any other person the sheriff considers appropriate.

The sheriff shall invite any federal law enforcement official serving in the county to attend the meeting.

As soon as practicable after the meeting, the sheriff shall submit a report to the TxSSC identifying the attendees of the meeting and the subjects discussed. The TxSSC shall maintain the report and make it publicly available on its internet website. The TxSSC may not make publicly available and shall redact any parts of a report that it determines may expose a safety vulnerability of a school district facility.

Education Code 85.024

Agreements

Each district that enters into a memorandum of understanding or mutual aid agreement addressing issues that affect school safety and security shall, at the TxSSC's request, provide a copy of the memorandum or agreement. A copy of a memorandum of understanding or mutual aid agreement provided to the TxSSC under

this provision is confidential and not subject to disclosure under Government Code Chapter 552. *Education Code 37.2121(d), (d-1)*

Sharing School Safety Training with Private Providers

"Accredited private school" means a private school accredited by an organization recognized by the Texas Private School Accreditation Commission or TEA.

"Child-care facility" has the meaning assigned by Human Resources Code 42.002.

"Organization providing out-of-school-time care" includes a faith-based organization, a before-school or after-school program, a summer camp, a Texas 4-H or other agricultural program, and a youth sports organization.

From money available for the purpose, a district may make available at no cost school safety training courses, including active shooter training courses, approved under Education Code 25.0815 [see EB] and determined to be appropriate by the district's school safety and security committee, to employees of accredited private schools located in the district or child-care facilities or other organizations providing out-of-school-time care to children younger than 18 years of age who reside in the district.

Education Code 37.119

Prohibited Coronavirus Preventative Measures

"COVID-19" means the 2019 novel coronavirus disease and any variants of the disease.

A district may not implement, order, or otherwise impose a mandate requiring:

1. A person to wear a face mask or other face covering to prevent the spread of COVID-19;
2. A person to be vaccinated against COVID-19; or
3. The closure of a public school to prevent the spread of COVID-19.

Health and Safety Code 81B.001-.004

Safety and Security Audit

At least once every three years, each district shall conduct a safety and security audit of the district's facilities. A district, or a person included in the registry of persons providing school safety or security consulting services established by the Texas School Safety Center (TxSSC) who is engaged by the district to conduct a safety and security audit, shall follow safety and security audit procedures developed by the TxSSC in coordination with the commissioner of education.

A district must confirm that a person is included in the registry before the district may engage the person to provide school safety or security consulting services to the district.

In a district's safety and security audit, the district must certify that the district used the funds provided through the school safety allotment only for the purposes provided by Education Code 48.115.

A district shall report the results of the safety and security audit to the board and, in the manner required by the TxSSC, to the TxSSC. The report provided to the TxSSC must be signed by the board and the superintendent.

Education Code 37.108(b), (b-1), (c), 37.2091(b-1)

In addition to a review of a district's multihazard emergency operations plan under Education Code 37.2071 [see CKC], the TxSSC may require a district to submit its plan for immediate review if the district's audit results indicate that the district is not complying with applicable standards. *Education Code 37.207(c)*

Failure to Report Audit Results

If a district fails to report the results of its audit, the TxSSC shall provide the district with written notice that the district has failed to report its audit results and must immediately report the results to the center.

If three months after the date of the initial notification the district has still not reported the results of its audit to the TxSSC, the TxSSC shall notify the Texas Education Agency (TEA) and the district of the district's requirement to conduct a public hearing under Education Code 37.1081. [See CKC]

Education Code 37.207(d)-(e)

Disclosure

Except as provided by Education Code 37.108(c-2) [see CKC], any document or information collected, developed, or produced during a safety and security audit is not subject to disclosure under Government Code Chapter 552 (Public Information Act). *Education Code 37.108(c-1)*

TEA Monitoring of Safety and Security Requirements

TEA shall monitor the implementation and operation of requirements related to school district safety and security, including school district multihazard emergency operations plans [see CKC] and safety and security audits [see above].

Office of School Safety and Security

TEA shall establish an office of school safety and security to coordinate monitoring and, in coordination with the TxSSC and relevant local law enforcement agencies, provide technical assistance to school districts to support the implementation and operation of safety and security requirements.

Vulnerability Assessments

As part of the technical assistance, TEA shall conduct a detailed vulnerability assessment of each school district on a random basis once every four years.

On completion of a vulnerability assessment TEA shall provide to the superintendent and school safety and security committee [see CK] for the applicable school district a report on the results of the assessment that includes recommendations and required corrective actions to address any deficiencies in campus security identified by the agency.

District Information and Records

TEA may require a school district to submit information necessary for it to monitor the implementation and operation of school district safety and security requirements, including notice of an event requiring a district's emergency response including the discovery of a firearm on a campus and information regarding the district's response and use of emergency operations procedures during such an event.

TEA may review school district records as necessary to ensure compliance with Education Code Subchapter D (Protection of Building and Grounds) and Subchapter G (Texas School Safety Center).

Any document or information collected, identified, developed, or produced relating to the monitoring of school district safety and security requirements is confidential under Government Code 418.177 and 418.181 (Texas Disaster Act), and not subject to disclosure under Government Code Chapter 552.

Education Code 37.1083

Intruder Detection Audits

TEA's office of school safety and security shall establish a school safety review team in each region served by a regional education service center, which shall annually conduct on-site general intruder detection audits of school district campuses in the team's region.

Notice to Superintendent

In conducting an intruder detection audit, a safety review team must notify the superintendent of the district in which the campus being audited is located not later than the seventh day before the date of a scheduled audit.

Report

On completion of the audit, a safety review team must provide to the superintendent and school safety and security committee for the school district in which the campus is located a report on the results of the audit that includes recommendations and required corrective actions to address any deficiencies in campus security identified by the team.

A report produced by a safety review team is confidential and not subject to disclosure under Government Code Chapter 552.

Education Code 37.1084

Assignment of Conservator for Noncompliance

The commissioner may assign a conservator under Education Code Chapter 39A if a school district fails to:

1. Submit to any required monitoring, assessment, or audit under Education Code 37.1083 or 37.1084 [see above];
2. Comply with applicable safety and security requirements; or
3. Address in a reasonable time period, as determined by commissioner rule, issues raised by TEA's monitoring, assessment, or audit of the district under Education Code 37.1083 or 37.1084.

A conservator may exercise the powers and duties of a conservator under Education Code 39A.003 [see AIC] only to correct a failure identified above. TEA may not assign a conservator for a district's failure to comply with Education Code 37.0814 (Armed Security Officer Required) or a good cause exception claimed under that section. [See CKE]

Education Code 37.1085

Notice of Bomb Threat or Terroristic Threat

A district that receives a bomb threat or terroristic threat relating to a campus or other district facility at which students are present shall provide notification of the threat as soon as possible to the parent or guardian of or other person standing in parental relation to each student who is assigned to the campus or who regularly uses the facility, as applicable. *Education Code 37.113*

Notice Regarding Violent Activity

The Texas Education Agency (TEA) shall develop model standards for providing notice regarding violent activity that has occurred or is being investigated at a district campus or other district facility or at a district-sponsored activity to parents, guardians, and other persons standing in parental relation to students who are assigned to the campus, regularly use the facility, or are attending the activity, as applicable. A district shall adopt a policy for providing this notice in a manner that meets TEA standards. *Education Code 37.1131*

Emergency Response Map and Walk-Through

A district shall provide to the Department of Public Safety (DPS) and all appropriate local law enforcement agencies and emergency first responders:

1. An accurate map of each district campus and school building that is developed and documented in accordance with the standards described by Education Code 37.351 related to developing site and floor plans, access control, and exterior door numbering; and
2. An opportunity to conduct a walk-through of each district campus and school building using the map.

Education Code 37.117

Emergency Operations Plan

Each district shall adopt and implement a multihazard emergency operations plan for use in the district's facilities. The plan must address prevention, mitigation, preparedness, response, and recovery as defined by the Texas School Safety Center (TxSSC) in conjunction with the governor's office of homeland security and the commissioner. The plan must provide for:

1. Training in responding to an emergency for district employees, including substitute teachers;
2. Measures to ensure district employees, including substitute teachers, have classroom access to a telephone, including a cellular telephone, or another electronic communication device allowing for immediate contact with district emergency services or emergency services agencies, law enforcement agencies, health departments, and fire departments;

3. Measures to ensure district communications technology and infrastructure are adequate to allow for communication during an emergency;

4. Mandatory school drills and exercises, including drills required under Education Code 37.114 (emergency evacuations), to prepare district students and employees for responding to an emergency [see CKB];

5. Measures to ensure coordination with the Texas Department of State Health Services (TDSHS) and local emergency management agencies, law enforcement, health departments, and fire departments in the event of an emergency;

6. The implementation of a required safety and security audit [see CKA]; and

7. Any other requirements established by the TxSSC in consultation with TEA and relevant local law enforcement agencies.

Education Code 37.108(a)

A district shall include in its multihazard emergency operations plan:

1. A chain of command that designates the individual responsible for making final decisions during a disaster or emergency situation and identifies other individuals responsible for making those decisions if the designated person is unavailable;

2. Provisions that address physical and psychological safety for responding to a natural disaster, active shooter, and any other dangerous scenario identified for purposes of these provisions by TEA or TxSSC;

3. Provisions for ensuring the safety of students in portable buildings;

4. Provisions for ensuring that students and district personnel with disabilities are provided equal access to safety during a disaster or emergency situation;

5. Provisions for providing immediate notification to parents, guardians, and other persons standing in parental relation in circumstances involving a significant threat to the health or safety of students, including identification of the individual with responsibility for overseeing the notification;

6. Provisions for supporting the psychological safety of students, district personnel, and the community during the response

and recovery phase following a disaster or emergency situation that:

a. Are aligned with best practice-based programs and research-based practices recommended under Education Code 38.351;

b. Include strategies for ensuring any required professional development training for suicide prevention and grief-informed and trauma-informed care is provided to appropriate school personnel;

c. Include training on integrating psychological safety and suicide prevention strategies into the district's plan, such as psychological first aid for schools training, from an approved list of recommended training established by the commissioner and TxSSC for:

(1) Members of the district's school safety and security committee [see CK];

(2) District school counselors and mental health professionals; and

(3) Educators and other district personnel as determined by the district;

d. Include strategies and procedures for integrating and supporting physical and psychological safety that align with the provisions described by item 2, above; and

e. Implement trauma-informed policies;

7. A policy for providing a substitute teacher access to school campus buildings and materials necessary for the substitute teacher to carry out the duties of a district employee during an emergency or a mandatory emergency drill;

8. The name of each individual on the district's school safety and security committee and the date of each committee meeting during the preceding year [see CK]; and

9. Certification that the district is in compliance with Education Code 37.117 [see Emergency Response Map, above].

Education Code 37.108(f)

Guidelines for Individuals with Disabilities or Impairments

TEA shall establish guidelines for the provisions in a district's multi-hazard emergency operations plan to ensure the safety of students and district personnel with disabilities or impairments during a disaster or emergency situation. A district must follow the guidelines

established by TEA in adopting and implementing the district's multihazard emergency operations plan. *Education Code 37.1086*

Active Shooter Emergency

A district shall include in its multihazard emergency operations plan a policy for responding to an active shooter emergency. The district may use any available community resources in developing the policy. *Education Code 37.108(g)*

Train Derailment

A district shall include in its multihazard emergency operations plan a policy for responding to a train derailment near a district school. A district is only required to adopt the policy if a district facility is located within 1,000 yards of a railroad track, as measured from any point on the school's real property boundary line. A district may use any available community resources in developing the policy. *Education Code 37.108(d)*

Polling Place Security

A district shall include in its multihazard emergency operations plan a policy for district property selected for use as a polling place under Election Code 43.031. In developing the policy, the board may consult with the local law enforcement agency with jurisdiction over the district property selected as a polling place regarding reasonable security accommodations that may be made to the property. This requirement may not be interpreted to require the board to obtain or contract for the presence of law enforcement or security personnel for the purpose of securing a polling place located on district property. Failure to comply with this subsection does not affect the requirement of the board to make a school facility available for use as a polling place under Election Code 43.031. *Education Code 37.108(e)* [See GKD]

Disclosure

A document relating to a district's multihazard emergency operations plan is subject to disclosure if the document enables a person to:

1. Verify that the district has established a plan and determine the agencies involved in the development of the plan and the agencies coordinating with the district to respond to an emergency, including TDSHS, local emergency services agencies, law enforcement agencies, health departments, and fire departments;
2. Verify that the district's plan was reviewed within the last 12 months and determine the specific review dates;
3. Verify that the plan addresses the five phases of emergency management listed above at Emergency Operations Plan;
4. Verify that district employees have been trained to respond to an emergency and determine the types of training, the num-

ber of employees trained, and the person conducting the training;

5. Verify that each campus in the district has conducted mandatory emergency drills and exercises in accordance with the plan and determine the frequency of the drills;

6. Verify that the district has established a plan for responding to a train derailment if required [see Train Derailment, above];

7. Verify that the district has completed a safety and security audit and determine the date the audit was conducted, the person conducting the audit, and the date the district presented the results of the audit to the board [see CKA];

8. Verify that the district has addressed any recommendations by the board for improvement of the plan and determine the district's progress within the last 12 months; and

9. Verify that the district has established a visitor policy and identify the provisions governing access to a district building or other district property.

Education Code 37.108(c-2)

[See GRC for emergency management training requirements and response to requests from other governmental entities for mutual aid.]

Plan Review

A district shall submit its multihazard emergency operations plan to the TxSSC not later than the 30th day after the date the TxSSC requests the submission and in accordance with the review cycle developed under Education Code 37.2071(a).

Any document or information collected, developed, or produced during the review and verification of multihazard emergency operations plans is not subject to disclosure under Government Code Chapter 552 (Public Information Act).

Failure to Submit Plan

If a district fails to submit its multihazard emergency operations plan to the TxSSC for review following a notification by the TxSSC that the district has failed to submit the district's plan, the TxSSC shall provide the district with written notice stating that the district must hold a public hearing as outlined at Public Hearing on Noncompliance, below. The notice must state that the commissioner is authorized to appoint a conservator under Education Code 37.1082.

Notice of Plan Deficiencies

The TxSSC shall review each district's multihazard emergency operations plan and verify the plan meets the requirements or provide the district with written notice describing the plan's deficiencies, in-

cluding specific recommendations to correct the deficiencies, and stating that the district must correct the deficiencies in its plan and resubmit the revised plan to the TxSSC.

The TxSSC may approve a district multihazard emergency operations plan that has deficiencies if the district submits a revised plan that the center determines will correct the deficiencies.

Failure to Correct Deficiencies

If one month after the date of initial notification of a plan's deficiencies outlined above a district has not corrected the plan deficiencies, the TxSSC shall provide written notice to the district and TEA that the district has not complied with the requirements and must comply immediately.

If a district still has not corrected the plan deficiencies three months after the date of initial notification, the TxSSC shall provide written notice to the district stating that the district must hold a public hearing as outlined at Public Hearing on Noncompliance, below.

Education Code 37.2071

Public Hearing on Noncompliance

If the board receives notice of noncompliance under Education Code 37.207(e) [see CKA], 37.2071(d) [see Failure to Submit Plan, above] or 37.2071(g) [see Failure to Correct Deficiencies, above], the board shall hold a public hearing to notify the public of:

1. The district's failure to submit or correct deficiencies in a multihazard emergency operations plan or report the results of a safety and security audit to the TxSSC as required by law;
2. The dates during which the district has not been in compliance; and
3. The names of each member of the board and the superintendent serving in that capacity during the dates the district was not in compliance. The district shall provide this information in writing to each person at the hearing.

The board shall give members of the public a reasonable opportunity to appear before the board and to speak on the issue of the district's failure to submit or correct deficiencies in a multihazard emergency operations plan or report the results of a safety and security audit during a hearing held under this provision. A district required to hold a public hearing shall provide written confirmation to the TxSSC that the district held the hearing.

Education Code 37.1081

Safe Firearm Storage

The TxSSC, in collaboration with DPS, shall provide to each district information and other resources regarding the safe storage of firearms for distribution by the district including information on the

offense of making a firearm accessible to a child under Penal Code 46.13 and ways in which parents and guardians can effectively prevent children from accessing firearms.

A district shall provide the information and other resources to the parent or guardian of each student enrolled in the district or school.

Education Code 37.222

Confidential Information under the Texas Disaster Act

Information is confidential if the information is collected, assembled, or maintained by or for a district for the purpose of preventing, detecting, responding to, or investigating an act of terrorism or related criminal activity and:

Emergency Response Provider Information

1. Relates to the staffing requirements of an emergency response provider, including a law enforcement agency, a firefighting agency, or an emergency services agency;
2. Relates to a tactical plan of the provider; or
3. Consists of a list or compilation of pager or telephone numbers, including mobile and cellular telephone numbers, of the provider.

Gov't Code 418.176

Risk or Vulnerability Assessment

Information is confidential if the information:

1. Is collected, assembled, or maintained by or for a district for the purpose of preventing, detecting, or investigating an act of terrorism or related criminal activity; and
2. Relates to an assessment by or for a district, or an assessment that is maintained by a district, of the risk or vulnerability of persons or property, including critical infrastructure, to an act of terrorism or related criminal activity.

Gov't Code 418.177

Information, other than financial information, in the possession of a district is confidential if the information:

1. Is part of a report to an agency of the United States;
2. Relates to an act of terrorism or related criminal activity; and
3. Is specifically required to be kept confidential:
    a. Under the Public Information Act, Government Code 552.101, because of a federal statute or regulation;
    b. To participate in a state-federal information sharing agreement; or

c. To obtain federal funding.

Security Systems

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 Public Information Act. [See GBA]

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

Disaster Disclosure Exception

At any time during a state of disaster, the superintendent may voluntarily disclose or otherwise make available all or part of the information that is confidential under Government Code 418.175-.182 to another person or another entity if the superintendent believes that the other person or entity has a legitimate need for the information. The disclosure or making available of confidential information under this provision does not waive or affect the confidentiality of the information. *Gov't Code 418.183(b), (e)*

Armed Security Officer Required

The board shall determine the appropriate number of armed security officers for each district campus. The board must ensure that at least one armed security officer is present during regular school hours at each district campus.

For this purpose, a security officer must be:

1. A school district peace officer;
2. A school resource officer; or
3. A commissioned peace officer employed as security personnel under Education Code 37.081.

Good Cause Exception

If the board is unable to comply with this requirement, the board may claim a good cause exception if the district's noncompliance is due to the availability of funding or personnel who qualify to serve as a security officer.

Alternative Standard

A board that claims a good cause exception must develop an alternative standard with which the district is able to comply, which may include providing a person to act as a security officer who is:

1. A school marshal; or
2. A school district employee or a person with whom the district contracts who:
    a. Has completed school safety training provided by a qualified handgun instructor certified in school safety under Government Code 411.1901; and
    b. Carries a handgun on school premises in accordance with written regulations or written authorization of the district under Penal Code 46.03(a)(1)(A).

Documentation

The board must develop and maintain documentation of the district's implementation of and compliance with this requirement, including documentation related to a good cause exception and shall, if requested by the Texas Education Agency (TEA), provide that documentation in the manner prescribed by TEA.

Education Code 37.0814

School District Peace Officers, School Resource Officers, and Security Personnel

To carry out Education Code Chapter 37, Subchapter C (Law and Order), the board may:

1. Employ or contract with security personnel, including contracting with a licensed security services contractor for the provision of a commissioned security officer who has completed the Level II or III training course required by the Department of Public Safety;

2. Enter into a memorandum of understanding with a local law enforcement agency or a county or municipality that is the employing political subdivision of commissioned peace officers for the provision of school resource officers; and

3. Commission peace officers.

Jurisdiction

The jurisdiction of a peace officer, a school resource officer, or security personnel shall be determined by the board and may include all territory in the boundaries of the district and all property outside the boundaries of the district that is owned, leased, or rented by or otherwise under the control of the district and the board that employ or contract with, as applicable, the peace officer or security personnel or that enter into a memorandum of understanding for the provision of a school resource officer.

Education Code 37.081(a), (a-1)

Duties

The board shall determine the law enforcement duties of peace officers, school resource officers, and security personnel. The duties must be included in:

1. The district improvement plan under Education Code 11.252 [see BQ];

2. The student code of conduct adopted under Education Code 37.001 [see FO];

3. Any memorandum of understanding providing for a school resource officer; and

4. Any other campus or district document describing the role of peace officers, school resource officers, or security personnel in the district.

A district peace officer, a school resource officer, and security personnel shall perform law enforcement duties for the school district that must include protecting the safety and welfare of any person in the jurisdiction of the peace officer, resource officer, or security personnel; and the property of the school district.

In determining the law enforcement duties, the board shall coordinate with district campus behavior coordinators and other district employees to ensure that district peace officers, school resource officers, and security personnel are tasked only with duties related to law enforcement intervention and not tasked with behavioral or administrative duties better addressed by other district employees.

Education Code 37.081(d), (d-1), (d-4)

Prohibited Duties

A district may not assign or require as duties of a district peace officer, a school resource officer, or security personnel:

1. Routine student discipline or school administrative tasks; or
2. Contact with students unrelated to the law enforcement duties of the peace officer, resource officer, or security personnel.

This provision does not prohibit a district peace officer, a school resource officer, or security personnel from informal contact with a student unrelated to:

1. The assigned duties of the officer or security personnel; or
2. An incident involving student behavior or law enforcement.

Education Code 37.081(d-2), (d-3)

Refusal or Removal from District Property

A school resource officer or district peace officer may refuse to allow a person to enter on or may eject a person from property under the district's control in accordance with Education Code 37.105. *Education Code 37.105(a); 19 TAC 103.1207* [See GKA]

Active Shooter Response Training

A district peace officer or school resource officer shall complete an active shooter response training program approved by the Texas Commission on Law Enforcement (TCOLE) at least once in each four-year period.

A district that commissions a school district peace officer or at which a school resource officer provides law enforcement shall adopt a policy requiring the officer to complete the education and training program required by Occupations Code 1701.263.

A district may not contract for the provision of active shooter response training unless the training provider is certified under Occupations Code 1701.2515 to provide the training.

Education Code 37.0812

School-Based Law Enforcement Proficiency

School district peace officers or school resource officers providing law enforcement services at a district must obtain a school-based law enforcement proficiency certificate within 180 days of the officer's commission or placement in the district or campus of the district. *37 TAC 218.3(d)(5); Occupations Code 1701.263(b)*

Officer Providing Volunteer Security Services

A peace officer providing volunteer security services on premises where an event sponsored or sanctioned by a public primary or secondary school is taking place may:

1. With the consent of the head of the employing or appointing law enforcement agency, wear the uniform of the agency; or

2. Wear another uniform or badge that gives the person the appearance of being a peace officer.

Occupations Code 1702.333(d)

Immunity from Liability

"Retired peace officer" has the meaning assigned by Occupations Code 1701.3161.

"Security personnel" includes:

1. A school district peace officer;
2. A school marshal;
3. A school resource officer; and
4. A retired peace officer who has been hired by a district to provide security services or volunteers to provide security services to the district.

A district is immune from liability for any damages resulting from any reasonable action taken by security personnel to maintain the safety of the campus, including action relating to possession or use of a firearm.

A district is immune from liability as provided above for any damages resulting from any reasonable action taken by a district employee who has written permission from the board to carry a firearm on campus.

Any security personnel employed by a district is immune from liability for any damages resulting from any reasonable action taken by the security personnel to maintain the safety of the campus, including action relating to possession or use of a firearm.

The statutory immunity provided by these provisions is in addition to and does not preempt the common law doctrine of official and governmental immunity. To the extent that another statute provides greater immunity to a district than these provisions, that statute prevails.

Education Code 37.087

Notice of Exposure to Communicable Disease

A district that employs emergency medical service employees, paramedics, firefighters, law enforcement officers or correctional officers must post the required notice regarding work-related exposure to communicable disease in its workplace to inform employees about Health and Safety Code requirements which may affect qualifying for workers' compensation benefits following a work-related exposure to a reportable communicable disease. *28 TAC 110.108*

Authorized Handguns

Under Education Code 11.151(b), a board may promulgate written regulations and authorization as provided by Penal Code 46.03(a)(1) (exception to places where weapons are prohibited). *Atty. Gen. Op. GA-1051 (2014)*

Role of Persons Carrying a Firearm

A person permitted to carry a firearm on the campus of a school district may not perform the routine law enforcement duties of a peace officer, including making arrests, unless the duty is performed in response to an emergency that poses a threat of death or serious bodily injury to a student, school district employee, or other individual at the district campus.

This prohibition does not apply to a commissioned peace officer who is assigned law enforcement duties that are included in campus and district documents describing the role of peace officers in the district as required by Education Code 37.081(d) [see Duties, above].

Education Code 37.089

Note: For general provisions applicable to district security personnel, including district peace officers, see CKE.

For information on mental health leave, quarantine leave, and line of duty leave for peace officers, see DEC.

Powers and Duties

Code of Criminal Procedure

Any peace officer commissioned by the board must meet all minimum standards for peace officers established by the Texas Commission on Law Enforcement (TCOLE). *Education Code 37.081(h)*

Officers commissioned by a board are peace officers. *Code of Criminal Procedure 2.12(8)*

It is the duty of every peace officer to preserve the peace within the officer's jurisdiction. To effect this purpose, the officer shall use all lawful means. *Code of Criminal Procedure 2.13(a)*

The peace officer shall perform the duties listed in Code of Criminal Procedure 2.13.

Determined by the Board

A district peace officer shall perform law enforcement duties for the district as determined by the board. *Education Code 37.081(d), (d-1)* [See CKE(LEGAL)]

The board may authorize any officer commissioned by the board to enforce rules adopted by the board. Education Code Chapter 37, Subchapter D (protection of buildings and grounds) is not intended to restrict the authority of each district to adopt and enforce appropriate rules for the orderly conduct of the district in carrying out its purposes and objectives or the right of separate jurisdiction relating to the conduct of its students and personnel. *Education Code 37.103*

In a peace officer's jurisdiction, a peace officer commissioned by the board:

1. Has the powers, privileges, and immunities of peace officers;
2. May enforce all laws, including municipal ordinances, county ordinances, and state laws;
3. May take a child into custody in accordance with Family Code Chapter 52 [see GRA] or Code of Criminal Procedure 45.058; and
4. May dispose of cases in accordance with Family Code 52.03 or 52.031.

Education Code 37.081(b); Family Code 52.01(a)(3)

The board shall determine the scope of the on-duty and off-duty law enforcement activities of district peace officers. A district must authorize in writing any off-duty law enforcement activities performed by a district peace officer.

A district peace officer may provide assistance to another law enforcement agency. A district may contract with a political subdivision for the jurisdiction of a district peace officer to include all territory in the jurisdiction of the political subdivision.

Education Code 37.081(c), (e)

Chief of Police

The chief of police of a district police department shall be accountable to the superintendent and shall report to the superintendent. District police officers shall be supervised by the district chief of police or the chief's designee and shall be licensed by TCOLE. *Education Code 37.081(f)*

Oath and Bond

A peace officer assigned to duty and commissioned by a board shall take and file the oath required of peace officers and shall execute and file a bond in the sum of $1,000, payable to the board, with two or more sureties, conditioned that the peace officer will fairly, impartially, and faithfully perform all the duties that may be required of the peace officer by law. *Education Code 37.081(h)*

Preemployment Procedures and Reporting Requirements

Before a law enforcement agency may hire a person licensed under Occupations Code 1701 (law enforcement officers), the agency must, on a form and in the manner prescribed by the TCOLE:

1. Obtain the person's written consent for the agency to review the information required to be reviewed under Occupations Code 1701.451;
2. Request from TCOLE and any other applicable person information required to be reviewed under Occupations Code 1701.451; and
3. Submit to TCOLE confirmation that the agency, to the best of the agency's ability before hiring the person:
    a. Contacted each entity or individual necessary to obtain the information required to be reviewed under Occupations Code 1701.451; and
    b. Except as provided below, obtained and reviewed as related to the person, as applicable, the information listed in Occupations Code 1701.451(a)(3)(B).

Confirmation Form

The head of a law enforcement agency or the agency head's designee shall review and sign each confirmation form required under Occupations Code 1701.451 before submission to TCOLE. The

failure of an agency head or the agency head's designee to comply with this subsection constitutes grounds for suspension of the agency head's license under Occupations Code 1701.501.

The confirmation form submitted to TCOLE is not confidential and is subject to disclosure under Government Code Chapter 552 (Public Information Act).

Exception

If an entity or individual contacted for information required to be reviewed under Occupations Code 1701.451 refused to provide the information or did not respond to the request for information, the confirmation submitted to TCOLE must document the manner of the request and the refusal or lack of response.

Duty to Provide Information

If a law enforcement agency receives from a law enforcement agency a request for information under Occupations Code 1701.451 and the person's consent on the forms and in the manner prescribed by TCOLE, the agency shall provide the information to the requesting agency.

Occupations Code 1701.451

Separation Report

When a person licensed by TCOLE separates from an agency, the agency shall, within 7 business days:

1. Submit a separation report (Form F5) to TCOLE; and
2. Provide a copy to the licensee in a manner prescribed by Occupations Code 1701.452 (Employment Termination Report).

37 TAC 217.7(b)

An agency must retain records kept under 37 Administrative Code 217.7 while the person is appointed and for a minimum of five years after the licensee's separation date with that agency. The records must be maintained under the control of the agency head or designee in a format readily accessible to TCOLE. *37 TAC 217.7(d)*

Memoranda of Understanding

A district police department and the law enforcement agencies with which it has overlapping jurisdiction shall enter into a memorandum of understanding that outlines reasonable communication and coordination efforts between the department and the agencies. *Education Code 37.081(g)*

Use of Force/Duty to Render Aid

Not later than the 180th day after the date TCOLE provides the model policies described by Occupations Code 1701.269(b), each law enforcement agency in this state shall adopt a policy on the topics described by that subsection. A law enforcement agency may adopt the model policies developed by TCOLE under that subsection. *Occupations Code 1701.270*

Drones

"Drone" means an unmanned aircraft, watercraft, or ground vehicle or a robotic device that:

1. Is controlled remotely by a human operator; or
2. Operates autonomously through computer software or other programming.

Each law enforcement agency that uses or intends to use a drone for law enforcement purposes shall:

1. Adopt a written policy regarding the agency's use of force by means of a drone, before the agency first uses a drone, and update the policy as necessary; and
2. Not later than January 1 of each even-numbered year, submit the policy to TCOLE in the manner prescribed by TCOLE.

Code of Criminal Procedure 2.33

[For additional information on unmanned aircraft systems, see GKA.]

Body-Worn Camera Programs

For the purpose of this provision, "body-worn camera" means a recording device that is capable of recording, or transmitting to be recorded remotely, video or audio; and worn on the person of a peace officer, which includes being attached to the officer's clothing or worn as glasses.

A law enforcement agency that operates a body-worn camera program shall adopt a policy for the use of body-worn cameras that must ensure that a body-worn camera is activated only for a law enforcement purpose and must include guidelines and provisions required by Occupations Code 1701.655(b).

A policy may not require a peace officer to keep a body-worn camera activated for the entire period of the officer's shift.

A policy must require a peace officer who is equipped with a body-worn camera and actively participating in an investigation to keep the camera activated for the entirety of the officer's active participation in the investigation unless the camera has been deactivated in compliance with that policy.

Before a law enforcement agency may operate a body-worn camera program, the agency must provide training to peace officers who will wear the body-worn cameras and any other personnel who will come into contact with video and audio data obtained from the use of body-worn cameras.

Occupations Code 1701.651(1), .655, .656

Prohibited Release of Recording

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.

A recording is confidential and excepted from the requirements of the Public Information Act if the recording was:

1. Not required to be made under Occupations Code Subchapter N or another law or under a policy adopted by the law enforcement agency; and
2. Does not relate to a law enforcement purpose.

"Private space" means a location in which a person has a reasonable expectation of privacy, including a person's home.

Occupations Code 1701.651(1), .661(f), (h)

Motor Vehicle Stops

A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency that employs the officer information relating to the stop, including the information required by Code of Criminal Procedure 2.133.

The chief administrator of a law enforcement agency is responsible for auditing these reports to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

Code of Criminal Procedure 2.133

A law enforcement agency shall compile and analyze the information contained in each report received by the agency. Not later than March 1 of each year, each law enforcement agency shall submit a report containing the incident-based data compiled during the previous calendar year to TCOLE. *Code of Criminal Procedure 2.134*

Civil Penalty

If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Code of Criminal Procedure 2.134, the department is liable to the state for a civil penalty in an amount not to exceed $5,000 for each violation. *Code of Criminal Procedure 2.1385(a)*

Racial Profiling

A peace officer may not engage in racial profiling. *Code of Criminal Procedure 2.131*

Each law enforcement agency that employs peace officers who make traffic stops in the routine performance of the officer's official duties shall adopt a detailed written policy on racial profiling that

complies with Code of Criminal Procedure 2.132(b). *Code of Criminal Procedure 2.132*

Mental Health Crisis or Substance Abuse Issue

A law enforcement agency shall make a good faith effort to divert a person suffering a mental health crisis or suffering from the effects of substance abuse to a proper treatment center in the agency's jurisdiction if:

1. There is an available and appropriate treatment center in the agency's jurisdiction to which the agency may divert the person;
2. It is reasonable to divert the person;
3. The offense that the person is accused of is a misdemeanor, other than a misdemeanor involving violence; and
4. The mental health crisis or substance abuse issue is suspected to be the reason the person committed the alleged offense.

This requirement does not apply to a person who is accused of specified offenses involving intoxication.

Code of Criminal Procedure 16.23

Administration of Epinephrine

A law enforcement agency may acquire and possess epinephrine auto-injectors and a peace officer may possess and administer an epinephrine auto-injector in accordance with Occupations Code Chapter 1701, Subchapter O. *Occupations Code 1701.702(a)* [See FFAC regarding district maintenance and administration of epinephrine auto-injectors.]

Officer-Involved Injury or Death

"Officer-involved injury or death" means an incident during which a peace officer discharges a firearm causing injury or death to another.

Not later than the 30th day after the date of an officer-involved injury or death, the law enforcement agency employing an officer involved in the incident must complete and submit a written or electronic report to the office of the attorney general. The report must include all information required by Code of Criminal Procedure 2.139(b).

Code of Criminal Procedure 2.139

Not later than the 30th day after the date of the occurrence of an incident in which, while a peace officer is performing an official duty, a person who is not a peace officer discharges a firearm and causes injury or death to the officer, the law enforcement agency employing the injured or deceased officer at the time of the incident

must complete and submit a written or electronic report to the office of the attorney general. The report must include all information required by Code of Criminal Procedure 2.1395(a). *Code of Criminal Procedure 2.1395(b)*

Failure to Report

A law enforcement agency that fails to submit the required report on or before the seventh day after the date the agency received notice of failure to report from the office of the attorney general, is liable for a civil penalty in the amount of $1,000 for each day after the seventh day that the agency fails to submit the report. Beginning on the day after the date of receiving notice of failure to report, a law enforcement agency that, in the five-year period preceding the date the agency received the notice, has been liable for a civil penalty is liable for a civil penalty for each day the agency fails to submit the required report in the amount of $10,000 for the first day and $1,000 for each additional day that the agency fails to submit the report. *Code of Criminal Procedure 2.13951(b), (c)*

Complaints Against Peace Officers

To be considered by the head of the district's police department, a complaint against a district peace officer must be in writing and signed by the person making the complaint. A copy of the complaint shall be given to the officer within a reasonable time after it is filed. Disciplinary action may not be taken against the officer unless a copy of the signed complaint is given to the officer. The officer may not be indefinitely suspended or terminated based on the subject matter of the complaint unless the complaint is investigated and there is evidence to prove the allegation of misconduct. *Gov't Code 614.021-.023; Colorado County v. Staff, 510 S.W.3d 435 (Tex. 2017); Atty. Gen. Op. GA-251 (2004)*

On the commencement of an investigation by a law enforcement agency of a complaint by an individual who believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer. *Code of Criminal Procedure 2.132(b)(3), (f)*

[See DGBA, FNG, and GF for appeals.]

Legal Representation

A district shall provide a district employee who is a peace officer with legal counsel without cost to the employee to defend the employee against a suit for damages by a party other than a governmental entity if legal counsel is requested by the employee, and the suit involves an official act of the employee within the scope of the employee's authority.

To defend the employee against the suit, the district may provide counsel already employed by it or may employ private counsel.

An employee may recover from a district that fails to provide counsel as required the reasonable attorney's fees incurred in defending the suit if the trier of fact finds that the fees were incurred in defending a suit covered by these provisions and the employee is without fault or that the employee acted with a reasonable good faith belief that the employee's actions were proper.

Local Gov't Code 180.002(b)-(d)

Note: For general provisions applicable to district security personnel, including school marshals, see CKE.

Board Authority

The board may appoint one or more school marshals for each campus. *Education Code 37.0811(a)*

Definition

A school marshal is a person who is appointed to serve as a school marshal by the board under Education Code 37.0811, is licensed under Occupations Code 1701.260, and has powers and duties described by Code of Criminal Procedure Article 2.127. *Occupations Code 1701.001(8)*

Eligibility

The board may select for appointment as a school marshal an applicant who is an employee of the district and certified as eligible for appointment under Occupations Code 1701.260. *Education Code 37.0811(b)*

To be eligible for appointment as a school marshal, an applicant shall:

1. Successfully complete all prerequisite Texas Commission on Law Enforcement (TCOLE) training;
2. Pass the state licensing exam;
3. Be employed and appointed by an authorized school district; and
4. Meet all statutory requirements, including psychological fitness.

37 TAC 227.3(a); Code of Criminal Procedure 2.127(d)

A school marshal training program is open to any employee of a district who holds a license to carry a handgun issued under Government Code Chapter 411, Subchapter H. *37 TAC 227.5(a)*

TCOLE shall license an eligible person who:

1. Completes required training to the satisfaction of TCOLE staff; and
2. Is psychologically fit to carry out the duties of a school marshal as indicated by the results of the psychological examination administered under Occupations Code 1701.260(d).

Occupations Code 1701.260(f)

Reimbursement for Training

The board may, but shall not be required to, reimburse the amount paid by the applicant to participate in the training program under Occupations Code 1701.260. *Education Code 37.0811(b)*

District Responsibilities

A district shall:

1. Submit and receive approval for an application to appoint a person as a school marshal;
2. Upon authorization, notify TCOLE using approved format prior to appointment;
3. Report to TCOLE, within seven days, when a person previously authorized to act as a school marshal is no longer employed with the district;
4. Report to TCOLE, within seven days, when a person previously authorized to act as a school marshal is no longer authorized to do so by the district, TCOLE standards, another state agency, or under other law; and
5. Immediately report to the commission a school marshal's violation of any commission standard, including the discharge of a firearm carried under the authorization of these provisions outside of a training environment.

For five years, the district must retain documentation that the district has met all requirements under law in a format readily accessible to TCOLE. This requirement does not relieve a district from retaining all other relevant records not otherwise listed.

37 TAC 227.1

Powers and Duties

A school marshal may make arrests and exercise all authority given to peace officers under the Code of Criminal Procedure, subject to written regulations adopted by the board.

A school marshal may only act as necessary to prevent or abate the commission of an offense that threatens serious bodily injury or death of students, faculty, or visitors on school premises.

A school marshal may not issue a traffic citation for a violation of the Transportation Code.

Code of Criminal Procedure 2.127

Reporting Requirements

Once appointed, a school marshal shall:

1. Immediately report to TCOLE and the district any circumstance which would render them unauthorized to act as a school marshal by virtue of their employment with the district, failure to meet the standards of TCOLE, another state agency, or under law;
2. Immediately report to TCOLE any violation of applicable TCOLE standards, including any discharge of a firearm car-

ried under the authorization of these provisions outside of training environment; and

3. Comply with all requirements under law, including Education Code 37.0811.

37 TAC 227.3(b)

Handgun Possession

A school marshal may carry a concealed handgun or possess a handgun on the physical premises of a school, but only:

1. In the manner provided by written regulations adopted by the board; and

2. At a specific school as specified by the board.

Accessing Handgun

A school marshal may use a handgun the school marshal is authorized to carry or possess only under circumstances that would justify the use of deadly force under Penal Code 9.32 or 9.33.

Board Regulations

A board's written regulations must provide that a school marshal may carry a concealed handgun on the school marshal's person or possess the handgun on the physical premises of a school in a locked and secured safe or other locked and secured location.

The written regulations must also require that a handgun carried or possessed by a school marshal may be loaded only with frangible duty ammunition approved for that purpose by TCOLE.

Inactive Status

A district employee's status as a school marshal becomes inactive on:

1. Expiration of the employee's school marshal license under Occupations Code 1701.260;

2. Suspension or revocation of the employee's license to carry a handgun;

3. Termination of the employee's employment with the district; or

4. Notice from the board that the employee's services as school marshal are no longer required.

Education Code 37.0811(c)-(f)

Identity Confidential

The identity of a school marshal is confidential and is not subject to a request under the Public Information Act, except that the person's name, date of birth, and handgun license number, and the address of the person's place of employment must be provided by TCOLE to:

1. The director of the Department of Public Safety;

2. The district;

3. The chief law enforcement officer of the local municipal law enforcement agency if the person is employed at a campus of a district located within a municipality;

4. The sheriff of the county if the person is employed at a campus of a district that is not located within a municipality; and

5. The chief administrator of any school district-commissioned peace officer, if the person is employed at a district that has commissioned peace officers.

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 as a school marshal. The notice may not disclose information that is confidential.

Education Code 37.0811(g), (h); Occupations Code 1701.260(j)

No State Benefits

A school marshal is not entitled to state benefits normally provided by the state to a peace officer. *Code of Criminal Procedure 2.127(c)*

Memorandum of Understanding to Share Marshal

A district may enter into a memorandum of understanding with another district, open-enrollment charter school, or private school under which a school marshal appointed to a campus of the district may temporarily act as a school marshal at a campus of the other school for the duration of an event occurring at the campus of the other school at which both schools are participating. The memorandum of understanding must comply with the requirements for written regulations under Education Code 37.0811 [see Handgun Possession, above] and may be used to satisfy the requirement for written regulations or written authorization under Penal Code 46.03(a)(1) to allow that school marshal to carry a firearm on the premises of the school at which the event occurs. *Education Code 37.08131*

Note: For general provisions applicable to district security personnel, including school resource officers, see CKE.

Definition

A school resource officer is a peace officer who is assigned by the officer's employing political subdivision to provide a police presence at a public school, safety or drug education to students of a public school, other similar services. The term does not include a peace officer who provides law enforcement at:

1. A public school only for extracurricular activities; or
2. A public school event only for extracurricular activities.

Occupations Code 1701.601

License Required

A peace officer who is a visiting school resource officer in a public school must be licensed as provided by Occupations Code Chapter 1701. *Occupations Code 1701.602*

Memorandum of Understanding Required

A memorandum of understanding for the provision of school resource officers must be in the form of an interlocal contract under Government Code Chapter 791 (Interlocal Cooperation Act).

Cost Allocation

The memorandum of understanding must use a proportionate cost allocation methodology to address any costs or fees incurred by the district or the local law enforcement agency, county, or municipality, as applicable. The cost allocation methodology may allow a local law enforcement agency, county, or municipality, as applicable, to recoup direct costs incurred as a result of the contract but may not allow the agency, county, or municipality to profit under the contract.

Funding

A district that enters into a memorandum of understanding for the provision of school resource officers may seek funding from federal, state, and private sources to support the cost of providing school resource officers.

Education Code 37.081(a-2), (a-3), (a-4)

Firearms Accident Prevention Program

A peace officer who is a visiting school resource officer in a public elementary school shall at least once each school year offer to provide instruction to students in a firearms accident prevention program, as determined by the district.

A firearms accident prevention program must include the safety message, "Stop! Don't Touch. Leave the Area. Tell an Adult.", and may include instructional materials from the National Rifle Association Eddie Eagle Gun Safe Program, including animated videos and activity books.

Occupations Code 1701.603

Note: For information regarding the district's ability to request identification, refuse entry, or eject persons from district property, see GKA and GKC.

Safety Rules

The board may adopt rules for the safety and welfare of students, employees, and property and other rules it considers necessary to carry out Education Code Chapter 37, Subchapter D (Protection of Buildings and Grounds) and the governance of the district, including rules providing for the operation and parking of vehicles on school property. *Education Code 37.102(a)* [See also CLC]

Human Trafficking Warning Signs

Each public primary or secondary school shall post warning signs of the increased penalties for trafficking of persons under Penal Code 20A.02(b-1)(2) in a conspicuous place reasonably likely to be viewed by all school employees and visitors.

Each warning sign must:

1. Include a description of the provisions of Penal Code 20A.02(b-1), including the penalties for violating the section;
2. Be written in English and Spanish; and
3. Be at least 8.5 by 11 inches in size.

Education Code 37.086

On all regular school days, every public school shall fly the United States and Texas flags. *Education Code 1.003*

The board shall require that the United States and Texas flags be prominently displayed in accordance with 4 U.S.C. Sections 5-10 and Government Code Chapter 3100 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 must display in a conspicuous place in each building of the school a durable poster or framed copy of the United States national motto, “In God We Trust,” if the poster or framed copy meets the requirements below and is donated for display at the school or purchased from private donations and made available to the school.

A poster or framed copy of the national motto described above:

1. Must contain a representation of the United States flag centered under the national motto and a representation of the state flag; and

2. May not depict any words, images, or other information other than the representations listed in item 1.

A public school may accept and use private donations for the purposes of this provision.

A classroom teacher at a public elementary or secondary school may not be prohibited from displaying in a classroom a poster or framed copy of the national motto that meets the requirements above.

Education Code 1.004

Note: For provisions regarding selection and adoption of instructional materials, see EFA.

Instructional Materials and Technology

Instructional materials selected for use in the public schools shall be furnished without cost to the students attending those schools. Except as provided by Education Code 31.104(d), a district may not charge a student for instructional material or technological equipment purchased by the district with the district's technology and instructional materials allotment. *Education Code 31.001*

Each instructional material, including electronic instructional material only to the extent of any applicable licensing agreement, purchased as provided by Education Code Chapter 31 for a district is the property of the district. *Education Code 31.102(a)-(b)*

Allotment

A district is entitled to an allotment each biennium from the state instructional materials and technology fund for each student enrolled in the district on a date during the last year of the preceding biennium specified by the commissioner of education. The commissioner shall determine the amount of the allotment per student each biennium on the basis of the amount of money available in the state instructional materials and technology fund to fund the allotment. The allotment shall be transferred from the state instructional materials and technology fund to the credit of the district's instructional materials and technology account as provided by Education Code 31.0212. *Education Code 31.0211(a)*

The commissioner shall, as early as practicable during each biennium, notify each district of the estimated amount to which the district will be entitled during the next fiscal biennium. *Education Code 31.0215(a)*

Additional State Aid

State-Approved Instructional Materials

For each student enrolled in the district, a school district is entitled to additional state aid for each school year in an amount equal to $40, or a greater amount provided by appropriation, to procure instructional material that has been reviewed by the Texas Education Agency (TEA); placed on the State Board of Education (SBOE) list of approved instructional materials; designated by the SBOE as being included or capable of being included in an instructional materials parent portal; and acquired from a publisher, manufacturer, or other entity that has not been found to violate Education Code 31.151. *Education Code 48.307(a)*

Open Education Resource (OER) Instructional Materials

Subject to Education Code 31.0751 (OER transition plan), a district is entitled to additional state aid for each school year in an amount not to exceed $20 for each student for the costs incurred or for which the district is obligated to pay during the school year in which the aid is provided for the printing and shipping of OER instruc-

tional material made available under Education Code Chapter 31, Subchapter B-1. *Education Code 48.308(a)*

Allotment Adjustment

Change in Enrollment

Not later than May 31 of each school year, a district may request that the commissioner adjust the number of students for which the district is entitled to receive an allotment on the grounds that the number of students attending school in the district will increase or decrease during the school year for which the allotment is provided. The commissioner may also adjust the number of students for which a district is entitled to receive an allotment, without a request by the district, if the commissioner determines a different number of students is a more accurate reflection of students who will be attending school in the district. The commissioner's determination is final. *Education Code 31.0211(e)*

High Enrollment Growth

Each year the commissioner shall adjust the instructional materials and technology allotment of districts experiencing high enrollment growth. *Education Code 31.0214(a)*

Permitted Expenditures

The allotment funds may be used to purchase or pay for:

1. Instructional materials, regardless of whether the instructional materials are on the list of approved instructional materials maintained by the SBOE under Education Code 31.022;
2. Consumable instructional materials;
3. Instructional materials for use in bilingual education classes, as provided by Education Code 31.029;
4. Instructional materials for use in college preparatory courses under Education Code 28.014, as provided by Education Code 31.031;
5. Supplemental instructional materials;
6. OER instructional materials, as provided by Education Code Chapter 31, Subchapter B-1;
7. Instructional materials and technological equipment under any continuing contracts of the district in effect on September 1, 2011;
8. Technological equipment necessary to support the use of any instructional materials purchased with an allotment under this provision;
9. Inventory software or systems for storing, managing, and accessing instructional materials and analyzing the usage and effectiveness of instructional materials;

10. Services, equipment, and technology infrastructure necessary to ensure internet connectivity and adequate bandwidth;

11. Training educational personnel directly involved in student learning in the appropriate use of instructional materials and for providing for access to technological equipment for instructional use;

12. Training personnel in the electronic administration of assessment instruments;

13. The salary and other expenses of an employee who provides technical support for the use of technological equipment directly involved in student learning; and

14. Costs associated with distance learning, including services, equipment, and technology such as Wi-Fi, internet access hotspots, wireless network service, broadband service, and other services and technological equipment necessary to facilitate internet access.

The allotment funds may not be used to purchase instructional material that contains obscene or harmful content or would otherwise cause the district to which the funds were allotted to be unable to submit the certification required under Education Code 31.1011(a)(1)(B) [see Certification of Instructional Materials, below].

Education Code 31.0211(c), (f)

Technological Equipment

In purchasing technological equipment, a district shall:

1. Secure technological solutions that meet the varying and unique needs of students and teachers in the district; and

2. Consider both the long-term cost of ownership of the technological equipment and flexibility for innovation.

Education Code 31.0211(d)

Instructional Materials and Technology Account

The commissioner shall maintain an instructional materials and technology account for each district. In the first year of each biennium, the commissioner shall deposit the district's allotment in the account. The commissioner shall pay the cost of instructional materials requisitioned by a district under Education Code 31.103 using funds from the district's instructional materials and technology account.

Money deposited in a district's instructional materials and technology account during each state fiscal biennium remains in the account and available for use by the district for the entire biennium.

At the end of each biennium, a district with unused money in the district's account may carry forward any remaining balance to the next biennium.

A district shall provide to TEA the title and publication information for any instructional materials requisitioned or purchased by the district with the district's instructional materials and technology allotment.

Education Code 31.0212(a)-(d)

Purchasing Method

A district is not required to use a method provided by Education Code 44.031(a) to purchase instructional materials that have been reviewed by TEA and included on the list of approved instructional materials maintained by the SBOE. *Education Code 31.102(d)*

Requisitions, Use, and Distribution

The board may delegate to an employee the authority to requisition, distribute, and manage the inventory of instructional materials, consistent with Education Code Chapter 31 and rules adopted under that chapter. *Education Code 31.104(a)*

Delegation of Authority

Local Funds

A district may use local funds to purchase any instructional materials in addition to those selected under Education Code Chapter 31. *Education Code 31.106*

Online Requisition Program

A district shall make a requisition for instructional materials using the online requisition program maintained by the commissioner. A district may requisition instructional materials for grades above the grade level in which a student is enrolled. *Education Code 31.103(b)-(c)*

Distribution

The board shall distribute printed instructional materials to students in the manner that the board determines is most effective and economical. *Education Code 31.102(c)*

OER Instructional Materials

A district may adopt OER instructional material at any time. Except as otherwise provided by the Education Code, the commissioner may not require a district to adopt or use an OER instructional material. A district may not be charged for a cost associated with the selection of an OER instructional material, except for the cost of printing copies of the material. *Education Code 31.073(a), (c)-(d)*

OER Transition Plan

To qualify for additional state aid under Education Code 48.308 the board must adopt an OER instructional material transition plan to assist classroom teachers in the district who will be using an OER instructional material in a specific subject or grade level for which the teacher has not previously used an OER instructional material.

The plan must ensure that OER instructional materials are used in a manner that maintains the instructional flexibility of a classroom teacher to address the needs of each student.

A district that participates in the program developed and maintained by TEA under Education Code 31.0752 is not required to adopt a transition plan under this provision.

Education Code 31.0751

TEA Assistance Program

TEA shall develop and maintain a program to assist school districts in adopting and using OER instructional material. Education Code 31.0752

Requisition

A district that selects OER instructional material shall requisition a sufficient number of printed copies for use by students unable to access the instructional material electronically unless the district provides to each student:

1. Electronic access to the instructional material at no cost to the student; or
2. Printed copies of the portion of the instructional material that will be used in the course.

Education Code 31.103(d)

Parent Portal

An entity that hosts an instructional materials parent portal must comply with requests regarding parental access to the portal made by a district in compliance with Education Code 31.154 or Education Code 26.006 [see EFA]. *Education Code 31.154(e)*

[For more information regarding the requirements for certain entities that supply instructional materials to host a parent portal, see Education Code 31.154.]

Bilingual Instructional Materials

A district shall purchase with its allotment or otherwise acquire instructional materials for use in bilingual education classes. *Education Code 31.029*

Certification of Instructional Materials

Prior to the beginning of each school year, a district shall submit to the SBOE and commissioner certification that the district:

1. For each subject in the required curriculum under Education Code 28.002, other than physical education, and each grade level:
    a. Provides each student with instructional materials that cover all elements of the essential knowledge and skills adopted by the SBOE for that subject and grade level; and

b. In the provision of instructional materials, the district protects students from obscene or harmful content as necessary for compliance with the Children's Internet Protection Act (Pub. L. No. 106-554) [see CQ], Education Code 28.0022 [see EMB], Penal Code 43.22, and any other law or regulation that protects students from obscene or harmful content [see EF]; and

2. The district used money allocated to the district or school under the instructional materials and technology allotment only for purposes allowed under Education Code 31.0211.

To determine whether each student has instructional materials that cover all elements of the essential knowledge and skills, a district may consider:

1. Instructional materials adopted by the SBOE;

2. Instructional materials developed, purchased, or otherwise acquired by the district; and

3. OER instructional materials and other electronic instructional materials included in the repository under Education Code 31.0722.

Education Code 31.1011

Annual Report

Each district shall annually report to TEA information regarding the instructional materials used by the district during the previous school year, including the cost of each material. *Education Code 31.1012*

Ownership

Except as otherwise provided, a student must return all instructional materials to the teacher at the end of the school year or when the student withdraws from school. At the end of the school year for which OER instructional material that a district does not intend to use for another student is distributed, the printed copy of the OER instructional material becomes the property of the student to whom it is distributed.

This provision does not apply to an electronic copy of OER instructional material.

Education Code 31.104(c), (g)-(h)

Responsibility for Instructional Materials and Equipment

Each student or the student's parent or guardian is responsible for all instructional material and technological equipment not returned in an acceptable condition by the student. A student who fails to return in an acceptable condition all instructional materials and technological equipment forfeits the right to free instructional materials and technological equipment until all instructional materials and

technological equipment previously issued but not returned in an acceptable condition are paid for by the student, parent, or guardian.

As provided by board policy, a district may waive or reduce the payment required if the student is from a low-income family. [See FP] The district shall allow the student to use instructional materials and technological equipment at school during each school day.

If instructional materials or technological equipment is not returned in an acceptable condition or paid for, a district may withhold the student's records. A district may not prevent the student from graduating, participating in a graduation ceremony, or receiving a diploma. [See FL and GBA regarding student and parental right to access records; and FD, FFAB, and FL regarding a district's duties to provide records to another district]

The board may not require an employee of the district who acts in good faith to pay for instructional materials or technological equipment that is stolen, misplaced, or not returned by a student. [See DG]

These provisions do not apply to an electronic copy of OER instructional material.

Education Code 31.104(d), (e), (h) [See also EF]

Acceptable Condition

Printed instructional materials are considered to be in acceptable condition if:

1. The cover, binding, pages, spine, and all integral components of the instructional materials are wholly intact and the instructional materials are fully usable by students; and
2. No component of the instructional materials is soiled, torn, or damaged (whether intentionally or by lack of appropriate care) to the extent that any portion of the content is too disfigured or obscured to be fully accessible to other students.

Electronic instructional materials are considered to be in acceptable condition if:

1. All components or applications that are a part of the electronic instructional materials are returned;
2. The electronic materials perform as they did when they were new;
3. The electronic instructional materials do not contain computer code (e.g., bug, virus, worm, or similar malicious software) that has been designed to self-replicate, damage, change, or

otherwise hinder the performance of any computer's memory, file system, or software; and

4. The electronic instructional materials have not been installed with plug-ins, snap-ins, or add-ins without the prior approval of the district.

Technological equipment is considered to be in acceptable condition if:

1. The equipment is returned with the software and hardware in their original condition unless the district authorized changes; and

2. The physical condition of the equipment is fully usable as it was originally intended to be used.

19 TAC 66.1310

Lost or Damaged Instructional Materials

A district may order replacements for instructional materials that have been lost or damaged directly from the publisher of the instructional materials or any source for a printed copy of OER instructional material. *Education Code 31.104(b)*

Sale or Disposal

The board shall determine how the district will dispose of discontinued printed instructional materials, electronic instructional materials, and technological equipment.

Sale

The board may sell printed instructional materials on the date the instructional material is discontinued for use in the public schools by the SBOE or the commissioner. The board may also sell electronic instructional materials and technological equipment owned by the district.

Use of Proceeds

Any funds received by a district from a sale must be used to purchase instructional materials and technological equipment allowed under Education Code 31.0211.

Disposal

The board may dispose of printed instructional material before the date the instructional material is discontinued for use in the public schools by the SBOE if the board determines that the instructional material is not needed by the district and the board does not reasonably expect that the instructional material will be needed. A district must notify the commissioner of any instructional material the district disposes of under this provision.

Education Code 31.105

Definitions

For purposes of this policy:

1. "Bus" means a motor vehicle used to transport persons and designed to accommodate more than 10 passengers, including the operator.
2. "Passenger car" means a motor vehicle, other than a motorcycle, used to transport persons and designed to accommodate 10 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, a school bus, or a multifunction school activity 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(d), (e); Transp. Code 541.201(3)(A), (12), (15), (16)

Authority

A board may establish and operate an economical public school transportation system:

1. In the district;
2. Outside the district, if the district enters into an interlocal contract as provided by Government Code Chapter 791; or
3. Outside the district if students enrolled in the district reside outside the district and the district:
    a. Has an active policy adopted by the board that prohibits screening transfer students who reside outside the dis-

trict based on the student's academic performance, disciplinary history, or attendance record, regardless of any relevant district or innovation plan adopted by the board or authorization to screen transfer students under any other authority; and

b. Certifies that the district has:

(1) An overall performance rating of C or higher under Education Code 39.054 for the preceding school year or the most recent school year in which a performance rating was assigned;

(2) An overall accountability score of 70 or higher for the preceding school year or the most recent school year in which a performance rating was assigned as calculated by the Texas Education Agency (TEA) for purposes of determining the district's overall performance rating under Education Code 39.054; and

(3) The same or better overall performance rating under Education Code 39.054 for the preceding school year or the most recent school year in which a performance rating was assigned as the district from which the district will transport students under these provisions.

A district shall make publicly available on the district's internet website information regarding the district's compliance with the requirements under item 3 above.

Education Code 34.007 may not be construed to prohibit a board from operating a transportation system in another district to ensure the most efficient routes for transporting students who reside in the operating district.

Education Code 34.007(a), (a-1), (c)

Transportation Allotment for Eligible Students

Each district operating a regular transportation system is entitled to an allotment based on a rate per mile per regular eligible student set by the legislature in the General Appropriations Act. *Education Code 48.151(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; or is a homeless child or youth, as defined by 42 U.S.C. 11434a. *Education Code 48.151(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, as authorized by Education Code 34.007 [see Designation of Child-Care Facility or Grandparent's Residence, below]. *Education Code 48.151(k)*

Authorized Uses

Funds allotted under these provisions must be used in providing transportation services. Transporting a meal or instructional materials as provided below is included in transportation services under this provision. *Education Code 48.151(h)*

Meals and Instructional Materials

For the duration of a declared disaster, a district located in an area that is wholly or partly the subject of a disaster declaration by the governor under Government Code Chapter 418 or by the president of the United States may be reimbursed on a per-mile basis for the cost of transporting a meal or instructional materials to a student's residence or to another location, designated by the district, for pickup by the student. *Education Code 48.151(n)*

Fees for Transportation

For information regarding fees a district may charge for transportation, see FP(LEGAL).

Hazardous Conditions or High Risk of Violence

A district may apply for and on approval of the commissioner receive an additional amount of up to 10 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 or a high risk of violence if they walked to school. *Education Code 48.151(d); 19 TAC 61.1016*

Definitions

"Hazardous traffic condition" means an area within two miles of a campus 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.

"Area presenting a high risk of violence" means an area within two miles of a campus that law enforcement records indicate presents a high incidence of violent crimes.

19 TAC 61.1016(b)

Community Walking Transportation Programs

A district may use all or part of any additional funds received to support community walking transportation programs, including walking school bus programs, provided that the district requires each supported program to submit a financial report each semester that covers services provided by the program for the benefit of the district. *Education Code 48.151(d-2)*

Eligibility

A district or county is eligible to report hazardous area service annual mileage in the Foundation School Program (FSP) transportation application if the district submits to the TEA a policy adopted by the board that:

1. Explains the specific hazardous traffic conditions or areas presenting high risk for violence that apply to the district and exist within two miles of its campuses; and
2. If a district elects to implement community walking transportation programs or innovative school safety projects, requires such district-supported community walking transportation programs or innovative school safety projects to:
    a. Utilize trained adults with current background checks to either walk students to their home or school or to stand guard along safe routes; and
    b. Provide financial reports to the district each semester.

19 TAC 61.1016(c)

Reporting

A district is required to submit a hazardous area policy prior to the start of the school year and to report annual hazardous area service mileage by August 1 of each school year on the home-to-school/school-to-home section of the FSP transportation route services report. Districts requesting funds for an area presenting a high risk of violence must provide to TEA, contemporaneously with the explanation required at Eligibility above, consolidated law enforcement records that document violent crimes identified by reporting agencies within the relevant jurisdiction. *19 TAC 61.1016(d)*

Career and Technology Program

The cost of transporting career and technology education students from one campus to another inside a district, 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, or from a district campus to a location at which students are provided work-based learning under the district's career and technology program 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 48.151(f)*

Dual Credit Students

A district shall be reimbursed on a per-mile basis for the cost of transporting a dual credit student to another campus in the district, a campus in another district, or a postsecondary educational institution for purposes of attending the course, if the course is not available at the student's campus. *Education Code 48.151(m)*

Bus Drivers

In establishing and operating the transportation system, the board shall employ bus drivers certified in accordance with standards and qualifications adopted by the Department of Public Safety. *Education Code 34.007(b)(1)*

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 10 or more students. Passenger cars may be used on routes having fewer than 10 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 48.151(l)*

Designation of Child-Care Facility or Grandparent's Residence

On determining eligibility for transportation services, the board shall allow a parent to designate one of the following locations 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:

1. A child-care facility as defined by Human Resources Code 42.002 below; or
2. The residence of a grandparent of the child.

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:

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)

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

For more information regarding transportation of students to accelerated instruction programs, see EHBCA.

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).]

Safety Standards

A district shall meet or exceed the safety standards for school buses established by the Department of Public Safety (DPS), with the advice of the Texas Education Agency (TEA). A district that fails or refuses to meet these safety standards for school buses is ineligible to share in the transportation allotment until the first anniversary of the date the district begins complying with the safety standards. *Education Code 34.002; Transp. Code 547.102; 37 TAC 14.51-.52*

Student Safety

Prohibitions

A district may not require or allow a child to stand on a moving bus or passenger van. *Education Code 34.004*

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

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

Transp. Code 545.426

Seat Belts

Required on Buses

A bus, including a school bus, a school activity bus, multifunction school activity bus, or school-chartered bus, operated by or contracted for use by a district for the transportation of schoolchildren shall be equipped with a three-point seat belt for each passenger, including the operator. This requirement does not apply to:

1. A bus purchased by a school district that is a model year 2017 or earlier; or
2. A bus purchased by a school district that is a model year 2018 or later if the board:
    a. Determines that the district's budget does not permit the district to purchase a bus that is equipped with the required seat belts; and
    b. Votes to approve that determination in a public meeting.

Transp. Code 547.701(e)

Student Requirement

A district shall require a student riding a bus operated by or contracted for operation by the district to wear a seat belt if the bus is equipped with seat belts for all passengers on the bus. A school district may implement a disciplinary policy to enforce the use of seat belts by students. *Education Code 34.013*

Donations

A board shall consider any offer made by a person to donate three-point seat belts or money for the purchase of three-point seat belts for a district's school buses. A board may accept or decline the offer after adequate consideration.

A board may acknowledge a person who donates three-point seat belts or money for the purchase of three-point seat belts for a school bus by displaying a small, discreet sign on the side or back of the bus recognizing the person who made the donation. The sign may not serve as an advertisement for the person who made the donation.

Education Code 34.014

Use of Warning Signals

When a school bus is being stopped or is stopped on a highway to permit students to board or exit the bus, the operator of the bus shall activate all flashing warning signal lights and other equipment on the bus designed to warn other drivers that the bus is stopping to load or unload children.

A person may not operate a light or other equipment described above except when a school bus is being stopped or is stopped on a highway to:

1. Permit a student to board or exit the bus; or
2. Distribute to a student or the parent or guardian of a student:
    a. Food; or
    b. Technological equipment for use by the student for educational purposes.

Transp. Code 547.701(c), (c-1)

Wireless Communication Devices

An operator commits an offense if the operator uses a portable wireless communication device to read, write, or send an electronic message while operating a motor vehicle unless the vehicle is stopped. *Transp. Code 545.4251(b)*

General Rule

School Property

An operator may not use a wireless communication device while operating a motor vehicle within a school crossing zone or on the property of a public elementary, middle, junior high, or high school served by a school crossing zone, during the time a reduced speed limit is in effect for the school crossing zone, unless:

1. The vehicle is stopped; or
2. The wireless communication device is used with a hands-free device.

Transp. Code 545.4252

An operator may not use a wireless communication device while operating a school bus or passenger bus with a minor passenger on the bus unless the bus is stopped. This provision does not apply to an operator of a school bus or passenger bus using a wireless communication device in the performance of the operator's duties as a bus driver and in a manner similar to using a two-way radio. *Transp. Code 545.425(c), (e-1)*

Definitions

"Hands-free device" means speakerphone capability, a telephone attachment, or another function or other piece of equipment, regardless of whether permanently installed in or on a wireless communication device or in a motor vehicle, that allows use of the wireless communication device without use of either of the operator's hands, except to activate or deactivate a function of the wireless communication device or hands-free device. The term includes voice-operated technology and a push-to-talk function. *Transp. Code 545.425(a)(1)*

"Electronic message" means data that is read from or entered into a wireless communication device for the purpose of communicating with another person. *Transp. Code 545.4251(a)(1)*

Disruption of Transportation

Any person other than a primary or secondary grade student who intentionally disrupts, prevents, or interferes with the lawful transportation of students to and from school on a vehicle owned or operated by a district or to or from activities sponsored by a school on a vehicle owned and/or operated by a district shall be guilty of a misdemeanor. It is an exception to the application of the offense that, at the time the person engaged in the prohibited conduct, the person was younger than 12 years of age. *Education Code 37.126*

Exhibition of Firearm

For information regarding offenses pertaining to firearms on buses, see GKA(LEGAL).

Collision Reports

Notice to DPS

A district shall provide DPS written notification of any collision directly or indirectly involving a school bus operated by or for the district that bears advertising or another paid announcement. *37 TAC 14.65(a)(2)*

Notice must be received not more than five days from the date of the collision and shall include the following:

1. The name and address of the owner of the school bus;
2. The name and driver's license number of the school bus operator;
3. The date of the collision;
4. The city or county where the collision occurred; and

5. The investigating police agency.

37 TAC 14.65(c)

Notices to DPS may be delivered by facsimile, electronic mail, or mailed to School Bus Transportation, Texas Department of Public Safety, P.O. Box 4087, Austin, TX 78773-0525. *37 TAC 14.65(d)*

Notice to TEA

A district shall report annually to TEA the number of collisions in which its buses were involved in the past year in a manner prescribed by the commissioner of education. A district shall file the annual report to TEA only in the period beginning July 1 and ending July 31 and shall include the following information in the report:

1. The total number of bus collisions;
2. The date each collision occurred;
3. The type of bus, as specified in 19 Administrative Code 61.1028(a), involved in each collision;
4. Whether the bus involved in each collision was equipped with seat belts and, if so, the type of seat belts;
5. The number of students and adults involved in each collision;
6. The number and types of injuries that were sustained by the bus passengers in each collision; and
7. Whether the injured passengers in each collision were wearing seat belts at the time of the collision and, if so, the type of seat belts.

A school district shall report a bus collision involving a school bus, a multifunction school activity bus, a school activity bus, or a motor bus if:

1. The bus is owned, leased, contracted, or chartered by a school district and was transporting school district personnel, students, or a combination of personnel and students; or
2. The bus was driven by a school district employee or by an employee of the school district's bus contractor with no passengers on board and the collision involved a collision with a pedestrian.

Exceptions

A school district shall not report a bus collision involving a school bus, a multifunction school activity bus, a school activity bus, or a motor bus if:

1. The bus was driven by a school district employee or by an employee of the school district's bus contractor, the collision

occurred when no passenger other than the school district's driver or bus contractor's driver was on board the bus, and the collision did not involve a collision with a pedestrian; or

2. The collision involved a bus chartered by a school district for a school activity trip and no school district personnel or students were on board the bus at the time of the collision.

A school district shall not report a collision that occurred in a vehicle that is owned, contracted, or chartered by a school district and is not a school bus, a multifunction school activity bus, a school activity bus, or a motor bus.

Education Code 34.015(b); 19 TAC 61.1028(b)

Information Required on Website

A district that at any time on or after January 1, 2019, maintained a publicly accessible internet website shall post on a publicly accessible website the following information:

1. The district's contact information, including a mailing address, telephone number, and email address;
2. Each member of the board;
3. The date and location of the next election for board members [see BB series];
4. The requirements and deadline for filing for candidacy of board member, which shall be continuously posted for at least one year before the election day for the office [see BB series];
5. Each notice of a meeting of the board under Government Code Chapter 551, Subchapter C [see BE]; and
6. Each record of a meeting of the board under Government Code 551.021 [see BE].

Items 5 and 6 above do not apply to a district with a population of less than 5,000 in the district's boundaries and located in a county with a population of less than 25,000.

Gov't Code 2051.201

Note: See GBA regarding the confidentiality of certain board member information.

Trustee Information

Each district that maintains an internet website shall post on the website the name, email address, and term of office, including the date the term began and the date the term expires, of each member of the district's board of trustees. If a district does not maintain an internet website, the district shall submit the information required above to the Texas Education Agency (TEA). On receipt of the district's information, TEA shall post the information on TEA's internet website.

Each time there is a change in the membership of a district's board, the district shall update the information required above and, as applicable post the updated information on the district's internet website or submit the updated information to TEA for posting on TEA's internet website.

Education Code 11.1518

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.

Other Required Internet Postings

The following posting requirements apply to a district that maintains an internet website:

1. A board may not vote on adoption of a proposed local innovation plan unless the final version of the proposed plan has been available on the district website for at least 30 days, under Education Code 12A.005(a)(1) and 19 Administrative Code 102.1307(a)(1). [See AF]
2. A district designated as a district of innovation shall ensure that a copy of its current local innovation plan is available to the public by posting and maintaining the plan in a prominent location on the district's website, under Education Code 12A.0071(a) and 19 Administrative Code 102.1305(e), .1307(f). [See AF]
3. 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]
4. A district with a local accountability system must produce a campus scorecard and make available on the district website an explanation of the methodology used to assign local accountability performance ratings, under 19 Administrative Code 97.1003(g). [See AIA]
5. 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]
6. Not later than the 10th 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]
7. A district shall post its annual federal report card under 20 U.S.C. 6311(h)(2). [See AIB]

8. A district or campus assigned a rating of D that qualifies under Education Code 39.0543(b) must notify the public of the meeting for input for the development of a local improvement plan 15 days prior to the meeting by way of the district and campus website, under 19 Administrative Code 97.1061(b)(3)(A)(ii). [See AIC]
9. A campus intervention team must notify the public of the meeting for input for the development of a targeted improvement plan 15 days prior to the meeting by way of the district and campus website, under 19 Administrative Code 97.1061(e)(3)(A)(ii) and Education Code 39A.056. [See AIC]
10. A district shall post a targeted improvement plan for a campus assigned an unacceptable performance rating on its website before the board hearing on the plan under Education Code 39A.057(b). [See AIC]
11. A district shall notify stakeholders of their ability to review the completed campus turnaround plan and post the completed plan on the district website at least 30 days before the final plan is submitted to the board of trustees, under 19 Administrative Code 97.1064(e). [See AIC]
12. A district shall post an election notice required under Election Code 85.007. [See BBBA]
13. A district shall post election information under Election Code 4.009. [See BBBA]
14. Each day early voting is conducted, the district shall post the branch daily register under Election Code 85.072. [See BBBA]
15. A district shall post early voting rosters under Election Code 87.121. [See BBBA]
16. A district shall post election results under Election Code 65.016. [See BBBB]
17. A district shall post the minutes of the last regular board meeting held before an election of trustees if the minutes reflect that a trustee is deficient in meeting the trustee's training requirement, under Education Code 11.159(b) and 19 Administrative Code 61.1(j). [See BBD]
18. A district shall post a report filed with the district by a candidate, board member, or specific-purpose committee pursuant to Election Code Chapter 254 not later than the 10th business day after it is received under Election Code 254.0401. [See BBBC]

19. A district shall provide access to the conflicts disclosure statements and questionnaires under Local Government Code 176.009. [See BBFA, CHE]

20. A district shall post the statements regarding activities to support and promote student health under Education Code 28.004. [See BDF]

21. A district must post notice of school health advisory council (SHAC) meetings under Education Code 28.004(d-1). [See BDF]

22. A district must post the minutes and audio or video recording of each SHAC meeting under Education Code 28.004(d-2). [See BDF]

23. 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]

24. 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]

25. A district conducting a bond election shall post the election order, the election notice, the contents of the proposition, and any sample ballot under Election Code 4.003(f). [See CCA]

26. A district conducting a bond election shall post the voter information document beginning not later than the 21st day before election day and ending on the day after the election, under Government Code 1251.052(d). [See CCA]

27. A district issuing capital appreciation bonds shall post the information required by Government Code 1201.0245. [See CCA]

28. Not later than 30 days before the date of an election to approve a tax rate, a district must post the results of an efficiency audit under Education Code 11.184. [See CCG]

29. A district shall include on the home page of its website the prescribed statement if the district increases the amount of taxes to fund maintenance and operation expenditures under Tax Code 26.05(b). [See CCG]

30. A district shall maintain a link to the area of the comptroller's website where information on each of the district's agreements to limit appraised value, if any, is maintained, under Tax Code 313.0265(c). [See CCGB]

31. A district shall post a summary of its proposed budget concurrently with publication of the proposed budget under Education Code 44.0041. [See CE]

32. In the format prescribed by the comptroller, a district shall post or cause to be posted tax rate and budget information under Tax Code 26.18. [See CE]

33. 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]

34. A district shall continuously post its contact information and Annual Local Debt Report under Local Government Code 140.008 and 34 Administrative Code 10.1-.6 on its website until the district posts the next annual report, or, as an alternative, the district may continually maintain a link to the comptroller's website where the district's financial information may be viewed. [See CFA]

35. Prior to conducting an active threat exercise, a district must provide adequate notice of the exercise through multiple distribution networks, including the district's website, under 19 Administrative Code 103.1211(b)(1). [See CKB]

36. A district must make available information regarding its compliance with requirements related to the transportation of students enrolled in the district who reside outside the district, under Education Code 34.007. [See CNA]

37. 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]

38. A district that is a service provider seeking to limit liability under the Digital Millennium Copyright Act must post information regarding its designated agent under 17 U.S.C. 512(c)(2). [See CY]

39. A district shall post its employment policy and any regulations referenced under Education Code 11.1513(a). [See DC]

40. A district shall post the board's employment policies under Education Code 21.204(d). [See DCB]

41. The board shall adopt and post on the district's website early childhood literacy and mathematics plans that set specific annual goals under Education Code 11.185. [See EA]

42. The board shall post on the district's website and on the website, if any, of each campus the annual report of progress toward the goals set under the early childhood literacy and mathematics plans under Education Code 11.185. [See EA]

43. The board shall post on the district's website and on the website, if any, of each campus the annual report of progress toward the goals set under the college, career, and military readiness plans under Education Code 11.186. [See EA]

44. A district shall post curriculum materials used in the district's human sexuality instruction or instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking, if the materials are in the public domain, under Education Code 28.004(j). [See EHAA]

45. 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. [See EHBAD]

46. Each year, a district shall post a report on measurable outcomes for each dropout recovery education program offered by the district, under Education Code 29.081(e-6). [See EHBC]

47. A district shall make available on the district or campus website by November 1 of each school year a family engagement plan to assist the district in achieving and maintaining high levels of family involvement and positive family attitudes toward education, under 19 Administrative Code 102.1003(e). [See EHBG]

48. Annually, a district shall post any agreement between the district and a public institution of higher education to provide a dual credit program, under Education Code 28.009(b-2). [See EHDD]

49. 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]

50. 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]

51. 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]

52. A district shall post information regarding local programs and services, including charitable programs and services, available to assist students who are homeless, under Education Code 33.906. [See FDC]

53. 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]

54. Each school year, the board shall post a summary of the Guidelines for the Care of Students with Food Allergies at Risk for Anaphylaxis[1] on the district's website with instructions for obtaining access to the complete guidelines document, under Education Code 38.0151. [See FFAF]

55. A district must prominently display the contact information required to be listed for the Title IX Coordinator and policy on its website, if any, under 34 C.F.R. 106.8(b). [See FFH]

56. A district must make all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process publicly available on its website, if any, under 34 C.F.R. 106.45(b)(10)(i)(D). [See FFH]

57. 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]

58. A district shall post on its website, for each district campus, the email address and dedicated phone number of the campus behavior coordinator under Education Code 26.015. [See FO]

59. If the board designates a method for making a written request for public information, other than mail, email, or hand-delivery, the board must include a statement that a request may be made by that method on its website under Government Code 552.234(b) unless the statement is on the sign required by Government Code 552.205. [See GBAA]

60. A board that allows requestors to use the public information request form created by the attorney general must post the form on the district website under Government Code 552.235. [See GBAA]

61. A district shall post on its website and each campus shall post on any campus website a notice regarding the district's ability to refuse entry or eject certain persons under Education Code 37.105 and 19 Administrative Code 103.1207(g), including the appeal process. [See GKA]

Optional Internet Postings

A district that maintains an internet website has the following options:

1. A board may broadcast an open meeting over the internet, under Government Code 551.128. [See BE]
2. A district may publish the superintendent's employment contract on the district's website instead of publishing it in the annual financial management report under 19 Administrative Code 109.1001(q)(3)(B)(i). [See CFA]
3. 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]
4. A district shall either post online or provide physical copies of the report on library materials under Education Code 35.006. [See EFB]
5. 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]
6. A district may provide the annual notice to the parent of each student enrolled in grade 9 or above of the availability of subsidies for certain exam fees and the availability and enrollment qualifications for programs under which a student may earn college credit and career and technology education programs or other work-based education programs in the district, under Education Code 28.010. [See EHDD]
7. A board may post a mailing address and email address designated for receiving written requests for public information on its website under Government Code 552.234(d). [See GBAA]

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

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[1] TDSHS Guidelines for the Care of Students with Food Allergies at Risk for Anaphylaxis: https://www.dshs.texas.gov/sites/default/files/schoolhealth/pdf/FINAL%20Guidelines%20for%20Food%20Allergies%203.2023.pdf

Cybersecurity

Each district shall adopt a cybersecurity policy to:

Policy

1. Secure district cyberinfrastructure against cyber attacks and other cybersecurity incidents; and
2. Determine cybersecurity risk and implement mitigation planning.

A district's cybersecurity policy may not conflict with the information security standards for institutions of higher education adopted by the Department of Information Resources (DIR) under Government Code Chapters 2054 and 2059.

Cybersecurity Coordinator

The superintendent shall designate a cybersecurity coordinator to serve as a liaison between the district and the Texas Education Agency (TEA) in cybersecurity matters.

Cyber Attack or Cybersecurity Incident

Report to TEA

A district shall report to TEA or, if applicable, the entity that administers the system established by TEA in coordination with DIR under Education Code 11.175(g), any cyber attack or other cybersecurity incident against the district's cyberinfrastructure that constitutes a breach of system security as soon as practicable after the discovery of the attack or incident.

Report to Parent

The district's cybersecurity coordinator shall provide notice to a parent of or person standing in parental relation to a student enrolled in the district of an attack or incident for which a report is required to TEA involving the student's information.

Definitions

Breach of System Security

"Breach of system security" means an incident in which student information that is sensitive, protected, or confidential, as provided by state or federal law, is stolen or copied, transmitted, viewed, or used by a person unauthorized to engage in that action.

Cyber Attack

"Cyber attack" means an attempt to damage, disrupt, or gain unauthorized access to a computer, computer network, or computer system.

Cybersecurity

"Cybersecurity" means the measures taken to protect a computer, computer network, or computer system against unauthorized use or access.

Education Code 11.175(a)-(f)

Training

Requirements

At least once each year, a district shall:

1. Identify district employees and elected and appointed board members who have access to a district computer system or database and use a computer to perform at least 25 percent of the employee's or board member's required duties; and

2. Require the employees and board members identified under item 1 to complete a cybersecurity training program certified under Government Code 2054.519 (state-certified cybersecurity training programs).

Gov't Code 2054.5191(a-1)

Notwithstanding Government Code 2054.5191 above, only the district's cybersecurity coordinator is required to complete the cybersecurity training on an annual basis. Any other school district employee required to complete the cybersecurity training shall complete the training as determined by the district, in consultation with the district's cybersecurity coordinator. *Education Code 11.175(h-1)*

Denial of Access

The board or the board's designee may deny access to the district's computer system or database to an individual described by item 1 above who the board or the board's designee determines is noncompliant with the requirements of item 2. *Gov't Code 2054.5191(a-2)*

Exceptions

The requirements above do not apply to employees and board members who have been:

1. Granted military leave;
2. Granted leave under the federal Family and Medical Leave Act of 1993 (29 U.S.C. Section 2601 et seq.);
3. Granted leave related to a sickness or disability covered by workers' compensation benefits, if that employee no longer has access to the district's database and systems;
4. Granted any other type of extended leave or authorization to work from an alternative work site if that employee no longer has access to the district's database and systems; or
5. Denied access to a district's computer system or database by the board or the board's designee for noncompliance with the requirements of item 2 at Training, Requirements, above.

Gov't Code 2054.5191(f)

Program

The board may select the most appropriate state-certified cybersecurity training program for employees and board members of the district to complete. The board shall:

1. Verify and report on the completion of a cybersecurity training program by district employees and board members to the DIR; and

2. Require periodic audits to ensure compliance with these provisions.

Gov't Code 2054.5191(b)

Security Breach Notification

A district that owns, licenses, or maintains computerized data that includes sensitive personal information shall disclose 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 without unreasonable delay and in each case not later than the 60th day after the date on which the district determines that the breach occurred, 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 Individuals

Resident of Other State

If the individual whose sensitive personal information was or is reasonably believed to have been acquired by an unauthorized person is a resident of a state that requires a person that owns or licenses computerized data to provide notice of a breach of system security, the notice of the breach of system security required under Notice, below, may be provided under that state's law or under Notice, below.

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 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.

Notice

A district may give the required notice to individuals or the owner or license holder by providing:

1. Written notice at the last known address of the individual;
2. Electronic notice, if the notice is provided in accordance with 15 U.S.C. Section 7001 (electronic records and signatures); or
3. If the district demonstrates that the cost of providing notice would exceed $250,000, the number of affected persons exceeds 500,000, or the district does not have sufficient contact information, by:
    a. Electronic mail, if the district has electronic mail addresses for the affected persons;

b. Conspicuous posting of the notice on the district's website; or

c. Notice published in or broadcast on major statewide media.

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 the notice requirements if the district notifies affected persons in accordance with that policy.

To the Attorney General

A district that is required to disclose or provide notification of a breach of system security under these provisions shall notify the attorney general of that breach as soon as practicable and not later than the 30th day after the date on which the district determines that the breach occurred if the breach involves at least 250 residents of this state. The notification must be submitted electronically using a form accessed through the attorney general's internet website and must include:

1. A detailed description of the nature and circumstances of the breach or the use of sensitive personal information acquired as a result of the breach;

2. The number of residents of this state affected by the breach at the time of notification;

3. The number of affected residents that have been sent a disclosure of the breach by mail or other direct method of communication at the time of notification;

4. The measures taken by the district regarding the breach;

5. Any measures the district intends to take regarding the breach after the notification described at Notice, above; and

6. Information regarding whether law enforcement is engaged in investigating the breach.

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 individuals 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 en-

forcement agency determines that the notification will not compromise the investigation.

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

Definitions

For purposes of security breach notifications, the following definitions apply:

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)

Security Incident Notification

"Security incident" means a breach or suspected breach of system security as defined by Business and Commerce Code 521.053, above, and the introduction of ransomware, as defined by Penal Code 33.023 into a computer, computer network, or computer system.

"Sensitive personal information" has the meaning assigned by Business and Commerce Code 521.002, above.

A district that owns, licenses, or maintains computerized data that includes sensitive personal information, confidential information, or information the disclosure of which is regulated by law shall, in the event of a security incident:

1. Comply with the notification requirements of Business and Commerce Code 521.053 [see Security Breach Notification, above];
2. Not later than 48 hours after the discovery of the security incident, notify:
    a. DIR, including the chief information security officer; or
    b. If the security incident involves election data, the secretary of state; and
3. Comply with all DIR rules relating to reporting security incidents.

Not later than the 10th business day after the date of the eradication, closure, and recovery from a security incident, a district shall notify DIR, including the chief information security officer, of the details of the security incident and include in the notification an analysis of the cause of the security incident.

Gov't Code 2054.603

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 in accordance with the Cybersecurity Information Sharing Act, 6 U.S.C. Subchapter I (sections 1501-1510). *6 U.S.C. 1503(c)*

Removal of Personal Information

A district sharing a cyber threat indicator pursuant to these provisions shall, prior to sharing:

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

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.

6 U.S.C. 1503(d)(2)

Definitions

For purposes of the Cybersecurity Information Sharing Act, the following definitions apply:

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. *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 is stored on, processed by, or transiting an information system. 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(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)

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. *6 U.S.C. 1501(7)*

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. *6 U.S.C. 1501(9)*

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. *6 U.S.C. 1501(16)*

Security Vulnerability — "Security vulnerability" means any attribute of hardware, software, process, or procedure that could enable or facilitate the defeat of a security control. *6 U.S.C. 1501(17)*

Plan

The District shall develop a cybersecurity plan to secure the District's cyberinfrastructure against a cyberattack or any other cybersecurity incidents, determine cybersecurity risk, and implement appropriate mitigation planning.

Coordinator

The Superintendent shall designate a cybersecurity coordinator. The cybersecurity coordinator shall serve as the liaison between the District and the Texas Education Agency in cybersecurity matters.

Training

The Board delegates to the Superintendent the authority to:

1. Determine the cybersecurity training program to be used in the District;
2. Verify and report compliance with training requirements in accordance with guidance from the Department of Information Resources; and
3. Remove access to the District's computer systems and databases for noncompliance with training requirements as appropriate.

The District shall complete periodic audits to ensure compliance with the cybersecurity training requirements.

Security Breach Notifications

Upon discovering or receiving notification of a breach of system security or a security incident, as defined by law, the District shall disclose the breach or incident to affected persons or entities in accordance with the time frames established by law. The District shall give notice by using one or more of the following methods:

1. Written notice.
2. Email, if the District has email addresses for the affected persons.
3. Conspicuous posting on the District's websites.
4. Publication through broadcast media.

The District shall disclose a breach or incident involving sensitive, protected, or confidential student information as required by law.

Note: For information on purchasing technological equipment with the instructional materials and technology allotment, see CMD.

Technology Lending Program Grant

A district may apply to the commissioner of education to participate in the technology lending grant program established under Education Code 32.301. *Education Code 32.301(b)*

A district may use a grant awarded under this program or other local funds to purchase, maintain, and insure equipment for a technology lending program. Equipment purchased by a district with a grant is the property of the district. *Education Code 32.303*

Transfer of Equipment to Students

Definitions

"Data processing" means information technology equipment and related services designed for the automated storage, manipulation, and retrieval of data by electronic or mechanical means.

"Electronic device" means a device that is capable of connecting to a cellular network or the internet, including a computer, smartphone, or tablet.

"Internet filter" means a software application that is capable of preventing an electronic device from accessing certain websites or displaying certain online material.

Education Code 32.101; Gov't Code 2054.003(3)

Transfers

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, or a state eleemosynary institution or state agency under Government Code 2175.905 [see Fees, below];
2. Any equipment purchased by the district, to the extent consistent with the provisions at Use of Public Funds, below; and
3. Any surplus or salvage equipment owned by the district.

Education Code 32.102(a)

Before transferring data processing equipment or an electronic device 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;

3. Remove from the equipment any offensive, confidential, or proprietary information, as determined by the district;

4. Adopt rules establishing programs promoting parents as partners in cybersecurity and online safety that involve parents in students' use of transferred equipment or electronic devices; and

5. For the transfer of an electronic device to be used for an educational purpose, install an internet filter that blocks and prohibits pornographic or obscene materials or applications, including from unsolicited pop-ups, installations, and downloads.

Education Code 32.104

Donations

A district may accept:

1. Donations of data processing equipment for transfer under these provisions; and

2. Gifts, grants, or donations of money or services to purchase, refurbish, or repair data processing equipment.

Education Code 32.102(b)

Fees

A state eleemosynary institution or institution or agency of higher education or other state agency may not collect a fee or other reimbursement from a district for surplus or salvage data processing equipment transferred to the district. *Gov't 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 these provisions.

Education Code 32.105

Eligibility

A student is eligible to receive data processing equipment under these provisions only if the student does not otherwise have home access to data processing equipment, as determined by the 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 these provisions 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.

The requirements above do not apply if, at the time the student is required to return the equipment, the district determines that the equipment has no marketable value.

Education Code 32.106

Prohibited Applications on District-Owned Devices

"Covered application" means the social media service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited, or a social media application or service specified by proclamation of the governor to pose a risk to the state. *Gov't Code 620.001(1), .005.*

A district shall adopt a policy prohibiting the installation or use of a covered application on any device owned or leased by the district and requiring the removal of covered applications from those devices. The Department of Information Resources and the Department of Public Safety shall jointly develop a model policy for districts to use in developing the required policy. *Gov't Code 620.003*

The district's policy may provide for the installation and use of a covered application to the extent necessary for providing law enforcement or developing or implementing information security measures. A policy allowing the installation and use of a covered application must require the use of measures to mitigate risks posed to the state during the use of the covered application and the documentation of those measures. *Gov't Code 620.004*

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Note: For information regarding construction of school facilities, see CV series.

In addition to the facility standards contained in this policy, additional requirements are set out in 19 Administrative Code 61.1036 and 61.1040.

All new facilities must meet the commissioner's standards for adequacy of school facilities to be eligible to be financed with state or local tax funds. *Education Code 46.008*

State Standards for Construction on or After November 1, 2021

Applicability

The school facilities standards established in 19 Administrative Code 61.1040 ("section 61.1040") shall apply to all district capital improvement projects as follows, regardless of the type of school facility or the type of construction delivery method used by the district.

1. A district capital improvement project of any type or size relating to a school facility subject to section 61.1040 must comply with applicable requirements established in section 61.1040(d), (e), (f), (j), and (k).

2. A project for new construction or major renovation at an instructional facility must comply with the requirements established in section 61.1040(d), (e), (f), (g), (j), and (k) and one of the methods required to demonstrate compliance with minimum space requirements established in section 61.1040(h) and (i).

3. A project for minor renovation at an instructional facility must comply with applicable requirements established in section 61.1040(d)(1), (e), (f), (j), and (k).

4. A project for new construction, major renovation, or minor renovation at a specialized instructional facility, noninstructional facility, or noninstructional specialized assembly facility must comply with applicable requirements established in section 61.1040(d)(1), (e), (f), (j), and (k).

5. A project for major renovation that includes minor scopes of work in an area of a school facility that is separate and distinct from the project scope of the major renovation may be performed as a part of a construction services contract for the major renovation without the minor scope of work becoming subject to the standards in section 61.1040(g), (h), or (i) if:

    a. The minor scopes of work would not, on a stand-alone basis, be considered a major renovation project; and

b. The cost of the minor scopes of work is included in the total cost of the project construction budget to determine the appropriate scope of work to be included in the project, as specified in section 61.1040(k)(1)(B).

19 TAC 61.1040(b)(1)

Definitions — The words and terms used in section 61.1040 shall have the meanings set out in section 61.1040(a).

Capital Improvement Project — Any school facility project consisting of new construction, major renovation, or minor renovation for which construction services are procured under Government Code Chapter 2269, in accordance with Education Code 44.031(a)(5). *19 TAC 61.1040(a)(4)* [See CV]

Implementation — The school facilities standards established in section 61.1040 shall apply to a capital improvement project for which at least one of the following has occurred on or after November 1, 2021:

1. A board adopts a fiscal year maintenance and operations budget where a capital improvement project title and a design or design and construction budget are delineated;

2. A board calls a bond election where one or more capital improvement project titles and design or design and construction budgets are delineated; or

3. A new contract or amendment to an existing contract for architectural services for new construction or a major renovation project or a contract for engineering services for a major renovation or minor renovation has been agreed to and signed and dated by both parties to the agreement.

19 TAC 61.1040(c)(1)

A district shall consider implementing the safety and security standards under section 61.1040(k) for any safety and security upgrades to an existing instructional facility that does not require compliance with section 61.1040. *19 TAC 61.1040(c)(4)*

Option for Actions Taken Before November 1, 2021 — A board may elect to treat a capital improvement project, for which an action listed above was taken prior to November 1, 2021, under standards established in 19 Administrative Code 61.1036, below, or under the standards established in section 61.1040. If an election to comply with section 61.1040 is made by a board, the district and architect may mutually agree that the contract for design services may be adjusted and then must signify in writing that the project will become subject to the facilities standards established in section 61.1040 through an affirmative indication on the required certification form for the project or through some other written doc-

ument or addendum to the contract signifying election under section 61.1040 and any modifications to the contract terms agreed to by the parties.

If a board makes an election to comply with section 61.1036, it may still elect to comply with section 61.1040(k) (safety and security standards).

19 TAC 61.1040(c)(2)-(3)

Educational Adequacy

Long-Range Facility Plan

A district shall ensure that a capital improvement project subject to section 61.1040 complies with the requirements and standards as follows.

Elements

The long-range facility plan shall include all of the following elements that apply to the facility and project and must also be updated prior to commencement of construction to include the access control document required in section 61.1040(k)(1)(B):

1. Existing and proposed instructional programs at the project campus, including special education, dual language, course offerings, and partnerships;
2. The age and condition of all buildings and systems at the project campus;
3. History of completed capital improvement projects at the facility;
4. Site evaluation of the project campus, including, but not limited to, overall site; shape; useable land; suitability for intended use as well as planned improvements; adequate vehicular, pedestrian, and emergency access; queueing; parking; and site amenities;
5. The district's educational specifications;
6. The district's enrollment projections, maximum student enrollment of the facility, and the facility's maximum instructional capacity, if applicable; and
7. The noncompliance, partial compliance, or full compliance with each of the safety and security standards required in section 61.1040(k).

Process

The process of developing the long-range facility plan shall consider input from teachers, students, parents, taxpayers, and other district stakeholders.

Compliance

The requirement for a long-range facility plan is met when a district completes the long-range facility plan, presents it to the board, and

makes it available to the prime design professional for a capital improvement project. The long-range facility plan expires after five years from the date of the final plan presented to the board and must be updated prior to commencement of a subsequent capital improvement project. A long-range facility plan developed as part of a district-wide long-range facilities plan may be used to satisfy this requirement.

19 TAC 61.1040(d)(1)

Educational Specifications

A district shall ensure that a project for new construction and major renovation subject to section 61.1040 complies with the requirements and standards as follows.

Elements

Educational specifications are a written document prepared by the district and approved by the board and shall include all of the following:

1. The district mission, vision, goals, and pedagogy;
2. Preliminary details related to facility type, grades served, and maximum student enrollment;
3. Pertinent provisions of the multi-hazard emergency operations plan that may inform the functionality of the built environment, including how the district complies with Education Code 37.108 [see CKC];
4. A written statement that includes:
    a. Inclusive design goals and considerations supported by the district; and
    b. How inclusive design should be addressed in new and renovated facility designs;
5. Minimum total square footage required to comply with the quantitative method of compliance; and
6. Innovative teaching or operational practices intended for implementation at the instructional facility that may lead to the use of the qualitative method of compliance.

Schedule

An educational specification shall be created for each campus type. If the design and construction of a new campus or major renovation of an existing campus differs substantially from an educational specification that exists for the same campus type, a separate educational specification must be developed. Educational specifications shall be initiated upon the first proposed project of its type and must be completed prior to initiating the planning or pro-

gramming phase of a project. Each educational specification must be updated after five years from the date of approval.

Compliance

The requirement for educational specifications is met when a district delivers the approved document to the architect.

19 TAC 61.1040(d)(2)

Exceptions

A district is exempt from the requirements of section 61.1040(d) (Educational Adequacy):

1. If a school facility experiences catastrophic damage and the board approves a capital improvement project in accordance with Education Code 44.0312(c) (delegation of contracting authority); or
2. In a situation deemed urgent by action of the board that warrants immediate action because, if left unresolved, it would impair the conduct of classes.

19 TAC 61.1040(d)(3)

Administration

Section 61.1040(e) establishes standards for the administration and procurements of design professional services and other professional services and for the administration of competitive bids and contracting requirements for construction services. A district shall comply with requirements in section 61.1040(e) and with all applicable requirements, restrictions, and responsibilities established in state law, administrative code, or by a local authority having jurisdiction.

A district shall comply with the administrative and procedural requirements established in section 61.1040(e) and with the standards established in section 61.1040(j) to promote construction quality and best value for a capital improvement project subject to section 61.1040.

A standard in section 61.1040 that incorporates by reference a key statutory provision or administrative rule is established as a compliance requirement for a district seeking to procure, obtain a competitive bid, or administer a contract for construction services, construction-related services, design professional services, or any other professional service required for a capital improvement project. The requirements establish a method by which a district shall demonstrate compliance with the requirements in section 61.1040(e) and with the construction quality standards and construction code requirements in section 61.1040(j). Any express reference to, or omission of, an applicable statutory provision in section 61.1040(e) may not be construed to diminish, alter, or abate a

provision of law applicable to a district or to a district capital improvement project subject to section 61.1040.

19 TAC 61.1040(e)(1)

District Requirements and Responsibilities

In addition to the provisions below, district requirements and responsibilities are set out in section 61.1040(e)(2).

Procurement Transparency

In accordance with Education Code 46.003(g), the board and voters of a district shall determine district needs concerning construction, acquisition, renovation, or improvement to instructional facilities. District funding is entrusted to the district by the taxpayers, and a district must ensure procurement processes and procedures are transparent and provide the best value to the district by complying with applicable laws governing procurement of professional design services and construction services [see CV] and with the standards established in section 61.1040(e) to promote construction quality. *19 TAC 61.1040(e)(2)(A)*

Superintendent's Duties

In accordance with Education Code 11.201, a superintendent shall oversee and ensure compliance with the standards for school facilities established in section 61.1040 and shall ensure board consideration for any action specified as being required to be made by the board, whether by statute, board rule, or other applicable requirement. *19 TAC 61.1040(e)(2)(B)*

Requirements for Other Services

Requirements for construction services, design professional services, and third-party consultants are set out in section 61.1040(e)(3)-(5).

Contract Compliance and Quality Control

A district shall ensure that services sought by or provided to the district for a school facility capital improvement project, including, but not limited to, professional design services, construction services, construction administration services, third-party inspection services, third-party testing services, or third-party code compliance services, are provided through a project-specific written agreement that meets the requirements of section 61.1040(e)(6). *19 TAC 61.1040(e)(6)*

Certification of Compliance with Standards

A district, design professional, contractor, and prime subcontractors, if applicable, shall certify compliance with all applicable standards required in section 61.1040(d), (g)-(k) as required by section 61.1040(f). *19 TAC 61.1040(f)(1)*

Instructional Facility Space Standards

Standards for space for instructional facilities are set out in section 61.1040(g).

Board Approval of Compliance

A board shall approve compliance with the quantitative method of compliance for instructional facility space requirements under section 61.1040(h) or the qualitative method of compliance for instruc-

tional facility space requirements under section 61.1040(i) before the commencement of design development for a capital improvement project for an instructional facility. *19 TAC 61.1040(h), (i)*

A district may use the qualitative method of compliance for a capital improvement project only if the board has prior documented approval of one or more instructional or operational practices for the proposed project that distributes or manages student capacity in an innovative or nontraditional manner. Prior to approving the qualitative method of compliance, all instructional and operational practices applicable to the proposed project must have been documented and approved by the board to demonstrate compliance with the requirements in section 61.1040(i). *19 TAC 61.1040(i)*

Construction Quality Standards

A capital improvement project for a school facility must reasonably comply with the following construction code requirements.

Construction Code Requirements

Projects located outside of a municipal jurisdiction in the unincorporated area of a county must reasonably comply with the requirements of section 61.1040(j)(1)(A).

Projects located inside of a municipal jurisdiction must reasonably comply with the requirements of section 61.1040(j)(1)(B).

19 TAC 61.1040(j)(1)

Third-Party Code Compliance Requirement

District responsibilities and other requirements related to third-party code compliance are set out in section 61.1040(j)(2).

Safety and Security Standards

A capital improvement project of a district must include campus-wide implementation of the provisions of section 61.1040(k)(1) related to communications infrastructure and access control. *19 TAC 61.1040(k)(1)*

Requirements for All Instructional Facilities

A district shall develop a document that designates each exterior door of each instructional facility campus-wide as either primary, secondary, or nondesignated entrances and shall ensure that the documented designation of all exterior doors becomes part of the long-range facility plan prior to commencement of construction of a capital improvement project. *19 TAC 61.1040(k)(1)(B)*

Additional Standards Based on Budget

A district shall approve a project construction budget for a capital improvement project at completion of the design development phase of the project and prior to commencement of the construction documents phase. The project construction budget approved by the district shall determine how many of the additional safety and security standards established in section 61.1040(k)(3) are required for the project. A district shall designate in writing which of the additional safety and security standards in section

61.1040(k)(3) have been approved by the board for a capital improvement project and shall provide to the prime design professional and each design professional of record written documentation of the approved safety and security standards for the proposed facility prior to commencement of the construction documents phase of a capital improvement project. The following standards shall apply to a capital improvement project for an instructional facility until all instructional facilities campus-wide fully comply with all of the additional safety and security standards specified in section 61.1040(k).

1. If a project construction budget is $1 million to $5 million, the facility is required to comply with at least one additional safety and security standard specified in section 61.1040(k)(3).
2. If a project construction budget is $5 million to $10 million, the facility is required to comply with at least two additional safety and security standards specified in section 61.1040(k)(3).
3. If a project construction budget is over $10 million, the facility is required to comply with all of the additional safety and security standards specified in section 61.1040(k)(3).
4. For a capital improvement project that includes new construction, the new construction of an instructional facility is required to comply with all three of the additional safety and security standards specified in section 61.1040(k)(3).

19 TAC 61.1040(k)(2)

Exceptions

A district may opt out of the requirements specified in section 61.1040(k)(2) if:

1. The facility is scheduled to, according to the long-range facilities plan, cease operations as an instructional facility within three years of the project; and
2. The five-year long-range facility plan clearly states that, prior to the end date of the plan, the facility will be compliant with at least two additional safety and security standards if ceasing operation does not occur or operation resumes. The long-range facility plan must specify which two additional safety and security standards will be implemented.

19 TAC 61.1040(k)(4)

Public Disclosure

A board shall ensure information or documents collected, developed, or produced by the district as part of a capital improvement project are reviewed to ensure that any project-specific safety and security information is adjusted for disclosure if necessary to ac-

commodate the requirement for a district to use protections provided in Education Code 37.108, which directs the district to protect sensitive information, while also providing general information to the public indicating district compliance commitments made in accordance with section 61.1040(k). *19 TAC 61.1040(k)(5)* [See CKC]

State Standards for Construction Before November 1, 2021

The requirements for school facility standards set out in 19 Administrative Code 61.1036 ("section 61.1036") shall apply to projects for new construction or major space renovations if:

1. A board adopts a fiscal year maintenance and operations budget where a capital improvement project title and a design or design and construction budget are delineated;
2. A board calls a bond election where one or more capital improvement project titles as well as design or design and construction budgets are delineated; or
3. A new contract or amendment to an existing contract for architectural services for new construction or a major renovation for a school facility project has been agreed to, and signed and dated by both parties to the agreement after January 1, 2004, and before November 1, 2021.

19 TAC 61.1036(b)

Definitions and Procedures

The words, terms, and procedures used in section 61.1036 shall have the meanings set out in section 61.1036(a) unless the context clearly indicates otherwise.

Certification of Design and Construction

In section 61.1036, "certify" indicates that the architect or engineer has reviewed the standards contained in 19 Administrative Code Chapter 61 and used the best professional judgment and reasonable care consistent with the practice of architecture or engineering in the state of Texas in executing the construction documents. The architect or engineer also certifies that these documents conform to the provisions of section 61.1036, except as indicated on the certification.

The district shall notify and obligate the architect or engineer to provide the required certification. The architect's or engineer's signature and seal on the construction documents shall certify compliance. To ensure that facilities have been designed and constructed according to the provisions of section 61.1036, each involved party shall execute responsibilities as set forth in section 61.1036(c)(3).

19 TAC 61.1036(c)

Construction Quality *Districts with Building Codes*	A district located in an area that has adopted local construction codes shall comply with section 61.1036(f)(1).
Districts without Building Codes	A district located in an area that has not adopted local building codes shall comply with section 61.1036(f)(2).
International Energy Conservation Code	The International Energy Conservation Code as it existed on May 1, 2015, is adopted as the energy code for use in this state for all commercial construction. *Health and Safety Code 388.003(b); 34 TAC 19.53(b)* Because a public school building is not a residential building, it falls within the scope of "commercial" construction for purposes of the International Energy Conservation Code and likely for purposes of Health and Safety Code Chapter 388. *Atty. Gen. Op. KP-148 (2017)*
Portable, Modular Buildings	Any portable, modular building capable of being relocated that is purchased or leased for use as a school facility by a district, whether that building is manufactured off-site or constructed on-site, must comply with all provisions of section 61.1036. *19 TAC 61.1036(a)(11), (f)(3)*
Fire Escapes	School buildings of at least two stories shall be equipped with fire escapes as required by law. *Health and Safety Code 791.002, .035, .036*
Accessibility	No qualified individual with a disability shall, because a district's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in or be denied the benefits of the services, programs, and activities of a district or be subject to discrimination. *42 U.S.C. 12132; 28 C.F.R. 35.149; 29 U.S.C. 794; 34 C.F.R. 104.21* A district shall operate each program, service, or activity so that when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities. A district is not required to make each existing facility or every part of a facility accessible to and usable by individuals with disabilities. A district may comply with these requirements by: 1. Redesigning or acquisitioning equipment. 2. Reassigning classes or other services to accessible buildings. 3. Assigning aides to qualified individuals with disabilities. 4. Home visits. 5. Delivery of services at alternate accessible sites.

6. Alteration of existing facilities.

7. Constructing new facilities that comply with 34 C.F.R. 104.23 and 28 C.F.R. 35.151.

8. Any other methods that result in making services, programs, and activities accessible to individuals with disabilities.

A district is not required to make structural changes in existing facilities when other methods will achieve compliance with Title II of the Americans with Disabilities Act and its implementing regulation. In choosing among available alternatives for meeting these requirements, a district shall give priority to methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

28 C.F.R. 35.150; 34 C.F.R. 104.22

Review of Plans

All plans and specifications for construction or for the substantial renovation or modification of a building or facility must be submitted to the Department of Licensing and Regulation for review and approval if the estimated construction cost is at least $50,000. The architect, interior designer, landscape architect, or engineer who has overall responsibility for the design of a constructed or reconstructed building or facility shall submit the plans and specifications required. A district as owner of the building or facility may not allow an application to be filed with a local governmental entity for a building construction permit related to the plans and specifications or allow construction, renovation, or modification of the building or facility to begin before the date the plans and specifications are submitted to the Department. On application to a local governmental entity for a building construction permit, the district as owner shall submit to the entity proof that the plans and specifications have been submitted to the Department under Government Code Chapter 469 (Elimination of Architectural Barriers).

A district, as owner of a building or facility described above is responsible for having the building or facility inspected for compliance with the standards and specifications adopted by the Commission of Licensing and Regulation under Government Code Chapter 469 not later than the first anniversary of the date that the construction or substantial renovation or modification of the building or facility is completed. The inspection must be performed by the Department, an entity with which the Commission contracts, or a person who holds a certificate of registration under Government Code Chapter 469, Subchapter E.

Gov't Code 469.101, .102(a), (c), .105

Notice

A district shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by persons with disabilities. *34 C.F.R. 104.22(f)*

Relocatable Educational Facility

In this section, "relocatable educational facility" means a portable, modular building capable of being relocated, regardless of whether the facility is built at the installation site, that is used primarily as an educational facility for teaching the curriculum required under Education Code 28.002.

A relocatable educational facility that is purchased or leased on or after January 1, 2010, must comply with all provisions applicable to industrialized buildings under Occupations Code Chapter 1202.

Occupations Code 1202.004

Outdoor Lighting

An outdoor lighting fixture may be installed, replaced, maintained, or operated using state funds only if it meets standards for state-funded outdoor lighting fixtures in Health and Safety Code Chapter 425.

Exceptions

The standards for state-funded outdoor lighting fixtures do not apply if:

1. A federal law, rule, or regulation preempts state law;
2. The fixture is used on a temporary basis:
3. Because emergency personnel temporarily require additional illumination for emergency procedures;
4. For nighttime work;
5. Special events or circumstances require additional illumination;
6. The fixture is used solely to enhance the aesthetic beauty of an object; or
7. A compelling safety interest cannot be addressed by another method.

Special events or situations that may require additional illumination include sporting events and illumination of monuments, historic structures, or flags. Illumination for special events or situations must be installed to shield the outdoor lighting fixtures from direct view and to minimize upward lighting and light pollution.

Health and Safety Code 425.002

Safety and Security Requirements for Facilities

A district must ensure that each district facility complies with each school facilities standard, including performance standards and operational requirements, related to safety and security adopted under Education Code 7.061 (Facilities Standards) or provided by other law or agency rule.

Facilities Standards Compliance

A district must develop and maintain documentation of the district's implementation of and compliance with school safety and security facilities standards for each district facility, including a good cause exception claimed under Education Code 37.353 [see Good Cause Exception, below], and shall, if requested by the Texas Education Agency (TEA), provide that documentation in the manner prescribed by TEA.

Education Code 37.351

Good Cause Exception

If a district is unable to bring a district facility into compliance with a school facilities standard related to safety and security, the district may claim a good cause exception from the requirement to comply with that standard, including for a reason related to:

1. The age, physical design, or location of the noncompliant facility;
2. The projected remaining use or functional life of the noncompliant facility;
3. Availability of funding; or
4. Supply chain obstacles.

A district that claims a good cause exception must develop an alternative performance standard with which the district is able to comply.

Education Code 37.353

Confidentiality

Any document or information collected, identified, developed, or produced relating to a safety or security requirement is confidential under Government Code 418.177 and 418.181 (Texas Disaster Act) and not subject to disclosure under Government Code Chapter 552 (Public Information Act). *Education Code 37.355.*

Commissioner's School Safety Rules for Instructional Facilities

The following words and terms when used in 19 Administrative Code 61.1031 shall have the following meanings:

Definitions

"Actively monitored" means supervised by an adult who can visibly review visitors prior to entrance, who can take immediate action to close and/or lock the door, and whose duties allow for sufficient attention to monitoring.

"Exterior secured area" means an area fully enclosed by a fence and/or wall that:

1. If enclosed by a fence or wall, utilizes a fence or wall at least 6 feet high with design features that prevent it from being easily scalable, such as stone, wrought iron, chain link with slats or wind screen, or chain link topped with an anti-scaling device, or utilizes a fence or wall at least 8 feet high;

2. Is well maintained; and

3. If gated, features locked gates with emergency egress hardware and has features to prevent opening from the exterior without a key or combination mechanism.

"Instructional facility" has the meaning assigned in Education Code 46.001, and includes any real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching curriculum under Education Code 28.002. An instructional facility does not include real property, improvements to real property, or necessary fixtures of an improvement to real property that are part of a federal, state, or private correctional facility or facility of an institution of higher education, medical provider, or other provider of professional or social services over which a school system has no control.

"Modular, portable building" means:

1. An industrialized building as defined by Occupations Code 1202.002 and 1202.003;

2. Any relocatable educational facility as defined by Occupations Code 1202.004, regardless of the location of construction of the facility; or

3. Any other manufactured or site-built building that is capable of being relocated and is used as a school facility.

"Primary entrance" means:

1. The main entrance to an instructional facility that is closest to or directly connected to the reception area; or

2. Any exterior door the school system intends to allow visitors to use to enter the facility during school hours either through policy or practice.

"School system" means a public independent school district or public open-enrollment charter school.

"Secure vestibule" means a secured space with two or more sets of doors and an office sign-in area where all but the exterior doors shall:

1. Remain closed, latched, and locked;
2. Comply with 19 Administrative Code 61.1031(c)(3)(B) (exterior door construction); and
3. Only open once the visitor has been visually verified.

19 TAC 61.1031(a)

Safety and Security Standards

The provisions of 19 Administrative Code 61.1031 apply to all school instructional facilities owned, operated, or leased by a school system, regardless of the date of construction or date of lease. The provisions ensure that all school system instructional facilities have access points that are secured by design, maintained to operate as intended, and appropriately monitored. *19 TAC 61.1031(b)*

A school system shall implement the following safety and security standards compliance requirements to all school instructional facilities owned, operated, or leased by the school system.

Doors, Entrances, and Windows

All instructional facilities campus-wide, including modular, portable buildings, must include the addition of graphically represented alpha-numerical characters on both the interior and exterior of each exterior door location. The characters may be installed on the door, or on at least one door at locations where more than one door leads from the exterior to the same room inside the facility, or on the wall immediately adjacent to or above the door location. Characters shall comply with the International Fire Code Section 505. The primary entrance of an instructional facility shall always be the first in the entire sequence and is the only door location that does not require numbering. The numbering sequence shall be clockwise and may be sequenced for the entire campus or for each facility individually. The door-numbering process must comply with any and all accessibility requirements related to signage.

Unless a secure vestibule is present, a primary entrance shall:

1. Meet all standards for exterior doors;
2. Include a means to allow an individual located within the building to visually identify an individual seeking to enter the primary entrance when the entrance is closed and locked, including, but not limited to, windows, camera systems, and/or intercoms;

3. Feature a physical barrier that prevents unassisted access to the facility by a visitor; and

4. Feature a location for a visitor check-in and check-out process.

All exterior doors shall:

1. Be, by default, set to a closed, latched, and locked status, except that:

    a. A door may be unlocked if it is actively monitored or within an exterior secured area; and

    b. For the purposes of ventilation, a school system may designate in writing as part of its multihazard emergency operations plan specific exterior doors that are allowed to remain open for specified periods of time if explicitly authorized by the school safety and security committee when a quorum of members are present, and only if it is actively monitored or within an exterior secured area;

2. Be constructed, both for the door and door frame and their components, of materials and in a manner that make them resistant to entry by intruders. Unless inside an exterior secured area, doors constructed of glass or containing glass shall be constructed or modified such that the glass cannot be easily broken and allow an intruder to open or otherwise enter through the door (for example, using forced entry-resistant film);

3. Include:

    a. A mechanism that fully closes and engages locking hardware automatically after entry or egress without manual intervention, regardless of air pressure within or outside of the facility; and

    b. A mechanism that allows the door to be opened from the inside when locked to allow for emergency egress while remaining locked; and

4. If keyed for re-entry, be capable of being unlocked with a single (or a small set of) master key(s), whether physical key, punch code, or key-fob or similar electronic key device.

Except when inside an exterior secured area, classrooms with exterior entry doors shall include a means to allow an individual located in the classroom to visually identify an individual seeking to enter the classroom when the door is closed and locked, including, but not limited to, windows, camera systems, and/or intercoms.

Except when inside an exterior secured area, all windows that are adjacent to an exterior door and that are of a size and position that, if broken, would easily permit an individual to reach in and open the door from the inside shall be constructed or modified such that the glass cannot be easily broken.

Except when inside an exterior secured area, all ground-level windows near exterior doors that are of a size and position that permits entry from the exterior if broken shall be constructed or modified such that the glass cannot be easily broken and allow an intruder to enter through the window frame (for example, using forced entry-resistant film).

If designed to be opened, all ground-level windows shall have functional locking mechanisms that allow for the windows to be locked from the inside and, if large enough for an individual to enter when opened or if adjacent to a door, be closed and locked when staff are not present.

Roof access doors should default to a locked, latched, and closed position when not actively in use and be lockable from the interior.

All facilities must include one or more distinctive, exterior secure master key box(es) designed to permit emergency access to both law enforcement agencies and emergency responder agencies from the exterior (for example, a Knox box) at a location designated by the local authorities with applicable jurisdiction or provide all local law enforcement electronic or physical master key access to the building(s).

Communications Infrastructure

A communications infrastructure shall be implemented that must:

1. Ensure equipment is in place such that law enforcement and emergency responder two-way radios can function within most portions of the building(s); and
2. Include a panic alert button, duress, or equivalent alarm system, via standalone hardware, software, or integrated into other telecommunications devices or online applications, that includes the following functionality:
    a. An alert must be capable of being triggered by campus staff, including temporary or substitute staff, from an integrated or enabled device.
    b. An alert must be triggered automatically in the event a district employee makes a 9-1-1 call using the hardware or integrated telecommunications devices from any location within the school system.

c. With any alert generated, the location of where the alert originated shall be included.

d. The alert must notify a set of designated school administrators as needed to provide confirmation of response, and, if confirmed, notice must be issued to the 9-1-1 center of an emergency situation requiring a law enforcement and/or emergency response and must include the location of where the alert originated. A notice can simultaneously be issued to all school staff of the need to follow appropriate emergency procedures.

e. For any exterior doors that feature electronic locking mechanisms that allow for remote locking, the alert system will trigger those doors to automatically lock.

Compliance with 9-1-1 Rules and Regulations

In implementing these requirements, school systems shall comply with state and federal Kari's Laws and federal RAY BAUM's Act and corresponding rules and regulations pertaining to 9-1-1 service for school telephone systems, including a multi-line telephone system.

19 TAC 61.1031(c)

Operating Requirements

A school system shall implement the following.

1. Access control. The board shall adopt a policy requiring the following continued auditing of building access:

   a. Conduct at least weekly inspections during school hours of all exterior doors of all instructional facilities to certify that all doors are, by default, set to a closed, latched, and locked status and cannot be opened from the outside without a key as required above;

   b. Report the findings of weekly inspections to the school system's safety and security committee and ensure the results are kept for review as part of the safety and security audit;

   c. Report the findings of weekly inspections to the principal or leader of the instructional facility to ensure awareness of any deficiencies identified and who must take action to reduce the likelihood of similar deficiencies in the future; and

   d. Include a provision in the school system's applicable policy stating that nothing in a school system's access control procedures will be interpreted as discouraging parents, once properly verified as authorized campus

visitors, from visiting campuses they are authorized to visit.

2. Exterior and interior door numbering site plan.

   a. A school system must develop and maintain an accurate site layout and exterior and interior door designation document for each instructional facility school system-wide that identifies all exterior and interior doors in the instructional facility and depicts all exterior doors on a floor plan with an alpha-numeric designation, in accordance with the door numbering specifications established above.

   b. Copies of exterior and interior door numbering site plans shall be readily available in each campus main office.

   c. Electronic copies of exterior and interior door numbering site plans shall be supplied to the local 9-1-1 administrative entity so that the site plans can be made available to emergency responders by 9-1-1 dispatchers.

   d. The site layout and exterior and interior door designation document should be oriented in a manner that depicts true north.

3. Maintenance.

   a. A school system shall perform at least twice-yearly maintenance checks to ensure the facility components function as required. At a minimum, maintenance checks shall ensure the following:

      (1) Instructional facility exterior doors function properly, including meeting the requirements above;

      (2) The locking mechanism for any ground-level windows that can be opened function properly;

      (3) Any perimeter barriers and related gates function properly;

      (4) All panic alert or similar emergency notification systems in classrooms and campus central offices function properly, which includes at least verification from multiple campus staff and classroom locations that a notification can be issued and received by the appropriately designated personnel, that the alert is successfully broadcast to all campus staff and to appropriate law enforcement and emergency responders, and that a potential threat observed on

video triggers an alert from video surveillance monitoring systems;

(5) All school telephone systems and communications infrastructure provide accurate location information when a 9-1-1 call is made in accordance with state and federal laws and rules and when an alert is triggered;

(6) All exterior master key boxes function properly and the keys they contain function properly;

(7) Law enforcement and emergency responder two-way radios operate effectively within each instructional facility; and

(8) Two-way radios used by school system peace officers, school resource officers, or school marshals properly communicate with local law enforcement and emergency response services.

b. A school system shall ensure procedures are in place to require that staff who become aware of a facility component functionality deficiency that would be identified during the twice-yearly maintenance review immediately report the deficiency to the school system's administration, regardless of the status of the twice-yearly maintenance review.

c. A school system shall promptly remedy any deficiencies discovered as a consequence of maintenance checks.

19 TAC 61.1031(d)

Compliance With Standards for Construction

In implementing the requirements of 19 Administrative Code 61.1031, school systems shall comply with the provisions of 19 Administrative Code 61.1040(j). [See CS]

To the extent that any provisions of 19 Administrative Code 61.1031 conflict with rules adopted in Chapter 61, Subchapter CC, (relating to Commissioner's Rules Concerning School Facilities), including terms defined or standards established, the provisions of 19 Administrative Code 61.1031 prevail.

In implementing these requirements, school systems shall comply with the standards adopted under Government Code 469.052 (Elimination of Architectural Barriers).

19 TAC 61.1031(e), (f), (g)

Records Control Schedule

In implementing these requirements, school systems must adopt a three-year records control schedule that complies with the minimum requirements established by the Texas State Library and Archives Commission schedule, record series item number 5.4.017, as referenced in Government Code 441.169 and Local Government Code 203.041. *19 TAC 61.1031 (h)* [See CPC]

Certification

All requirements above shall be implemented during the 2022- 23 school year and thereafter. Annually, a school system shall certify compliance with those requirements as part of ongoing security audits under Education Code 37.108(b); maintain the certification locally; and report as required by the Texas School Safety Center. Any and all noncompliance shall be reported to the school system's safety and security committee, the school system's board, and the Texas School Safety Center, as required by Education Code 37.108(c). [See CKA]

Provisional Certification

A school system may provisionally certify compliance of a facility component that is not in compliance if:

1. The school system has taken the necessary steps to initiate an upgrade of the facility component to ensure compliance; and
2. For the 2023-24 school year, the contractor or supplier has been procured and has provided a time frame when the upgrade will be completed.

TEA may modify rule requirements or grant provisional certification for individual site needs as determined by TEA.

Rules related to provisional certification expire August 31, 2024.

19 TAC 61.1031(i), (j)

Silent Panic Alert Technology

Beginning with the 2025-26 school year, a district shall provide each classroom in the district with silent panic alert technology that allows for immediate contact with district emergency services and emergency services agencies, law enforcement agencies, health departments, and fire departments.

Silent panic alert technology provided by a district does not satisfy the requirement under Education Code 37.108(a)(2) [see CKC] for the district to ensure employees have classroom access to a telephone or another electronic communication device.

To comply, a district may use funds provided to the district through the school safety allotment or other available funds and may use the district's customary procurement process.

Education Code 37.117

Security Criteria

A district that constructs a new instructional facility or conducts a major renovation of an existing instructional facility using Instructional Facilities Allotment funds shall consider, in the design of the instructional facility, appropriate security criteria. *Education Code 46.0081*

Playgrounds

Public funds may not be used to purchase or install:

1. Playground equipment that:
    a. Does not comply with each applicable provision of ASTM Standard F1487-07ae1, “Consumer Safety Performance Specification for Playground Equipment for Public Use,” published by ASTM International; or
    b. Has a horizontal bare metal platform or a bare metal step or slide, unless the bare metal is shielded from direct sun by a covering provided with the equipment or by a shaded area in the location where the equipment is installed;
2. Surfacing for the area under and around playground equipment if the surfacing will not comply with each applicable provision of ASTM Standard F2223-04e1, “Standard Guide for ASTM Standards on Playground Surfacing,” published by ASTM International.

Exception

Public funds may be used to maintain playground equipment or surfacing that was purchased before September 1, 2009, even if the equipment or surfacing does not comply with the applicable specifications described above.

Health and Safety Code 756.061

Building Access Control

Audits of building access control shall include weekly inspections of instructional facilities during school hours to certify all exterior doors are, by default, set to closed, latched, and locked status and cannot be opened from the outside without a key.

The Superintendent shall ensure that the findings of the weekly inspections are:

1. Reported to the District safety and security committee; and
2. Reported to the campus principal or lead administrator of the instructional facility to ensure awareness of any deficiencies identified.

The campus principal or lead administrator shall assign appropriate staff to take action to reduce the likelihood of similar deficiencies in the future.

The results of the weekly reports shall be kept for review as part of the required safety and security audit.

The District's building access control procedures shall not be interpreted as discouraging parents or guardians who have been properly verified as authorized visitors from visiting their student's campus. [See GKC]

Natural Gas Piping Pressure Testing

A district shall perform biennial pressure tests on the natural gas piping system in a school facility before the beginning of the school year. A district with more than one facility may perform the testing on a two-year cycle under which the district pressure tests the natural gas piping system in approximately one-half of the facilities each year. If a district operates the facilities on a year-round calendar, the pressure test in each of those facilities must be conducted and reported not later than July 1 of the year in which the pressure test is performed.

A natural gas piping pressure test performed under a municipal code in compliance with Railroad Commission rules shall satisfy the pressure testing requirements.

Utilities Code 121.502; 16 TAC 8.230(c)(1), (4)

Requirements of Test

A district shall perform the pressure test to determine whether the natural gas piping downstream of a district facility's meter holds at least normal operating pressure over a specified period determined by the Railroad Commission. During the pressure test, each system supply inlet and outlet in the facility must be closed. The pressure test shall be performed by a person authorized under Railroad Commission rules. At a district's request, the Railroad Commission shall assist the district in developing a procedure for conducting the test. *Utilities Code 121.503; 16 TAC 8.230(c)(2), (3)*

Notice

A district shall provide written notice to the district's natural gas supplier specifying the date and result of each pressure test or other inspection. The supplier shall develop procedures for receiving such written notice from the district. *Utilities Code 121.504(a); 16 TAC 8.230(b)(1)*

Termination of Service

A supplier shall terminate service to a district facility if:

1. The supplier receives official notification from the firm or individual conducting the test of a hazardous natural gas leakage in the facility piping system; or
2. A test or other inspection is not performed as required.

Utilities Code 121.505(a)

A supplier shall develop procedures for terminating service to a district if the supplier:

1. Receives notification of a hazardous natural gas leak in the school facility piping system; or

2. Does not receive written notification from the district specifying the completion date and results of the testing.

16 TAC 8.230(b)(2)

Reporting Leaks

An identified natural gas leakage in a district facility must be reported to the board. The firm or individual conducting the natural gas piping pressure test shall immediately report any hazardous natural gas leak in a district facility to the board and the natural gas supplier. *Utilities Code 121.506; 16 TAC 8.230(c)(6)*

LP-Gas Systems Testing

At least biennially, a district shall perform leakage tests on the LP-gas piping system in each district facility before the beginning of the school year. The district may perform the leakage tests on a two-year cycle under which the tests are performed for the LP-gas piping systems of approximately half of the facilities each year. If a district operates one or more district facilities on a year-round calendar, the leakage test in each of those facilities must be conducted and reported not later than July 1 of the year in which the test is performed.

A test performed under a municipal code satisfies the testing requirements.

Natural Resources Code 113.352; 16 TAC 9.41

Requirements of Test

A district shall perform the leakage test to determine whether the LP-gas piping system holds at least the amount of pressure specified by the Railroad Commission. The leakage test must be conducted in accordance with Railroad Commission rules at 16 Administrative Code 9.41. The leakage test shall be conducted by a person authorized under Railroad Commission rules. At a district's request, the Railroad Commission shall assist the district in providing for the certification of a district employee to conduct the test and in developing a procedure for conducting the test. *Natural Resources Code 113.353; 16 TAC 9.41(b)-(d)*

Notice

Before the introduction of any LP-gas into the LP-gas piping system, a district shall provide verification to its supplier that the piping has been tested.

Documentation

A district shall retain documentation specifying the date and the result of each leakage test or other inspection of each LP-gas piping system until at least the fifth anniversary of the date the test or other inspection was performed. The Railroad Commission may review a district's documentation of each leakage test or other inspection conducted by the district.

Natural Resources Code 113.354; 16 TAC 9.41(b)(3)-(4)

Termination of Service

A supplier shall terminate service to a district facility if:

1. The supplier receives official notification from the district or the person conducting the test that there is leakage in a school LP-gas system;
2. The leakage test performed on a school LP-gas system was not performed as required; or
3. The supplier has not received a copy of the required form from the district verifying that the LP-gas system has been tested in accordance with 16 Administrative Code 9.41.

Natural Resources Code 113.355; 16 TAC 9.41(e)

Reporting Leaks

An identified school LP-gas leakage in a school district facility shall be reported to the board. The district shall immediately remove the affected school district facility from LP-gas service until repairs are made and it passes a subsequent school LP-gas system leakage test. If a district employee performs the initial test, then the subsequent test may not be performed by a district employee. *Natural Resources Code 113.356; 16 TAC 9.41(b)(2)*

Definitions

"School district facility" means each building or structure operated by a school district and equipped with a school LP-gas system in which students receive instruction or participate in school sponsored extracurricular activities, excluding maintenance or bus facilities, vehicle fueling facilities, administrative offices, and similar facilities not regularly used by students.

"School LP-gas system" means all piping, fittings, valves, regulators, appliance connectors, equipment, and connections supplying fuel gas from the outlet of the shutoff valve at each LP-gas storage container or upstream of each meter to the shutoff valve(s) on each appliance in a school district facility.

16 TAC 9.41(a)(3)-(4)

Intrastate Pipeline Emergency Response Plan

The Railroad Commission shall require the owner or operator of each intrastate hazardous liquid or carbon dioxide pipeline facility, any part of which is located within 1,000 feet of a public school building containing classrooms, or within 1,000 feet of another public school facility where students congregate, to:

1. On written request from a district, provide in writing the following parts of a pipeline emergency response plan that are relevant to the school:
    a. A description and map of the pipeline facilities that are within 1,000 feet of the school building or facility;

b. A list of any product transported in the segment of the pipeline that is within 1,000 feet of the school facility;

c. The designated emergency number for the pipeline facility operator;

d. Information on the state's excavation one-call system; and

e. Information on how to recognize, report, and respond to a product release; and

2. Mail a copy of the requested items by certified mail, return receipt requested, to the superintendent of the district in which the school building or facility is located.

A pipeline operator or the operator's representative shall appear at a regularly scheduled board meeting to explain the above items if requested by the board or district.

The Railroad Commission may not require the release of parts of an emergency response plan that include security sensitive information, including maps or data. Security sensitive information shall be made available for review by but not provided to the board.

Natural Resources Code 117.012(k)-(m); 16 TAC 8.315

Asbestos Hazard Emergency Response Act

The rules adopted under the Asbestos Hazard Emergency Response Act (AHERA) (15 U.S.C. 2641-2656) require a district to identify asbestos-containing material (ACM) in schools by visually inspecting school buildings for such materials, sampling such materials if they are not assumed to be ACM, and having samples analyzed by appropriate techniques; submit management plans; and implement the plans in a timely fashion. Districts are required to use persons who have been accredited to conduct inspections, reinspections, develop management plans, or perform response actions. The rule includes recordkeeping requirements.

Delegation

Districts may contractually delegate their duties, but they remain responsible for the proper performance of those duties.

40 C.F.R. 763.80(a)

Duties

A district shall:

1. Ensure that the activities of any persons who perform inspections, reinspections, and periodic surveillance, develop and update management plans, and develop and implement response actions, including operations and maintenance, are carried out in accordance with 40 C.F.R. 763.80-.99 and appendices (Subpart E).
2. Ensure that all custodial and maintenance employees are properly trained as required by Subpart E and other applicable federal and/or state regulations (e.g., the Occupational Safety and Health Administration asbestos standard for construction, the Environmental Protection Agency [EPA] worker protection rule, or applicable state regulations).
3. Ensure that workers and building occupants, or their legal guardians, are informed at least once each school year about inspections, response actions, and post-response action activities, including periodic reinspection and surveillance activities that are planned or in progress.
4. Ensure that short-term workers (e.g., telephone repair workers, utility workers, or exterminators) who may come in contact with asbestos in a school are informed of the locations of asbestos-containing building material (ACBM) and suspected ACBM assumed to be ACM.
5. Ensure that warning labels are posted in accordance with 40 C.F.R. 763.95 [see Warning Labels, below].
6. Ensure that management plans are available for inspection, and notification of such availability has been provided as specified in the management plan under 40 C.F.R. 763.93(g).

7. Designate a person to ensure that requirements under 40 C.F.R. 763.84 are properly implemented and ensure that the designated person receives adequate training to perform duties assigned.

8. Consider whether any conflict of interest may arise from the interrelationship among accredited asbestos personnel and whether that should influence the selection of accredited personnel to perform activities under Subpart E.

40 C.F.R. 763.84

Management Plan

Each district shall develop an asbestos management plan for each school, including all buildings that they lease, own, or otherwise use as school buildings, and submit the plan to the Texas Department of State Health Services (TDSHS). Each district shall maintain and update its management plan to keep it current with ongoing operations and maintenance, periodic surveillance, inspection, reinspection, and response action activities. All provisions required to be included in the management plan shall be retained as part of the management plan, as well as any information that has been revised to bring the plan up-to-date. *40 C.F.R. 763.93(a), (d)*

The management plan shall be developed by an accredited management planner and shall include:

1. A list of the name and address of each school building and whether it contains friable ACBM, nonfriable ACBM, and friable and nonfriable suspected ACBM assumed to be ACM.

2. Specific information for each inspection conducted before December 14, 1987.

3. Specific information for each inspection and reinspection conducted under 40 C.F.R. 763.85.

4. The name, address, and telephone number of the person designated under 40 C.F.R. 763.84 to ensure that the duties of the district are carried out, and the course name, and dates and hours of training taken by that person to carry out the duties.

5. The recommendations made to the district regarding response actions, under 40 C.F.R. 763.88(d), the name, signature, state of accreditation of each person making the recommendations, and if applicable, his or her accreditation number.

6. A detailed description of preventive measures and response actions to be taken, including methods to be used, for any fri-

able ACBM, the locations where such measures and action will be taken, reasons for selecting the response action or preventive measure, and a schedule for beginning and completing each preventive measure and response action.

7. With respect to the persons who inspected for ACBM and who will design or carry out response actions, except for operations and maintenance, a statement regarding the person's accreditation.

8. A detailed description in the form of a blueprint, diagram, or in writing of any ACBM or suspected ACBM assumed to be ACM that remains in the school once response actions are undertaken pursuant to 40 C.F.R. 763.90. This description shall be updated as response actions are completed.

9. A plan for reinspection under 40 C.F.R. 763.85, a plan for operations and maintenance activities under 40 C.F.R. 763.91, a plan for periodic surveillance under 40 C.F.R. 763.92, a description of the management planner's recommendation regarding additional cleaning under 40 C.F.R. 763.91(c)(2) as part of an operation's maintenance program, and the district's response to that recommendation.

10. A description of steps taken to inform workers and building occupants, or their legal guardians, about inspections, reinspections, response actions, and post-response action activities, including periodic reinspection and surveillance activities that are planned or in progress.

11. An evaluation of the resources needed to complete response actions successfully and carry out reinspection, operations and maintenance activities, periodic surveillance, and training.

12. With respect to each consultant who contributed to the management plan, the name of the consultant and a statement regarding the person's accreditation.

40 C.F.R. 763.93(e); Occupations Code 1954.101 (License Required for Certain Activities)

Plan Availability

Upon submission of a management plan to TDSHS for review, a district shall keep a copy of the plan in its administrative office. The management plans shall be available, without cost or restriction, for inspection by representatives of EPA and the state, the public, including teachers, other school personnel and their representatives, and parents. The district may charge a reasonable cost to make copies of management plans.

Each school shall maintain in its administrative office a complete, updated copy of the management plan for that school. Management plans shall also be available for inspection, without cost or restriction, to workers before work begins in any area of a school building. The school shall make management plans available for inspection to representatives of EPA and the state, the public, including parents, teachers, and other school personnel and their representatives, within five working days after receiving a request for inspection. The school may charge a reasonable cost to make copies of the management plan.

Notice of Availability

Upon submission of its management plan to TDSHS and at least once each school year, a district shall notify in writing parent, teacher, and employee organizations of the availability of the management plans and shall include in the management plan a description of the steps taken to notify such organizations, and a dated copy of the notification.

40 C.F.R. 763.93(g)

Inspections

Each building leased or acquired to be used as a school building shall be inspected in accordance with 40 C.F.R. 763.85(a)(3) and (4) prior to use as a school building. In the event that emergency use of an uninspected building as a school building is necessitated, such buildings shall be inspected within 30 days after commencement of such use. At least once every three years after a management plan is in effect, each district shall conduct a reinspection of all friable and nonfriable known or assumed ACBM in each school building that they lease, own, or otherwise use as a school building. For each inspection and reinspection, the district shall have an accredited inspector provide a written assessment of all friable known or assumed ACBM in the school building. *40 C.F.R. 763.85, .88*

Response Actions

The district shall select and implement in a timely manner the appropriate response actions in 40 C.F.R. 763.90 consistent with the assessment. The response actions selected shall be sufficient to protect human health and the environment. The district may then select, from the response actions that protect human health and the environment, that action which is the least burdensome method. *40 C.F.R. 763.90(a)*

Periodic Surveillance

At least once every six months after the management plan is in effect, each district shall conduct periodic surveillance in each building that it leases, owns, or otherwise uses as a school building that contains ACBM or is assumed to contain ACBM. *40 C.F.R. 763.92(b)*

Operations and Maintenance Training	The district shall ensure, prior to the implementation of operations and maintenance provisions of the management plan, that all members of the maintenance and custodial staff who may work in a building that contains ACBM receive awareness training of at least two hours, whether or not they are required to work with ACBM. New custodial and maintenance employees shall be trained within 60 days after commencement of employment. Training shall include information specified in 40 C.F.R. 763.92(a)(1)(i)-(v). The district shall ensure that all members of its maintenance and custodial staff who conduct any activities that will result in the disturbance of ACBM shall receive training described above and 14 hours of additional training that includes information specified in 40 C.F.R. 763.92(a)(2)(i)-(iv). *40 C.F.R. 763.92(a)*
Warning Labels	The district shall attach a warning label immediately adjacent to any friable and nonfriable ACBM and suspected ACBM assumed to be ACM located in routine maintenance areas at each school building. This shall include friable ACBM that was responded to by a means other than removal and ACBM for which no response action was carried out. All labels shall be prominently displayed in readily visible locations and shall remain posted until the ACBM that is labeled is removed. The warning label shall read, in print which is readily visible because of large size or bright color, as follows: CAUTION: ASBESTOS. HAZARDOUS. DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT. *40 C.F.R. 763.95*
Texas Asbestos Health Protection Act	Texas Asbestos Health Protection rules are found in 25 Administrative Code Chapter 296. The executive commissioner of the Health and Human Services Commission adopts by reference and enforces, except as otherwise provided in this paragraph, 40 C.F.R. Part 763, Subpart E, (relating to Asbestos-Containing Materials in Schools) adopted under AHERA. The executive commissioner does not adopt from Appendix C (relating to Asbestos Model Accreditation Plan), the EPA's recommended project monitor accreditation category in its Asbestos Model Accreditation Plan. *25 TAC 296.2* For purposes of enforcing the federal regulations adopted to implement AHERA, 25 Administrative Code Chapter 296 applies to districts. *25 TAC 296.1(b)(4), .21(51)* A district must ensure compliance with AHERA for all schools under its administrative control. A TDSHS representative may enter any regulated school building to inspect and investigate conditions to determine compliance in accordance with Occupations Code 1954.060, Texas Health and Safety Code 12.018, and 25 Administrative Code 296.271(c) (relating to Inspections and Investigations).

TDSHS may take enforcement action as described in 25 Administrative Code Chapter 296, Subchapter Q (relating to Compliance) for violations of AHERA. *25 TAC 296.4*

Asbestos- Related Activity

An “asbestos-related activity” means the removal, encapsulation, or enclosure of asbestos; the performance of an asbestos survey; the development of an asbestos management plan or response action; the collection or analysis of an asbestos sample; or the performance of another activity for which a license is required under Occupations Code Chapter 1954 (the Texas Asbestos Health Protection Act). *Occupations Code 1954.002, .101 (License Required for Certain Activities)*

The public building owner or the owner’s delegated agent must engage persons licensed as required in 25 Administrative Code Chapter 296 to perform any asbestos-related activity. *25 TAC 296.21(74), .211(a)*

Note: For public building owner responsibilities for asbestos management, see 25 Administrative Code 296.191

Notice of Certain Activities

A person engaged in removing asbestos from or encapsulating or enclosing asbestos in a public building shall notify TDSHS in writing at least 10 days before the date the person begins the removal, encapsulation, or enclosure project according to applicable laws. A person may give the required notice orally if the removal, encapsulation, or enclosure project is of an emergency nature. *Occupations Code 1954.252*

TDSHS must be notified of any demolition of a public building whether or not asbestos has been identified. TDSHS must be notified of any asbestos abatement within a public building. Notification must be submitted as required in 25 Administrative Code 296.151.

Responsibility

It is the responsibility of the public building owner and delegated agent (such as a licensed asbestos abatement contractor, asbestos consultant, or demolition contractor) to submit a notification to TDSHS for each project. When the task to notify is delegated, the building owner’s delegation and the name of the delegated agent must be specified on the notification form. The building owner and the delegated agent are responsible for the accuracy and timeliness of the notification and one or both may be found in violation for failing to accurately and timely notify TDSHS of a project.

25 TAC 296.251(a)(1), (b)(1)

Records

Recordkeeping requirements are set out in 40 C.F.R. 763.94.

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For additional legal requirements applicable to purchases with federal funds, see CBB.

For information on procuring goods and services under Education Code Chapter 44, see CH.

For required vendor disclosures and contract provisions, including prohibitions, see CHE.

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

For legal requirements related to energy savings performance contracts, see CL.

For facility standards, see CS.

Definition

"Public work contract" means a contract for constructing, altering, or repairing a public building or carrying out or completing any public work. *Gov't Code 2253.001(4)*

Board Authority

A district may adopt rules as necessary to implement Government Code Chapter 2269. *Gov't Code 2269.051; 19 TAC 61.1040(e)(2)(H)*

Delegation of Authority

The board may delegate its authority under Government Code Chapter 2269 regarding an action authorized or required by Chapter 2269 to a designated representative, committee, or other person. *Gov't Code 2269.053(a)*

The district shall provide notice of the delegation, the limits of the delegation, and the name or title of each designated person by rule or in the request for bids, proposals, or qualifications or in an addendum to the request. *Gov't Code 2269.053(b); Education Code 44.0312(a)*

If the district fails to provide that notice, a ranking, selection, or evaluation of bids, proposals, or qualifications for construction services other than by the board in an open public meeting is advisory only. *Education Code 44.0312(a); 19 TAC 61.1040(e)(2)(E)*

A superintendent shall ensure that a requirement to specify the level of delegation of authority is included in the bid specifications when procuring construction services to select a contractor, in accordance with Education Code 44.0312. *19 TAC 61.1040(e)(2)(F)*

[For information regarding delegation in the event of a catastrophe, emergency, or natural disaster, see CH.]

Contracts Valued at or Above $50,000

Except as provided by Education Code Chapter 44, Subchapter B, all district contracts for the purchase of goods and services valued at $50,000 or more in the aggregate for each 12-month period shall be made by the method, of the following methods, that provides the best value for a district [see also CH]:

1. An interlocal contract. *Education Code 44.031(a)(4)* [See CH]
2. A method provided by Government Code Chapter 2269 for construction services. *Education Code 44.031(a)(5)*
    a. Competitive bidding. *Gov't Code 2269 Subch. C* [See CVA]
    b. Competitive sealed proposals. *Gov't Code 2269 Subch. D* [See CVB]
    c. Construction manager-agent method. *Gov't Code 2269 Subch. E* [See CVC]
    d. Construction manager-at-risk method. *Gov't Code 2269 Subch. F* [See CVD]
    e. Design-build method. *Gov't Code 2269 Subch. G* [See CVE]
    f. Job order contracting. *Gov't Code 2269 Subch. I* [See CVF]
3. The reverse auction procedure as defined by Government Code 2155.062(d). *Education Code 44.031(a)(6)* [See CH]

Education Code 44.031(a); Gov't Code Ch. 2269

Exceptions

Emergency Damage or Destruction

For information on procurement options when school equipment, a facility, or personal property is destroyed or severely damaged as a result of an unforeseen catastrophe or emergency, under Education Code 44.031, see CH.

Contracts Requiring a Bond

A reverse auction procedure may not be used to obtain services related to a public work contract for which a bond is required under Government Code 2253.021 [see Payment and Performance Bonds, below]. "Reverse auction procedure" has the meaning assigned by Government Code 2155.062 or a procedure similar to that described by Section 2155.062. *Gov't Code 2253.021(h)*

Notice Publication

A board shall advertise or publish notice of requests for bids, proposals, or qualifications in a manner prescribed by law.

For a contract entered into by a board under a method provided by Government Code 2269, the board shall publish notice of the time and place the bid or proposal or request for qualifications will be received and opened in a manner prescribed by law.

Gov't Code 2269.052(a)-(b)

[See CH for additional notice publication requirements.]

Contract Selection Criteria

In determining the award of a contract under Government Code Chapter 2269, the district shall consider and apply:

1. Any existing laws, including any criteria, related to historically underutilized businesses; and
2. Any existing laws, rules, or applicable municipal charters, including laws applicable to local governments, related to the use of women, minority, small, or disadvantaged businesses.

In determining the award of a contract, the district may consider:

1. The price.
2. The offeror's experience and reputation.
3. The quality of the offeror's goods or services.
4. The impact on the ability of the district to comply with rules relating to historically underutilized businesses.
5. The offeror's safety record.
6. The offeror's proposed personnel.
7. Whether the offeror's financial capability is appropriate to the size and scope of the project.
8. Any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

Gov't Code 2269.055

Experience Modifier *Definitions*

"Contract" means a contract awarded by a district that is:

1. A construction contract, as defined by Business and Commerce Code 272.0001; or
2. A contract for constructing, altering, or repairing a public building or carrying out or completing any public work.

"Contract solicitation" means a request for bids, proposals, qualifications, offers, or other responses from potential contractors under a contract.

"Experience modifier" means a factor expressed as a value that:

1. Is assigned to an employer seeking to purchase a workers' compensation insurance policy in this state;
2. Affects the premium amount for the policy; and
3. Is based on the employer's past loss experience.

Voidable Contract Provisions

An offer to contract or a contract solicitation may not require a specified experience modifier in order to accept the offer or respond to the contract solicitation.

A contract or an agreement collateral to or affecting a contract may not require the contractor to have a specified experience modifier.

A contract solicitation, an offer, a contract, or an agreement collateral to or affecting a contract that violates these requirements is voidable as against public policy.

Gov't Code 2252.909

Using Method Other Than Competitive Bidding

The board that considers a construction contract using a method authorized by Government Code Chapter 2269 other than competitive bidding must, before advertising, determine which method provides the best value for the district.

Determine Best Value

Publish Criteria

The district shall base its selection among offerors on applicable criteria listed for the particular method used. The district shall publish in the request for proposals or qualifications:

1. The criteria that will be used to evaluate the offerors;
2. The applicable weighted value for each criterion; and
3. A detailed methodology for scoring each criterion.

Make Evaluations Public

The district shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded.

Gov't Code 2269.056

Submission

A person who submits a bid, proposal, or qualification to a governmental entity shall seal it before delivery. *Gov't Code 2269.059*

Documents Related to Evaluation and Ranking

An offeror who submits a bid, proposal, or response to a request for qualifications for a construction contract under Government Code Chapter 2269 may, after the contract is awarded, make a request in writing to the district to provide documents related to the evaluation of the offeror's submission.

Not later than the 30th day after the date a request is made, the district shall deliver to the offeror the documents relating to the evaluation of the submission including, if applicable, its ranking of the submission.

Gov't Code 2269.060

Uniform General Conditions for Contracts

After reviewing the uniform general conditions adopted by the Texas Facilities Commission under Government Code 2166.302, a school district may adopt uniform general conditions to be incorporated in all district building construction contracts. *Education Code 44.035*

Right to Work

While engaged in procuring goods or services, awarding a contract, or overseeing procurement or construction for a public work or public improvement under Government Code Chapter 2269, a district:

1. May not consider whether a person 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 an organization.

Gov't Code 2269.054

Collective Bargaining

A district awarding a public work contract funded with state money, including the issuance of debt guaranteed by the state, may not:

1. Prohibit, require, discourage, or encourage a person bidding on the public work contract, including a contractor or subcontractor, from entering into or adhering to an agreement with a collective bargaining organization relating to the project; or
2. Discriminate against a person described by item 1 based on the person's involvement in the agreement, including the person's status or lack of status as a party to the agreement or willingness or refusal to enter into the agreement.

Gov't Code 2269.0541(a)

Out-of-State Bidders

For legal requirements regarding out-of-state bidders, see CH.

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

Unsigned Change Orders

A vendor may elect not to proceed with additional work directed by a district under a public work contract if:

1. The vendor has not received a written, fully executed change order for the district-directed additional work; and
2. The aggregate actual or anticipated value of the additional work under the vendor's contract terms plus any previous district-directed additional work for which the vendor has not received a written, fully executed change order exceeds 10 percent of the vendor's original public work contract amount.

A subcontractor may elect not to proceed with additional work directed by a vendor under a subcontract if:

1. The subcontractor has not received a written, fully executed change order for the district-directed additional work from the vendor; and
2. The aggregate actual or anticipated value of the additional work under the subcontractor's subcontract terms plus any previous district-directed additional work for which the subcontractor has not received a written, fully executed change order exceeds 10 percent of the subcontractor's subcontract amount.

A vendor or subcontractor who elects not to proceed with additional work is not responsible for damages associated with the election not to proceed.

Gov't Code 2251.0521

Inspection, Verification, and Testing

Independently of the contractor, construction manager-at-risk, or design-build firm, a district shall provide or contract for the construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the district. The district shall select the services for

which it contracts in accordance with Government Code 2254.004. *Gov't Code 2269.058*

Note: For additional requirements related to code compliance, including fees and contracts, see 19 Administrative Code 61.1040(e)(5).

Impact Fees

A district is not required to pay impact fees imposed under Local Government Code Chapter 395 unless the board consents to the payment of the fees by entering a contract with the political subdivision that imposes the fees. The contract may contain terms the board considers advisable to provide for the payment of the fees. *Local Gov't Code 395.022*

Design Professionals

A district shall designate one design professional to be the prime design professional for a capital improvement project and shall contractually engage the prime design professional to review and coordinate the design of the project, allowing the prime design professional to rely on and contract for other design professionals where appropriate. *19 TAC 61.1040(a)(4), (e)(4)(D)*

A district shall require any design professional contractually engaged to procure professional design services from any other design professional as a subconsultant to select and subcontract the professional design services based on the qualification-based selection process established in Government Code Chapter 2254. [See Procuring Architectural or Engineering Services, below] *19 TAC 61.1040(e)(5)(B)*

Architects and Engineers

An architect or engineer required to be selected or designated under Government Code Chapter 2269 has full responsibility for complying with Occupations Code Chapter 1051 or 1001, as applicable.

If the selected or designated architect or engineer is not a full-time employee of the district, the district shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Government Code 2254.004 [see Procuring Professional Services, below].

Gov't Code 2269.057

Registered Architect

An architectural plan or specification for any of the following may be prepared only by an architect:

1. A new building having construction costs exceeding $100,000 that is to be:

    a. Constructed and owned by a district; and

b. Used for education, assembly, or office occupancy; or

2. An alteration or addition having construction costs exceeding $50,000 that:

a. Is to be made to an existing building that:

(1) Is owned by a district; and

(2) Is or will be used for education, assembly, or office occupancy; and

b. Requires the removal, relocation, or addition of a wall or partition or the alteration or addition of an exit.

This provision does not prohibit an owner of a building from contracting with an architect or engineer as the prime design professional for a building construction, alteration, or addition project. Designation as the prime design professional does not expand the scope of practice of an architect or engineer beyond the scope of practice that the architect or engineer is authorized to practice under Occupations Code Chapter 1001 or 1051.

Occupations Code 1051.703; 22 TAC 1.212

Registered Engineer

A district may not construct a public work involving engineering in which the public health, welfare, or safety is involved, unless:

1. The engineering plans, specifications, and estimates have been prepared by an engineer; and

2. The engineering construction is to be performed under the direct supervision of an engineer.

Occupations Code 1001.407

The following work is exempt from Occupations Code Chapter 1001 (Texas Engineering Practice Act):

1. A public work that involves electrical or mechanical engineering, if the contemplated expense for the completed project is $8,000 or less; or

2. A public work that does not involve electrical or mechanical engineering, if the contemplated expense for the completed project is $20,000 or less.

Occupations Code 1001.053

Certification for Purchases Through Purchasing Cooperatives

A district may not enter into a contract to purchase construction-related goods or services through a purchasing cooperative under Government Code Chapter 791 in an amount greater than $50,000 unless a person designated by the district certifies in writing that:

1. The project for which the construction-related goods or services are being procured does not require the preparation of plans and specifications under Occupation Code Chapter 1001 or 1051; or

2. The plans and specifications required under Occupation Code Chapters 1001 and 1051 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) [See CH for more information on interlocal contracts and purchasing cooperatives.]

Procuring Architectural or Engineering Services

Education Code 44.031 does not apply to a contract for professional services rendered, including the services of an architect. *Education Code 44.031(f)* [See CH for information on the Professional Services Procurement Act generally.]

In procuring architectural, engineering, or land-surveying services, a district shall:

1. First select the most highly qualified provider on the basis of demonstrated competence and qualifications; and

2. Then attempt to negotiate with that provider a contract at a fair and reasonable price.

If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land-surveying services, a district shall formally end negotiations with that provider, select the next most highly qualified provider, and attempt to negotiate a contract with that provider at a fair and reasonable price. The district shall continue this process to select and negotiate with providers until a contract is entered into.

Gov't Code 2254.004

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)*

Contracts for Engineering or Architectural Services

Indemnification

A covenant or promise in, in connection with, or collateral to a contract for engineering or architectural services to which a district is a party is void and unenforceable if the covenant or promise provides that a licensed engineer or registered architect whose work product is the subject of the contract must indemnify or hold harmless the district against liability for damage, other than liability for damage to the extent that the damage is caused by or results from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the indemnitor or the indemnitor's agent, consultant under contract, or another entity over which the indemnitor exercises control.

Duty to Defend

Except as provided below, a covenant or promise in, in connection with, or collateral to a contract for engineering or architectural services to which a district is a party is void and unenforceable if the covenant or promise provides that a licensed engineer or registered architect whose work product is the subject of the contract must defend a party, including a third party, against a claim based wholly or partly on the negligence of, fault of, or breach of contract by the district, the district's agent, the district's employee, or other entity, excluding the engineer or architect or that person's agent, employee, or subconsultant, over which the district exercises control. A covenant or promise may provide for the reimbursement of a district's reasonable attorney's fees in proportion to the engineer's or architect's liability.

District as Additional Insured

A district may require in a contract for engineering or architectural services to which the district is a party that the engineer or architect name the district as an additional insured under the engineer's or architect's general liability insurance policy and provide any defense provided by the policy.

Standard of Care

A contract for engineering or architectural services to which a district is a party must require a licensed engineer or registered architect to perform services:

1. With the professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license; and

2. As expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect.

In a contract for engineering or architectural services to which a district is a party, a provision establishing a different standard of care than a standard described above is void and unenforceable. If a contract contains a void and unenforceable provision, the standard of care described above applies.

Nothing in these provisions prohibits a district in a contract for engineering or architectural services to which the district is a party from including and enforcing conditions that relate to the scope, fees, and schedule of a project in the contract.

Local Gov't Code 271.904

Payment and Performance Bonds

A district that makes a public work contract with a prime contractor shall require the contractor, before beginning the work, to execute to the district:

1. A performance bond if the contract is in excess of $100,000; and
2. A payment bond if the contract is in excess of $25,000.

A bond required by this provision must be executed by a corporate surety in accordance with Insurance Code Article 7.19-1 (now Insurance Code 3503.001-.005). A bond for a public work contract with a district must be payable to and its form must be approved by the awarding board.

Gov't Code 2253.021(a), (d)-(e)

The performance bond is solely for the protection of the district awarding the public work contract, in the amount of the contract, and conditioned on the faithful performance of the work in accordance with the plans, specifications, and contract documents. *Gov't Code 2253.021(b)*

The payment bond is solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the prime contractor or a subcontractor to supply public work labor or material, and in the amount of the contract. *Gov't Code 2253.021(c)*

Failure to Obtain Payment Bond

If a district fails to obtain from a prime contractor a payment bond as required above or fails to include in a lease the lease terms required by Government Code 2252.909 [see CDB]:

1. The district is subject to the same liability that a surety would have if the surety had issued a payment bond and if the district had obtained the bond; and
2. A payment bond beneficiary is entitled to a lien on money due to the prime contractor in the same manner and to the same extent as if the public work contract were subject to Property Code Chapter 53, Subchapter J (Lien on Money Due Public Works Contractor).

Gov't Code 2253.027(a)

Bond for Insured Loss

A district shall ensure that an insurance company that is fulfilling its obligation under a contract of insurance by arranging for the replacement of a loss, rather than by making a cash payment directly to the district, furnishes or has furnished by a contractor:

1. A performance bond as described above for the benefit of a district; and
2. A payment bond, as described above for the benefit of the beneficiaries described above.

If the payment bond is not furnished, the district is subject to the same liability that a surety would have if the surety had issued the payment bond and the district had required the bond to be provided.

The bonds required to be furnished by the provisions above shall be furnished before the contractor begins work. It is an implied obligation under a contract of insurance for the insurance company to furnish these bonds.

Exception to Bond Requirement

These provisions do not apply to a district when a surety company is complying with an obligation under a bond that had been issued for the benefit of the district.

Gov't Code 2253.022

Prevailing Wage on Public Works

"Worker" includes a laborer or mechanic. *Gov't Code 2258.001(3)*

A worker employed on a public work by or on behalf of a district shall be paid:

1. Not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed; and
2. Not less than the general prevailing rate of per diem wages for legal holiday and overtime work.

The requirements above do not apply to maintenance work. A worker is employed on a public work for purposes of this provision if the worker is employed by a contractor or subcontractor in the execution of a contract for public work with a district.

Gov't Code 2258.021

For a contract for a public work awarded by a district, the board shall determine the general prevailing rate of per diem wages in the district for each craft or type of worker needed to execute the contract and the prevailing rate for legal holiday and overtime work by:

1. Conducting a survey of the wages received by classes of workers employed on projects of a character similar to the contract work in the district in which the public work is to be performed; or

2. Using the prevailing wage rate as determined by the U.S. Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a et seq.), and its subsequent amendments.

The board shall determine the general prevailing rate of per diem wages as a sum certain, expressed in dollars and cents. A board shall specify in the call for bids for the contract and in the contract itself the wage rates determined under these provisions. The board's determination of the general prevailing rates of per diem wages is final.

Gov't Code 2258.022(a), (c)-(e)

Government Code 2258.022(b) applies to a public work located in a county bordering the United Mexican States or in a county adjacent to a county bordering the United Mexican States. *Gov't Code 2258.022(b)*

Enforcement

A board awarding a contract, and an agent or officer of the board, shall:

1. Take cognizance of complaints of all violations of Government Code Chapter 2258 committed in the execution of the contract; and

2. Withhold money forfeited or required to be withheld under Government Code Chapter 2258 from the payments to the contractor under the contract, except that the board may not withhold money from other than the final payment without a determination by the board that there is good cause to believe that the contractor has violated Government Code Chapter 2258.

On receipt of information, including a complaint by a worker, concerning an alleged violation of Government Code 2258.023 [see Penalty for Noncompliance, below] by a contractor or subcontractor, a board shall make an initial determination as to whether good cause exists to believe that the violation occurred. A board must make its determination before the 31st day after the date the board receives the information. A board shall notify in writing the contractor or subcontractor and any affected worker of its initial determination.

Gov't Code 2258.051-.052(a)-(c)

Retainage and Reimbursement

A board shall retain any amount due under the contract pending a final determination of the violation. *Gov't Code 2258.052(d)*

Note: Arbitration of unresolved issues is governed by Government Code 2258.053-.055.

A board shall use any amounts retained under Government Code Chapter 2258 to pay the worker the difference between the amount the worker received in wages for labor on the public work at the rate paid by the contractor or subcontractor and the amount the worker would have received at the general prevailing rate as provided in the arbitrator's award. The board may adopt rules, orders, or ordinances relating to the manner in which the reimbursement is made. *Gov't Code 2258.056(a)-(b)*

Penalty for Noncompliance

The contractor who is awarded a contract by a district or a subcontractor of the contractor shall pay not less than the rates determined under these provisions to a worker employed by it in the execution of the contract. A contractor or subcontractor who violates this provision shall pay to the district on whose behalf the contract is made, $60 for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the contract. A board awarding a contract shall specify this penalty in the contract. A contractor or subcontractor does not violate this section if a board awarding a contract does not determine the prevailing wage rates and specify the rates in the contract as required by these provisions. The board shall use any money collected under this provision to offset the costs incurred in the administration of Government Code Chapter 2258. *Gov't Code 2258.023*

Criminal Offense

An officer, agent, or representative of a district commits an offense if the person willfully violates or does not comply with a provision of Government Code 2258. *Gov't Code 2258.058(a)*

Required Workers' Compensation Coverage

A district shall ensure a contract for construction services required to be procured by a method in Government Code Chapter 2269 specifies the contractor's responsibilities for site safety and requires compliance with the requirement to provide workers' compensation insurance in accordance with Labor Code 406.096, below. *19 TAC 61.1040(e)(3)(D)*

A district that enters into a building or construction contract shall require the contractor to certify in writing that the contractor provides workers' compensation insurance coverage for each employee of the contractor employed on the public project. Each subcontractor shall provide such a certificate relating to coverage of the subcontractor's employees to the general contractor, who shall

provide the subcontractor's certificate to the district. *Labor Code 406.096(a)-(b)*

A district that enters into a building or construction contract on a project shall:

1. Include in the bid specifications all the duties and responsibilities of contractors pertaining to required workers' compensation coverage, using the language required by 28 Administrative Code 110.110(c)(7).
2. As part of the contract, using the language required by 28 Administrative Code 110.110(c)(7), require the contractor to perform the duties and responsibilities pertaining to required workers' compensation coverage as set out in 28 Administrative Code 110.110(d).
3. Obtain from the contractor a certificate of coverage for each person providing services on the project, prior to that person beginning work on the project.
4. Obtain from the contractor a new certificate of coverage showing extension of coverage:
    a. Before the end of the current coverage period, if the contractor's current certificate shows that the coverage period ends during the duration of the project; and
    b. No later than seven days after the expiration of the coverage for each other person providing services on the project whose current certificate shows that the coverage period ends during the duration of the project.
5. Retain certificates of coverage on file for the duration of the project and for three years thereafter.
6. Provide a copy of the certificate of coverage to the Texas Department of Insurance, Division of Workers' Compensation upon request and to any person entitled to a copy by law.
7. Use the language contained in 28 Administrative Code 110.110(c)(7) for bid specifications and contracts, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation.

28 TAC 110.110(c)

Exception — This coverage requirement does not apply to sole proprietors, partners, and corporate officers who meet the requirements of Labor

Code 406.097(c), and who are explicitly excluded from coverage in accordance with Labor Code 406.097(a). *28 TAC 110.110(i)*

Definitions

"Persons providing services on the project" includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes but is not limited to independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity furnishing persons to perform services on the project. "Services" includes but is not limited to providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets. *28 TAC 110.110(a)(7)*

"Project" includes the provision of all services related to a building or construction contract for a district. *28 TAC 110.110(a)(8)*

Criminal Offenses

For information on criminal offenses for violations of Education Code 44.031, see CH.

Enforcement Actions

Government Code Chapter 2269 may be enforced through an action for declaratory or injunctive relief filed not later than the 15th day after the date on which the contract is awarded. *Gov't Code 2269.452*

Defects in Facilities

A district that brings an action for recovery of damages for the defective design, construction, renovation, or improvement of a district facility financed by bonds shall provide the commissioner with written notice of the action by registered or certified mail, return receipt requested, not later than the 30th day after the date the action is filed. If the district fails to comply with this provision, the court or an arbitrator or other adjudicating authority shall dismiss the action without prejudice. The dismissal of an action under this provision extends the statute of limitations on the action for a period of 90 days.

The notice must include a copy of the petition and an itemized list of the defects in the design, construction, renovation, or improvement for which the district is seeking damages under the action.

In an action involving an instructional facility financed by bonds for which the district receives state assistance under Education Code Chapter 46, Subchapter A (Instructional Facilities Allotment), the commissioner may join in the action on behalf of the state to protect the state's share in the action.

A district that brings an action under these provisions shall use the net proceeds from the action for:

1. The repair of the defective design, construction, renovation, or improvement of the facility on which the action is brought, including the repair of any ancillary damage to furniture and fixtures;
2. The replacement of the facility on which the action is brought;
3. The reimbursement of the district for a repair or replacement; or
4. Any other purpose with written approval from the commissioner.

Education Code 46.008 applies to the repair. A district shall provide to the commissioner an itemized accounting of any repairs made.

The state's share resulting from an action brought under these provisions involving an instructional facility financed by bonds for which the school district receives state assistance under Education Code Chapter 46, Subchapter A is state property. The district shall send to the comptroller any portion of the state's share not used by the district to repair the defective design, construction, renovation, or improvement of the instructional facility on which the action is brought or to replace the facility. Education Code 48.272 applies to the state's share.

Definitions

"Net proceeds" means the difference between the amount recovered by or on behalf of a school district in an action, by settlement or otherwise, and the legal fees and litigation costs incurred by the district in prosecuting the action.

"State's share" means an amount equal to the district's net proceeds from the recovery multiplied by a percentage determined by dividing the amount of state assistance under Education Code Chapter 46, Subchapter A used to pay the principal of and interest on bonds issued in connection with the instructional facility that is the subject of the action by the total amount of principal and interest paid on the bonds as of the date of the judgment or settlement.

Education Code 44.151

Attorney General Enforcement

If the attorney general believes that a district has violated or is violating Education Code 44.151(d), (e), or (f) (use of proceeds, accounting, and the state's share), the attorney general may, after providing at least two weeks' notice to the district, bring an action

on behalf of the state to enjoin the district from violating those sections.

In such an action, the attorney general may request and the court may order any other appropriate relief that is in the public interest, including payment of:

1. A civil penalty in an amount not to exceed $20,000 for each violation;
2. The attorney general's reasonable costs for investigating and prosecuting the violation; or
3. If applicable, the amount of the state's share.

Education Code 44.152(a)-(b)

Attorney Fees

A governmental contract may not provide for the award of attorney's fees to a district in a dispute in which the district prevails unless the contract provides for the award of attorney's fees to each other party to the contract if that party prevails in the dispute.

"Governmental contract" means a contract awarded by a governmental entity for general construction, an improvement, a service, or a public works project or for a purchase of supplies, materials, or equipment.

Gov't Code 2252.904

Construction Liability Claims

To assert a claim against a contractor, subcontractor, supplier, or design professional for damages arising from damage to or loss of real or personal property caused by an alleged construction defect in an improvement to real property that is a public building or public work in which the district has an interest, the district must comply with Government Code Chapter 2272, which may not be waived. A purported waiver of Chapter 2272 is void. *Gov't Code 2272.002(a), .0025*

Criminal History Reviews

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 (CHRI) to persons entitled to receive that information and to provide updates to such information. A person who is the subject of the CHRI requested must consent to the release of the information. *Gov't Code 411.0845(a), (h)*

"Criminal history record information" 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 CHRI 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)*

"Request for CHRI" is the processing and entry of a person's complete set of fingerprints in DPS's tenprint database and the comparison of those prints to DPS's latent print database and if authorized the entry into FBI's tenprint and comparison to the FBI's latent print database. *37 TAC 27.172*

Participation in the Criminal History Clearinghouse

The purpose of the clearinghouse is to:

1. Provide authorized entities with the Texas and FBI fingerprint-based criminal history results.
2. Provide authorized entities with subscription and notification service to disseminate updated criminal history information.

Districts shall only submit a request for CHRI on a person who has authorized the access of their information.

Districts may subscribe to a person in the clearinghouse, if the entity has the authority to view the record. Entities shall unsubscribe from a person when it no longer has authority to view a record.

Districts shall validate their subscriptions in accordance with DPS policies. "Validation" is a process whereby the subscriber reviews a subscription to determine whether they are still authorized to receive CHRI on that individual and updates the subscription accordingly. Validations are required on a yearly basis.

Districts shall maintain compliance with the FBI Criminal Justice Information Services Security Policy. Districts shall allow DPS and the FBI to conduct audits of their clearinghouse accounts to pre-

vent any unauthorized access, use, or dissemination of the information.

37 TAC 27.171, .172(8), .174

Districts of Innovation

A prohibition, restriction, or requirement imposed by Education Code Chapter 22, Subchapter C (Criminal History Records) on an open-enrollment charter school applies to the same extent to a district of innovation or other charter entity.

The failure of a district of innovation to provide information required under Education Code 22.0832 may result in termination of the district 's designation as a district of innovation. [See AF]

Education Code 22.0815

Certified Educators

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

Applicability

A person who is not an applicant for or holder of a certificate from SBEC and who was offered employment by a district on or after January 1, 2008, must submit to a NCHRI review before being employed. *Education Code 22.08339(a), (b)*

[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 noncertified employee, 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 the Texas Education Agency (TEA) with the name of a noncertified employee. 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.

Education Code 22.0833(c), (g)

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. *19 TAC 153.1109(d)(2)*

Clearinghouse

A district shall obtain all CHRI that relates to a noncertified employee 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. *Education Code 22.0833(e), (f)*

Substitute Teachers

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

A district shall send or ensure that a substitute teacher sends to DPS information required 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 and certification records of the person and notify the district if the person:

1. May not be hired or must be discharged as provided by Education Code 22.085; or
2. May not be employed as a substitute teacher because the person's educator certification has been revoked or is suspended.

Employment Pending Review

After the required information is submitted, the person may begin employment, but that employment is conditional upon the review of that person's CHRI by TEA and must be terminated if TEA makes a determination that the employee or applicant is ineligible for employment.

Clearinghouse

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.

Education Code 22.0836; 19 TAC 153.1101(5), .1111(d)

Student Teachers

A district shall obtain from DPS and may obtain from any other law enforcement or criminal justice agency or a private consumer reporting agency, all CHRI that relates to a person participating in an internship consisting of student teaching to receive a teaching certificate.

A person may not perform any student teaching until:

1. The person provides to the district a driver's license or another form of identification containing the person's photograph issued by an entity of the United States government; and
2. The district obtains CHRI, as described above.

A district may require a student teacher to pay any costs related to obtaining the CHRI.

Education Code 22.0835(a), (c), (d), (g)

All Other Employees

A district shall obtain CHRI that relates to an employee who is not subject to an NCHRI review 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)

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

Confidentiality of CHRI

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
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.

NCHRI obtained from the FBI may be released or disclosed only to a governmental entity or as authorized by federal law and regulations, federal executive orders, and federal policy.

Gov’t Code 411.084

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

A district may not release or disclose to any person CHRI obtained from the FBI. 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.

A district is not prohibited from disclosing CHRI obtained from DPS in a criminal proceeding or in a hearing conducted by TEA or SBEC.

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

Destruction of CHRI

A district or an entity that contracts to provide services to a district, shall destroy CHRI that is obtained under Government Code 411.097 after the information is used for its authorized purpose. *Gov't Code 411.097(h)*

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.

In addition, the information is not subject to disclosure under Government Code Chapter 552.

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

Education Code 22.08391

Refusal to Hire Convicted Applicants

A district shall discharge or refuse to hire an employee or applicant for employment if the district obtains information through a CHRI review that the employee or applicant has been:

1. Convicted of or placed on deferred adjudication community supervision for an offense requiring registration as a sex offender under Code of Criminal Procedure Chapter 62; or
2. Convicted of:
    a. A felony under Title 5, Penal Code, if the victim of the offense was under 18 years of age at the time the offense was committed; or
    b. An offense under the laws of another state or federal law that is equivalent to an offense under item 1 or 2a, above.

Exception

However, a district is not required to refuse to hire an 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 the date the person's employment will begin; and
2. The applicant for employment satisfied all terms of the court order entered on conviction.

Certification to Commissioner

Each school year, the superintendent shall certify to the commissioner that the district has complied with the above provisions.

Sanctions

SBEC may impose a sanction on an educator who does not refuse to hire an applicant for employment if the educator knew that the applicant had been adjudicated for or convicted of having an inappropriate relationship with a minor in accordance with Education Code 21.009(e), or knew or should have known, through a CHRI review, that the applicant has been convicted of or placed on deferred adjudication community supervision for 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 Certification to Commissioner, above]

Termination for Failure to Disclose

A district may discharge an employee if the district obtains information of the employee's conviction of a felony or misdemeanor involving moral turpitude that the employee did not disclose to SBEC or to the district. An employee so discharged is considered to have been discharged for misconduct for the purposes of Labor Code 207.044 (unemployment compensation).

Education Code 22.085; 19 TAC 249.15(b)(12), (14) [See DF]

Pre-employment Affidavit

An applicant for a certified or licensed position [see Professional Personnel at DBA(LEGAL)] with a school district, including a district of innovation, must submit, using a form adopted by TEA, a pre-employment affidavit disclosing whether the applicant has ever been charged with, adjudicated for, or convicted of having an inappropriate relationship with a minor.

An applicant who answers affirmatively concerning an inappropriate relationship with a minor must disclose in the affidavit all relevant facts pertaining to the charge, adjudication, or conviction, including, for a charge, whether the charge was determined to be true or false.

An applicant is not precluded from being employed based on a disclosed charge if the district determines based on the information disclosed in the affidavit that the charge was false.

A determination that an employee failed to disclose required information is grounds for termination of employment.

SBEC may revoke the certificate of an administrator if the board determines it is reasonable to believe that the administrator employed an applicant for a position described by Education Code 21.003(a) or (b) despite being aware that the applicant had been adjudicated for or convicted of having an inappropriate relationship with a minor.

Education Code 21.009

Do Not Hire Registry

TEA shall develop and maintain an internet portal through which required reports may be confidentially and securely filed and TEA makes available:

1. The registry of persons who are not eligible to be employed in public schools; and

2. Information indicating that a person is under investigation.

Education Code 22.095

TEA shall maintain and make available through its internet portal a registry of persons who are not eligible to be employed by a dis-

trict, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement.

A district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement shall discharge or refuse to hire a person listed on the registry.

The registry must list:

1. An employee of an open enrollment charter school determined by TEA under Education Code 22.0832 as a person who would not be eligible for educator certification based on their NCHRI;
2. A noncertified person determined by TEA to be not eligible for employment based on the person's CHRI, as provided by Education Code 22.0833 [see DBAA];
3. A person who is not eligible for employment based on CHRI received by TEA under Education Code 21.058(b) indicating that a certified employee is required to register as a sex offender;
4. A person whose certification or permit is revoked by SBEC on a finding that the person engaged in misconduct described by Education Code 21.006(b)(2)(A) or (A-1) [see DHB]; and
5. A noncertified person who is determined by the commissioner under Education Code 22.094 to have engaged in misconduct described by Education Code 22.093(c)(1)(A) or (B) [see DHC].

Education Code 22.092

Commercial Driver License Drug and Alcohol Clearinghouse

The U.S. Department of Transportation (DOT) operates and maintains a national clearinghouse for records relating to alcohol and controlled substances testing of commercial motor vehicle operators in order to improve compliance with DOT's alcohol and controlled substances testing program applicable to commercial motor vehicle operators [see DHE] and to enhance the safety of roadways by reducing accidents and injuries involving the misuse of alcohol or use of controlled substances by operators of commercial motor vehicles. *49 U.S.C. 31306a*

Pre-employment Query Required

A district must not employ a driver subject to controlled substances and alcohol testing under 49 C.F.R. Part 382 to perform a safety-sensitive function without first conducting a pre-employment query

of the federal Drug and Alcohol Clearinghouse to obtain information about the driver's previous test results.

Annual Query Required — A district must conduct a query of the federal Drug and Alcohol Clearinghouse at least once per year for information for all employees subject to controlled substance and alcohol testing under 49 C.F.R. Part 382 to determine whether information exists about those employees.

Prohibition — A district may not allow a driver the district employs or intends to hire or use to perform any safety-sensitive function if the results of a Clearinghouse query demonstrate that the driver has a prohibited test result.

Recordkeeping Required — A district must retain for three years a record of each query and all information received in response to each query made under this section.

49 C.F.R. 382.701

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)

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

Definition

In this policy, the term "appoint" includes appointing, confirming the appointment of, and voting to appoint or confirm the appointment of a person.

Nepotism Prohibited

Except as provided by this policy, a public official may not appoint a person to a position that is to be directly or indirectly compensated from public funds or fees of office if:

1. The person is related to the public official by consanguinity (blood) within the third degree or by affinity (marriage) within the second degree [see Consanguinity and Affinity, below]; or
2. The public official holds the appointment or confirmation authority as a member of a local board and the person is related to another member of the board by blood or marriage within a prohibited degree.

Gov't Code 573.002, .041; Atty. Gen. Op. JC-184 (2000)

Independent Contractor

The nepotism law governs the hiring of an individual, whether the employee is hired as an individual or an independent contractor. *Atty. Gen. Op. DM-76 (1992)*

Superintendent

Counties with Population 35,000 or More

In a district located wholly in, or whose largest part is located in, a county with a population of 35,000 or more, if, under the employment policy [see DC], a board delegates to the superintendent the final authority to select district personnel:

1. The superintendent is a public official for purposes of the nepotism prohibitions only with respect to a decision made under that delegation of authority; and
2. Each member of the board remains subject to the nepotism prohibitions with respect to all district employees.

For purposes of this provision, a person hired by a district before September 1, 2007, is considered to have been in continuous employment [see Continuous Employment, below] and is not prohibited from continuing employment with the district subject to the abstention requirements.

Education Code 11.1513(f)-(h)

Counties with Population Less Than 35,000

In a district located wholly in, or whose largest part is located in, a county with a population of less than 35,000, to the extent a board has delegated final hiring authority to a superintendent to select personnel [see DC], the superintendent is a "public official" for purposes of the nepotism laws. *Atty. Gen. Op. GA-123 (2003)* [See BBFB]

Compensation of Prohibited Employee

A public official may not approve an account or draw or authorize the drawing of a warrant or order to pay the compensation of an ineligible person if the official knows the person is ineligible. *Gov't Code 573.083*

Consanguinity

Two persons are related to each other by consanguinity (blood) if one is a descendant of the other or if they share a common ancestor. An adopted child is considered to be a child of the adoptive parents for this purpose. *Gov't Code 573.022*

An individual's relatives within the third degree by consanguinity are the individual's:

1. Parent or child (first degree);
2. Brother, sister, grandparent, or grandchild (second degree); and
3. Great-grandparent, great-grandchild, aunt or uncle (who is a sibling of a parent of the person), nephew or niece (who is a child of a brother or sister of the person) (third degree).

Gov't Code 573.023(c)

Half-Blood Relatives

There is no distinction under the nepotism statute between half-blood and full-blood relations. Thus, half-blood relationships fall within the same degree as those of the full blood. *Atty. Gen. Op. LO-90-30 (1990)*

Affinity

Two persons are related to each other by affinity (marriage) if they are married to each other or if the spouse of one of the persons is related by consanguinity to the other person.

The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of the marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives. This provision applies to a school board member or officer of a school district only until the youngest child of the marriage reaches the age of 21 years.

Gov't Code 573.024

A husband and wife are related to each other in the first degree by affinity. For other relationships, the degree of affinity is the same as the degree of the underlying relationship by consanguinity. For example, if two persons are related to each other in the second degree by consanguinity, the spouse of one of the persons is related to the other person in the second degree by affinity.

A person's relatives within the second degree by affinity are:

1. The person's spouse;
2. Anyone related by consanguinity to the person's spouse within the first or second degree; and
3. The spouse of anyone related to the person by consanguinity within the first or second degree.

Gov't Code 573.025

Effect of Board Member Resignation

All public officers shall continue to perform the duties of their offices until their successors shall be duly qualified, i.e., sworn in. Until the vacancy created by a board member's resignation is filled by a successor, the board member continues to serve and have the duties and powers of office, and a relative within a prohibited degree of relationship is barred from employment. *Tex. Const., Art. XVI, Sec. 17; Atty. Gen. Ops. JM-636 (1987), DM-2 (1991), O-6259 (1945)*

Exceptions

Continuous Employment ("Grandfather Clause")

The nepotism prohibitions do not apply to the appointment of a person to a position if the person is employed in the position immediately before the election or appointment of the public official to whom the person is related in a prohibited degree and that prior employment is continuous for at least:

1. Thirty days, if the public official is appointed; or
2. Six months, if the public official is elected.

Gov't Code 573.062(a)

Retirees

A teacher who has retired from a full-time, certified teacher position has broken his or her employment with a district and does not qualify for the continuous-employment exception to the nepotism laws. *Atty. Gen. Op. JC-442 (2001)*

For purposes of calculating the appropriate date for the applicability of the continuous-employment exception, a superintendent with final authority to select personnel is an appointed public official. *Atty. Gen. Op. GA-177 (2004)*

Abstention

If an employee continues in a position under this exception, the public official to whom the employee is related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, employment, reemployment, change in status, compensation, or dismissal of the employee, if the action applies only to the employee and is not taken regarding a bona fide class or category of employees. *Gov't Code 573.062(b)*

A "change in status" includes a reassignment within an organization, whether or not a change in salary level accompanies the reassignment. *Atty. Gen. Op. JC-193 (2000)*

For an action to be "taken with respect to a bona fide category of employees," the officeholder's action must be based on objective criteria, which do not allow for the preference or discretion of the officeholder. *Atty. Gen. Op. DM-46 (1991)*

Substitute Teacher

The nepotism prohibitions do not apply to appointment or employment of a substitute teacher. *Gov't Code 573.061*

Bus Driver

The nepotism prohibitions do not apply to an appointment or employment of a bus driver if:

1. The district is located wholly in a county with a population of less than 35,000;
2. The district is located in more than one county and the county in which the largest part of the district is located has a population of less than 35,000; or
3. The board approves the appointment or employment.

Gov't Code 573.061(4)

Trading

A public official may not appoint a person to a position in which the person's services are under the public official's direction or control and that is to be compensated directly or indirectly from public funds or fees of office if:

1. The person is related to another public official within the prohibited degree; and
2. The appointment would be carried out in whole or in partial consideration for the other public official's appointing a person who is related to the first public official within a prohibited degree.

Gov't Code 573.044

Federal Funds

The rules against nepotism apply to employees paid with public funds, regardless of the source of those funds. Thus, the rules apply in the case of a teacher paid with funds from a federal grant. *Atty. Gen. L.A. No. 80 (1974)*

Penalties

An individual who violates the nepotism prohibitions shall be removed from his or her position. *Gov't Code 573.081, .082*

An individual who violates Government Code 573.041 [see Nepotism Prohibited], 573.062(b) [see Continuous Employment and Abstention], or 573.083 [see Compensation of Prohibited Employee] commits an offense involving official misconduct. *Gov't Code 573.084*

Personnel Duties

The Superintendent shall define the qualifications, duties, and responsibilities of all positions and shall ensure that job descriptions are current and accessible to employees and supervisors.

Posting Vacancies

The Superintendent or designee shall establish guidelines for advertising employment opportunities and posting notices of vacancies. These guidelines shall advance the Board's commitment to equal opportunity employment and to recruiting well-qualified candidates. Current District employees may apply for any vacancy for which they have appropriate qualifications.

Applications

All applicants shall complete the application form supplied by the District. Information on applications shall be confirmed before a contract is offered for a contractual position and before hiring or as soon as possible thereafter for a noncontractual position.

[For information related to the evaluation of criminal history records, see DBAA.]

Employment of Personnel

Note: For employment of a bus driver related to a Board member or the Superintendent, see DBE(LEGAL).

The Board delegates to the Superintendent the final authority to hire contractual (professional) and noncontractual (paraprofessional and auxiliary) personnel, except for the personnel identified below.

The term "hire" shall mean the initial employment of a person or the rehiring of a person after a break in previous employment with the District. All other actions regarding the contracts of current employees shall be taken according to applicable Board policy. [See also BJA]

In addition, the Board delegates to the Superintendent the authority to dismiss auxiliary and non-Chapter 21 contract employees, in accordance with DCD(LOCAL) and DCE(LOCAL).

All selection and employment decisions made by the Superintendent shall be made in accordance with District policies, procedures, and practices.

Exceptions

The Board retains final authority to select and employ principals, directors, executive directors, assistant superintendents, and the Superintendent.

Campus Hiring

The campus principal shall approve appointments of campus teachers and staff from a pool of applicants selected by the District or from a pool of applicants who meet the hiring requirements established by the Superintendent. [See DK]

References	All applicants shall have on file one or more positive references deemed appropriate and acceptable to the Superintendent for the position being filled.
Employment Assistance Prohibited	No District employee shall assist another employee of the District or of any school district in obtaining a new job if the employee knows, or has probable cause to believe, that the other employee engaged in sexual misconduct regarding a minor or student in violation of the law. Routine transmission of an administrative or personnel file does not violate this prohibition. [See CJ for prohibitions relating to contractors and agents and DH(EXHIBIT) for the Educators' Code of Ethics.]

Incentive Grants — Contract Provision

A district shall provide in employment contracts that qualifying employees may receive an incentive payment under an awards program established under Education Code Chapter 21, Subchapter O (Educator Excellence Award Program and Educator Excellence Innovation Program) if the district participates in the program. A district shall indicate that any incentive payment distributed is considered a payment for performance and not an entitlement as part of an employee's salary. *Education Code 21.415*

Educator Excellence Innovation Program

The Educator Excellence Innovation Program (EEIP) is a grant program under which a district may receive a competitive grant for the purposes of systematically transforming educator quality and effectiveness. The Texas Education Agency (TEA) will give priority to districts that receive Title I funding and have at a majority of district campuses a student enrollment that is at least 50 percent educationally disadvantaged.

Eligibility

A district is eligible to apply for EEIP grant funds if the district:

1. Completes and submits a Notice of Intent to Apply to TEA by the date established by the commissioner of education;
2. Complies with all assurances in the Notice of Intent to Apply and grant application;
3. Participates in the required technical assistance activities established by the commissioner, including establishing leadership teams, master teachers, mentor teachers, and instructional coaches and developing career pathways;
4. Agrees to participate for four years; and
5. Complies with any other activities set forth in the program requirements.

An eligible district must submit an application in a form prescribed by the commissioner. Each eligible applicant must meet all deadlines, requirements, and assurances specified in the application. The commissioner may waive any eligibility requirements as specified in 19 Administrative Code 102.1073.

Local Plan

An eligible district that intends to participate in the EEIP shall submit a local educator excellence innovation plan to TEA. A local educator excellence innovation plan must address the elements at 19 Administrative Code 102.1073(e)(2).

A district must act pursuant to its local board policy [see DEAA (LOCAL)] for submitting a local educator excellence innovation plan and grant application to TEA. A local decision to approve and

submit a plan and grant application may not be appealed to the commissioner.

A district may renew its local educator excellence innovation plan for three consecutive school years without resubmitting a full grant application to TEA. With TEA approval, a district may amend its local plan in accordance with 19 Administrative Code 102.1073(c) and (h) for each school year the district receives a program grant.

Use of Grant Funds

A district may use grant funds only to carry out purposes of the program as described at Education Code 21.7011, in accordance with the district's local plan, which may include the following specific methods or procedures:

1. Implementation and administration of a high-quality mentoring program for teachers in the first three years of classroom teaching using mentors who meet the qualifications prescribed by Education Code 21.458 [see Mentor Teachers, below];
2. Implementation of a teacher evaluation system using multiple measures that include:
    a. The results of classroom observation, which may include student comments;
    b. The degree of student educational growth and learning; and
    c. The results of teacher self-evaluation;
3. To the extent permitted under Education Code Chapter 25, Subchapter C, restructuring of the school day or school year to provide for embedded and collaborative learning communities for the purpose of professional development [see EC];
4. Establishment of an alternative teacher compensation or retention system; and
5. Implementation of incentives designed to reduce teacher turnover.

Waiver Request

A district may apply to the commissioner in writing for a waiver to exempt the district or one or more district campuses from one or more of the statutory sections listed at Education Code 21.7061(a).

The application for the waiver must demonstrate:

1. Why waiving the identified section of the Education Code is necessary to carry out the purposes of the program;

2. Approval for the waiver by a vote of a majority of the members of the board;

3. Approval for the waiver by a vote of a majority of the educators employed at each campus for which the waiver is sought; and

4. Evidence that the voting occurred during the school year and in a manner that ensured that all educators entitled to vote had a reasonable opportunity to participate in the voting.

Neither the board nor the superintendent may compel a waiver of rights under Education Code 21.7061.

Not later than April 1 of the year in which the waiver application is submitted, the commissioner shall notify the district in writing whether the application has been granted or denied. A waiver expires when the waiver is no longer necessary to carry out the purposes of the program, in accordance with the district's local educator excellence innovation plan.

Education Code Ch. 21, Subch. O; 19 TAC 102.1073

Local Optional Teacher Designation System

A district may designate a classroom teacher as a master, exemplary, or recognized teacher for a five-year period based on the results from single year or multiyear appraisals [see DNA]. *Education Code 21.3521(a)*

Commissioner's Rules

The commissioner's rules specify the requirements for districts to implement local teacher designation systems, including:

1. Teacher eligibility;

2. Application procedures and approval process;

3. System expansion, spending modifications, and changes;

4. Monitoring and annual program submission of approved local designation systems;

5. Continuing approval and renewal; and

6. Funding.

19 TAC 150.1012

Standards

The commissioner's rules establish performance and validity standards for each local optional teacher designation system that:

1. Must provide a mathematical possibility that all teachers eligible for a designation may earn the designation; and

2. May not require a district to use an assessment instrument adopted under Education Code 39.023 to evaluate teacher performance.

Education Code 21.3521(b); 19 TAC 150.1014

A classroom teacher that holds a National Board Certification issued by the National Board for Professional Teaching Standards may be designated as recognized in accordance with the commissioner's rules for eligibility. *Education Code 21.3521(c); 19 TAC 150.1013*

Assistance

TEA shall develop and provide technical assistance for districts that request assistance in implementing a local optional teacher designation system, including assistance in prioritizing high needs campuses. *Education Code 21.3521(e)*

No Property Right

A teacher has no vested property right in a teacher designation assigned under a local optional teacher designation system. A teacher designation is void in the determination that the designation was issued improperly, and the Administrative Procedure Act does not apply to the voiding of a local optional teacher designation. *Education Code 21.3521(f)*

Teacher Incentive Allotment

For each classroom teacher with a local optional teacher designation, a district is entitled to an allotment, adjusted by high needs and rural factors, as determined under Education Code 48.112.

A district shall annually certify that:

1. Funds received were used as follows:

    a. At least 90 percent was used for the compensation of teachers employed at the campus at which the teacher for whom the district received the allotment is employed; and

    b. Any other funds were used for costs associated with implementing the local optional teacher designation system, including efforts to support teachers in obtaining designations; and

2. The district prioritized high needs campuses in the district in using funds.

Education Code 48.112(c), (i)

Evaluations

TEA shall periodically conduct evaluations of the effectiveness of the local optional teacher designation systems and the teacher incentive allotment and report the results of the evaluations to the legislature. A district that has implemented a local optional teacher

designation system or received funds under the teacher incentive allotment shall participate in the evaluations. *Education Code 21.3521(g)*

Mentor Teachers

A district may assign a mentor teacher to each classroom teacher who has less than two years of teaching experience in the subject or grade level to which the teacher is assigned. A teacher assigned as a mentor must:

1. To the extent practicable, teach in the same school;
2. To the extent practicable, teach the same subject or grade level, as applicable; and
3. Meet the qualifications prescribed by commissioner's rules.

Education Code 21.458(a)

Commissioner's Rules

The commissioner's rules for receiving funds under the mentor program allotment specify the requirements for districts to implement a mentor training program, including:

1. Program requirements related to mentor selection, mentor assignment, training, roles and responsibilities, and meetings;
2. An application approval process;
3. Ongoing verification of compliance with program requirements;
4. Allowable expenditures; and
5. Program review through periodic reports.

19 TAC 153.1011

Assignment of Mentor

To be assigned as a mentor, a teacher must agree to serve as a mentor teacher for at least one school year. The assignment must begin not later than the 30th day of employment of the classroom teacher to whom the mentor teacher is assigned. A district must agree to assign a mentor to a new classroom teacher for at least two school years.

A school district shall assign a mentor teacher to a classroom teacher who has been issued a temporary certificate to teach career and technology education under Education Code 21.0444 for at least two school years.

Education Code 21.458(a-1), (a-2)

Requirements for Mentor

The commissioner's rules must require that a mentor teacher:

1. Complete a research-based mentor and induction training program approved by the commissioner;
2. Complete a mentor training program provided by the district, which the district may allow to be satisfied by completing the commissioner's research-based mentor and induction training program above;
3. Have at least three complete years of teaching experience with a superior record of assisting students, as a whole, in achieving improvement in student performance; and
4. Demonstrate interpersonal skills, instructional effectiveness, and leadership skills.

Education Code 21.458(b)

Training

A district must provide the training program described above to mentor teachers and any appropriate district and campus employees who work with the classroom teacher or supervise the classroom teacher. A district may allow the commissioner's research-based mentor and induction training program to qualify for the district's required training. The training must be completed by the mentor teacher and the district and campus employees before the beginning of the school year. A district shall also provide supplemental training to mentor teachers and employees during the school year. The training must include content related to best mentorship practices. *Education Code 21.458(b-1)*

Mentoring Sessions

A mentor teacher must meet with each classroom teacher assigned to the mentor not less than 12 hours each semester. Observations of the mentor by the classroom teacher being mentored or of the classroom teacher being mentored by the mentor may count toward the 12 hours of meeting time required for the semester.

Unless the district has created a mentoring curriculum as provided below, the mentoring sessions must address the following topics:

1. Orientation to the context, policies, and practices of the school district;
2. Data-driven instructional practices;
3. Specific instructional coaching cycles, including coaching regarding conferences between parents and the classroom teacher;
4. Professional development; and
5. Professional expectations.

Subject to approval by TEA, in determining the topics to be addressed in the mentoring sessions, a school district may create an appropriate curriculum that meets the district needs.

A district must:

1. Designate a specific time during the regularly contracted school day for meetings between mentor teachers and classroom teachers assigned to a mentor; and
2. Schedule release time or a reduced teaching load for mentor teachers and classroom teachers under this section to facilitate mentoring activities, including classroom observations or participation in supportive coaching.

Education Code 21.458(f), (f-1)

Allotment

A school district that has implemented a mentoring program is entitled to an allotment to fund the mentoring program and provide stipends for mentor teachers under a formula adopted by the commissioner.

Funding may be used only for providing:

1. Mentor teacher stipends;
2. Scheduled release time for mentor teachers and the classroom teachers to whom they are assigned for meeting and engaging in mentoring activities; and
3. Mentoring support through providers of mentor training.

Education Code 48.114

Achievement Academy Stipends

A stipend received by a teacher who attends a literacy or mathematics achievement academy is not considered in determining whether a district is paying the teacher the minimum monthly salary under Education Code 21.402. *Education Code 21.4552(d), .4553(d)*

A stipend received by a school counselor or teacher who attends a postsecondary education and career counseling academy under Education Code 33.009 is not considered in determining whether a district is paying the school counselor or teacher the minimum monthly salary under Education Code 21.402. *Education Code 33.009(h)*

Autism Training

A district may provide a salary incentive or similar compensation to a teacher who completes training provided by a regional education service center (ESC) relating to autism. A school district that decides to provide an incentive or compensation shall adopt a policy to implement this section. *Education Code 21.465*

Retirement Incentives

A district may not offer or provide a financial or other incentive to an employee to encourage the employee to retire from the Teacher Retirement System of Texas. *Education Code 22.007*

Attendance Supplement

A district shall not deny an educator a salary bonus or similar compensation given in whole or in part on the basis of educator attendance because of the educator's absence from school for observance of a religious holy day observed by a religion whose places of worship are exempt from property taxation under Tax Code 11.20. *Education Code 21.406*

Note: This policy addresses leaves in general. For provisions regarding the Family and Medical Leave Act (FMLA), including FML for an employee seeking leave because of a relative's military service, see DECA. For provisions addressing leave for an employee's military service, see DECB.

State Leave

State Personal Leave

A district shall provide employees with five days per year of state personal leave, with no limit on accumulation and no restrictions on transfer among districts. A district may provide additional personal leave beyond this minimum.

A board may adopt a policy governing an employee's use of state personal leave, except that the policy may not restrict the purposes for which the leave may be used.

Education Code 22.003(a)

State Sick Leave (Accumulated Prior to 1995)

District employees retain any sick leave accumulated as state minimum sick leave under former Section 13.904(a) of the Education Code. Accumulated state sick leave shall be used only for the following:

1. Illness of the employee.
2. Illness of a member of the employee's immediate family.
3. Family emergency.
4. Death in the employee's immediate family.
5. During military leave [see Use During Military Leave, below].

Acts of the 74th Legislative Session, Senate Bill 1, Sec. 66

Former Education Service Center Employees

A district shall accept the sick leave accrued by an employee who was formerly employed by a regional education service center (ESC), not to exceed five days per year for each year of employment. *Education Code 8.007*

Order of Use

A board's policy governing an employee's use of state personal leave may not restrict the order in which an employee may use state personal leave and any additional personal leave provided by the school district.

An employee who retains any state sick leave is entitled to use the state sick leave, state personal leave, or local personal leave in any order to the extent that the leave the employee uses is appropriate to the purpose of the leave.

Education Code 22.003(a), (f)

Use During Military Leave

An employee with available personal leave is entitled to use the leave for compensation during a term of active military service. "Personal leave" includes personal or sick leave available under former law or provided by local policy. *Education Code 22.003(d), (e)* [See DECB]

Temporary Disability

Each full-time educator shall be given a leave of absence for temporary disability at any time the educator's condition interferes with the performance of regular duties. The contract or employment of the educator may not be terminated while the educator is on a leave of absence for temporary disability. For purposes of temporary disability leave, pregnancy is considered a temporary disability.

At Employee's Request

A request for a leave of absence for temporary disability must be made to a superintendent. The request must:

1. Be accompanied by a physician's statement confirming inability to work;
2. State the date requested by the educator for the leave to begin; and
3. State the probable date of return as certified by the physician.

By Board Authority

A board may adopt a policy providing for placing an educator on leave of absence for temporary disability if, in the board's judgment in consultation with a physician who has performed a thorough medical examination of the educator, the educator's condition interferes with the performance of regular duties. The educator shall have the right to present to the board testimony or other information relevant to the educator's fitness to continue in the performance of regular duties. [See DBB]

Return to Active Duty

Notice

The educator shall notify the superintendent of a desire to return to active duty no later than the 30th day before the expected date of return. The notice must be accompanied by a physician's statement indicating the educator's physical fitness for the resumption of regular duties.

Placement

An educator returning to active duty after a leave of absence for temporary disability is entitled to an assignment at the school where the educator formerly taught, subject to the availability of an appropriate teaching position. In any event, the educator shall be placed on active duty no later than the beginning of the next school year. A principal at another campus voluntarily may approve the appointment of an employee who wishes to return from leave of absence. However, if no other principal approves the assignment by the beginning of the next school year, a district must place the

employee at the school at which the employee formerly taught or was assigned.

Length of Absence

A superintendent shall grant the length of leave of absence for temporary disability as required by the individual educator. A board may establish a maximum length for a leave of absence for temporary disability, but the maximum length may not be less than 180 calendar days.

Education Code 21.409; Atty. Gen. Op. DM-177 (1992); Atty. Gen. Op. H-352 (1974)

Sick Leave Different from Temporary Disability Leave

An employee's entitlement to sick leave is unaffected by any concurrent eligibility for a leave of absence for temporary disability. The two types of leave are different, and each must be granted by its own terms. *Atty. Gen. Op. H-352 (1974)*

Assault Leave

In addition to all other days of leave, a district employee who is physically assaulted during the performance of regular duties is entitled to the number of days of leave necessary to recuperate from physical injuries sustained as a result of the assault. The leave shall be paid as set forth below at Coordination with Workers' Compensation Benefits.

A district employee is physically assaulted if the person engaging in the conduct causing injury to the employee:

1. Could be prosecuted for assault; or
2. Could not be prosecuted for assault only because the person's age or mental capacity makes the person a nonresponsible person for purposes of criminal liability.

Notice of Rights

Any informational handbook a district provides to employees in an electronic or paper form or makes available by posting on the district's website must include notification of an employee's rights regarding assault leave, in the relevant section of the handbook. Any form used by a district through which an employee may request personal leave must include assault leave as an option.

Assignment to Assault Leave

At the request of an employee, a district must immediately assign the employee to assault leave. Days of assault leave may not be deducted from accrued personal leave. Assault leave may not extend more than two years beyond the date of the assault. Following an investigation of the claim, a district may change the assault leave status and charge the leave against the employee's accrued personal leave or against the employee's pay if insufficient accrued personal leave is available.

Coordination with Workers' Compensation Benefits

Notwithstanding any other law, assault leave benefits due to an employee shall be coordinated with temporary income benefits due from workers' compensation so the employee's total compensation from temporary income benefits and assault leave benefits will equal 100 percent of the employee's weekly rate of pay.

Education Code 22.003(b)-(c-1)

Religious Observances

A district shall reasonably accommodate an employee's request to be absent from duty in order to participate in religious observances and practices, so long as it does not cause undue hardship on the conduct of district business. Such absence shall be without pay unless applicable paid leave is available. *42 U.S.C. 2000e(j), 2000e-2(a); Ansonia Bd. of Educ. v. Philbrook, 479 U.S. 60, (1986); Pinsker v. Joint Dist. No. 28J of Adams and Arapahoe Counties, 735 F.2d 388 (10th Cir. 1984)*

Compliance with a Subpoena

An employer may not discharge, discipline, or penalize in any manner an employee because the employee complies with a valid subpoena to appear in a civil, criminal, legislative, or administrative proceeding. *Labor Code 52.051(a)*

Note: A Texas federal court held that by omitting any reference to governmental entities from Labor Code 52.051, the state legislature intended to exclude governmental entities from the definition of "employer" contained within that section. Therefore, the statute did not waive a county's governmental immunity from liability for claims of retaliatory discharge of an employee for complying with a subpoena. *Alcala v. Texas Webb County*, 620 F. Supp. 2d 795 (S.D. Tex. 2009)

Jury Duty

An employee's accumulated personal leave may not be reduced because of the employee's service in compliance with a summons to appear as a juror [see DG]. *Education Code 22.006(c)*

Attendance at Truancy Hearing

A district may not terminate the employment of a permanent employee because the employee is required under Family Code 65.062(b) to attend a truancy court hearing. *Family Code 65.063*

Developmental Leaves of Absence

A board may grant a developmental leave of absence for study, research, travel, or other suitable purpose to an employee working in a position requiring a permanent teaching certificate who has served in a district at least five consecutive school years.

A developmental leave of absence may be granted for one school year at one-half salary or for one-half of a school year at full salary paid to the employee in the same manner, on the same schedule,

and with the same deductions as if the employee were on full-time duty.

An employee on developmental leave shall continue to be a member of the Teacher Retirement System of Texas and shall be an employee of a district for purposes of participating in programs, holding memberships, and receiving benefits afforded by employment in a district.

Education Code 21.452

Leave for Sick Foster Child

An employer commits an unlawful employment practice under Labor Code, Chapter 21 if:

1. The employer administers a leave policy under which an employee is entitled to personal leave to care for or otherwise assist the employee's sick child; and
2. The leave policy does not treat in the same manner as an employee's biological or adopted minor child any foster child of the employee who:
    a. Resides in the same household as the employee; and
    b. Is under the conservatorship of the Texas Department of Family and Protective Services.

Labor Code 21.0595

Leave for Peace Officers

Quarantine Leave

A board shall develop and implement a paid quarantine leave policy for peace officers who are employed by the district and ordered to quarantine or isolate due to a possible or known exposure to a communicable disease while on duty.

A paid quarantine leave policy must:

1. Provide that a peace officer on paid quarantine leave receive:
    a. All employment benefits and compensation, including leave accrual, pension benefits, and health benefit plan benefits for the duration of the leave; and
    b. Reimbursement for reasonable costs related to the quarantine, including lodging, medical, and transportation; and
2. Require that the leave be ordered by the person’s supervisor or the district’s health authority.

A district may not reduce a peace officer’s sick leave balance, vacation leave balance, holiday leave balance, or other paid leave

balance in connection with paid quarantine leave taken in accordance with the district's policy.

Local Gov't Code 180.008

Mental Health Leave

A district shall develop and adopt a policy allowing the use of mental health leave by peace officers and full-time telecommunicators authorized under Occupations Code 1701.405 employed by the district who experience a traumatic event in the scope of that employment.

The mental health leave policy must:

1. Provide clear and objective guidelines establishing the circumstances under which a peace officer or telecommunicator is granted and may use mental health leave;
2. Entitle a peace officer or telecommunicator to mental health leave without a deduction in salary or other compensation;
3. Enumerate the number of mental health leave days available to a peace officer or telecommunicator; and
4. Detail the level of anonymity for a peace officer or telecommunicator who takes mental health leave.

A mental health leave policy may provide a list of mental health services available to peace officers and telecommunicators in the area of the district.

Gov't Code 614.015

Line of Duty Illness or Injury Leave

"Emergency medical services personnel" means a person described by Health and Safety Code 773.003, who is a paid employee of a district.

"Police officer" means a paid employee who is full-time, holds an officer license issued under Occupations Code Chapter 1701, and regularly serves in a professional law enforcement capacity in the police department of a district. The term includes the chief of the department.

Local Gov't Code 177A.001

A district shall provide to a police officer or emergency medical services personnel a leave of absence for an illness or injury related to the person's line of duty. The leave is with full pay for a period commensurate with the nature of the line of duty illness or injury. If necessary, the district shall continue the leave for at least one year.

At the end of the leave of absence, the board may extend the leave of absence at full or reduced pay.

If the police officer or emergency medical services personnel is temporarily disabled by a line of duty injury or illness and the leave of absence and any extension granted by the board has expired, the person may use accumulated sick leave, vacation time, and other accrued benefits before the person is placed on temporary leave.

If the leave of absence and any extension granted by the board has expired, a police officer or emergency medical services personnel who requires additional leave shall be placed on temporary leave.

Local Gov't Code 177A.003

If able, a police officer or emergency medical services personnel may return to light duty while recovering from a temporary disability. If medically necessary, the light duty assignment may continue for at least one year.

After recovery from a temporary disability, a police officer or emergency medical services personnel shall be reinstated at the same rank and with the same seniority the person had before going on temporary leave. Another police officer or emergency medical services personnel may voluntarily do the work of the injured person until the person returns to duty.

Local Gov't Code 177A.004

Absence Control

Uniform enforcement of a reasonable absence-control rule is not retaliatory discharge. For example, a district that terminates an employee for violating a reasonable absence-control provision cannot be liable for retaliatory discharge as long as the rule is uniformly enforced. *Howell v. Standard Motor Prods., Inc., No. 4:99-CV-987-E, 2001 WL 196969 (N.D. Tex. Feb. 26, 2001) (Family and Medical Leave Act case); Specialty Retailers v. DeMoranville, 933 S.W.2d 490 (Tex. 1996) (age discrimination case); Cont'l Coffee Prods. Co. v. Cazarez, 937 S.W.2d 444 (Tex. 1996) (workers' compensation claim); Gonzalez v. El Paso Nat. Gas Co., No. EP-81-CA-323, 1986 WL 4796 (W.D. Tex. Mar. 5, 1986) (sex discrimination case)*

[Some employees may have protected status even after the expiration of all other leave. See DAA.]

Note: For a detailed treatment of termination and nonrenewal of educator contracts, see policies DFAA and DFAB (Probationary Contracts), and DFBA and DFBB (Term Contracts).

Withholding Information

An attempt by any district employee to encourage or coerce a child to withhold information from the child's parent is grounds for discharge or suspension under Education Code 21.104 (probationary contracts) and 21.211 (term contracts). *Education Code 26.008(b)*

Registry of Persons Not Eligible for Employment

A district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement shall discharge or refuse to hire a person listed on TEA's registry of persons who are not eligible to be employed. [See DBAA] *Education Code 22.092*

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 criminal history record information (CHRI) review that the employee or applicant has been:

1. Convicted of or placed on deferred adjudication community supervision for an offense requiring registration as a sex offender under Code of Criminal Procedure Chapter 62; or
2. Convicted of:
    a. A felony under Title 5, Penal Code, if the victim of the offense was under 18 years of age at the time the offense was committed; or
    b. An offense under the laws of another state or federal law that is equivalent to an offense under item 1 or 2a, above.

Exception

However, a district is not required to discharge an employee if the person committed an offense under Title 5, Penal Code, and:

1. The date of the offense is more than 30 years before the date the person's employment will begin; and
2. The employee satisfied all terms of the court order entered on conviction.

Certification to Commissioner

Each school year, a superintendent shall certify to the commissioner that the district has complied with the above provisions.

Sanctions

The State Board for Educator Certification (SBEC) may impose a sanction on an educator who does not discharge an employee when the employee was employed in a public school and on the

registry of persons who are not eligible to be employed under Education Code 22.092 [see DBAA], if the educator knew that the employee had been adjudicated for or convicted of having an inappropriate relationship with a minor in accordance with Education Code 21.009(e), or when the person knew or should have known, through a CHRI review, that the employee has been convicted of or placed on deferred adjudication community supervision for 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 Certification to Commissioner, above]

Termination for Failure to Disclose

A district may discharge an employee if the district obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not disclose to SBEC or the district. An employee so discharged is considered to have been discharged for misconduct for purposes of Labor Code 207.044 (unemployment compensation).

Education Code 22.085; 19 TAC 249.15(b)(12), (14) [See DBAA for Refusal to Hire Convicted Applicants]

Certain Offenses Against Students

Mandatory Termination

If a district receives notice that SBEC has revoked the certificate of a person based on conviction of or placement on deferred adjudication community supervision for an offense for which the person is required to register as a sex offender under Code of Criminal Procedure, Chapter 62; a conviction of a felony under Penal Code Title 5 if the victim of the offense was under 18 years of age at the time the offense was committed; or conviction of or placement on deferred adjudication community supervision for an offense under Penal Code 43.24 (Sale, Distribution, or Display of Harmful Material to Minor), the district shall:

1. Immediately remove the person whose certificate has been revoked from campus or from an administrative office, as applicable, to prevent the person from having any contact with a student; and

2. If the person is employed under a probationary or term contract, with the approval of the board or its designee:

    a. Suspend the person without pay;

    b. Provide the person with written notice that the person's contract is void [see Notice to Employee, below]; and

c. Terminate the employment of the person as soon as practicable.

Education Code 21.058(a), (c)

Discretionary Termination

If a district becomes aware that a person employed by the district under a probationary or term contract has been convicted of or received deferred adjudication for a felony offense, and the person is not subject to the mandatory termination provision above, the district may, with the approval of the board or its designee:

1. Suspend the person without pay;
2. Provide the person with written notice that the person's contract is void [see Notice to Employee, below]; and
3. Terminate the employment of the person as soon as practicable.

Education Code 21.058(c-1)

Notice to Employee

A person's probationary or term contract is void if, with the approval of the board or its designee, the district provides written notice to the person, under the mandatory or discretionary termination provisions above, that the person's contract is void. *Education Code 21.058(c-2)*

No Appeal

Action taken by a district under the mandatory or discretionary terminations provisions above is not subject to appeal under Education Code Chapter 21 and the notice and hearing requirements of Chapter 21 do not apply to the action. *Education Code 21.058(e)*

Invalid or Expired Certification

An employee's probationary or term contract is void if the employee:

1. Does not hold a valid certificate or permit issued by SBEC;
2. Fails to fulfill the requirements necessary to renew or extend the employee's temporary, probationary, or emergency certificate or any other certificate or permit issued under Education Code Chapter 21, Subchapter B; or
3. Fails to comply with any requirement under Education Code Chapter 22, Subchapter C [criminal history review, see DBAA], if the failure results in suspension or revocation of the employee's certificate.

Education Code 21.0031(a)

A certificate or permit is not considered to have expired if:

1. The employee has completed the requirements for renewal of the certificate or permit;
2. The employee submitted the request for renewal before the expiration date; and
3. The date the certificate or permit would have expired is before the date SBEC takes action to approve the renewal of the certificate or permit.

Education Code 21.0031(f)

District's Options

If a district has knowledge that an employee's contract is void under Education Code 21.0031(a), the district may:

1. Terminate the employee;
2. Suspend the employee with or without pay; or
3. Retain the employee for the remainder of the school year on an at-will employment basis in a position that does not require a contract under Education Code 21.002, at the employee's existing rate of pay or at a reduced rate.

The employee is not entitled to the minimum salary prescribed by Education Code 21.402.

Education Code 21.0031(b)

Exception

A district may not terminate or suspend an employee under 21.0031(b) because of the employee's lack of a valid certificate or permit, or failure to renew or extend a certificate or permit, if:

1. The employee requests an extension from SBEC to renew, extend, or otherwise validate the employee's certificate or permit; and
2. Not later than the 10th day after the date the contract is void, the employee takes necessary measures to renew, extend, or otherwise validate the employee's certificate or permit, as determined by SBEC.

Education Code 21.0031(b-1)

No Appeal or Chapter 21 Hearing

A school district's decision under Education Code 21.0031(b) is not subject to appeal under Education Code Chapter 21, and the notice and hearing requirements of that chapter do not apply to the decision. *Education Code 21.0031*

Applicability

These void contract provisions do not affect the rights and remedies of a party in an at-will employment relationship and do not apply to a certified teacher assigned to teach a subject for which the

teacher is not certified. *Education Code 21.0031; Nunez v. Simms, 341 F.3d 385 (5th Cir. 2003)*

Report to SBEC

A superintendent shall report the educator's termination to SBEC if the conditions set forth at Education Code 21.006 exist. [See DHB]

Report to Superintendent

A principal shall report the educator's termination to the superintendent if the conditions set forth at Education Code 21.006 exist. [See DP]

Falsification of Military Record

A district may discharge an employee, regardless of whether the employee is employed under an employment contract, if the district determines, based on a reasonable factual basis, that the employee, in obtaining the employee's employment or any benefit relating to the employee's employment, falsified or otherwise misrepresented any information regarding the employee's military record in a manner that would constitute an offense under Penal Code 32.54.

An employment contract entered into by a district with an employee discharged by the employer under Labor Code Chapter 105 is void and unenforceable as against public policy. [See DF series]

Labor Code Ch. 105

Employee Free Speech

District employees do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.

However, neither an employee nor anyone else has an absolute constitutional right to use all parts of a school building or its immediate environs for unlimited expressive purposes. When a public employee makes statements pursuant to his or her official duties, the employee is not speaking as a citizen for First Amendment purposes, and the Constitution does not insulate the communications from employer discipline.

Garcetti v. Ceballos, 547 U.S. 410 (2006); Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503 (1969) [See also GKD]

Whistleblower Protection

A board or its agents shall not suspend or terminate the employment of, or take other adverse personnel action against, an employee who in good faith reports a violation of law by a district or another public employee to an appropriate law enforcement authority.

A "report" is made to an "appropriate law enforcement authority" if the authority is a part of a state or local governmental entity or the federal government that the employee in good faith believes is authorized to:

1. Regulate under or enforce the law alleged to be violated in the report; or
2. Investigate or prosecute a violation of criminal law.

Gov't Code 554.002

A supervisor who suspends or terminates the employment of or takes an adverse personnel action against an employee for reporting a violation of law shall be subject to civil penalties. *Gov't Code 554.008*

Definitions

"Employee" means an employee or appointed officer who is paid to perform services for a district. It does not include independent contractors. *Gov't Code 554.001(4)*

"Law" means a state or federal statute, an ordinance of a local governmental entity, or a rule adopted under a statute or ordinance. *Gov't Code 554.001(1)*

A "good faith" belief that a violation of the law occurred means that:

1. The employee believed that the conduct reported was a violation of law; and

2. The employee's belief was reasonable in light of the employee's training and experience.

Wichita County v. Hart, 917 S.W.2d 779 (Tex. 1996)

A "good faith" belief that a law enforcement authority is an appropriate one means:

1. The employee believed the governmental entity was authorized to:

   a. Regulate under or enforce the law alleged to be violated in the report, or

   b. Investigate or prosecute a violation of criminal law; and

2. The employee's belief was reasonable in light of the employee's training and experience.

Tex. Dep't of Transp. v. Needham, 82 S.W.3d 314 (Tex. 2002)

Whistleblower Complaints

An employee who alleges a violation of whistleblower protection may sue a district for injunctive relief, actual damages, court costs, and attorney's fees, as well as other relief specified in Government Code 554.003. *Gov't Code 554.003*

Initiate Grievance

Before suing, an employee must initiate action under a district's grievance policy or other applicable policies concerning suspension or termination of employment or adverse personnel action.

The employee must invoke a district's grievance procedure not later than the 90th day after the date on which the alleged suspension, termination, or other adverse employment action occurred or was discovered by the employee through reasonable diligence.

Legal Action

If a board does not render a final decision before the 61st day after grievance procedures are initiated, the employee may elect to:

1. Exhaust a district's grievance procedures, in which case the employee must sue not later than the 30th day after the date those procedures are exhausted to obtain relief under Government Code Chapter 554; or

2. Terminate district grievance procedures and sue within the timelines established by Government Code 554.005 and 554.006.

Gov't Code 554.005, 554.006 [See DGBA regarding grievance procedures]

Burden of Proof	If the employee brings a lawsuit, the employee has the burden of proof unless the suspension, termination, or adverse personnel action occurred within 90 days after the employee reported a violation of law, in which case the suspension, termination, or adverse personnel action is presumed, subject to rebuttal, to be because the employee made the report.
Affirmative Defense	It is an affirmative defense to a whistleblower suit that the district would have taken the action against the employee that forms the basis of the suit based solely on information, observation, or evidence that is not related to the fact that the employee made a report protected under the whistleblower law. *Gov't Code 554.004*
Notice of Rights	A board shall inform its employees of their rights regarding whistleblower protection by posting a sign in a prominent location in the workplace. The design and content of the sign shall be as prescribed by the attorney general. *Gov't Code 554.009*

Right to Report a Crime

A district employee may report a crime witnessed at the school to any peace officer with authority to investigate the crime. A district may not adopt a policy requiring a school employee to refrain from reporting a crime witnessed at the school or to report a crime witnessed at the school only to certain persons or peace officers. *Education Code 37.148*

Protection for Reporting Child Abuse

A district may not suspend or terminate the employment of, discriminate against, or take other adverse employment action against a professional employee who in good faith:

1. Reports child abuse or neglect to:
    a. The person's supervisor,
    b. An administrator of the facility where the person is employed,
    c. A state regulatory agency, or
    d. A law enforcement agency; or
2. Initiates or cooperates with an investigation or proceeding by a governmental entity relating to an allegation of child abuse or neglect.

"Adverse employment action" means an action that affects an employee's compensation, promotion, transfer, work assignment, or performance evaluation, or any other employment action that would dissuade a reasonable employee from making or supporting a report of abuse or neglect under Family Code 261.101.

A person may sue for injunctive relief, damages, or both if the person is suspended or terminated from the person's employment; is discriminated against; or suffers any other adverse employment action.

A district employee who has a cause of action under the provisions at Whistleblower Protection, above, may not bring an action under Protection for Reporting Child Abuse.

Family Code 261.110(a)-(c), (l)

Protection from Disciplinary Proceedings

For purposes of the following provisions, "disciplinary proceeding" means discharge or suspension of a professional employee, or termination or nonrenewal of a professional employee's term contract. [See DGC regarding immunity] *Education Code 22.0512(b)*

Reporting Child Abuse or Maltreatment

A district employee may not be subject to any disciplinary proceeding resulting from an action taken in compliance with Education Code 38.0041 [prevention of child abuse and other maltreatment, see FFG]. *Education Code 38.0041(g)*

Use of Physical Force

A professional employee may not be subject to disciplinary proceedings for the employee's use of physical force against a student to the extent justified under Penal Code 9.62. This provision does not prohibit a district from enforcing a policy relating to corporal punishment or bringing a disciplinary proceeding against a professional employee of the district who violates the district policy relating to corporal punishment. *Education Code 22.0512(a); Tex. Atty. Gen. Op. GA-0202 (2004)*

Penal Code 9.62 provides that the use of force, other than deadly force, against a person is justified:

1. If the actor is entrusted with the care, supervision, or administration of the person for a special purpose; and
2. When and to the degree the actor reasonably believes the force is necessary to further the special purpose or to maintain discipline in a group.

Penal Code 9.62

Failure to Follow Scope, Sequence, and Instructional Materials

A district may not penalize a teacher who does not follow the pacing of recommended or designated instructional materials or the pacing of the recommended or designated scope and sequence for a subject in the required curriculum under Education Code 28.002(a) in a particular grade level based on the teacher's determination that the teacher's students need more or less time in a specific area to demonstrate proficiency in the essential knowledge and skills for that subject and grade level [see EHAA].

A district may take appropriate action with respect to a teacher for conduct described above based on documented evidence of a deficiency in classroom instruction obtained through observation or substantiated and documented third-party information.

Education Code 28.0027(b), (c)

A classroom teacher employed by a district may not be subject to disciplinary proceedings for an allegation that the teacher violated Education Code 28.0022, the Establishment Clause of the First Amendment of the United States Constitution, or a related state or federal law if:

1. The teacher used only instructional material included on the list of approved instructional material maintained by the State Board of Education under Education Code 31.022 and adopted by the district; and

2. The allegation does not dispute that the teacher delivered instruction from the instructional material with fidelity.

This immunity is in addition to, and may not be construed to interfere with, any other immunity provided by law.

Education Code 22.05125

Instructional Materials and Technological Equipment

A board may not require an employee who acts in good faith to pay for instructional materials or technological equipment that is damaged, stolen, misplaced, or not returned. An employee may not waive this provision by contract or any other means.

Exception

A district may enter into a written agreement with an employee whereby the employee assumes financial responsibility for electronic instructional material or technological equipment usage off school property or outside of a school-sponsored event in consideration for the ability of the employee to use the electronic instructional material or technological equipment for personal business.

The written agreement shall be separate from the employee's contract of employment, if applicable, and shall clearly inform the employee of the amount of the financial responsibility and advise the employee to consider obtaining appropriate insurance. An employee may not be required to enter into such an agreement as a condition of employment.

Education Code 31.104(e); 19 TAC 66.107(c)

Controversial Topics

For any course or subject, including an innovative course, for a grade level from kindergarten through grade 12, a teacher may not be compelled to discuss a widely debated and currently controver-

sial issue of public policy or social affairs. *Education Code 28.0022(a)*

Note: For instructional requirements and prohibitions, including requirements for student discussion, see EMB.

Jury Duty

A district may not discharge, threaten to discharge, intimidate, or coerce any permanent employee because the employee serves as a juror or grand juror, or for the employee's attendance or scheduled attendance in connection with the service, in any court in the United States. An employee who is discharged, threatened with discharge, intimidated, or coerced is entitled to return to the same employment that the employee held when summoned for jury or grand jury service if the employee, as soon as practical after release from jury or grand jury service, gives the employer actual notice that the employee intends to return. *Civ. Prac. & Rem. Code 122.001*

A district may not discharge, discipline, reduce the salary of, or otherwise penalize or discriminate against a school district employee because of the employee's compliance with a summons to appear as a juror. For each regularly scheduled workday on which a nonsalaried employee serves in any phase of jury service, a school district shall pay the employee the employee's normal daily compensation [see DEC]. *Education Code 22.006(a), (b)*

Breaks for Nursing Mothers

A district shall provide a reasonable break time for an employee to express breast milk for the employee's nursing child for one year after the child's birth each time the employee has need to express the milk.

A district shall provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

A district shall not be required to compensate an employee receiving reasonable break time for any time spent during the workday for such purpose unless otherwise required by federal or state law or municipal ordinance.

Break time provided shall be considered hours worked if the employee is not completely relieved from duty during the entirety of the break.

A district that employs less than 50 employees is not subject to these requirements, if the requirements would impose an undue hardship by causing the district significant difficulty or expense

when considered in relation to the size, financial resources, nature, or structure of the district.

This requirement does not preempt a state law or municipal ordinance that provides greater protections to employees.

29 U.S.C. 218d

Right to Express Breast Milk

A district employee is entitled to express breast milk at the employee's workplace. *Gov't Code 619.002*

The district shall develop a written policy on the expression of breast milk by employees under Government Code Chapter 619. The policy must state that the district shall support the practice of expressing breast milk and make reasonable accommodations for the needs of employees who express breast milk.

A district shall provide a reasonable amount of break time for an employee to express breast milk each time the employee has need to express the milk. The district shall provide a place, other than a multiple user bathroom, that is shielded from view and free from intrusion from other employees and the public where the employee can express breast milk.

A district may not suspend or terminate the employment of, or otherwise discriminate against, an employee because the employee has asserted the employee's rights under Government Code Chapter 619. Government Code Chapter 619 does not create a private or state cause of action against a district.

Gov't Code Ch. 619

Charitable Contributions

A board or a district employee may not directly or indirectly require or coerce any district employee to:

1. Make a contribution to a charitable organization or in response to a fund-raiser; or
2. Attend a meeting called for the purpose of soliciting charitable contributions.

A board or district employee may not directly or indirectly require or coerce any district employee to refrain from the same acts.

Education Code 22.011

Protection of Nurses

A district may not suspend, terminate, or otherwise discipline or discriminate against a nurse who refuses to engage in an act or omission relating to patient care that:

1. Would constitute grounds for reporting the nurse to the Board of Nurse Examiners under Occupations Code Chapter 301, Subchapter I;

2. Constitutes a minor incident, as defined at Occupations Code 301.419; or

3. Would violate Occupations Code Chapter 301 or a rule of the Board of Nurse Examiners, if the nurse notifies the district at the time of the refusal that this is the reason for refusing to engage in the act or omission.

Occupations Code 301.352(a)

Immunity from Individual Liability

The statutory immunity detailed below is in addition to and does not preempt the common law doctrine of official and governmental immunity. *Education Code 22.051(b)*

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)

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)

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 or local behavioral 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 attempting 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, 437.222*

Liability for Causing Exposure to Pandemic Disease

A person is not liable for injury or death caused by exposing an individual to a pandemic disease during a pandemic emergency except as provided by Civil Practice and Remedies Code Chapter 148. *Civ. Prac. & Rem. Code 148.003(a)*

Educator Ethics

Educators shall comply with standard practices and ethical conduct toward students, professional colleagues, school officials, parents, and members of the community and shall safeguard academic freedom.

The State Board for Educator Certification (SBEC) shall provide for the adoption, amendment, and enforcement of an educator's code of ethics [see DH(EXHIBIT)]. SBEC is solely responsible for enforcing the ethics code for purposes related to certification disciplinary proceedings.

Education Code 21.041(b)(8); 19 TAC 247.1(b), (c)

Public Servants

All district employees are "public servants" and therefore subject to Title VIII of the Penal Code, regarding offenses against public administration, including restrictions on the acceptance of illegal gifts, honoraria and expenses, and abuse of office. *Penal Code 1.07(a)(41), Title VIII* [See DBD and BBFA]

Electronic Communication Policy

"Electronic communication" means any communication facilitated by the use of any electronic device, including a telephone, cellular telephone, computer, computer network, personal data assistant, or pager. The term includes emails, text messages, instant messages, and any communications made through a website, including a social media website or a social networking website.

A school district shall adopt a written policy concerning electronic communications between a school employee and a student enrolled in the district.

The policy adopted under this section must:

1. Include provisions designed to prevent improper electronic communications between a school employee and a student;
2. Allow a school employee to elect to not disclose to students the employee's personal telephone number or email address; and
3. Include provisions instructing a school employee about the proper method for notifying appropriate local administrators about an incident in which a student engages in improper communications with the school employee.

Education Code 38.027

Public Information on Private Device

A current or former board member or employee of a district who maintains public information on a privately owned device shall:

1. Forward or transfer the public information to the district or a district server to be preserved as provided by Government Code 552.004(a); or

2. Preserve the public information in its original form in a backup or archive and on the privately owned device for the time described under 552.004(a).

Gov't Code 552.004(b) [See GB]

Loss of Retirement Annuity for Conviction of Certain Felonies

A person is not eligible to receive a service retirement annuity from the Teacher Retirement System (TRS) if the person is convicted of a qualifying felony and the victim is a student.

"Qualifying felony" means an offense that is punishable as a felony under the following sections of the Penal Code:

1. Section 21.02 (continuous sexual abuse of young child or disabled individual);

2. Section 21.12 (improper relationship between educator and student);

3. Section 22.011 (sexual assault) or Section 22.021 (aggravated sexual assault); or

4. Section 43.24 (sale, distribution, or display of harmful material to minor).

The term includes any federal offense that contains elements that are substantially similar to the elements of a felony offense described above.

Not later than the 30th day after the date of a person's conviction for a qualifying felony, the school at which the person was employed shall provide written notice of the conviction to TRS. The notice must comply with rules adopted by TRS.

Gov't Code 824.009

Transportation or Storage of Firearm in School Parking Area

A district may not prohibit a school employee who holds a license to carry a handgun under Government Code, Chapter 411, Subchapter H, from transporting or storing a handgun or other firearm or ammunition in a locked, privately owned or leased motor vehicle in a parking lot, parking garage, or other parking area provided by the district and may not regulate the manner in which the handgun, firearm, or ammunition is stored in the vehicle, provided that the handgun, firearm, or ammunition is not in plain view.

This does not authorize a person to possess, transport, or store a handgun, a firearm, or ammunition in violation of Education Code 37.125, Penal Code 46.03, or other law. [See GKA]

Education Code 37.0815

Tobacco and E-Cigarettes

A board shall prohibit smoking or using e-cigarettes or tobacco products at a school-related or school-sanctioned activity on or off school property.

Enforcement

A board shall ensure that district personnel enforce the policies on school property.

Education Code 38.006(b) [See also FNCD and GKA]

Drug and Alcohol Abuse Program

A board shall prohibit the use of alcoholic beverages at school-related or school-sanctioned activities on or off school property. *Education Code 38.007(a)*

Federal Drug-Free Workplace Act

A district that receives a direct federal grant must agree to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the district's workplace and specifying the actions that will be taken against employees for violations of the prohibition;
2. Establishing a drug-free awareness program to inform employees about:
    a. The dangers of drug abuse in the workplace;
    b. The district's policy of maintaining a drug-free workplace;
    c. Available drug counseling, rehabilitation, and employee assistance programs; and
    d. The penalties that may be imposed on employees for drug abuse violations;
3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the required statement;
4. Notifying the employee in the required statement that as a condition of employment in the grant the employee will:
    a. Abide by the terms of the statement; and
    b. Notify the district of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after the conviction;

5. Notifying the granting agency within 10 days after receiving notice from an employee or otherwise receiving actual notice of a conviction;

6. Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is convicted, as required by 41 U.S.C. section 8104; and

7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of the above requirements.

41 U.S.C. 8103(a)(1)

Dietary Supplements

Except as provided at Education Code 38.011(b), a district employee may not:

1. Knowingly sell, market, or distribute a dietary supplement that contains performance-enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's duties; or

2. Knowingly endorse or suggest the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance-enhancing compounds by a primary or secondary student with whom the employee has contact as part of the employee's duties.

An employee who violates items 1 or 2, above, commits a Class C misdemeanor offense.

Education Code 38.011

Low-THC Cannabis

A district may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the possession of low-THC cannabis, as authorized by Health and Safety Code Chapter 487. *Health and Safety Code 487.201*

Reporting Workplace Violence

A district shall post a notice to employees of the contact information for reporting instances of workplace violence or suspicious activity to the Department of Public Safety (DPS). The notice must be posted in a conspicuous place, in sufficient locations to be convenient to all employees, and in English and Spanish, as appropriate.

The Texas Workforce Commission, in consultation with DPS, shall prescribe the form and content of the notice, which must contain the contact information for reporting instances of workplace violence or suspicious activity to DPS and inform employees of the right to make a report to DPS anonymously.

Labor Code 104A.002, .003

Hazard Communication Act

A district shall perform the following duties in compliance with the Hazard Communication Act:

Notice

A district shall 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

A district shall 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(a)*

A district shall 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

A district shall 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)*

The district shall update the list as necessary but at least by December 31 of each year, and shall 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 — A district shall maintain a legible copy of a 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 employees or designated representatives at each workplace. *Health and Safety Code 502.006*

Protective Equipment — Employees shall be provided 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]

Note: This policy addresses the prohibition against discrimination, harassment, and retaliation with respect to compensation, terms, conditions, or privileges of employment. For legally referenced material relating to the prohibition against discrimination in hiring and discharging employees, see DAA(LEGAL).

For provisions related to harassment of students, including the district's response to sexual harassment as defined by Title IX, see FFH.

Unlawful Employment Discrimination

It is an unlawful employment practice for a district to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's:

1. Race, color, or national origin;
2. Religion;
3. Sex;
4. Age;
5. Disability;
6. Genetic information [see DAB]; or
7. Pregnancy.

Federal Law

Section 1981 of the Civil Rights Act of 1866 (Section 1981) — race. *42 U.S.C. 1981*

Title VII of the Civil Rights Act of 1964 (Title VII) — race, color, religion, sex, and national origin. *42 U.S.C. 2000e et seq.*

Age Discrimination in Employment Act of 1967 (ADEA) — age, over 40. *29 U.S.C. 621 et seq.*

Section 504 of the Rehabilitation Act of 1973 (Section 504) — disability in programs receiving federal funds. *29 U.S.C. 794*

Title I of the Americans with Disabilities Act of 1990 (ADA) — disability. *42 U.S.C. 12101 et seq.*

Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA) — genetic information. *42 U.S.C. 2000ff et seq.*

Pregnant Workers Fairness Act (PWFA) — pregnancy. *42 U.S.C. 2000gg et seq.*

Note: Title VII, the ADA, GINA, and PWFA do not apply to employers unless the employer has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. *42 U.S.C. 2000e(b); 42 U.S.C. 12111(5); 42 U.S.C. 2000ff(2)(B); 42 U.S.C. 2000gg(2)(B)*

State Law

Texas Commission on Human Rights Act (TCHRA) — race, color, disability, religion, sex, national origin, age, and genetic information. *Labor Code 21.051, .402; 40 TAC 819.12(a)*

State policy on employment of persons with disabilities. *Human Resources Code 121.003(f)*

Prohibition on Retaliation

A district may not discriminate against any employee or applicant for employment because the employee or applicant has opposed any unlawful, discriminatory employment practices or participated in the investigation of any complaint related to an unlawful, discriminatory employment practice. *29 U.S.C. 623(d) (ADEA); 42 U.S.C. 2000e-3(a) (Title VII); 42 U.S.C. 12203 (ADA); Labor Code 21.055; 40 TAC 819.12(e)*

Harassment-Free Workplace

Harassment on the basis of a protected characteristic is a violation of Title VII. A district has an affirmative duty, under Title VII, to maintain a working environment free of harassment on the basis of sex, race, color, religion, and national origin. *42 U.S.C. 2000e, et seq.; 29 C.F.R. 1604.11(a), 1606.8(a)*

Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Where employment opportunities or benefits are granted because of an individual's submission to the employer's sexual advances or requests for sexual favors, the employer may be held liable for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit.

29 C.F.R. 1604.11(a), (g); Labor Code 21.141

An employer commits an unlawful employment practice if sexual harassment of an employee occurs and the employer or the employer's agents or supervisors know or should have known that the conduct constituting sexual harassment was occurring; and fail to take immediate and appropriate corrective action. *Labor Code 21.142; 40 TAC 819.12(k)*

Same-Sex Harassment

Same-sex sexual harassment constitutes sexual harassment. *Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998)*

Criminal Offense — Official Oppression

A public servant acting under color of the public servant's office or employment commits an offense if the public servant intentionally subjects another to sexual harassment.

A public servant acts under color of the public servant's office or employment if the person acts or purports to act in an official capacity or takes advantage of such actual or purported capacity.

"Sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly.

Penal Code 39.03(a)(3), (b), (c)

Unpaid Interns

A district commits an unlawful employment practice if sexual harassment of an unpaid intern occurs and the district or its agents or supervisors know or should have known that the conduct constituting sexual harassment was occurring, and fail to take immediate and appropriate corrective action. *Labor Code 21.1065*

Prohibition on Use of Public Funds

A district may not use public money to settle or otherwise pay a sexual harassment claim made against a person who is an elected or appointed member of the board or an officer or employee of the district. *Local Gov't Code 180.009*

National Origin Harassment

Ethnic slurs and other verbal or physical conduct relating to an individual's national origin constitute harassment when this conduct:

1. Has the purpose or effect of creating an intimidating, hostile or offensive working environment;
2. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
3. Otherwise adversely affects an individual's employment opportunities.

29 C.F.R. 1606.8(b)

Severe and Pervasive

Harassment violates Title VII if it is sufficiently severe and pervasive to alter the conditions of employment. *Pennsylvania State Police v. Suders, 542 U.S. 129 (2004)*

Title VII does not prohibit all verbal and physical harassment in the workplace. For example, harassment between men and women is not automatically unlawful sexual harassment merely because the words used have sexual content or connotations. *Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998)*

Prevention

A district should take all steps necessary to prevent unlawful harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate penalties, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned. *29 C.F.R. 1604.11(f)*

Responsibility for Harassment by Third Parties

A district is responsible for acts of unlawful harassment by fellow employees and by nonemployees if the district, its agents, or its supervisory employees knew or should have known of the conduct, unless the district takes immediate and appropriate corrective action. *29 C.F.R. 1604.11(d), (e), 1606.8(d), (e)*

When no tangible employment action is taken, a district may raise the following affirmative defense:

1. That the district exercised reasonable care to prevent and promptly correct any harassing behavior; and

2. That the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.

Burlington Indus., Inc. v. Ellerth, 524 U.S. 742 (1998); Faragher v. City of Boca Raton, 524 U.S. 775 (1998)

Racial Discrimination

The prohibition against discrimination because of race or on the basis of race includes discrimination because of or on the basis of an employee's hair texture or protective hairstyle commonly or historically associated with race.

A district commits an unlawful employment practice if the district adopts or enforces a dress or grooming policy that discriminates against a hair texture or protective hairstyle commonly or historically associated with race.

"Protective hairstyle" includes braids, locks, and twists.

Labor Code 21.1095

Religious Discrimination

The prohibition against discrimination on the basis of religion includes all aspects of religious observances and practice, as well as religious belief, unless a district demonstrates that it is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship to the district's business. "Undue hardship" means more than a *de minimus* (minimal) cost. *42 U.S.C. 2000e(j); 29 C.F.R. 1605.2; Labor Code 21.108*

Burden on Free Exercise

A district may not substantially burden an employee'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. *Civ. Prac. & Rem. Code 110.003*

Sex Discrimination

Pregnancy

The prohibition against discrimination because of sex includes discrimination on the basis of pregnancy, childbirth, or related medical conditions. A district shall treat women affected by pregnancy, childbirth, or related medical conditions the same as other employees for all employment-related purposes, including receipt of benefits under fringe benefit programs. *42 U.S.C. 2000e(k); 29 C.F.R. 1604.10; Labor Code 21.106*

Gay and Transgender

The prohibition against discrimination because of sex includes discrimination on the basis of an individual being gay or transgender. *Bostock v. Clayton County, Georgia, 140 S. Ct. 1731 (2020)*

Gender Stereotypes

A district may not evaluate employees by assuming or insisting that they match the stereotype associated with their group. *Price Waterhouse v. Hopkins, 490 U.S. 228 (1989)*

Age Discrimination

The prohibition against discrimination on the basis of age applies only to discrimination against an individual 40 years of age or older. *29 U.S.C. 631; Labor Code 21.101*

Bona Fide Employee Benefit Plan

A district may take an employment action on the basis of age pursuant to a bona fide seniority system or a bona fide employee benefit plan. However, a bona fide employee benefit plan shall not excuse the failure to hire any individual and no such benefit plan shall require or permit the involuntary retirement of any individual because of age. *29 U.S.C. 623(f); Labor Code 21.102*

Disability Discrimination

A district may not discriminate against a qualified individual on the basis of disability in job application procedures, hiring, advancement, or discharge of employees, compensation, job training, and other terms, conditions, and privileges of employment. *42 U.S.C. 12112(a); 29 C.F.R. 1630.4(b); Labor Code 21.051*

In addition, each district that receives assistance under the Individuals with Disabilities Education Act (IDEA) must make positive efforts to employ, and advance in employment, qualified individuals

with disabilities in programs assisted by the IDEA. *34 C.F.R. 300.177(b)*

Discrimination Based on Lack of Disability

The ADA and the TCHRA do not provide a basis for a claim that an individual was subject to discrimination because of the individual's lack of disability. *42 U.S.C. 12201(g); 29 C.F.R. 1630.4(b); Labor Code 21.005(c)*

Definition of Disability

"Disability" means:

1. An actual disability: a physical or mental impairment [see definition, below] that substantially limits one or more of an individual's major life activities;

2. A record of having such an impairment; or

3. Being regarded as having such an impairment.

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.

"Regarded as" Having an Impairment

An individual meets the requirement of being "regarded as" having an impairment if the individual establishes that he or she has been subjected to an action prohibited by the ADA 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.

Transitory and Minor

The "regarded as" prong of the definition does not apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of six months or less. The "transitory" exception does not apply to the "actual disability" or "record of disability" prongs of the definition.

Mitigating Measures

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, prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

The ameliorative effects of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. Ordinary eyeglasses and contact lenses are lenses that are intended to fully correct visual acuity or to eliminate refractive error.

42 U.S.C. 12102(1), (3), (4); 29 C.F.R. 1630.2(g), (j)(1); Labor Code 21.002, .0021

Other Definitions

“Physical or mental impairment” means:

Physical or Mental Impairment

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or

2. Any mental or psychological disorder, such as an intellectual disability (formerly termed “mental retardation”), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

29 C.F.R. 1630.2(h)

Major Life Activities

“Major life activities” include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working.

“Major life activities” also include the operation of major bodily functions, including functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within the body system.

42 U.S.C. 12102(2); 29 C.F.R. 1630.2(i); Labor Code 21.002

Qualified Individual

“Qualified individual” means an individual who:

1. Satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires; and

2. With or without reasonable accommodation, can perform the essential functions of such position. Consideration shall be given to a district’s judgment as to what functions of a job are essential. A written job description prepared before advertising or interviewing applicants for the job is evidence of the job’s essential functions.

42 U.S.C. 12111(8); 29 C.F.R. 1630.2(m)

Reasonable Accommodations

A district is required, absent undue hardship, to make a reasonable accommodation to an otherwise qualified individual who meets the definition of disability under the “actual disability” or “record of disability” prongs. A district is not required to provide a reasonable ac-

commodation to an individual who meets the definition of disability solely under the "regarded as" prong. *42 U.S.C. 12112(b)(5); 29 C.F.R. 1630.2(o)(4), .9; 29 U.S.C. 794; 34 C.F.R. 104.11; Labor Code 21.128* [See DBB regarding medical examinations and inquiries under the Americans with Disabilities Act]

"Reasonable accommodation" includes:

1. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

2. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

42 U.S.C. 12111(9); 29 C.F.R. 1630.2(o); 34 C.F.R. 104.12(b)

"Undue hardship" means an action requiring significant difficulty or expense when considered in light of the nature and cost of the accommodation needed, overall financial resources of the affected facility and the district, and other factors set out in law. *42 U.S.C. 12111(10); 29 C.F.R. 1630.2(p); 34 C.F.R. 104.12(c)*

Discrimination Based on Relationship

A district shall not exclude or deny equal jobs or benefits to, or otherwise discriminate against, a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social, or other relationship or association. *42 U.S.C. 12112(b)(4); 29 C.F.R. 1630.8; 34 C.F.R. 104.11*

Illegal Drugs and Alcohol

The term "qualified individual with a disability" does not include any employee or applicant who is currently engaging in the illegal use of drugs, when a district acts on the basis of such use.

Drug Testing

A district is not prohibited from conducting drug testing of employees and applicants for the illegal use of drugs or making employment decisions based on the results of such tests.

42 U.S.C. 12114(c), (d); Labor Code 21.002(6)(A) [See DHE]

Alcohol Use

The term "qualified individual with a disability" does not include an individual who is an alcoholic and whose current use of alcohol prevents the employee from performing the duties of his or her job or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others. *42 U.S.C. 12114(a); 29 U.S.C. 705(20)(C); 29 C.F.R. 1630.3(a); 28 C.F.R. 35.104; Labor Code 21.002(6)(A)*

Qualification Standards

It is unlawful for a district to use qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, on the basis of disability, unless the standard, test, or other selection criteria, as used by the district, is shown to be job related for the position in question and is consistent with business necessity. *29 C.F.R. 1630.10(a)*

Direct Threat to Health or Safety

As a qualification standard, a district may require that an individual not pose a direct threat to the health or safety of other individuals in the workplace. "Direct threat" means a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation. *42 U.S.C. 12111(3); 29 C.F.R. 1630.2(r); Labor Code 21.002(6)(B)*

Vision Standards and Tests

A district shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the district, is shown to be job-related for the position in question and consistent with business necessity. *42 U.S.C. 12113(c); 29 C.F.R. 1630.10(b); Labor Code 21.115(b)*

Communicable Diseases

A district may refuse to assign or continue to assign an individual to a job involving food handling if the individual has an infectious or communicable disease that is transmitted to others through handling of food. *42 U.S.C. 12113(e); 29 U.S.C. 705(20)(D); 29 C.F.R. 1630.16(e); Labor Code 21.002(6)(B)*

Service Animals

A district that is subject to the jurisdiction of Title I of the ADA (employment discrimination) or to Section 504 of the Rehabilitation Act (employment discrimination) shall comply with the reasonable accommodation requirements of those laws with respect to service animals. [See Reasonable Accommodations, above]

A district that is not subject to either Title I or Section 504 shall comply with Title II of the ADA (discrimination by public entity). An employer that is subject to Title II shall comply with 28 C.F.R. Part 35, including the requirements relating to service animals at 28 C.F.R. 35.136 [see FBA].

28 C.F.R. 35.140

Pregnant Workers Fairness

It is an unlawful employment practice for a district to:

1. Not make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of a qualified employee, unless the district can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the district;

2. Require a qualified employee affected by pregnancy, childbirth, or related medical conditions to accept an accommodation other than any reasonable accommodation arrived at through the interactive process in the Americans with Disabilities Act (ADA);

3. Deny employment opportunities to a qualified employee if the denial is based on the need of the district to make reasonable accommodations to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee;

4. Require a qualified employee to take leave, whether paid or unpaid, if another reasonable accommodation can be provided to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee; or

5. Take adverse action in terms, conditions, or privileges of employment against a qualified employee on account of the employee requesting or using a reasonable accommodation to the known limitations related to the pregnancy, childbirth, or related medical conditions of the employee.

42 U.S.C. 2000gg-1

Definitions

“Known limitation” means physical or mental condition related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions that the employee or employee’s representative has communicated to the district whether or not such condition meets the definition of disability specified in the ADA (42 U.S.C. 12102).

“Qualified employee” means an employee or applicant who, with or without reasonable accommodation, can perform the essential functions of the employment position, except that an employee or applicant shall be considered qualified if:

1. Any inability to perform an essential function is for a temporary period;

2. The essential function could be performed in the near future; and

3. The inability to perform the essential function can be reasonably accommodated.

“Reasonable accommodation” and “undue hardship” have the meanings given in the ADA and are construed as those terms are construed under the ADA and regulations, including with regard to

the interactive process that will be used to determine an appropriate reasonable accommodation.

42 U.S.C. 2000gg

Title IX

No person, on the basis of sex, shall be excluded from participation in, denied the benefits of, or be subjected to discrimination by a district receiving federal financial assistance. *20 U.S.C. 1681* [See FB, FFH]

Equal Pay

A district may not pay an employee at a rate less than the rate the district pays employees of the opposite sex for equal work on jobs the performance of which require equal skill, effort, or responsibility and which are performed under similar working conditions. This rule does not apply if the payment is pursuant to a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any other factor other than sex. *29 U.S.C. 206(d) (Equal Pay Act); 34 C.F.R. 106.54 (Title IX)*

Grievance Procedures

Section 504

A district that receives federal financial assistance and that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act. *34 C.F.R. 104.7(b), .11*

ADA

A district that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the ADA. *28 C.F.R. 35.107, .140*

Title IX

A district that receives federal financial assistance shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX. *34 C.F.R. 106.8(c); North Haven Board of Education v. Bell, 456 U.S. 512 (1982)* [For legally referenced material relating to Title IX grievance procedures, see FFH(LEGAL).]

Compliance Coordinators

Section 504

A district that employs 15 or more persons shall designate at least one person to coordinate its efforts to comply with Section 504 of the Rehabilitation Act. The district's Section 504 notification [see DAA] shall also identify the responsible employee so designated. *34 C.F.R. 104.7(a), .8(a)*

ADA

A district that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the ADA, including any investigation of any complaint communicated to it alleging its noncompliance with the ADA or alleging any actions that would be prohibited by the

ADA. The district shall make available to all interested individuals the name, office address, and telephone number of the employee or employees so designated. *28 C.F.R. 35.107(a)*

ADEA

A district shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the Age Discrimination in Employment Act (ADEA), including investigation of any complaints that the district receives alleging any actions that are prohibited by the ADEA. A district shall notify its employees of the identity of the responsible employee by name or title, address, and telephone number. *34 C.F.R. 110.25(a), (b)*

Title IX

A district must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under Title IX, which employee must be referred to as the "Title IX Coordinator." The district must notify applicants for admission and employment, students, parents or legal guardians, employees, and all professional organizations holding professional agreements with the district of the name or title, office address, electronic mail address, and telephone number of the employee(s) so designated. *34 C.F.R. 106.8(a)*

Planning and Preparation

Each classroom teacher is entitled to at least 450 minutes in each two-week period for instructional preparation including parent-teacher conferences, evaluating students' work, and planning. A planning and preparation period may not be less than 45 minutes within the instructional day. During that time, a teacher may not be required to participate in any other activity. *Education Code 21.404* [See DC(LEGAL) for definition of classroom teacher]

Planning and preparation time must occur during the time that students at the school where the teacher is located are receiving instruction. *Canutillo Educators Ass'n v. Canutillo Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 042-R10-203 (April 30, 2010)*

Supplemental Agreement

A district may enter into a supplemental agreement with a classroom teacher under which the teacher agrees to perform a duty relating to initial lesson plan design or instructional material selection that is not a duty generally anticipated to be performed during the instructional day and assigned to all classroom teachers of the same subject and grade level under those teachers' employment contracts.

A district may not require a classroom teacher for a foundation curriculum course to spend planning and preparation time creating or selecting instructional materials to initially cover the applicable essential knowledge and skills for the course unless the teacher has entered into a supplemental agreement. A classroom teacher may choose to spend the teacher's planning and preparation time creating or selecting instructional materials.

A supplemental agreement between a district and a classroom teacher described above under which a teacher is assigned responsibility for a greater number of duties unrelated to providing instruction than other full-time teachers of the same grade level in the district must explicitly state each of the teacher's duties unrelated to providing instruction.

Education Code 21.4045

Duty-Free Lunch

Each classroom teacher or full-time librarian is entitled to at least a 30-minute lunch period free from all duties and responsibilities connected with the instruction and supervision of students. The implementation of this requirement may not result in a lengthened school day. *Education Code 21.405* [See DC(LEGAL) for definition of classroom teacher and DEA(LEGAL) for definition of librarian]

Teachers may not be required to spend their 30-minute duty-free lunch break on school property. *Tex. Atty. Gen. Op. JM-481 (1986)*

Exception

If necessary because of a personnel shortage, extreme economic conditions, or unavoidable or unforeseen circumstances, a district

may require a classroom teacher or librarian to supervise students during lunch. A classroom teacher or librarian may not be required to supervise students under this exception more than one day in any school week. *Education Code 21.405*

In determining whether an exceptional circumstance exists, a district shall use the following guidelines:

1. A personnel shortage exists when, despite reasonable efforts to use nonteaching personnel or the assistance of community volunteers to supervise students during lunch, no other personnel are available.

2. Extreme economic conditions exist when the percentage of a local tax increase, including the cost of implementing duty-free lunch requirements, would place the district in jeopardy with respect to a potential roll-back election.

3. Unavoidable or unforeseen circumstances exist when, because of illness, epidemic, or natural or man-made disaster, the district is unable to find individuals to supervise students during lunch.

19 TAC 153.1001

Restrictions on Written Reports

A board shall limit redundant requests for information and the number and length of written reports that a classroom teacher is required to prepare.

A classroom teacher may not be required to prepare any written information other than:

1. Any report concerning the health, safety, or welfare of a student;
2. A report of a student's grade on an assignment or examination;
3. A report of a student's academic progress in a class or course;
4. A report of a student's grades at the end of each grade reporting period;
5. A report on instructional materials;
6. A unit or weekly lesson plan that outlines, in a brief and general manner, the information to be presented during each period at the secondary level or in each subject or topic at the elementary level, unless the lesson plan is included in instructional material adopted by the board;
7. An attendance report;
8. Any report required for accreditation review;
9. Any information required by a district that relates to a complaint, grievance, or actual or potential litigation and that requires the classroom teacher's involvement; or
10. Any information specifically required by law, rule, or regulation.

A district may collect essential information, in addition to the information specified above, from a classroom teacher on agreement between the classroom teacher and the district.

Paperwork Review

A board shall review paperwork requirements imposed on classroom teachers and transfer to existing noninstructional staff a reporting task that can reasonably be accomplished by that staff. [See BAA]

Education Code 11.164

The commissioner of education may authorize special accreditation investigations in response to repeated complaints concerning imposition of excessive paperwork requirements on classroom teachers. *Education Code 39.075(b-1)*

Staff Development

Educator

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.

Principal

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]

Education Code 21.451(a), (a-1)

Professional Development Policy

A board shall annually review the SBEC continuing education and training clearinghouse published under Education Code 21.4514 and adopt a professional development policy that must:

1. Be guided by the recommendations for training in the clearinghouse;
2. Note any differences in the policy adopted by the district or school from the recommendations in the clearinghouse; and
3. Include a schedule of all training required for educators or other school personnel at the district or school.

To the extent of any conflict, a frequency requirement for the completion of training provided by statute prevails over a frequency requirement for that training included in the professional development policy.

Education Code 21.4515(a), (b)

Requirements for Training

In designing staff development for educators other than principals, a district must use procedures that, to the greatest extent possible, ensure the training included in the staff development:

1. Incorporates proactive instructional planning techniques using a framework that:
    a. Provides flexibility in the ways:
        (1) Information is presented;
        (2) Students respond or demonstrate knowledge and skills; and
        (3) Students are engaged;
    b. Reduces barriers in instruction;
    c. Provides appropriate accommodations, supports, and challenges; and

d. Maintains high achievement expectations for all students, including students with disabilities and students of limited English proficiency; and

2. Integrates inclusive and evidence-based instructional practices for all students, including students with disabilities.

Staff development shall be predominantly campus-based, related to achieving campus performance objectives, and developed and approved by the campus-level committee.

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]

Education Code 21.451(a-2), (b), (c)

Optional Training

Staff development may include training in:

1. Technology and digital learning; and

2. Positive behavior intervention and support strategies, including classroom management, district discipline policies, and the Student Code of Conduct.

Technology and digital learning training must:

1. Discuss basic technology proficiency expectations and methods to increase an educator's digital literacy; and

2. Assist an educator in the use of digital technology in learning activities that improve teaching, assessment, and instructional practices.

Staff development may include instruction as to what is permissible under law, including opinions of the United States Supreme Court, regarding prayer in public school.

Education Code 21.451(d)(1), (d-3), (g)

Required Training

Staff development must include training on:

1. Suicide prevention;

2. Strategies for establishing and maintaining positive relationships among students, including conflict resolution; and

3. Preventing, identifying, responding to, and reporting incidents of bullying.

Required training above must be provided in accordance with the board’s professional development policy and use a best practice-based program recommended by the Health and Human Services

Commission under Education Code 38.351 [see FFEB]. Required training may include two or more topics listed together.

Education Code 21.451(d)(3), (d-1)

Instruction of Students with Disabilities

Definition

"Student with a disability" means a student who is:

1. Eligible to participate in a school district's special education program under Education Code 29.003;
2. Covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794); or
3. Covered by the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

Education Code 21.001(3-a)

Requirements

Staff development must include training that is evidence-based, as defined by Section 8101, Every Student Succeeds Act (20 USC 7801), and that:

1. Relates to the instruction of students with disabilities, including students with disabilities who also have other intellectual or mental health conditions; and
2. Is designed for educators who work primarily outside the area of special education.

A district is required to provide the training to an educator who works primarily outside the area of special education 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.

In developing or maintaining the training, a district must consult with persons with expertise in research-based practices for students with disabilities, including colleges, universities, private and nonprofit organizations, regional education service centers, qualified district personnel, and any other persons identified as qualified by the district, regardless of whether the training is provided at the campus or district level.

Education Code 21.451(d)(2), (e)-(f)

Suicide Prevention

The required suicide prevention training may be satisfied through independent review of suicide prevention training material that complies with the guidelines developed by the Texas Education Agency (TEA) and is offered online. *Education Code 21.451(d-2); 19 TAC 153.1013(d)*

Suicide prevention programs on TEA's list of recommended best practice-based programs [see FFEB] must include components that provide for training school counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students, to:

1. Recognize students at risk of attempting suicide, including students who are or may be the victims of or who engage in bullying;

2. Recognize students displaying early warning signs and a possible need for early mental health or substance abuse intervention, which warning signs may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others;

3. Intervene effectively with students described above by providing notice and referral to a parent or guardian so appropriate action, such as seeking mental health or substance abuse services, may be taken by a parent or guardian; and

4. Assist students in returning to school following treatment of a mental health concern or suicide attempt.

A district shall provide training described in the components above 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 TEA's list of recommended best practice-based programs [see FFEB] to satisfy this training requirement.

If a district provides the training, a district shall require completion in accordance with the district's professional development policy and maintain records that include district employees who participated in the training.

A district may satisfy a requirement to implement a program in the area of substance abuse prevention and intervention by providing instruction related to youth substance use and abuse education under Education Code 38.040. [See EHAC]

Education Code 38.351(e), (g), (g-1), (h); 19 TAC 153.1013

Staff Development Account

A district that receives resources from the commissioner of education's staff development account 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(c)*

Child Abuse, Trafficking, and Maltreatment

A district's methods for increasing awareness of issues regarding sexual abuse, sex trafficking, and other maltreatment of children [see District Improvement Plan at BQ and Sexual Abuse, Trafficking, and Maltreatment Policies and Programs at FFG] must include training concerning prevention techniques for and recognition of sexual abuse, sex trafficking, and all other maltreatment of children, including the sexual abuse, sex trafficking, and other maltreatment of children with significant cognitive disabilities.

The training must be provided in accordance with the district's professional development policy and as part of new employee orientation to all new employees.

The training must include:

1. Factors indicating a child is at risk for sexual abuse, trafficking, or other maltreatment;
2. Warning signs indicating a child may be a victim of sexual abuse, trafficking, or other maltreatment;
3. Internal procedures for seeking assistance for a child who is at risk for sexual abuse, trafficking, 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, trafficking, or other maltreatment; and
5. Information on community organizations that have relevant research-based programs and that are able to provide training or other education for district staff, students, and parents.

A district must maintain records that include staff members who participated in the training.

To the extent that resources are not yet available from TEA or the commissioner of education, districts shall implement the policies and trainings with existing or publicly available resources. The district may also work in conjunction with a community organization to provide the training at no cost to the district.

Education Code 38.0041(c)-(f); 19 TAC 61.1051(d)

Trauma-Informed Care

A district's efforts to increase awareness and implementation of trauma-informed care must include training to new and existing employees in accordance with the district's professional development policy. [See BQ, FFBA] *Education Code 38.036(c)*

Mental Health

A district shall require each district employee who regularly interacts with students enrolled at the district to complete an evidence-

based mental health training program designed to provide instruction to participants regarding the recognition and support of children and youth who experience a mental health or substance use issue that may pose a threat to school safety.

A district may not require a district employee who has previously completed mental health training offered by a local mental health authority under Health and Safety Code 1001.203 to complete the required training.

Education Code 22.904

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 learning methods, such as telecommunications networks, and using available TEA resources.

Education Code 37.0181

Test Administration

The commissioner may require training for district employees involved in the administration of assessment instruments. The commissioner may only require the employee at each district campus who oversees the administration of the assessment instruments to annually receive the training. The district employee who oversees test administration on a district campus may, with discretion, require other district employees involved in the administration of assessment instruments to repeat the training. *Education Code 39.0304(a), (b-1), (b-2)*

Cybersecurity

Employees identified by the district with access to a district computer system or database and who use a computer to perform at least 25 percent of the employee's required duties must complete a cybersecurity training program selected by the board. The district, in consultation with its cybersecurity coordinator, shall determine how frequently employees must complete the training. [See CQB] *Gov't Code 2054.5191(a-1); Education Code 11.175(h-1)*

Special Programs

A district shall ensure that:

Teacher Literacy Achievement Academies (Reading Academies)

1. Not later than the 2022-23 school year, each classroom teacher in kindergarten or first, second, or third grade and each principal at a campus with kindergarten or first, second, or third grade has attended a teacher literacy achievement academy developed under Education Code 21.4552; and

2. Each classroom teacher and each principal initially employed in a grade level or at a campus described above for the 2022-23 school year or a subsequent school year has attended a teacher literacy achievement academy developed under Education Code 21.4552 by the end of the teacher's or principal's first year of placement in that grade level or campus.

Education Code 28.0062(a)(2)

[See EHAB for kindergarten-grade 3 reading standards.]

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 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 certificate in language arts, social studies, or history that qualifies the teacher to teach at the grade level at which the course is offered with, where practical, a minor in religious or biblical studies. The teacher must successfully complete staff development training developed by the commissioner for elective Bible courses. An elective Bible course may be taught only by a teacher who has successfully completed the com-

missioner's training under Education Code 21.459. *Education Code 28.011(f)*

Texas English Language Proficiency Assessment System Training

The employee assigned to oversee the administration of the Texas English Language Proficiency Assessment System (TELPAS) at a district campus may, with discretion, require other district employees involved in administering the TELPAS to complete training or online calibration activities described by Education Code 21.4571(a). An employee may not be required to complete a training or online calibration activity in one sitting. *Education Code 21.4571(b), (c)*

Automated External Defibrillators

A district shall, in accordance with its professional development policy, make available to employees and volunteers instruction in the principles and techniques of cardiopulmonary resuscitation and the use of an automated external defibrillator (AED).

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

The following persons must satisfactorily complete an extracurricular activity safety training program in accordance with the district's professional development policy:

1. A coach, trainer, or sponsor for an extracurricular athletic activity; and
2. A director responsible for a school marching band.

The safety training program must include:

1. Certification of participants by the American Red Cross, the American Heart Association, or a similar organization or by the University Interscholastic League;
2. Current training in:
    a. Emergency action planning;
    b. Communicating effectively with 9-1-1 emergency service operators and other emergency personnel; and

c. Recognizing symptoms of potentially catastrophic injuries, including head and neck injuries, concussions, injuries related to second impact syndrome, asthma attacks, heatstroke, cardiac arrest, and injuries requiring use of a defibrillator; and

3. A safety drill that incorporates the training and simulates various injuries described above.

Education Code 33.202(b), (c); 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:

1. A coach of an interscholastic athletic activity shall take a course approved by the UIL that provides for not less than two hours of training in the subject matter of concussions, including evaluation, prevention, symptoms, risks, and long-term effects.

2. An athletic trainer who serves as a member of a district's concussion oversight team shall take a course concerning the subject matter of concussions that meets the requirements set by the Texas Department of Licensing and Regulation (TDLR).

3. A school nurse or 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 for coaches or that meets the requirements set by TDLR for athletic trainers, or a course concerning the subject matter of concussions that has been approved for continuing education credit by 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 school nurse or 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

Seizure Recognition and Related First Aid

A school nurse employed by a district must complete a TEA-approved online course of instruction for school nurses regarding managing students with seizure disorders that includes information about seizure recognition and related first aid.

A district employee, other than a school nurse, whose duties at the school include regular contact with students must complete a TEA-approved online course of instruction for school personnel regarding awareness of students with seizure disorders that includes information about seizure recognition and related first aid.

Education Code 38.033(a), (b)

[See FFAF for information about a seizure management and treatment plan.]

Principal

Qualifications — A board, by local policy, shall adopt qualifications for principals. *Education Code 11.202(c)*

Certification — State Board for Educator Certification (SBEC) rules establish the requirements for receiving a principal certificate and for first-time principals in Texas. *19 TAC Ch. 241*

Duties — The principal shall be the instructional leader of the school and shall be provided with adequate training and personnel assistance to assume that role. *Education Code 11.202(a)*

A principal shall:

1. Approve all teacher and staff appointments for the campus. [See DK]
2. Set specific education objectives for the campus, through the planning process.
3. Develop budgets for the campus.
4. Assume administrative responsibility and instructional leadership, under the supervision of the superintendent, for discipline at the campus.
5. Assign, evaluate, and promote all personnel assigned to the campus.
6. Recommend to the superintendent the termination, suspension, or nonrenewal of an employee assigned to the campus.
7. Perform any other duties assigned by the superintendent pursuant to board policy.
8. Regularly consult with the campus-level committee in the planning, operation, supervision, and evaluation of the campus educational program. [See BQ series]
9. Each school year, with the assistance of the campus-level committee, develop, review, and revise the campus improvement plan. [See BQ]
10. For high school principals, serve, or appoint someone to serve, as deputy voter registrar for the county in which the school is located. *Election Code 13.046; 1 TAC 81.7*

Education Code 11.202(b), .253(c), (h) [See also DMA]

Principal's Report to Superintendent — A principal must notify the superintendent not later than the seventh business day after the date:

Educators

1. Of an educator's termination of employment or resignation following an alleged incident of misconduct under Education Code 21.006(b); or

2. The principal knew about an educator's criminal record under Education Code 21.006(b)(1).

Education Code 21.006(b-2); 19 TAC 249.14(e) [See Required Reports at DHB(LEGAL)]

Noncertified Employees

A principal must notify the superintendent not later than the seventh business day after the date of a noncertified employee's termination or resignation following allegations that the employee:

1. Abused or otherwise committed an unlawful act with a student or minor; or

2. Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor.

Education Code 22.093(e) [See Principal Notification at DHC(LEGAL)]

Sanctions and Administrative Penalty

SBEC determines whether to impose sanctions, including an administrative penalty, against a principal who fails to provide notification to a superintendent. *Education Code 21.006(f), 22.093(i); 19 TAC 249.14(e), (h)*

If a principal is required to notify a superintendent about an educator's criminal record or alleged incident of misconduct and fails to provide the notice by the required date, SBEC may impose an administrative penalty of not less than $500 and not more than $10,000. SBEC may not renew the certification of an educator against whom an administrative penalty is imposed until the penalty is paid. *Education Code 21.006 (i)*

Criminal Offense

A principal required to notify a superintendent about an employee's criminal record or alleged incident of misconduct commits a state jail felony if the principal fails to provide the notice by the required date with intent to conceal an educator's criminal record or alleged incident of misconduct. *Education Code 21.006(j), 22.093(k)*

School Nurse

Minimum Salary Schedule

For purposes of the minimum salary schedule, a school nurse is an educator employed to provide full-time nursing and health-care services and who meets all the requirements to practice as a registered nurse (RN) pursuant to the Nursing Practice Act and the rules and regulations relating to professional nurse education, licensure, and practice and has been issued a license to practice professional nursing in Texas. *19 TAC 153.1022(a)(1)(D)*

Licensed Vocational Nurse

The practice of vocational nursing must be performed under the supervision of an RN, physician, physician assistant, podiatrist, or dentist. *Occupations Code 301.353*

Supervision is the process of directing, guiding, and influencing the outcome of an individual's performance of an activity. *22 TAC 217.11(2)*

Nursing Peer Review Committee

"Nursing peer review committee" includes a committee established under the authority of the governing body of a political subdivision for the purpose of conducting peer review.

A person shall establish a nursing peer review committee to conduct nursing peer review under Occupations Code Chapter 303 and Chapter 301:

1. For vocational nurses, if the person regularly employs, hires, or contracts for the services of eight or more nurses; and
2. For professional nurses, if the person regularly employs, hires, or contracts for the services of eight or more nurses, at least four of whom are RNs.

A person required to establish a nursing peer review committee under this section may contract with another entity to conduct peer review for the person.

Occupations Code 303.001(4), .0015

Certified School Counselor

Note: Education Code 33.002 regarding certified school counselors applies only to school districts that apply for, receive, and allocate funds under Education Code 33.002(a).

A district with 500 or more students enrolled in elementary school grades shall employ a certified school counselor for each elementary school and at least one school counselor for each 500 elementary school students [see DBA].

A district with fewer than 500 students enrolled in elementary school grades shall provide guidance and counseling services to elementary school students by any of the following methods:

1. Employing a part-time certified school counselor.
2. Employing a part-time teacher who is also certified as a school counselor.
3. Entering into a shared services agreement with one or more other districts to share a certified school counselor.

Education Code 33.002

Note: Education Code 33.006 applies to all districts that employ school counselors.

School Counselor Duties

The primary responsibility of a school counselor is to counsel students to fully develop each student's academic, career, personal, and social abilities. In addition, a school counselor shall:

1. Participate in planning, implementing, and evaluating a comprehensive developmental guidance program to serve all students and to address the special needs of students who are:
    a. At risk of dropping out of school, becoming substance abusers, participating in gang activity, or committing suicide;
    b. In need of modified instructional strategies; or
    c. Gifted and talented, with emphasis on identifying and serving gifted and talented students who are educationally disadvantaged;
2. Consult with students' parents or guardians and make referrals as appropriate in consultation with parents or guardians;
3. Consult with school staff, parents, and other community members to help them increase the effectiveness of students' education and promote student success;
4. Coordinate people and resources in the school, home, and community;
5. With the assistance of school staff, interpret standardized test results and other assessment data that help a student make educational and career plans;
6. Deliver classroom guidance activities or serve as a consultant to teachers conducting lessons based on the school's guidance curriculum; and
7. Serve as an impartial, non-reporting resource for interpersonal conflicts and discord involving two or more students, including accusations of bullying under Education Code 37.0832.

Nothing in item 7, above, exempts a school counselor from any mandatory reporting requirements imposed by other provisions of law.

School Counselor Policy

A board shall adopt a policy that requires a school counselor to spend at least 80 percent of the school counselor's total work time

on duties that are components of the district's comprehensive school counseling program under Education Code 33.005. [See FFEA] Time spent in administering assessment instruments or providing other assistance in connection with assessment instruments, except time spent in interpreting data from assessment instruments, is not considered time spent on counseling.

Each school in the district shall implement the policy. A copy of the policy shall be maintained in the office of each school in the district and made available on request during regular school hours to district employees, parents of district students, and the public.

Exception

If a board determines that, because of staffing needs in the district or at a school in the district, a school counselor must spend less than 80 percent of the school counselor's total work time on duties that are components of the district's comprehensive school counseling program, the policy shall:

1. Include the reasons why the counselor needs to spend less than 80 percent of the counselor's work time on duties that are components of the counseling program;
2. List the duties the counselor is expected to perform that are not components of the counseling program; and
3. Set the percentage of work time that the counselor is required to spend on components of the counseling program.

Counselor Contracts

A district may not include a provision in an employment contract with a school counselor under Education Code Chapter 21 that conflicts with the policy or, except as provided below, has the effect of authorizing a school principal or school district superintendent to require a school counselor to generally perform duties that are not primarily related to a counseling function.

A district that complies with the exception above may not include a provision in an employment contract under Education Code Chapter 21 with an affected school counselor that has the effect of requiring the counselor to generally perform a duty that is not primarily related to a counseling function unless the duty is specified in the district's policy as required above.

Education Code 33.006(a)-(g)

Tracking and Documentation

A district shall require each district school counselor to track and document, using a standardized tracking tool, as established by the district, the time spent on work duties performed by the school counselor throughout a school year. This tracking tool shall:

1. Include the following components:

a. The total work time worked by the school counselor for the year;

b. The total time spent on the following duties that are components of a counseling program developed under Education Code 33.005:

(1) Provision of a guidance curriculum;

(2) Responsive services for students;

(3) Individual planning for students; and

(4) System support; and

c. The total time spent on duties that are not components of a counseling program developed under Education Code 33.005, including time spent in administering assessment instruments or providing other assistance in connection with assessment instruments (except time spent in interpreting data from assessment instruments); and

2. Be maintained by the district in a format that can be made available to the Texas Education Agency (TEA) upon request.

19 TAC 61.1073(b)

Annual Assessment

A district shall annually assess its compliance with its school counselor policy and, on request by the commissioner, provide a written copy of the assessment to TEA on or before the date specified by the commissioner.

The assessment shall include:

1. Work time tracking documentation as described above for each school counselor in the district;

2. The number of school counselors whose work was in compliance with the district's school counselor policy; and

3. The number of school counselors in the district whose work was not in compliance with the district's school counselor policy.

The assessment shall be maintained by the district in a format that can be made available to TEA upon request.

Education Code 33.006(h); 19 TAC 61.1073(c), (d)

Nonphysician Mental Health Professional

A district may employ or contract with one or more nonphysician mental health professionals.

In this section, “nonphysician mental health professional” means:

1. A psychologist licensed to practice in this state and designated as a health-service provider;
2. An RN with a master's or doctoral degree in psychiatric nursing;
3. A licensed clinical social worker;
4. A professional counselor licensed to practice in this state; or
5. A marriage and family therapist licensed to practice in this state.

Education Code 38.0101

Note: For information about mental health treatment, including counseling, see FFEA.

School Psychological Services

The Texas Behavioral Health Executive Council (TBHEC) has authority over the delivery of school psychological services in public schools. Recognizing the purview of the State Board of Education (SBOE) and TEA in safeguarding the rights of school children in Texas, the TBHEC adopts and enforces rules establishing multidisciplinary team decision making, hierarchy of supervision, regulatory provisions, and past traditions of school psychological service delivery both nationally and in Texas. Incorporating these factors allow for rules that reflect the occupational distinctions between the delivery of school psychological services in public schools and psychological services in the private sector. *22 TAC 465.38(a)*

Licensed Specialist in School Psychology (LSSP)

Licensed specialist in school psychology (LSSP) means a person who holds a license to engage in the practice of psychology under Occupations Code 501.260. *Occupations Code 501.002(2)*

School psychological services may be provided in Texas public schools only by LSSPs and interns and post-doctoral fellows working towards licensure as a psychologist. *22 TAC 465.38(e)*

Scope of Practice

An LSSP is trained to address psychological and behavioral problems manifested in and associated with educational systems by utilizing psychological concepts and methods in programs or actions that attempt to improve the learning, adjustment, and behavior of students. These activities include, but are not limited to:

1. Addressing special education eligibility;
2. Conducting manifestation determinations;

3. Assisting with the development and implementation of individual educational programs (IEPs);
4. Conducting behavioral assessments; and
5. Designing and implementing behavioral interventions and supports.

The assessment of emotional or behavioral disturbance, solely for educational purposes, using psychological techniques and procedures is considered the practice of school psychology.

An LSSP may not provide psychological services in any context or capacity outside of a public or private school.

22 TAC 465.38(b), (c)

Standards

The delivery of school psychological services in Texas public schools shall be consistent with nationally recognized standards for the practice of school psychology. *Occupations Code 501.260(c); 22 TAC 465.38(b)(3)*

Notice of Assignment or Subcontract

An LSSP who contracts with a school to provide school psychological services must notify the school of any intent or plan to subcontract or assign those services to another provider prior to entering into the agreement. An LSSP shall be responsible for ensuring the school psychological services delivered comply with TBHEC standards. *22 TAC 465.38 (e)(3)*

Compliance with Applicable Education Laws

LSSPs shall comply with all applicable state and federal laws affecting the practice of school psychology, including, but not limited to:

1. Texas Education Code;
2. Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g;
3. Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1400 et seq.;
4. Texas Public Information Act, Texas Government Code, Chapter 552;
5. Section 504 of the Rehabilitation Act of 1973; and
6. Americans with Disabilities Act (ADA) 42 U.S.C. 12101.

22 TAC 465.38 (f)

School Chaplains

A district may employ or accept as a volunteer a chaplain to provide support, services, and programs for students as assigned by

the board. A chaplain employed or volunteering is not required to be certified by SBEC.

A district that employs or accepts as a volunteer a chaplain shall ensure that the chaplain complies with the applicable requirements under Education Code Chapter 22, Subchapter C, before the chaplain begins employment or volunteering at the district.

A district may not employ or accept as a volunteer a chaplain who has been convicted of or placed on deferred adjudication community supervision for an offense for which a defendant is required to register as a sex offender under Code of Criminal Procedure Chapter 62.

Education Code 23.001

Note: The Board has adopted an innovation plan[1] that affects application of provisions in this legally referenced policy.

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 Program

A district operating a prekindergarten program or an entity with which the district contracts to provide a prekindergarten program must attempt to maintain an average ratio in any prekindergarten program class of not less than one qualified 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*

Prekindergarten-Grade 4

A district may not enroll more than 22 students in a class, prekindergarten through fourth grade, except as allowed by the commissioner of education. The limit on class size does 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 48.005(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.

Migratory Definitions

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 en-

gage 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 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

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[1] Innovation Plan: https://www.bryanisd.org/

School Library

A district possesses significant discretion to determine the content of its school libraries. A district must, however, exercise its discretion in a manner consistent with the First Amendment.

Removal of Library Materials

Students' First Amendment rights are implicated by the removal of books from the shelves of a school library. A district shall not remove materials from a library for the purpose of denying students access to ideas with which the district disagrees. A district may remove materials because they are pervasively vulgar or based solely upon the educational suitability of the books in question.

Bd. of Educ. v. Pico, 457 U.S. 853 (1982)

Instructional Materials

Instructional materials selected for use in the public schools shall be furnished without cost to students attending those schools. Except as provided by Education Code 31.104(d), a district may not charge a student for instructional material or technological equipment purchased by the district with the district's technology and instructional materials allotment [see CMD]. *Education Code 31.001*

Parental Access

A parent is entitled to:

1. Review all teaching materials, instructional materials, including while the child is participating in virtual or remote learning, and other teaching aids used in the classroom of the parent's child;
2. Review each test administered to the child after the test is administered; and
3. Observe virtual instruction while the parent's child is participating in virtual or remote learning to the same extent the parent would be entitled to observe in-person instruction of the child.

A district shall make tests readily available for review by parents in person and teaching materials readily available for review by parents both in person and, if applicable, through an instructional materials portal established under Education Code 31.154 [see CMD].

The district may specify reasonable hours for in-person review. A district may not deny a parent access to an instructional materials parent portal.

Review Period

In providing access to instructional materials to a student's parent under this provision, the district shall allow access beginning not later than 30 days before the school year begins and concluding not earlier than 30 days after the school year ends.

For the entire period, the district shall include access to all instructional materials that pertain to each subject area in the grade level

in which the student is enrolled, except for tests or exams that have not yet been administered to the student and the student's graded assignments.

Taking Home Materials

A student's parent is entitled to request that a district allow the student to take home any instructional materials used by the student. Subject to the availability of the instructional materials, a district or school shall honor the request. A student who takes home instructional materials must return the instructional materials to school at the beginning of the next school day if requested to do so by the student's teacher.

Students Without Reliable Access to Technology

A district must provide the instructional materials to the student in printed format if the student does not have reliable access to technology at the student's home. This requirement does not require a district to purchase printed copies of instructional materials that the district would not otherwise purchase. A district may comply with this requirement by providing the student a printout of the relevant electronic instructional materials.

Learning Management System or Online Portal

A district that uses a learning management system or any online learning portal to assign, distribute, present, or make available instructional materials as defined by Education Code 31.002 [see EFA] to students shall provide login credentials to the system or portal to each student's parent.

Education Code 26.006

District Instructional Material Review

The board shall establish a process by which a parent of a student, as indicated on the student registration form at the student's campus, may request an instructional material review under Education Code 31.0252 [see below] for a subject area in the grade level in which the student is enrolled.

The process:

1. May not require more than one parent of a student to make the request;
2. Must provide for the board to determine if the request will be granted, either originally or through an appeal process; and
3. May permit the requesting parent to review the instructional material directly before the district conducts an instructional material review.

If the parents of at least 25 percent of the students enrolled at a campus present to the board in which the campus is located a petition for the board to conduct an instructional material review under Education Code 31.0252, the board shall conduct the review, un-

less the petition is presented by the parents of less than 50 percent of the students enrolled at the campus and, by a majority vote, the board denies the request. A review shall include a review of instructional materials for each subject area or grade level specified in the petition.

The board is not required to conduct a review for a specific subject area or grade level at a specific district campus more than once per school year.

Parental access to instructional material provided by an instructional material review conducted under this provision is in addition to any other right to access instructional material granted by the Education Code or school district policy.

Education Code 26.0061

The Texas Education Agency (TEA) shall develop standards that a district may use to conduct a review of instructional materials used by a classroom teacher in a foundation curriculum course to determine the degree in which the material corresponds with the instructional materials adopted by the district and meets the level of rigor of the essential knowledge and skills for the grade level in which it is being used. Education Code 31.0252

Harmful Materials

"Harmful material" means material whose dominant theme taken as a whole:

1. Appeals to the prurient interest of a minor, in sex, nudity, or excretion;
2. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and
3. Is utterly without redeeming social value for minors.

Penal Code 43.24(a)

Obscene

"Obscene" means material or a performance:

1. The average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex;
2. Depicts or describes
    a. Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy, and sexual bestiality; or

b. Patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernibly turgid state or a device designed and marketed as useful primarily for stimulation of the human genital organs; and

3. Taken as a whole, lacks serious literary, artistic, political, and scientific value.

Penal Code 43.21(1)

Federally Required Parental Inspection

All instructional materials, including teacher's manuals, films, tapes, or other supplementary material, that will be used in connection with any survey, analysis, or evaluation as part of any program funded in whole or in part by the United States Department of Education shall be available for inspection by the parents or guardians of the children. *20 U.S.C. 1232h(a)* [For more information about the Protection of Pupil Rights Amendment (PPRA), see FA.]

Note: For provisions regarding inventory and requisition of instructional materials, including the annual certification, see CMD.

Definitions

"Instructional material" is defined as content that conveys the essential knowledge and skills of a subject in the public school curriculum through a medium or a combination of media for conveying information to a student.

The term includes:

1. Material used by a teacher, including a lesson plan, answer key, grading rubric, or unit plan;
2. Material used by a principal or campus instructional leader to support instruction; and
3. Material used by a student, including a book, supplementary materials, a combination of a book, workbook, and supplementary materials, computer software, magnetic media, DVD, CD-ROM, computer courseware, online services, or an electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means, including open education resource instructional material.

Education Code 31.002(1-a)

"Open education resource (OER) instructional material" is teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that allows for free use, reuse, modification, and sharing with others, including full courses, course materials, modules, textbooks, streaming videos, tests, software, and any other tools, materials, or techniques used to support access to knowledge. *Education Code 31.002(1-b)*

"Technological equipment" is hardware, a device, or equipment necessary for instructional use in the classroom, including to gain access to or enhance the use of electronic instructional materials; or professional use by a classroom teacher. *Education Code 31.002(4)*

State Materials Selection and Assistance

The State Board of Education (SBOE) shall review instructional materials provided to the board by the Texas Education Agency (TEA) under Education Code 31.023. Before approving instructional material, the SBOE may review the material and must determine that the material is free from factual error and suitable for the subject and grade level for which the material is designed, and, if

	the material is intended to cover the foundational skills reading curriculum in kindergarten through third grade, does not include three-cueing, as defined by Education Code 28.0062(a-1). The SBOE shall add each approved material to a list of approved instructional materials and may add a material not approved to a list of rejected instructional materials. *Education Code 31.022(a)*
TEA Website	TEA shall develop and maintain an instructional material website to assist districts in locating and selecting instructional material. *Education Code 31.025(a)*
TEA Support	On request of a district, TEA shall provide the district assistance in evaluating, adopting, or using instructional materials. Except as otherwise provided, TEA may not require a district to adopt or otherwise use instructional material reviewed by TEA or included on the list of approved instructional materials maintained by the SBOE. *Education Code 31.0251*
OER Instructional Material	Except as provided by Education Code 31.0721(b), OER instructional material may not be made available to students, teachers, educators, or other education professionals before being reviewed by TEA and included on the list of approved instructional materials maintained by the SBOE. *Education Code 31.0721(a)* Except as otherwise provided by the Education Code, the commissioner may not require a district to adopt or use an OER instructional material. A district may adopt OER material at any time. A district may not be charged for a cost associated with the selection of an OER, except for the cost of printing copies of the material. *Education Code 31.073*
Local Selection	A board shall select instructional materials in an open meeting as required by the Texas Open Meetings Act, including public notice. *19 TAC 66.104(a)*
Special Education	Adopted instructional materials shall be supplied to a student in special education classes as appropriate to the level of the student's ability and without regard to the grade for which the instructional material is adopted or the grade in which the student is enrolled. *19 TAC 66.104(c)*
Criminal Offense	A board member, administrator, or teacher commits an offense if the person receives any commission or rebate on any instructional materials or technological equipment used in the schools with which the person is associated.

A board member, administrator, or teacher commits an offense if the person accepts a gift, favor, or service that:

1. Is given to the person or the person's school;
2. Might reasonably tend to influence the person in the selection of instructional material or technological equipment; and
3. Could not be lawfully purchased with state instructional materials funds.

"Gift, favor, or service" does not include:

1. Staff development, in-service, or teacher training; or
2. Ancillary materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.

Education Code 31.152

Human Sexuality Materials

Course materials relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS) shall be selected by a board with the advice of the local school health advisory council (SHAC). *Education Code 28.004(e)*

[For more information on the requirements for adopting human sexuality instructional materials, see EHAA.]

Standards

The *School Library Programs: Standards and Guidelines for Texas* are adopted by the Texas State Library and Archives Commission. The standards and guidelines are applicable to local Texas school districts. *13 TAC 4.1*

A district shall consider the standards in developing, implementing, or expanding library services. *Education Code 33.021*

Collection Development

A district shall adhere to the standards for school library collection development in developing or implementing the district's library collection development policies. *Education Code 33.021(b)-(c)*

Library Material Definitions

Library Material Vendor

"Library material vendor" includes any entity that sells library material to a public primary or secondary school in this state.

Patently Offensive

"Patently offensive" means so offensive on its face as to affront current community standards of decency.

Sexually Explicit Material

"Sexually explicit material" means any communication, language, or material, including a written description, illustration, photographic image, video image, or audio file, other than library material directly related to the curriculum required under Education Code 28.002(a) (foundation and enrichment curriculum) that describes, depicts, or portrays sexual conduct, as defined by Penal Code 43.25, in a way that is patently offensive, as defined by Penal Code 43.21.

Sexually Relevant Material

"Sexually relevant material" means any communication, language, or material, including a written description, illustration, photographic image, video image, or audio file, other than library material directly related to the curriculum required under Education Code 28.002(a) (foundation and enrichment curriculum), that describes, depicts, or portrays sexual conduct, as defined by Penal Code 43.25.

Education Code 33.021, 35.001; Penal Code 43.21(a)(1)(4)

Procedures for Sexually Relevant Material

Parent Consent

A district may not allow a student enrolled in the district to reserve, check out, or otherwise use outside the school library material the library material vendor has rated as sexually relevant material under Education Code 35.002(a) (library vendor ratings) unless the district first obtains written consent from the student's parent or person standing in parental relation. *Education Code 35.004*

Review and Reporting of Library Material

Not later than January 1 of every odd-numbered year, each district shall:

1. Review the content of each library material in the catalog of a district library that is rated as sexually relevant material by the library material vendor;

2. Determine in accordance with the district's policies regarding the approval, review, and reconsideration of school library materials whether to retain each library material reviewed; and

3. Either post a report in a conspicuous place on the district website or provide physical copies of the report at the central administrative building for the district.

The report must include the title of each library material reviewed; the district's decision regarding the library material; and the school or campus where the library material is currently located.

Education Code 35.006

Library Material Purchases

Ratings Requirement

A library material vendor may not sell library materials to a district unless the vendor has issued appropriate ratings regarding sexually explicit material and sexually relevant material previously sold to a district.

A library material vendor may not sell library material rated sexually explicit material and shall issue a recall for all copies of library material sold to a district that is rated sexually explicit material and in active use by the district.

Education Code 35.002(a)-(b)

TEA Library Material List

Not later than September 1 of each year, each library material vendor shall submit to the Texas Education Agency (TEA) an updated list of library material rated as sexually explicit material or sexually relevant material sold by the vendor to a district during the preceding year and still in active use by the district. TEA shall post each submitted list in a conspicuous place on its website. *Education Code 35.002(d)-(e)*

Prohibited Vendor List

A district may not purchase library material from a library material vendor on TEA's website list of vendors who have failed to comply with Education Code 35.003(b). *Education Code 35.003(d)*

Liability

A district or a teacher, librarian, or other staff member employed by a district is not liable for any claim or damage resulting from a library material vendor's violation of Education Code Chapter 35. *Education Code 35.004*

Joint Facilities

A district may enter into contracts with a county or municipality in which the district is located to provide joint library facilities. The board and the commissioner's court of the county or governing body of the municipality must conduct public hearings before entering into such a contract. The hearings may be held jointly. *Education Code 33.022*

Purpose

As a condition of accreditation, a district shall provide instruction in the essential knowledge and skills at appropriate grade levels in the foundation and enrichment curriculum. *Education Code 28.002(c); 19 TAC 74.1(b)*

A district shall ensure that all children in the district participate actively in a balanced curriculum designed to meet individual needs. *Education Code 28.002(g)*

Instruction may be provided 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 74.2*

A primary purpose of the public school curriculum is to prepare thoughtful, informed citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the fundamental democratic principles of our state and national heritage.

A district shall require the teaching of informed American patriotism, Texas history, and the free enterprise system in the adoption of instructional materials for kindergarten through grade 12, including the founding documents of the United States. In providing instruction required by the State Board of Education (SBOE) under Education Code 28.002(h-1), regarding the founding documents of the United States, a district shall use those documents as part of the instructional materials for the instruction.

Education Code 28.002(h), (h-6)

Required Curriculum

Foundation Curriculum

A district that offers kindergarten through grade 12 shall offer a foundation curriculum that includes:

1. English language arts and reading;
2. Mathematics;
3. Science; and
4. Social studies, consisting of Texas, United States, and world history; government; geography; and economics with emphasis on the free enterprise system and its benefits.

Education Code 28.002(a)(1); 19 TAC 74.1(a)(1)

Enrichment Curriculum

A district that offers kindergarten through grade 12 shall offer an enrichment curriculum that includes:

1. Languages other than English, to the extent possible. American Sign Language is a language for these purposes and the district may offer an elective course in the language;
2. Health, with emphasis on:
    a. Physical health, including the importance of proper nutrition and exercise;
    b. Mental health, including instruction about mental health conditions, substance abuse, skills to manage emotions, establishing and maintaining positive relationships, and responsible decision-making; and
    c. Suicide prevention, including recognizing suicide-related risk factors and warning signs;
3. Physical education;
4. Fine arts;
5. Career and technical education;
6. Technology applications;
7. Religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature; and
8. Personal financial literacy.

Education Code 28.002(a)(2), (e); 19 TAC 74.1(a)(2)

Digital Citizenship

The SBOE by rule shall require each district to incorporate instruction in digital citizenship into the district's curriculum, including information regarding the potential criminal consequences of cyberbullying.

"Cyberbullying" has the meaning assigned by Education Code 37.0832. [See FFI]

"Digital citizenship" means the standards of appropriate, responsible, and healthy online behavior, including the ability to access, analyze, evaluate, create, and act on all forms of digital communication.

Education Code 28.002(z)

Positive Character Traits

Districts are required to provide instruction in the essential knowledge and skills for positive character traits and personal skills at least once in the following grade bands: kindergarten-grade 2, grades 3-5, grades 6-8, and grades 9-12.

Districts may provide the required instruction in a variety of arrangements, including through a stand-alone course or by integrating the positive character traits standards in the essential knowledge and skills for one or more courses or subject areas at the appropriate grade levels.

19 TAC 120.3(a), .5(a), .7(a), .9(a)

Local Credit

A district may offer courses for local credit, at its discretion, in addition to those in the required curriculum, but it may not delete or omit instruction in the foundation and enrichment curricula specified above. *Education Code 28.002(f); 19 TAC 74.1(b)*

Local Instructional Plan

A district's local instructional plan may draw on state curriculum frameworks and program standards as appropriate. A district is encouraged to exceed minimum requirements of law and SBOE rule.

Major Curriculum Initiatives

Before the adoption of a major curriculum initiative, including the use of a curriculum management system, a district must use a process that:

1. Includes teacher input;
2. Provides district employees with the opportunity to express opinions regarding the initiative; and
3. Includes a meeting of the board at which information regarding the initiative is presented, including the cost of the initiative and any alternatives that were considered; and members of the public and district employees are given the opportunity to comment regarding the initiative.

Education Code 28.002(g)

Common Core State Standards

A district may not use common core state standards to comply with the requirement to provide instruction in the essential knowledge and skills at appropriate grade levels. A district may not be required to offer any aspect of a common core state standards curriculum. "Common core state standards" means the national curriculum standards developed by the Common Core State Standards Initiative. *Education Code 28.002(b-1), (b-3), (b-4)*

Scope and Sequence and Instructional Materials

In adopting a recommended or designated scope and sequence or instructional materials for a subject in the required curriculum under Education Code 28.002(a) in a particular grade level, a district shall ensure sufficient time is provided for teachers to teach and students to learn the essential knowledge and skills for that subject and grade level [see DG]. *Education Code 28.0027(a)*

Coordinated Health Programs

The Texas Education Agency (TEA) shall make available to each district one or more coordinated health programs in elementary, middle, and junior high school. Each program must provide for coordinating education and services related to:

1. Physical health education, including programs designed to prevent obesity, cardiovascular disease, oral diseases, and Type 2 diabetes and programs designed to promote the role of proper nutrition;
2. Mental health education, including education about mental health conditions, mental health well-being, skills to manage emotions, establishing and maintaining positive relationships, and responsible decision-making;
3. Substance abuse education, including education about alcohol abuse, prescription drug abuse, and abuse of other controlled substances;
4. Physical education and physical activity; and
5. Parental involvement.

Education Code 38.013; 19 TAC 102.1031(a)

A district shall participate in appropriate training to implement TEA's coordinated health program and shall implement the program in each elementary, middle, and junior high school in the district. *Education Code 38.014*

Coordinated school health programs that are developed by districts and that meet TEA criteria may be approved and made available as approved programs. Districts must use materials that are proven effective, such as TEA-approved textbooks or materials developed by nationally recognized and/or government-approved entities. *19 TAC 102.1031(c)*

Physical Education

Each district shall establish specific objectives and goals the district intends to accomplish through the physical education curriculum. The physical education curriculum must be sequential, developmentally appropriate, and designed, implemented, and evaluated to enable students to develop the motor, self-management, and other skills, knowledge, attitudes, and confidence necessary to participate in physical activity throughout life.

A physical education course shall:

1. Offer students an opportunity to choose among many types of physical activity in which to participate;
2. Offer students both cooperative and competitive games; and

3. Be an enjoyable experience for students.

On a weekly basis, at least 50 percent of a physical education class shall be used for actual student physical activity and the activity shall be, to the extent practicable, at a moderate or vigorous level.

Student/Teacher Ratio

The objectives and goals shall include, to the extent practicable, student/teacher ratios [see EEB] that are small enough to enable the district to:

1. Carry out the purposes of and requirements for the physical education curriculum; and
2. Ensure the safety of students participating in physical education.

If a district establishes a student to teacher ratio greater than 45 to 1 in a physical education class, the district shall specifically identify the manner in which the safety of the students will be maintained.

Education Code 25.114, 28.002(d); 19 TAC 74.37

Classification for Physical Education

A district shall classify students for physical education on the basis of health into one of the following categories:

1. Unrestricted — not limited in activities.
2. Restricted — excludes the more vigorous activities. Restricted classification is of two types:
    a. Permanent — A member of the healing arts licensed to practice in Texas shall provide written documentation to the school as to the nature of the impairment and the expectations for physical activity for the student.
    b. Temporary — Students may be restricted from physical activity of the physical education class. A member of the healing arts licensed to practice in Texas shall provide written documentation to the school as to the nature of the temporary impairment and the expected amount of time for recovery. During recovery time, the student shall continue to learn the concepts of the lessons but shall not actively participate in the skill demonstration.
3. Adapted and remedial — specific activities prescribed or prohibited for students as directed by a member of the healing arts licensed to practice in Texas.

19 TAC 74.31

School Health Advisory Council

A board shall establish a local school health advisory council (SHAC) to assist the district in ensuring that local community values are reflected in the district's health education instruction. *Education Code 28.004(a)* [See BDF regarding composition of the SHAC and FFA regarding federal wellness requirements.]

Duties

The SHAC's duties include recommending:

1. The number of hours of instruction to be provided in:
    a. Health education in kindergarten through grade 8; and
    b. If the district requires health education for high school graduation, health education, including physical health education and mental health education, in grades 9 through 12.
2. Policies, procedures, strategies, and curriculum appropriate for specific grade levels designed to prevent physical health concerns, including obesity, cardiovascular disease, Type 2 diabetes, and mental health concerns, including suicide, through coordination of:
    a. Health education, which must address physical health concerns and mental health concerns to ensure the integration of physical health education and mental health education;
    b. Physical education and physical activity;
    c. Nutrition services;
    d. Parental involvement;
    e. Instruction on substance abuse prevention;
    f. School health services, including mental health services;
    g. A comprehensive school counseling program under Education Code 33.005 [see FFEA];
    h. A safe and healthy school environment; and
    i. School employee wellness;
3. Appropriate grade levels and methods of instruction for human sexuality instruction;
4. Strategies for integrating the curriculum components specified by item 2, above, with the following elements in a coordinated school health program:

a. School health services, including physical health services and mental health services, if provided at a campus by the district or by a third party under a contract with the district;

b. A comprehensive school counseling program under Education Code 33.005 [see FFEA];

c. A safe and healthy school environment; and

d. School employee wellness;

5. If feasible, joint use agreements or strategies for collaboration between the district and community organizations or agencies. Any agreement entered into based on a recommendation of the SHAC must address liability for the district and community organization;

6. Strategies to increase parental awareness regarding:

a. Risky behaviors and early warning signs of suicide risks and behavioral health concerns, including mental health disorders and substance use disorders; and

b. Available community programs and services that address risky behaviors, suicide risks, and behavioral health concerns.

7. Appropriate grade levels and curriculum for instruction regarding the dangers of opioids, including instruction on:

a. Opioid addiction and abuse, including addiction to and abuse of synthetic opioids such as fentanyl; and

b. Methods for administering an opioid antagonist; and

8. Appropriate grade levels and curriculum for instruction regarding child abuse, family violence, dating violence, and sex trafficking, including likely warning signs that a child may be at risk for sex trafficking, provided that the local SHAC's recommendations under this provision do not conflict with the essential knowledge and skills developed by the SBOE.

Education Code 28.004(c), (n)

Policy Recommendations

The SHAC shall consider and make policy recommendations to the district concerning the importance of daily recess for elementary school students. The SHAC must consider research regarding unstructured and undirected play, academic and social development, and the health benefits of daily recess in making the recommendations. The SHAC shall ensure that local community values are reflected in any policy recommendation made to the district concern-

ing the importance of daily recess for elementary school students. *Education Code 28.004(l)*

The SHAC shall make policy recommendations to the district to increase parental awareness of suicide-related risk factors and warning signs and available community suicide prevention services. *Education Code 28.004(o)*

Complaints

A parent may use the grievance procedure at FNG concerning a complaint of a violation of Education Code 28.004. *Education Code 28.004(i-1)*

Human Sexuality Instruction

Definitions

"Human sexuality instruction," "instruction in human sexuality," and "instruction relating to human sexuality" include instruction in reproductive health.

"Curriculum materials" includes the curriculum, teacher training materials, and any other materials used in providing instruction.

Education Code 28.004(p)

Board Selection

The board shall determine the specific content of a district's instruction in human sexuality. *Education Code 28.004(h)*

The board shall select any instruction relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS) with the advice of the SHAC. The instruction must:

1. Present abstinence as the preferred choice of behavior for unmarried persons of school age;
2. Devote more attention to abstinence than to any other behavior;
3. Emphasize that abstinence is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, infection with HIV or AIDS, and the emotional trauma associated with adolescent sexual activity;
4. Direct adolescents to a standard of behavior in which abstinence before marriage is the most effective way to prevent pregnancy, sexually transmitted diseases, and infection with HIV or AIDS; and
5. Teach contraception and condom use in terms of human use reality rates instead of theoretical laboratory rates, if instruction on contraception and condoms is included in the curriculum.

Education Code 28.004(e)

Notice to Parents

Before each school year, a district shall provide written notice to a parent of each student enrolled in the district of the board's decision regarding whether the district will provide human sexuality instruction to district students. If instruction will be provided, the notice must include:

1. A statement informing the parent of the human sexuality instruction requirements under state law;
2. A detailed description of the content of the district's human sexuality instruction and a general schedule on which the instruction will be provided;
3. A statement of the parent's right to:
    a. At the parent's discretion, review or purchase a copy of curriculum materials as provided by Education Code 28.004(j) [see EFA];
    b. Remove the student from any part of that instruction without subjecting the student to any disciplinary action, academic penalty, or other sanction imposed by the district or the student's school; and
    c. Use the grievance procedure at FNG or the appeals process under Education Code 7.057 concerning a complaint of a violation of Education Code 28.004;
4. A statement that any curriculum materials in the public domain used for the district's human sexuality instruction must be posted on the district's internet website, if the district has an internet website, and the internet website address at which the curriculum materials are located; and
5. Information describing the opportunities for parental involvement in the development of the curriculum to be used in human sexuality instruction, including information regarding the SHAC.

Education Code 28.004(i)

Parent Consent Before Instruction

Before a student may be provided with human sexuality instruction, a district must obtain the written consent of the student's parent. A request for written consent may not be included with any other notification or request for written consent provided to the parent, other than the notice provided under Education Code 28.004(i), described above, and must be provided to the parent not later than the 14th day before the date on which the human sexuality instruction begins. The requirements in this paragraph expire August 1, 2024. *Education Code 28.004(i-2)-(i-3)*

Condoms

A district may not distribute condoms in connection with instruction relating to human sexuality. *Education Code 28.004(f)*

Separate Classes

If a district provides human sexuality instruction, it may separate students according to sex for instructional purposes. *Education Code 28.004(g)* [See FB regarding single-sex classes under Title IX.]

Adoption of Instructional Materials

The board shall adopt a policy establishing a process for the adoption of curriculum materials for the district's human sexuality instruction. The policy must require:

1. The board to adopt a resolution convening the local SHAC for the purpose of making recommendations regarding the curriculum materials;
2. The local SHAC to:
    a. After the board's adoption of the resolution, hold at least two public meetings [see BDF] on the curriculum materials before adopting recommendations; and
    b. Provide the adopted recommendations to the board at a public meeting of the board; and
3. The board, after receipt of the local SHAC's recommendations under item 2, above, to take action on the adoption of the recommendations by a record vote at a public meeting.

Before adopting curriculum materials for the district's human sexuality instruction, the board shall ensure that the curriculum materials are:

1. Based on the advice of the local SHAC;
2. Suitable for the subject and grade level for which the curriculum materials are intended; and
3. Reviewed by academic experts in the subject and grade level for which the curriculum materials are intended.

Education Code 28.004(e)-(e-1), (e-3)

Abuse Prevention Instruction

Any course materials relating to the prevention of child abuse, family violence, dating violence, and sex trafficking shall be selected by the board with the advice of the local SHAC.

Adoption of Instructional Materials

The board shall adopt a policy establishing a process for the adoption of curriculum materials for the district's instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking. The policy must require:

1. The board to adopt a resolution convening the SHAC for the purpose of making recommendations regarding the curriculum materials;

2. The SHAC to:

   a. After the board's adoption of the resolution, hold at least two public meetings [see BDF] on the curriculum materials before adopting recommendations; and

   b. Provide the adopted recommendations to the board at a public meeting of the board; and

3. The board, after receipt of the SHAC's recommendations, to take action on the adoption of the recommendations by a record vote at a public meeting.

Board Selection

Before adopting curriculum materials for the district's instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking, the board shall ensure that the curriculum materials are:

1. Based on the advice of the local SHAC;

2. Suitable for the subject and grade level for which the curriculum materials are intended; and

3. Reviewed by academic experts in the subject and grade level for which the curriculum materials are intended.

The board shall determine the specific content of the district's instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking, including the essential knowledge and skills addressing these topics developed by the SBOE.

Education Code 28.004(q)-(q-1), (q-3)-(q-4)

Notice to Parents

Before each school year, a district shall provide written notice to a parent of each student enrolled in the district of the board's decision regarding whether the district will provide instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking to district students. If instruction will be provided. The notice must include:

1. A statement informing the parent of the requirements under state law regarding instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking;

2. A detailed description of the content of the district's instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking;

3. A statement of the parent's right to:

    a. At the parent's discretion, review or purchase a copy of curriculum materials [see below at Availability of Instructional Materials];

    b. Remove the student from any part of the district's instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking without subjecting the student to any disciplinary action, academic penalty, or other sanction imposed by the district or the student's school; and

    c. Use the grievance procedure at FNG or the appeals process under Education Code 7.057 concerning a complaint of a violation of Education Code 28.004;

4. A statement that any curriculum materials in the public domain used for the district's instruction regarding the prevention of child abuse, family violence, dating violence, and sex trafficking must be posted on the district's internet website address at which the curriculum materials are located; and

5. Information describing the opportunities for parental involvement in the development of the curriculum to be used in instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking, including information regarding the local SHAC.

Parent Consent Before Instruction

Before a student may be provided with instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking, a district must obtain the written consent of the student's parent. A request for written consent:

1. May not be included with any other notification or request for written consent provided to the parent, other than the notice described above; and

2. Must be provided to the parent not later than the 14th day before the date on which the instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking begins.

Education Code 28.004(q-5)-(q-6)

Availability of Materials for Human Sexuality Instruction and Abuse Prevention Instruction

Curriculum materials proposed to be adopted for the district's human sexuality instruction or instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking must be made available as provided below, except copyrighted

materials must be provided as described by items (2)(a) or (2)(c), as applicable.

A district shall make all curriculum materials used in human sexuality instruction or instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking available by:

1. For curriculum materials in the public domain:

    a. Providing a copy of the curriculum materials by mail or email to a parent of a student enrolled in the district on the parent's request; and

    b. Posting the curriculum materials on the district's internet website, if the district has an internet website; and

2. For copyrighted curriculum materials, allowing a parent of a student enrolled in the district to:

    a. Review the curriculum materials at the student's campus at any time during regular business hours;

    b. Purchase a copy of the curriculum materials from the publisher as provided by the district's purchase agreement for the curriculum materials; or

    c. Review the curriculum materials online through a secure electronic account in a manner that prevents the curriculum materials from being copied and that otherwise complies with copyright law.

For purchase agreements entered into, amended, or renewed on or after September 1, 2021, if a district purchases from a publisher copyrighted curriculum materials for use in the district's human sexuality instruction, the district shall ensure that the purchase agreement provides for a means by which a parent of a student enrolled in the district may purchase a copy of the curriculum materials from the publisher at a price that does not exceed the price per unit paid by the district for the curriculum materials.

If a district purchases from a publisher copyrighted curriculum materials for use in the district's instruction relating to the prevention of child abuse, family violence, dating violence, and sex trafficking, the district shall ensure that the purchase agreement provides for a means by which a parent of a student enrolled in the district may purchase a copy of the curriculum materials from the publisher at a price that does not exceed the price per unit paid by the district for the curriculum materials.

Education Code 28.004(e-2), (j)-(j-2), (q-2)

Character Education

A district must adopt a character education program that includes the following positive character education traits and personal skills:

1. Courage;
2. Trustworthiness, including honesty, reliability, punctuality, and loyalty;
3. Integrity;
4. Respect and courtesy;
5. Responsibility, including accountability, diligence, perseverance, self-management skills, and self-control;
6. Fairness, including justice and freedom from prejudice;
7. Caring, including kindness, empathy, compassion, consideration, patience, generosity, charity, and interpersonal skills;
8. Good citizenship, including patriotism, concern for the common good and the community, responsible decision-making skills, and respect for authority and the law;
9. School pride; and
10. Gratitude.

In developing or selecting a character education program under Education Code 29.906, a district shall consult with a committee selected by the district that consists of parents of district students, educators, and other members of the community, including community leaders.

The provisions above do not require or authorize proselytizing or indoctrinating concerning any specific religious or political belief.

Education Code 29.906

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 (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)*

Kindergarten-Grade 3 Reading Program

Each district shall adopt a phonics curriculum for kindergarten-grade 3 in accordance with 19 Administrative Code 74.2001. A phonics program that does not meet all criteria in 19 Administrative Code 74.2001(b)(1) may be used by a district if the program has a strong evidence base and is used in conjunction with a phonics program that meets all criteria. *19 TAC 74.2001; Education Code 28.0062(a)(1)*

A district shall certify to the Texas Education Agency (TEA) that the district prioritizes placement of highly effective teachers in kindergarten through second grade and has integrated reading instruments used to diagnose reading development and comprehension to support each student in prekindergarten through third grade. *Ed-*

ucation Code 28.0062(a)(3) [See DMA for early literacy personnel requirements]

Three-Cueing

"Three-cueing" means a method of reading instruction for identification of words by which a student is encouraged to draw on context and sentence structure to read words without sounding the words out or using a phonics-based approach.

A district may not include any instruction that incorporates three-cueing in the required phonics curriculum.

Education Code 28.0062(a-1)

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

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

Middle School Advanced Math Program

A district shall develop an advanced mathematics program for middle school students that is designed to enable those students to enroll in Algebra I in eighth grade.

A district shall automatically enroll in an advanced mathematics course each sixth grade student who performed in the top 40 percent on the fifth grade mathematics state assessment instrument or a local measure that includes the student's fifth grade class ranking or a demonstrated proficiency in the student's fifth grade mathematics coursework.

The parent or guardian may opt the student out of automatic enrollment under this provision.

Education Code 28.029

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 additional science courses selected from Aquatic Science, Astronomy, Earth and Space Science, Environmental Systems, Advanced Animal Science, Advanced Biotechnology, Advanced Plant and Soil Science, Anatomy and Physiology, Engineering Design and Problem Solving, Food Science, Forensic Science, Medical Microbiology, Pathophysiology, Scientific Research and Design, and Principles of Engineering.

a. 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.

b. 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, Personal Financial Literacy, Economics with Emphasis on the Free Enterprise System and Its Benefits, and Personal Financial Literacy and Economics. The requirement to offer both Economics with Emphasis on the Free Enterprise System and Its Benefits and Personal Financial Literacy and Economics may be reduced to one by the commissioner upon application of a district with a total high school enrollment of less than 500 students.

5. Physical education — at least two courses selected from:

   a. Lifetime Fitness and Wellness Pursuits;

   b. Lifetime Recreation and Outdoor Pursuits; or

   c. Skill-Based Lifetime Activities.

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] — three or more career and technical education courses for four or more credits with at least one advanced course aligned with a specified number of Texas Education Agency (TEA)-designated programs of study determined by enrollment as follows:

   a. One program of study for a district with fewer than 500 students enrolled in high school;

   b. Two programs of study for a district with 501-1,000 students enrolled in high school;

c. Three programs of study for a district with 1,001-2,000 students enrolled in high school;

d. Four programs of study for a district with 1,001-5,000 students enrolled in high school;

e. Five programs of study for a district with 5,001-10,000 students enrolled in high school; and

f. Six programs of study for a district with more than 10,000 students enrolled in high school.

8. Languages other than English — Levels I, II, and III or higher of the same language.

9. Computer science — one course selected from Fundamentals of Computer Science, Computer Science I, or Advanced Placement (AP) Computer Science Principles.

10. Speech — Communication Applications.

19 TAC 74.3(b)(2)

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)*

A district may allow a student to enroll concurrently in Algebra I and geometry. *Education Code 28.025(b-6)*

Personal Financial Literacy

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 Edu-

cation. 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. *Education Code 28.0021(b)*

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)*

Parenting Awareness Program

High School

A district shall use the parenting and paternity awareness program developed by the SBOE in its high school health curriculum.

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.

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)

Fentanyl Abuse and Drug Poisoning Instruction

A district shall annually provide research-based instruction related to fentanyl abuse prevention and drug poisoning awareness to students in grades 6 through 12.

The instruction must include:

1. Suicide prevention;

2. Prevention of the abuse of and addiction to fentanyl;

3. Awareness of local school and community resources and any processes involved in accessing those resources; and

4. Health education that includes information about substance use and abuse, including youth substance use and abuse.

The required instruction may be provided by an entity or an employee or agent of an entity that is:

1. A public or private institution of higher education;

2. A library;

3. A community service organization;

4. A religious organization;

5. A local public health agency; or

6. An organization employing mental health professionals.

Education Code 38.040

CPR and AED Instruction

A district shall provide instruction to students in grades 7-12 in cardiopulmonary resuscitation (CPR) and the use of an automated external defibrillator (AED). The instruction may be provided as a part of any course. A student shall receive the instruction at least once before graduation.

CPR instruction must include training in cardiopulmonary resuscitation techniques and the use of an AED 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 or AED 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.

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

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 and the use of an

AED. A district may accept other donations, including donations of equipment, for use in providing CPR instruction and the use of an AED. *Education Code 29.903*

Proper Interaction with a Peace Officer

For any student entering grade 9 in the 2018-19 school year and thereafter, a district shall provide instruction in one or more courses to students in grades 9-12 on proper interaction with peace officers during traffic stops and other in-person encounters. The required instruction may be provided as part of any course or courses and must be provided to each student at least once before graduation from high school.

The instruction must include all the information required by 19 Administrative Code 74.39(b). A district shall use materials developed through a memorandum of understanding among the Texas Commission on Law Enforcement, the SBOE, and TEA. A district may tailor the instruction developed under this section as appropriate for the district's community. In tailoring the instruction, the district shall solicit input from local law enforcement agencies, driver training schools, and the community.

A district shall clearly indicate on the transcript or academic achievement record the year in which the instruction was provided to the student.

19 TAC 74.39; Education Code 28.012

Driving With Disability Program

For information regarding the required notice for students who are receiving special education services or who are covered by Section 504, see EHBAD.

Parental Notice of Assistance for Learning Difficulties

Each school year, a district shall notify a parent of each child, other than a child enrolled in a special education program under Education Code Chapter 29, Subchapter A, who receives assistance from the district for learning difficulties, including through the use of intervention strategies that the district provides that assistance to the child. The notice must:

1. Be provided when the child begins to receive the assistance for that school year;
2. Be written in English or, to the extent practicable, the parent's native language; and
3. Include:
    a. A reasonable description of the assistance that may be provided to the child, including any intervention strategies that may be used;
    b. Information collected regarding any intervention in the base tier of a multi-tiered system of supports that has previously been used with the child;
    c. An estimate of the duration for which the assistance, including through the use of intervention strategies, will be provided;
    d. The estimated time frames within which a report on the child's progress with the assistance, including any intervention strategies used, will be provided to the parent; and
    e. A copy of the explanation provided under Education Code 26.0081(c). [See FB]

This required notice may be provided to a child's parent at a meeting of the team established for the child under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), if applicable.

Education Code 26.0081(d)-(e)

"Intervention strategy" means a strategy in a multi-tiered system of supports that is above the level of intervention generally used in that system with all children. The term includes response to intervention and other early intervening strategies. *Education Code 26.004(a)*

Dyslexia and Related Disorders

Dyslexia is an example of and meets the definition of a specific learning disability under the Individuals with Disabilities Education Act (IDEA) [see EHBAA]. If a district suspects or has a reason to suspect that a student may have dyslexia, including after evalua-

tion or use of a reading diagnosis under Education Codes 28.006 [see EKC] or 38.003 [see below], and that the student may be a child with a disability under IDEA, the district must:

1. Provide to the student's parent or a person standing in parental relation to the student a form developed by the Texas Education Agency (TEA) explaining the rights available under the Individuals with Disabilities Education Act that may be additional to the rights available under Section 504 [see FB];

2. Comply with all federal and state requirements, including the *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*[1], as adopted by the State Board of Education (SBOE), and its subsequent amendments, regarding any evaluation of the student; and

3. If the student is evaluated for dyslexia or a related disorder, also evaluate the student in any other areas in which the district suspects the student may have a disability.

Education Code 29.0031(a)

Districts shall provide each student with dyslexia or a related disorder access to each program under which the student qualifies for services. A board must ensure that procedures for identifying a student with dyslexia or a related disorder and for providing appropriate, evidence-based instructional services to students are implemented in the district.

District procedures must be implemented according to 19 Administrative Code 74.28. Districts shall provide a copy or a link to the electronic version of the *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders* to parents of children suspected to have dyslexia or a related disorder.

Districts will be subject to monitoring for compliance with federal law and regulations in connection with 19 Administrative Code 74.28.

19 TAC 74.28(a)-(c), (l)-(m)

Policy Required

In accordance with the program approved by the SBOE [see Screening, Testing, and Identification, below], the board shall provide for the treatment of any student determined to have dyslexia or a related disorder and adopt and implement a policy requiring the district to comply with all rules and standards adopted by the SBOE to implement the program, including:

1. The *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*, as adopted by the SBOE, and its subsequent amendments; and

2. Guidance published by the commissioner to assist the district in implementing the program.

Education Code 38.003(b)

Compliance Monitoring

Districts will be subject to monitoring for compliance with federal law and regulations in connection with 19 Administrative Code 74.28. Districts will be subject to auditing and monitoring for compliance with state dyslexia laws in accordance with administrative rules adopted by the commissioner of education as required by Education Code 38.003(c-1). *19 TAC 74.28(n)*

Special Education Evaluation

The multidisciplinary evaluation team and any subsequent team convened to determine a student's eligibility for special education and related services must include at least one member with specific knowledge regarding the reading process, dyslexia and related disorders, and dyslexia instruction. The member must:

1. Hold a licensed dyslexia therapist license under Occupations Code Chapter 403;

2. Hold the most advanced dyslexia-related certification issued by an association recognized by the SBOE, and identified in, or substantially similar to an association identified in, the program and rules adopted under Education Code 7.102 and 38.003; or

3. If a person qualified under item 1 or 2 is not available, meet the applicable training requirements adopted by the SBOE pursuant to Education Code 7.102 and 38.003.

A member of a multidisciplinary evaluation team and any subsequent team convened to determine a student's eligibility for special education and related services must sign a document describing the member's participation in the evaluation of the student and any resulting individualized education program developed for the student.

Education Code 29.0031(b)-(c)

Screening, Testing, and Identification

Students enrolling in public schools in Texas shall be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the SBOE. The program must include screening at the end of the school year of each student in kindergarten and each student in the first grade. *Education Code 38.003(a)*

A process for early identification, intervention, and support for students at risk for dyslexia and related disorders must be available, as outlined in the *Dyslexia Handbook*. A district may not use early intervention strategies, including multi-tiered systems of support, to delay or deny the provision of a full and individual evaluation to a child suspected of having a specific learning disability, including dyslexia or a related disorder.

Screening, as described in the *Dyslexia Handbook*, and further evaluation should only be conducted by individuals who are trained in valid, evidence-based assessments and who are trained to appropriately evaluate students for dyslexia and related disorders.

19 TAC 74.28(d), (j)

Parent Notification

At least five school days before any identification or evaluation procedure is used selectively with an individual student, a district must provide written notification of the proposed identification or evaluation to the student's parent or guardian or another person standing in parental relation to the student. The notice must be in English, or to the extent practicable, the individual's native language and must include the following:

1. A reasonable description of the evaluation procedure to be used with the individual student;
2. Information related to any instructional intervention or strategy used to assist the student prior to evaluation;
3. An estimated time frame within which the evaluation will be completed; and
4. Specific contact information for the campus point of contact, relevant parent training and information projects, and any other appropriate parent resources.

IDEA Notice

Before a full individual and initial evaluation is conducted to determine whether a student has a disability under the IDEA, a district must notify the student's parent or guardian or another person standing in parental relation to the student of its proposal to conduct an evaluation consistent with 34 C.F.R. 300.503, provide all the information required in the above notice, and provide an opportunity for written consent for the evaluation. The district must also provide a copy of the IDEA procedural safeguards notice required under 34 C.F.R. 300.504 and a copy of Section 504 information required under Education Code 26.0081. [See EHBAE and FB]

Options and Services

Parents or guardians of a student with dyslexia or a related disorder must be informed of all services and options available to the student, including general education interventions under response

to intervention and multi-tiered systems of support models as required by Education Code 26.0081(d), and options under federal law, including IDEA, and the Rehabilitation Act, Section 504.

19 TAC 74.28(f)-(h)

Parent Education

A district shall provide a parent education program for parents and guardians of students with dyslexia and related disorders. This program must include:

1. Awareness and characteristics of dyslexia and related disorders;
2. Information on testing and diagnosis of dyslexia and related disorders;
3. Information on effective strategies for teaching students with dyslexia and related disorders;
4. Information on qualifications of those delivering services to students with dyslexia and related disorders;
5. Awareness of information on accommodations and modifications, especially those allowed for standardized testing;
6. Information on eligibility, evaluation requests, and services available under IDEA and Section 504 and information on the response to intervention process; and
7. Contact information for the relevant regional and/or district specialists.

Education Code 38.003; 19 TAC 74.28(l)

Progress Reports

At least once each grading period, and more often if provided for in a student's individualized education program, a district shall provide the parent of or person standing in parental relation to a student receiving dyslexia instruction with information regarding the student's progress as a result of the student receiving that instruction. *Education Code 20.0031(d)*

Services

Each school must provide each identified student access at his or her campus to instructional programs required at Reading Program, below, and to the services of a teacher trained in dyslexia and related disorders. A district may, with the approval of each student's parents or guardians, offer additional services at a centralized location, but centralized services shall not preclude each student from receiving services at his or her campus. *19 TAC 74.28(i)*

Providers of Dyslexia Instruction

A provider of dyslexia instruction to students with dyslexia and related disorders must be fully trained in the district's adopted instructional materials for students with dyslexia and is not required

to hold a certificate or permit in special education issued under Education Code Chapter 21, Subchapter B unless the provider is employed in a special education position that requires the certification.

The completion of a literacy achievement academy under Education Code 21.4552 by an educator who participates in the evaluation or instruction of students with dyslexia and related disorders does not satisfy the requirements of this provision.

Education Code 29.0032

Reading Program

A district shall purchase a reading program or develop its own reading program that is aligned with the descriptors in the *Dyslexia Handbook*.

Teachers who screen and treat these students must be trained in instructional strategies that use individualized, intensive, multisensory, phonetic methods and a variety of writing and spelling components described in the *Dyslexia Handbook*. The professional development activities specified by the district- and/or campus-level committees shall include these instructional strategies.

19 TAC 74.28(e)

Reassessment

Unless otherwise provided by law, a student determined to have dyslexia during screening or testing or accommodated because of dyslexia may not be rescreened or retested for dyslexia for the purpose of reassessing the student's need for accommodations until the district reevaluates the information obtained from previous screening or testing of the student. *Education Code 38.003(b-1)*

Audiobook Program Notification

A district shall notify the parent or guardian of each student determined, on the basis of a dyslexia or related disorder screening or other basis, to have dyslexia or a related disorder, or determined, on the basis of reading instrument results, to be at risk for dyslexia or other reading difficulties of the program maintained by the Texas State Library and Archives Commission providing students with reading disabilities the ability to borrow audiobooks free of charge. The notification shall be done in accordance with the program developed by the commissioner. *Education Code 28.006(g-2)*

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[1] *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*: https://tea.texas.gov/academics/special-student-populations/dyslexia-and-related-disorders

Dyslexia and Related Disorders

The District shall comply with all rules and standards adopted by the State Board of Education and guidance published by the commissioner of education to implement the program to test students for dyslexia and related disorders.

In accordance with administrative procedures, the District shall provide regular training opportunities for teachers of students with dyslexia that include new research and practices for educating students with dyslexia.

Identification

Child Find

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

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

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

Private School Students

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

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

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

Preschool Students

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

Requests and Referrals for Evaluation

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

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

District Obligation to Refer

Students experiencing difficulty in the general classroom should be considered for all support services available to all students, such as tutorial; remedial; compensatory; response to evidence-based intervention; and other academic or behavior support services. A student is not required to be provided with interventions for any

specific length of time prior to a referral being made or a full individual and initial evaluation being conducted. If the student continues to experience difficulty in the general classroom with the provision of interventions, district personnel must refer the student for a full individual and initial evaluation. A referral for a full individual and initial evaluation may be initiated at any time by school personnel, the student's parents or legal guardian, or another person involved in the education or care of the student.

19 TAC 89.1011(a)

Parental Request

If a parent submits a written request to a district's director of special education services or to a district administrative employee for a full individual and initial evaluation of a student, the district shall, not later than the 15th school day after the date the district receives the request:

1. Provide the parent with prior written notice of its proposal to conduct an evaluation consistent with 34 C.F.R. 300.503, a copy of the procedural safeguards notice required by 34 C.F.R. 300.504, and an opportunity to give written consent for the evaluation; or

2. Provide the parent with prior written notice of its refusal to conduct an evaluation consistent with 34 C.F.R. 300.503, and a copy of the procedural safeguards notice required by 34 C.F.R. 300.504.

19 TAC 89.1011(b); Education Code 29.004(c); 20 U.S.C. 1414(a)(1); 34 C.F.R. 300.301

Notice of Rights

A reasonable time before a district proposes or refuses to initiate the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education (FAPE) to a student, the district shall provide written notice to the student's parent or guardian. *20 U.S.C. 1415(b)(3); 34 C.F.R. 300.503(a)* [See EHBAE]

Initial Evaluation Required

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

Consent for Initial Evaluation

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

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

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

20 U.S.C. 1414(a)(1)(D)(i)(I); 34 C.F.R. 300.300(b)

Wards of the State

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

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

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

Time Frame for Completion of Written Report

A district must complete the written report of a full individual and initial evaluation:

1. Not later than the 45th school day following the date on which the district receives written consent for the evaluation from the student's parent. If a student has been absent from school during that period on three or more school days, the period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent; or
2. For students under five years of age by September 1 of the school year and not enrolled in public school and for students enrolled in a private or homeschool setting, not later than the 45th school day following the date on which the district receives written consent for the evaluation from the student's parent.

If a district receives written consent for the evaluation from the student's parent at least 35 but less than 45 school days before the last instructional day of the school year, the written report of a full individual and initial evaluation of a student must be provided to the student's parent not later than June 30 of that year.

If a district receives written consent signed by a student's parent less than 35 school days before the last instructional day of the school year or if the district receives the written consent at least 35 but less than 45 school days before the last instructional day of the school year but the student is absent from school during that period on three or more days, the report must be completed not later

than the 45th school day following the date the district received written consent, except that the period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent.

A student is considered absent for the school day if the student is not in attendance at the school's official attendance taking time or at the alternate attendance taking time set for that student. A student is considered in attendance if the student is off campus participating in an activity that is approved by the school board and is under the direction of a professional staff member of the school district or an adjunct staff member who has a minimum of a bachelor's degree and is eligible for participation in the Teacher Retirement System of Texas.

“School day” does not include a day that falls after the last instructional day of the spring school term and before the first instructional day of the subsequent fall school term.

These time frames shall not apply if the parent repeatedly fails or refuses to produce the child for the evaluation.

Transfer Students

A district shall ensure that evaluations of children who transfer from one district to another in the same academic year are coordinated with the children’s prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations.

If a student was in the process of being evaluated for special education eligibility by a district and enrolls in another school district before the previous district completed the full individual and initial evaluation, the new district must coordinate with the previous district as necessary and as expeditiously as possible to ensure a prompt completion of the evaluation in accordance with 34 C.F.R., 300.301(d)(2) and (e) and 300.304(c)(5).

The timelines above do not apply in such a situation if:

1. The new school district is making sufficient progress to ensure a prompt completion of the evaluation; and

2. The parent and the new school district agree to a specific time when the evaluation will be completed.

20 U.S.C. 1414(a)(1)(C), (b)(3)(D); 34 C.F.R. 300.301(c)-(e); Education Code 29.004; 19 TAC 89.1011

Psychological Examinations

If a district determines that an additional examination or test is required for the initial and individual evaluation, the district shall provide the information required by Education Code 29.0041(a) and

shall obtain additional parental consent. If a parent does not give consent within 20 calendar days after the district provided the information, the parent's consent is considered denied.

The time required for a district to provide information and seek consent may not be counted toward the time frame for completion of an evaluation. [See Time Frame for Completion of Written Report, above]

Education Code 29.0041

Eligibility and Reevaluations

A student is eligible to participate in a district's special education program if:

1. The student is between the ages of 3 and 21, inclusive;
2. The student has one or more of the disabilities listed in federal regulations, state law, or both; and
3. The student's disability(ies) prevents the student from being adequately or safely educated in the public schools without the provision of special services.

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

Disability Definitions

To be eligible to receive special education services, a student must be a "child with a disability," as defined in 34 C.F.R. 300.8(a), subject to the provisions of 34 C.F.R. 300.8(c), Education Code 29.003, and 19 Administrative Code 89.1040. The provisions in 19 Administrative Code 89.1040 specify criteria to be used in determining whether a student's condition meets one or more of the definitions in federal regulations or in state law. *19 TAC 89.1040*

[For more information on special education of students with dyslexia and related disorders, see EHB.]

Visual and Auditory Impairments

Students with visual impairments or who are deaf or hard of hearing shall be eligible to participate in a district's special education program from birth. *19 TAC 89.1035(b); Education Code 30.002(e), .081*

Determination of Initial Eligibility

Upon completion of the administration of assessments and other evaluation measures, a team of qualified professionals and the parent shall make the determination of whether the child has a disability and of the educational needs of the child.

A district shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

20 U.S.C. 1414(b)(4); 34 C.F.R. 300.306(a)

The admission, review, and dismissal (ARD) committee must make its decisions regarding a student's initial eligibility determination and, if appropriate, individualized education program (IEP) and placement within 30 calendar days from the date of the completion of the written full individual and initial evaluation report. If the 30th day falls during the summer and school is not in session, the student's ARD committee has until the first day of classes in the fall to finalize decisions concerning the student's initial eligibility determination, IEP, and placement, unless the full individual and initial evaluation indicates that the student will need extended school year (ESY) services during that summer.

When a report is provided to a parent not later than June 30 as described at Time Frame for Completion of Written Report, above, the ARD committee must meet not later than the 15th school day of the following school year to consider the evaluation. If, however, an evaluation indicates that a student will need ESY services, the ARD committee must meet as expeditiously as possible.

19 TAC 89.1011(d), (e)

Consent for Services

A district must obtain informed consent from the parent for the initial provision of special education and related services. If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of services, the district:

Initial Provision of Services

1. May not use the procedures in 34 C.F.R. part 300 subpart E (including the mediation and due process procedures) in order to obtain agreement or a ruling that the services may be provided to the child;
2. Will not be considered to be in violation of the requirement to make FAPE available to the child for the failure to provide the services for which the district requests consent; and
3. Is not required to convene an ARD meeting or develop an IEP for the child for the services.

Revoking Consent

If, at any time after the provision of initial services, the parent of a child revokes consent in writing for the continued provision of services, the district:

1. May not continue to provide services to the child, but must provide prior written notice before ceasing services;
2. May not use the procedures in 34 C.F.R. part 300 subpart E in order to obtain agreement or a ruling that the services may be provided to the child;

3. Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further services; and

4. Is not required to convene an ARD meeting or develop an IEP for further provision of services.

34 C.F.R. 300.300(b)

Reevaluations

A district shall ensure that each child with a disability is reevaluated if the district determines that the educational or related services needs of the child, including improved academic achievement and functional performance, warrant a reevaluation, or if the child's parent or teacher requests a reevaluation.

Reevaluation shall occur:

1. No more than once a year, unless the parent and the district agree otherwise; and

2. At least once every three years, unless the parent and district agree that a reevaluation is unnecessary.

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

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

Evaluation for Change in Eligibility

A district must evaluate a child with a disability before determining that the child is no longer a child with a disability. However, an evaluation is not required before the termination of eligibility due to graduation from secondary school with a regular diploma or due to exceeding the age eligibility for FAPE under state law. If a child's eligibility terminates under the aforementioned circumstances, a district must provide a summary of academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals. *34 C.F.R. 300.305(e); 20 U.S.C. 1414(c)(5)*

All students graduating under 19 Administrative Code 89.170 [see EIF] must be provided with a summary of academic achievement and functional performance as described above. 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), must be included as part of the summary for a student graduating under 19 Administra-

tive Code 89.1070(b)(3)(A), (B), or (C) or (f)(4)(A), (B), or (C).*19 TAC 89.1070(g)*

Independent Evaluation

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

The results of a parent-initiated independent educational evaluation, whether at public or private expense, must be considered by the district if it meets the district's criteria, in any decision made with respect to providing FAPE to the child.

At Public Expense

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

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

At Private Expense

If a district initiates a hearing, and the final decision is that the district's evaluation is appropriate, the parent still has a right to an independent evaluation, but not at public expense.

34 C.F.R. 300.502

Prescription Medication

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

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

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

Admission, Review, and Dismissal Committee

Each district must 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 is the individualized education program (IEP) team defined in federal law and regulations, including 34 C.F.R. 300.321.

The district is responsible for all of the functions for which the IEP team is responsible under federal law and regulations and for which the ARD committee is responsible under state law, including the responsibilities listed at 19 Administrative Code 89.1050.

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), who must, to the extent practicable, be a teacher who is responsible for implementing a portion of the student's IEP;
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 who is suspected to be deaf or hard of hearing, a teacher who is certified in the education of students who are deaf or hard of hearing;

9. For a student with a suspected or documented visual impairment, a teacher who is certified in the education of students with visual impairments;

10. For a student with suspected or documented deaf-blindness, a teacher who is certified in the education of students with visual impairments and a teacher who is certified in the education of students who are deaf or hard of hearing;

11. 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;

12. 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

13. 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.

The special education teacher or special education provider that participates in the ARD committee meeting must be appropriately certified or licensed as required by 34 C.F.R. 300.156.

19 TAC 75.1023(d)(1), 89.1050(c); 20 U.S.C. 1414(d)(1)(B); 34 C.F.R. 300.321;

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)*

Meetings

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.

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 district personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

20 U.S.C. 1414(d)(4); 34 C.F.R. 300.116(b)(1), .324(b), (c)(1), .501(b)(3)

Meeting at Parent's Request

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. *19 TAC 89.1050(e)*

Written Notice

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. *19 TAC 89.1050(f)*

Students New to a District

When a student transfers to a new district within the state in the same school year and the parents or previous district verifies that the student had an IEP that was in effect in the previous district , the new school district must meet the requirements of 34 C.F.R. 300.323(e) regarding the provision of special education services. The timeline for completing the requirements outlined in 34 C.F.R. 300.323(e)(1) or (2) is 20 school days from the date the student is verified as being a student eligible for special education services.

In-State Transfers

Transfers from Another State

When a student transfers from a district in another state in the same school year and the parents or previous district verifies that the student had an IEP that was in effect in the previous district, 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 timelines established by 19 Administrative Code 89.1011(c) and (e). The timeline 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 district determines that an evaluation is not necessary, the timeline for completing the requirements outlined in 34 C.F.R.

300.323(f)(2) is 20 school days from the date the student is verified as being a student eligible for special education services.

19 TAC 89.1050(j)(1)-(2)

Transfer During the Summer

A student who registers in a new district during the summer is not considered a transfer student for the purposes of this provision or for 34 C.F.R. 300.323(e) or (f). For these students, if the parents or in- or out-of-state district verifies before the new school year begins that the student had an IEP that was in effect in the previous district, the new district must implement the IEP from the previous district in full on the first day of class of the new school year or must convene an ARD committee meeting during the summer to revise the student's IEP for implementation on the first day of class of the new school year. If the student's eligibility for special education and related services cannot be verified before the start of the new school year, the timelines for transfer students apply to the student.

If the new district wishes to convene an ARD committee meeting to consider revision to the student's IEP before the beginning of the school year, the new district must determine whether the parent will agree to waive the requirement in 19 Administrative Code 89.1050(d) that the written notice of the ARD committee meeting must be provided at least five school days before the meeting. If the parent agrees to a shorter timeframe, the new district must make every reasonable effort to hold the ARD committee meeting prior to the first day of the new school year if the parent agrees to the meeting time.

19 TAC 89.1050(j)(4)-(5)

Verification

For purposes of the transfer provisions in 19 Administrative Code 89.1050, "verify" means that the new school district has received a copy of the student's IEP that was in effect in the previous district.

Services Before Verification

While waiting for verification, the new district must take reasonable steps to provide, in consultation with the student's parents, services comparable to those the student received from the previous district if the new district has been informed by the previous school district of the student's special education and related services and placement.

19 TAC 89.1050(j)(6)-(7)

Transfer of Records

The new district must take reasonable steps to promptly obtain the student's records from the previous school district, and, in accordance with Education Code 25.002, and 34 C.F.R. 300.323(g), the previous district 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 10th working day after the date a request for the information is received by the previous school district.

20 U.S.C. 1414(d)(2)(C)(ii); 34 C.F.R. 300.323(g); 19 TAC 89.1050(j)(3)

Students Who Are Homeless or in Substitute Care

When a student who is homeless or in substitute care transfers into a district after being referred by a previous district for a special education evaluation, the receiving district must accept the referral and ensure that any written report of a full individual and initial evaluation is completed in accordance with the timelines established in 19 Administrative Code 89.1011 (relating to Full and Individual Initial Evaluation).

When a student who is homeless or in substitute care is eligible for special education and transfers into a new district during the school year, the receiving district must ensure that it meets the student transfer requirements of 19 Administrative Code 89.1050(j) (relating to the Admission, Review, and Dismissal Committee).

19 TAC 89.1615

Military Dependents

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. *Education Code 162.002 art. V, C* [See FDD]

Individualized Education Program

A district shall develop, review, and revise an IEP for each child with a disability. *20 U.S.C. 1412(a)(4); 34 C.F.R. 300.320(a)*

At the beginning of each school year, a district shall have in effect, for each child with a disability in its jurisdiction, an IEP. *20 U.S.C. 1414(d)(2)(A); 34 C.F.R. 300.323(a)*

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 and allowable 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 when a student reaches 14 years of age and updated annually thereafter, the ARD committee's consideration and decisions regarding the transition issues under 19 Administrative Code 89.1055(h) [see EHBAD];

12. Beginning not later than the first IEP to be in effect when the student is 16, or younger if determined appropriate by the ARD committee, and updated annually thereafter, a statement of appropriate measurable postsecondary goals and transition services needed to assist the student in reaching those goals [see EHBAD];

13. 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;

14. The date of the meeting;

15. The name, position, and signature of each member participating in the meeting; and

16. 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), .011; 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 the Texas Education Agency (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*

IEP Supplement

For each child who was enrolled in a district's special education program during the 2019-20 school year or the 2020-21 school year, the district shall prepare a supplement to be included with the written statement of the IEP. For more information about the required supplement, see Education Code 29.0052 and the commissioner rules, when adopted. This requirement expires September 1, 2023. *Education Code 29.0052*

Supplemental Special Education Services

The ARD committee of a student approved for participation in the supplemental special education services and instructional materials program shall provide to the student's parent at an ARD committee meeting for the student:

1. Information regarding the types of supplemental special education services available under the program and provided by agency-approved providers for which an account maintained under Education Code 29.042(b) for the student may be used; and

2. Instructions regarding accessing the account.

The supplemental special education services and instructional materials program (SSES) expires September 1, 2024.

Education Code 29.048

A district shall notify parents and guardians of students served by special education of the SSES program and how to apply.

A student's ARD committee may not consider a student's current or anticipated eligibility for any supplemental special education instructional materials or services that may be provided under the SSES program when developing or revising a student's IEP, when

determining a student's educational setting, or in the provision of a free appropriate public education.

19 TAC 102.1601(i)-(j)

Behavioral Intervention Plan

The ARD committee may determine that a behavior improvement plan or a behavioral intervention plan is appropriate for a student for whom the committee has developed an IEP. *Education Code 29.005(g)*

If the committee makes that determination, the behavior improvement plan or behavioral intervention plan shall be included as part of the student's IEP and provided to each teacher with responsibility for educating the student.

If a behavior improvement plan or a behavioral intervention plan is included as part of a student's IEP, the ARD committee shall review the plan at least annually, and more frequently if appropriate, to address:

1. Changes in a student's circumstances that may impact the student's behavior, such as:
    a. The placement of the student in a different educational setting;
    b. An increase or persistence in disciplinary actions taken regarding the student for similar types of behavioral incidents;
    c. A pattern of unexcused absences; or
    d. An unauthorized, unsupervised departure from an educational setting; or
2. The safety of the student or others.

19 TAC 89.1055(g); Education Code 29.005(h)

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 must have the opportunity to participate in a collaborative manner in developing the IEP. The district must take all reasonable actions necessary to ensure that the parent understands the proceedings of the ARD committee meeting, including arranging for an interpreter for parents who are deaf or hard of hearing or whose native language is a language other than English. A decision of the ARD committee concerning required elements of the IEP must 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 10 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. Each member of the ARD committee who disagrees with the IEP developed by the ARD committee is entitled to include a statement of disagreement in the IEP.

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.

19 TAC 89.1050(g); Education Code 29.005(c)

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 opportunity 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)

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

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 involvement in the student's transition by the student's parents and other persons invited to participate by the student's parents or the school district in which the student is enrolled;
3. If the student is at least 18 years of age, involvement in the student's transition and future by the student's parents and other persons, if the parent or other person is invited to participate by the student or the school district in which the student is enrolled or has the student's consent to participate pursuant to a supported decision-making agreement under Estates Code, Chapter 1357;
4. Appropriate postsecondary education options, including preparation for postsecondary-level coursework;
5. An appropriate functional vocational evaluation;
6. Appropriate employment goals and objectives;
7. If the student is at least 18 years of age, the availability of age-appropriate instructional environments, including commu-

nity settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the student's transition goals and objectives;

8. Appropriate independent living goals and objectives;

9. Appropriate circumstances for facilitating a referral of a student or the student's parents to a governmental agency for services or public benefits, including a referral to a governmental agency to place the student on a waiting list for public benefits available to the student, such as a waiver program established under Section 1915(c), Social Security Act [42 U.S.C. Section 1396n(c)]; and

10. The use and availability of appropriate supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills; and supports and services to foster the student's independence and self-determination, including a supported decision-making agreement under Estates Code Chapter 1357.

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 item 1.

A student's ARD committee shall annually review the issues described above and, if necessary, update the portions of the student's IEP that address those issues.

[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 29.011, .0111; 19 TAC 89.1055(h)-(j)

Transition and Employment Guide

The Texas Education Agency (TEA) is required to develop a transition and employment guide for students enrolled in special education programs and their parents to provide information on statewide

services and programs that assist in the transition to life outside the public school system. A school district shall:

1. Post the transition and employment guide on the district's website if the district maintains a website;

2. Provide written information and, if necessary, assistance to a student or parent regarding how to access the electronic version of the guide at:

   a. The first meeting of the student's ARD committee at which transition is discussed; and

   b. The first committee meeting at which transition is discussed that occurs after the date on which the guide is updated; and

3. On request, provide a printed copy of the guide to a student or parent.

Education Code 29.0112(a), (e)

Graduation

Graduation with a regular high school diploma under 19 Administrative Code 89.1070(b)(1), (b)(3)(D), (f)(1), (f)(2), (f)(3) or (f)(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), (b)(3)(A), (B), or (C) or (f)(4)(A), (B), or (C), 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 requirements. *19 TAC 89.1070(a), (j)* [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)

Driving with Disability Program

A district shall provide information regarding the Texas Driving with Disability Program to students who have a health condition or disability that may impede effective communication with a peace offi-

cer and who receive special education services or who are covered by Section 504 and their parents.

The information shall be provided to each student who is 16 years of age or older and annually until the earlier of the student's graduation from high school or 21st birthday.

Education Code 29.0113(a)-(b)

Designing and Implementing Services

A district shall use student performance data from state basic skills assessment instruments and achievement tests to design and implement appropriate compensatory, intensive, or accelerated instructional services for students in the district's schools that enable the students to perform at grade level at the conclusion of the next regular school term. *Education Code 29.081(a)*

[See EHBCA for information regarding acceleration instruction and accelerated learning committees.]

Intensive Program of Instruction

A district shall offer an intensive program of instruction to a student who does not perform satisfactorily on a state assessment instrument or is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade 9, as determined by the district.

State Assessments

The program shall be designed to:

1. Enable the student to:
    a. To the extent practicable, perform at the student's grade level at the conclusion of the next regular school term; or
    b. Attain a standard of annual growth specified by a district and reported by the district to the Texas Education Agency (TEA); and
2. If applicable, carry out the purposes of Education Code 28.0211. [See EIE]

Students Receiving Special Education Services

For a student in a special education program who does not perform satisfactorily on an assessment instrument administered under Education Code 39.023(a), (b), or (c), the student's admission, review, and dismissal committee shall design the program to:

1. Enable the student to attain a standard of annual growth on the basis of the student's individualized education program (IEP); and
2. If applicable, carry out the purposes of Education Code 28.0211. [See EIE]

Use of State Funds

A district shall use funds appropriated by the legislature for an intensive program of instruction to plan and implement intensive instruction and other activities aimed at helping a student satisfy state and local high school graduation requirements.

No Cause of Action

A district's determination of the appropriateness of an intensive program of instruction for a student is final and does not create a cause of action.

Education Code 28.0213

Compensatory Education Allotment

Census Block

On a schedule determined by the commissioner of education and in accordance with Education Code 48.104, each district shall report to the agency the census block group in which each student enrolled in the district who is educationally disadvantaged resides. *Education Code 48.104(i)*

Use

At least 55 percent of the district's compensatory education funds must be used to:

1. Fund supplemental programs and services, including services provided by an instructional coach, designed to eliminate any disparity in performance on assessment instruments administered under Education Code Chapter 39, Subchapter B, or disparity in the rates of high school completion between:
    a. Students who are educationally disadvantaged and students who are not educationally disadvantaged; and
    b. Students at risk of dropping out of school, as defined below, and all other students; or
2. Support a program eligible under Title I of the Elementary and Secondary Education Act of 1965 [see AID], and its subsequent amendments, and by federal regulations implementing that Act.

Education Code 48.104(k)

Dropout Prevention Strategies

A district with a high dropout rate, as determined by the commissioner, shall submit a plan to the commissioner describing the manner in which the district intends to use its compensatory education allotment for developing and implementing research-based strategies for dropout prevention.

A district shall submit the plan not later than December 1 of each school year preceding the school year in which the district will receive the compensatory education allotment to which the plan applies.

A district may not spend or obligate more than 25 percent of the district's compensatory education allotment unless the commissioner approves the plan.

A district's plan shall:

1. Design a dropout recovery plan that includes career and technology education courses or technology applications courses that lead to industry or career certification;

2. Integrate into the dropout recovery plan research-based strategies to assist students in becoming able academically to pursue postsecondary education, including:

    a. High-quality, college readiness instruction with strong academic and social supports;

    b. Secondary to postsecondary bridging that builds college readiness skills, provides a plan for college completion, and ensures transition counseling; and

    c. Information concerning appropriate supports available in the first year of postsecondary enrollment to ensure postsecondary persistence and success, to the extent funds are available for the purpose; and

3. Plan to offer advanced academic and transition opportunities, including dual credit courses and college preparatory courses, such as advanced placement courses.

A district may enter into a partnership with a public junior college in accordance with Education Code 29.402 [see GNC] in order to fulfill a plan.

Any program designed to fulfill a plan must comply with the requirements of Education Code 29.081(e) and (f).

Education Code 29.918

Reporting

A district shall report financial information relating to expenditure of the state compensatory education allotment under the Foundation School Program to TEA, according to standards for financial accounting provided in 19 Administrative Code 109.41 (relating to *Financial Accountability System Resource Guide*). Costs charged to state compensatory education shall be for programs and services that supplement the regular education program. *19 TAC 109.25(a)*

A district shall ensure that supplemental direct costs and personnel attributed to compensatory education and accelerated instruction are identified in district and/or campus improvement plans at the summary level for financial units or campuses. A district shall maintain documentation that supports the attribution of supplemental costs and personnel to compensatory education. A district must also maintain sufficient documentation supporting the appropriate identification of students in at-risk situations, under criteria established in Education Code 29.081 [see At-Risk Student, below]. *19 TAC 109.25(b)*

Educationally Disadvantaged Students

Student Eligibility

To be considered educationally disadvantaged in order to be counted to generate the compensatory education allotment pursuant to Education Code 48.104, a student must meet the income requirements for eligibility under the National School Lunch Program (NSLP), authorized by 42 U.S.C. 1751, et seq.

Districts may use the following approved methods for the purpose of receiving the compensatory education allotment pursuant to Education Code 48.104:

1. Parent certification, where the parent or guardian asserts meeting the income requirements for eligibility;
2. Direct certification, where the process by which eligible children are certified for free meals without the need for a household application based on household participation in one or more federal assistance programs; or
3. Direct verification, where public records are used to verify a student's eligibility for free or reduced-price meals when verification of student eligibility is required.

19 TAC 61.1027(a)

Virtual School Network

Districts must request prior approval from the commissioner to claim students receiving a full-time virtual education through the state virtual school network in their counts of educationally disadvantaged students. The request must include a plan detailing the enhanced services to be delivered to full-time state virtual school network students and submitted in a manner and with a deadline specified by the commissioner. *19 TAC 61.1027(b)(3)(B)*

At-Risk Student

“Student at risk of dropping out of school” includes each student who is under 26 years of age and who:

1. Except as provided by TEA rule or if retained in prekindergarten under Education Code 28.02124 [see EIE], was not advanced from one grade level to the next for one or more school years, unless the student did not advance from prekindergarten or kindergarten to the next grade level only as a result of the request of the student’s parent;
2. If the student is in grades 7-12, did not maintain an average equivalent to 70 on a scale of 100 in two or more subjects in the foundation curriculum during a semester in the preceding or current school year, or is not maintaining such an average in two or more subjects in the foundation curriculum in the current semester;

3. Did not perform satisfactorily on a state assessment instrument and who has not in the previous or current school year subsequently performed on that instrument or another appropriate instrument at a level equal to at least 110 percent of the level of satisfactory performance on that instrument;

4. If the student is in prekindergarten, kindergarten, or grades 1-3, did not perform satisfactorily on a readiness test or assessment instrument administered during the current school year;

5. Is pregnant or is a parent;

6. Has been placed in a DAEP in accordance with Education Code 37.006 during the preceding or current school year;

7. Has been expelled in accordance with Education Code 37.007 during the preceding or current school year;

8. Is currently on parole, probation, deferred prosecution, or other conditional release;

9. Was previously reported through the Public Education Information Management System (PEIMS) to have dropped out of school;

10. Is an emergent bilingual student, as defined by Section 29.052;

11. Is in the custody or care of the Department of Family and Protective Services or has, during the current school year, been referred to the department by a school official, officer of the juvenile court, or law enforcement official;

12. Is homeless [see FD];

13. Resided in the preceding school year or resides in the current school year in a residential placement facility in a district, including a detention facility, substance abuse treatment facility, emergency shelter, psychiatric hospital, halfway house, cottage home operation, specialized child-care home, or general residential operation;

14. Has been incarcerated, or has a parent or guardian who has been incarcerated, within the lifetime of the student, in a penal institution as defined by Penal Code 1.07; or

15. Is enrolled in a district or a campus that is designated as a dropout recovery school under Education Code 39.0548.

Education Code 29.081(d)(1)

Regardless of the student's age, a student who participates in an adult education program provided under the adult high school charter school program is considered a "student at risk of dropping out of high school." *Education Code 29.081(d)(2)*

Local Eligibility Criteria

In addition to students described above, a student who satisfies local eligibility criteria adopted by a board may receive compensatory education services. The number of students receiving services under local eligibility criteria during a school year may not exceed 10 percent of the number of students described above who received services from the district during the preceding school year. *Education Code 29.081(g)*

Dropout Recovery Education Programs

A district may use a private or public community-based dropout recovery education program or education management organization to provide alternative education programs for students at risk of dropping out of school. The program may be offered in person at a campus, remotely, or through a hybrid of in-person and remote instruction. An in-person campus-based dropout recovery education program must meet the criteria set forth at Education Code 29.081(e-1)(1)-(5). A remote or hybrid dropout recovery education program must meet the criteria set forth at Education Code 29.081(e-2)(1)-(9).

A student who successfully completes a course offered through a dropout recovery education program shall be included in a district's average daily attendance for funding purposes.

Education Code 29.081(e)-(e-2), (f)

Operation

A dropout recovery education program may be operated only by an entity that is accredited by the agency or a regional accrediting agency, must offer or provide referrals for mental health services to students enrolled in the program, and may not market directly to students enrolled in a traditional education program.

A district may operate one campus-based dropout recovery education program for all students in the district.

Referral

A district administrator or school counselor may refer a student to a dropout recovery education program if the administrator or counselor determines that enrollment in the program could prevent the student from dropping out of school.

Required Website Report

Each year, a district shall post on the district's website a report on measurable outcomes for each dropout recovery education program offered by the district. The report must include the percentage of students enrolled in the program during the preceding school year who attained each of the following outcomes:

1. Transfer to a traditional education program;
2. Successful completion of the program;
3. Dual credit; or
4. A credential of value.

Education Code 29.081(e-3)-(e-6)

Communities in Schools

An elementary or secondary school receiving funding under Education Code 33.156 shall participate in the Communities in Schools (CIS) program if the number of students enrolled in the school who are at risk of dropping out of school is equal to at least 10 percent of the number of students in average daily attendance at the school, as determined by TEA. *Education Code 33.157*

Optional Extended Year Program

A district may set aside an amount from the district's compensatory education allotment or may apply to the agency for funding of an extended year program. *Education Code 29.082(a); 19 TAC 105.1001*

Optional Flexible Year Program

A district may provide an optional flexible year program (OFYP) for students who did not or are not likely to perform successfully on state assessment instruments or who would not otherwise be promoted to the next grade level. *Education Code 29.0821; 19 TAC 129.1029*

Optional Flexible School Day Program

Notwithstanding Education Code 25.081 or 25.082, a district may apply to the commissioner to provide a flexible school day program (OFSDP) for students who:

1. Have dropped out of school or are at risk of dropping out of school as defined by Education Code 29.081;
2. Attend a campus that is implementing an innovative redesign of the campus or an early college high school under a plan approved by the commissioner; or
3. As a result of attendance requirements under Education Code 25.092, will be denied credit for one or more classes in which the students have been enrolled.

Education Code 29.0822

A district may apply to the commissioner to provide an OFSDP for students, in accordance with 19 Administrative Code 129.1027.

A board must approve the application. The board must include the OFSDP as an item on the regular agenda for a board meeting in compliance with 19 Administrative Code 129.1027(h)(2) before ap-

plying to operate an OFSDP. The application shall include the information described in 19 Administrative Code 129.1027.

19 TAC 129.1027(c)

Tutorial Services

A district may provide tutorial services at district schools. If a district provides tutorial services, it shall require a student whose grade in a subject for a reporting period is lower than the equivalent of 70 on a scale of 100 to attend tutorials. [See EC for provisions on loss of class time.]

A district may provide transportation services to accommodate students who are required to attend tutorials and who are eligible for regular transportation.

Education Code 29.084

Basic Skills Programs

A district may apply to the commissioner for funding of basic skills programs for students in grade 9 who are at risk of not earning sufficient credit or who have not earned sufficient credit to advance to grade 10 and who fail to meet minimum skills levels established by the commissioner.

With the consent of a student's parent or guardian, a district may assign a student to the basic skills program.

A basic skills program may not exceed 210 instructional days and must meet the requirements set forth at Education Code 29.086.

Education Code 29.086(a)

After-School and Summer Intensive Mathematics and Science Programs

A district may provide an intensive after-school program or an intensive program during the period that school is recessed for the summer to provide mathematics and science instruction to:

1. Students who are not performing at grade level in mathematics or science to assist those students in performing at grade level;
2. Students who are not performing successfully in a mathematics course or science course to assist those students in successfully completing the course; or
3. Other students as determined by the district.

Before providing a program, a board must adopt a policy for:

1. Determining student eligibility for participating in the program that:
    a. Prescribes the grade level or course a student must be enrolled in to be eligible; and

b. Provides for considering teacher recommendations in determining eligibility;

2. Ensuring that parents of or persons standing in parental relation to eligible students are provided notice of the program;

3. Ensuring that eligible students are encouraged to attend the program;

4. Ensuring that the program is offered at one or more locations in the district that are easily accessible to eligible students; and

5. Measuring student progress on completion of the program.

Education Code 29.088, .090; 19 TAC 102.1041

Mentoring Services Program

A district may provide a mentoring services program to students at risk of dropping out of school. A board may arrange for any public or nonprofit community-based organization to come to the district's schools and implement the program.

A board shall obtain the consent of a student's parent or guardian before allowing the student to participate in the program.

Education Code 29.089

Accelerated Reading Instruction Program

A district shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to each student in kindergarten, first grade, or second grade who is determined, on the basis of reading instrument results [see EKC], to be at risk for dyslexia or other reading difficulties. The district shall determine the form, content, and timing of the program.

A district shall provide additional reading instruction and intervention to each student given the seventh grade reading assessment [see EKC], as appropriate to improve the student's reading skills in the relevant areas identified through the assessment instrument.

Education Code 28.006(g), (g-1)

[For information regarding students at-risk for dyslexia or related disorders, see EHB.]

College Preparatory Courses

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 12th grade level whose performance on:

a. An end-of-course 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 51.334 [Texas Success Initiative (TSI) assessment] 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 an 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. [See EHDD]

Instructional Materials — Each district, in consultation with each 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

End-of-Course Exam	A student enrolled in a college preparatory mathematics or English language arts course under Education Code 28.014 who satisfies the TSI college readiness benchmarks on an assessment instrument administered at the end of the course satisfies the requirements concerning and is exempt from the administration of the Algebra I or the English I and English II end-of-course assessment instruments, as applicable, as prescribed by Education Code 39.023(c) [see EKB], even if the student did not perform satisfactorily on a previous administration of the applicable end-of-course assessment instrument. A student who fails to perform satisfactorily on the assessment instrument may retake that assessment instrument or may take the appropriate end-of-course assessment instrument. *Education Code 39.025(a-1)*

To ensure that each student achieves at least satisfactory performance on each state assessment instrument, a district shall ensure that the district's curricular and instructional systems provide instruction to all students that is consistently aligned with the essential knowledge and skills for the applicable subject area and grade level; and strategically and timely addresses deficiencies in the prerequisite essential knowledge and skills for the applicable subject area and grade level. *Education Code 28.0211(a)*

Accelerated Instruction

Each time a student fails to perform satisfactorily on a state assessment instrument, the district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area during the subsequent summer or school year and, subject to certain exceptions, below, either:

1. Allow the student to be assigned a classroom teacher who is certified as a master, exemplary, or recognized teacher under the local optional teacher designation system [see DEAA] for the subsequent school year in the applicable subject area; or

2. Provide the student supplemental instruction under Education Code 28.0211(a-4) [see Supplemental Instruction Requirements, below].

The assessments in this provision include a state assessment instrument administered under Education Code 39.021(a) [see EKB] in third through eighth grade or an end-of-course assessment instrument. The assessments also include a Spanish assessment for emergent bilingual students but exclude an assessment instrument developed or adopted based on alternative academic achievement standards.

Education Code 28.0211(a-1)

Exceptions

Accelerated instruction requirements do not apply to a student who is retained at a grade level for the school year in which those requirements would otherwise apply.

A district may not be required to provide supplemental instruction to a student in more than two subject areas per school year. If the district would otherwise be required to provide supplemental instruction to a student in more than two subject areas for a school year, the district shall prioritize providing supplemental instruction to the student in mathematics and reading, or Algebra I, English I, or English II, as applicable, for that school year.

Education Code 28.0211(a-7)-(a-8)

A district is not required to provide accelerated instruction to a student who, instead of being administered an assessment instrument

specified above, was administered a substitute assessment instrument in accordance with other law or Texas Education Agency (TEA) rule authorizing the use of the substitute assessment instrument for purposes of satisfying the requirements concerning the applicable assessment instrument. *Education Code 28.0211(a-10)*

Off-Campus Arrangements

If a student who attends school in a homebound or other off-campus instructional arrangement, including at a residential treatment campus or state hospital, is unable to participate in an accelerated instruction program due to the student's condition, the district may determine that the student be provided the accelerated instruction when the student attends school in an on-campus instructional setting. If the student's condition prevents the student from attending school in an on-campus instructional setting for the school year during which the accelerated instruction is required to be provided to the student, the district is not required to provide the accelerated instruction to the student for that school year. *Education Code 28.0211(i-1)*

Participation Requirements

Supplemental accelerated instruction may require a student to participate before or after normal school hours and may include participation at times of the year outside normal school operations. *19 TAC 104.1001(c)*

In providing accelerated instruction, a district may not remove a student, except under circumstances for which a student enrolled in the same grade level who is not receiving accelerated instruction would be removed, from:

1. Instruction in the foundation curriculum and enrichment curriculum adopted under Education Code 28.002 for the grade level in which the student is enrolled [see EHA series]; or

2. Recess or other physical activity that is available to other students enrolled in the same grade level.

Education Code 28.0211(a-3)

The foundation curriculum includes English language arts, mathematics, science, and social studies. Courses in the enrichment curriculum include languages other than English; health, with emphasis on physical health, proper nutrition, and exercise; mental health, including instruction about mental health conditions, substance abuse, skills to manage emotions, establishing and maintaining positive relationships, and responsible decision making; suicide prevention; physical education; fine arts; career and technical education; technology applications; religious literature; and personal financial literacy.

In the event that a school week is three or less instructional days, the school is exempt from meeting the requirement of meeting once per week for supplemental accelerated instruction. [See Supplemental Instruction Requirements for Certain Funding, item 3, below.]

19 TAC 104.1001(c)

Supplemental Instruction Requirements

If a district receives funding under Education Code 29.0881 or Education Code 48.104 [see EHBC], the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (Div. M, Pub. L. No. 116-260), or the American Rescue Plan Act of 2021 (Pub. L. No. 117-2), then supplemental instruction provided by a district must:

1. Include targeted instruction in the essential knowledge and skills for the applicable grade levels and subject area;
2. Be provided in addition to instruction normally provided to students in the grade level in which the student is enrolled;
3. Be provided during the subsequent summer or school year:
    a. To each student for no less than:
        (1) 15 hours; or
        (2) 30 hours for a student whose performance on the applicable assessment instrument was significantly below satisfactory, as defined by commissioner rule; and
    b. Unless the instruction is provided fully during summer, include instruction no less than once per week during the school year, except as otherwise provided by commissioner rule to account for school holidays or shortened school weeks;
4. Be designed to assist the student in achieving satisfactory performance in the applicable grade level and subject area;
5. Include effective instructional materials designed for supplemental instruction;
6. Be provided to a student individually or in a group of no more than four students, unless the parent or guardian of each student in the group authorizes a larger group;
7. Be provided by a person with training in the applicable instructional materials for the supplemental instruction and under the oversight of the district; and

8. To the extent possible, be provided by one person for the entirety of the student's supplemental instruction period.

Education Code 28.0211(a-4)

Parent Choice

A parent or guardian of a student to whom supplemental instruction will be provided and who either was administered and failed to perform satisfactorily on an assessment instrument specified above or was administered a beginning-of-year assessment instrument aligned with the essential knowledge and skills for the applicable subject area, including a student to whom an accelerated education plan applies, may elect to modify or remove a requirement for that instruction under Education Code 28.0211(a-4) by submitting a written request to an administrator of the campus at which the student is enrolled.

A district may not encourage or direct a parent or guardian to make an election under this provision that would allow the district to not provide supplemental instruction to the student or provide supplemental instruction in a group larger than authorized.

Education Code 28.0211(a-9)

Transportation

A district shall provide students required to attend the accelerated programs described above with transportation to those programs if the programs occur outside of regular school hours, unless the district does not operate, or contract or agree with another entity to operate, a transportation system. *Education Code 28.0211(j)*

Unlisted Service Provider

A district may use a service provider that is not on a list of service providers approved by TEA if the district can demonstrate to the commissioner that use of the service provider results in measurable improvement in student outcomes. *Education Code 28.0211(a-12)*

Optional Assessment

A school district that is required to provide to a student accelerated instruction or supplemental instruction is not required to provide additional instruction under either provision to the student based on the student’s failure to perform satisfactorily on an assessment instrument administered as an optional assessment in the same subject area in which the district is required to provide the student the accelerated or supplemental instruction. *Education Code 28.0211(a-13)*

Notice to Parents

A district shall provide to the parent or guardian of a student who fails to perform satisfactorily on a state assessment instrument specified above notice that the student is not performing on grade level in the applicable subject area. The district must provide the notice at a parent-teacher conference or, if the district is unable to provide the notice at a parent-teacher conference, by another

means. TEA shall develop and provide to districts a model notice in plain language for use under this provision. *Education Code 28.0211(a-14)*

In each instance in which a district is specifically required to provide notice or a written copy to a parent or guardian of a student, the district shall make a good faith effort to ensure that such notice or copy is provided either in person or by regular mail and that the notice or copy is clear and easy to understand and is written in English or the parent or guardian's native language. *Education Code 28.0211(h)*

Parent Request

A district shall establish a process allowing for the parent or guardian of a student who fails to perform satisfactorily a state assessment instrument under Education Code 28.0211(a-1) [see above] to make a request for district consideration that the student be assigned to a particular classroom teacher in the applicable subject area for the subsequent school year, if more than one classroom teacher is available. *Education Code 28.0211(a-5)*

Assessments Not Required

Education Code 28.0211 does not require the administration of a fifth or eighth grade assessment instrument in a subject under Education Code 39.023(a) to a student enrolled in the fifth or eighth grade, as applicable, if the student:

1. Is enrolled in a course in the subject intended for students above the student's grade level and will be administered an assessment instrument adopted or developed under Education Code 39.023(a) [see EKB] that aligns with the curriculum for the course in which the student is enrolled; or

2. Is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an end-of-course (EOC) assessment instrument [see EKB] for the course.

Notwithstanding any other provision of Education Code 28.0211, the student may not be denied promotion on the basis of failure to perform satisfactorily on an assessment instrument not required to be administered to the student, nor may a student in grade 5 or grade 8 be denied promotion to the next grade on the basis of failure to perform satisfactorily on a reading or mathematics assessment instrument intended for use above the student's grade level.

Education Code 28.0211(o)-(p)

Students At Risk

A district shall provide accelerated instruction to an enrolled student who has taken an EOC assessment instrument and has not performed satisfactorily or who is at risk of dropping out of school [see EHBC].

A district shall offer before the next scheduled administration of the assessment instrument, without cost to the student, additional accelerated instruction to each student in any subject in which the student failed to perform satisfactorily on an end-of-course assessment instrument required for graduation.

A district that is required to provide accelerated instruction must separately budget sufficient funds for that purpose. [See CE]

A district shall evaluate the effectiveness of accelerated instruction programs and annually hold a public hearing to consider the results.

Education Code 29.081(b), (b-1), (b-2), (b-3), 39.025(b-1)

Effectiveness

A district shall evaluate and document the effectiveness of the accelerated instruction in reducing any disparity in performance on state assessment instruments or disparity in the rates of high school completion between students at risk of dropping out of school and all other district students. *Education Code 29.081(c)*

No Available Test Score

The superintendent of each district shall establish procedures to ensure that each eligible student who is absent or does not receive a test score for any test administration shall receive appropriate supplemental accelerated instruction as warranted on an individual student basis.*19 TAC 104.1001(b)(4)*

Accelerated Education Plan

For each student who does not perform satisfactorily on a state assessment instrument specified above for two or more consecutive school years in the same subject area, the district the student attends shall develop an accelerated education plan. *Education Code 28.0211(b)*

Not later than the start of the subsequent school year, a district shall develop an accelerated education plan for the student that provides the necessary accelerated instruction to enable the student to perform at the appropriate grade level or course by the conclusion of the school year.

The plan must:

1. Identify the reason the student did not perform satisfactorily on the applicable assessment instrument; and
2. Require the student to be provided with no less than 30 hours, or a greater number of hours if appropriate, of supplemental instruction for each consecutive school year in which the student does not perform satisfactorily on the assessment instrument in the applicable subject area.

The plan may require that, as appropriate to ensure the student performs satisfactorily on the assessment instrument in the applicable subject area at the next administration of the assessment instrument:

1. The district expand the times in which supplemental instruction is available to the student;
2. The student be assigned for the school year to a specific teacher who is better able to provide accelerated instruction; and
3. The district provide any necessary additional resources to the student.

The accelerated education plan must be documented in writing, and a copy must be provided to the student's parent or guardian.

During the school year, the student shall be monitored to ensure that the student is progressing in accordance with the accelerated education plan.

The board shall adopt a policy consistent with the grievance procedure adopted under Education Code 26.011 [see FNG] to allow a parent to contest the content or implementation of an accelerated education plan.

Education Code 28.0211(f)-(f-3)

Parent Conference

A district shall make a good faith attempt to provide to the parent or guardian of a student to whom an accelerated education plan applies a parent-teacher conference with the student's primary teacher at the start and end of the subsequent school year.

At the conference, the district shall provide the student's parent or guardian with:

1. The notice required under Education Code 28.0211(a-14); and
2. An explanation of:
    a. The accelerated instruction to which the student is entitled under this provision, and
    b. The accelerated education plan that must be developed for the student and the manner in which the parent or guardian may participate in developing the plan.

Education Code 28.0211(b-1)

Classroom Assignment

Except as requested under Education Code 28.0211(a-5), a student for whom an accelerated instructional plan must be developed must be assigned, in each school year and subject covered by the accelerated education plan, to an appropriately certified teacher who meets all state and federal qualifications to teach that subject and grade.

In a manner consistent with federal law and notwithstanding any other law, the commissioner may waive the requirement regarding the assignment of a student to an appropriately certified classroom teacher on the request of a district.

Education Code 28.0211(n)-(n-1)

ARD Committee Review

The admission, review, and dismissal (ARD) committee of a student who does not perform satisfactorily on a state assessment instrument described above shall, at the student's next annual review meeting, review the student's participation and progress in, as applicable, accelerated instruction, supplemental instruction, or an accelerated education plan.

The student's parent may request, or the district may schedule, an additional committee meeting if a committee member believes that the student's individualized education program needs to be modified based on the accelerated instruction requirements. If the district refuses to convene a committee meeting requested by the student's parent, the district shall provide the parent with written notice explaining the reason the district refuses to convene the meeting.

Education Code 28.0211(i)

Commissioner Waiver

The commissioner may waive the requirements regarding accelerated instruction for a district for each school year in which at least 60 percent of the students who received accelerated instruction during the school year immediately preceding the previous school year, including at least 60 percent of students whose performance on the applicable assessment instrument was significantly below satisfactory, as defined by commissioner rule, performed satisfactorily in the previous school year on the assessment instrument in each subject in which the student previously failed to perform satisfactorily. For purposes of determining whether a school district qualifies for a waiver, the commissioner shall:

1. If a student received accelerated instruction in more than one subject during the applicable school year, consider the student's performance on the assessment instrument in each subject separately from the student's performance on the assessment instrument for each other subject; and

2. By rule provide that a district may not qualify for a waiver if students who are receiving special education services or are educationally disadvantaged are overrepresented among the students in the district who received accelerated instruction during the school year immediately preceding the previous school year and did not perform satisfactorily in the previous school year on the assessment instrument in each applicable subject.

Education Code 28.0211(q)

Each student who has been identified as being at risk of dropping out of school, who is not performing at grade level, or who did not perform satisfactorily on a state-mandated assessment shall be provided accelerated and/or compensatory educational services.

Accelerated Instruction

The District shall provide accelerated instruction in accordance with law if a student fails to perform satisfactorily on a state-mandated assessment.

Parent Request

If a student fails to perform satisfactorily on a state-mandated assessment, a parent's request that the student be assigned to a particular teacher the following school year shall be addressed in accordance with the District's administrative procedures.

Accelerated Education Plan

Appropriate District staff shall develop an accelerated education plan for a student who fails to perform satisfactorily on the same state-mandated assessment for two or more consecutive years.

A parent complaint about the content or implementation of the accelerated education plan shall be filed in accordance with FNG.

Note: Only districts that identify 15 or more eligible students are required to provide prekindergarten programs.

Tuition-Free Prekindergarten Program

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.

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 [see FD] 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;
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 or foster care in another state or territory, if the child resides in Texas; or
7. Is the child of a person eligible for the Star of Texas Award as:
    a. A peace officer under Government Code 3106.002;
    b. A firefighter under Government Code 3106.003; or

c. An emergency medical first responder under Government Code 3106.004.

A child who is eligible for enrollment for free prekindergarten at the age of three and enrolls in prekindergarten class at the age of three remains eligible for enrollment in a prekindergarten class for the following school year.

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.

Education Code 29.153(a)-(b), (e-1), (f)

Parent Election

Subject to a district's decision to convene a retention committee [see EIE], a parent or guardian may elect for a student to enroll in prekindergarten, if the student would have been eligible to enroll in prekindergarten during the previous school year under the eligibility described above and the student has not yet enrolled in kindergarten, or to repeat prekindergarten. *Education Code 28.02124(a)(1)-(2)*

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. *Education Code 29.153(e)*

Half-Day or Full-Day

A prekindergarten class may be operated on a half-day basis for children under four years of age and shall be operated on a full-day basis for children who are at least four years of age.

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(c)

High-Quality Prekindergarten Required

A prekindergarten class for children who are least four years of age must comply with the program standards required for high-quality prekindergarten programs under Education Code Chapter 29, Subchapter E-1. [See High-Quality Prekindergarten Program, below]

Exemption

The commissioner of education shall exempt a district from the application of all or any part of Education Code Chapter 29, Subchapter E-1 for a prekindergarten class for children who are at least four years of age, if the commissioner determines that:

1. The district would be required to construct classroom facilities in order to provide prekindergarten classes; or

2. Implementing any part of this section would result in fewer eligible children being enrolled in a prekindergarten class under this section.

A district may not receive an exemption unless the district has solicited proposals for partnerships with public or private entities regarding prekindergarten classes required under this section in accordance with guidance provided by the Texas Education Agency (TEA) and considered submitted proposals at a public meeting. A decision of the board regarding a partnership described by this provision is final.

An exemption may not be granted for a period longer than three school years and may be renewed only once.

Education Code 29.153(c-1)-(d-2)

Constructing, Repurposing, or Leasing a Facility

Before a district may construct, repurpose, or lease a classroom facility, or issue bonds for the construction or repurposing of a classroom facility, to provide the prekindergarten classes required under Education Code 29.153, the district must solicit and consider proposals for partnerships to provide those classes with community-based child-care providers who:

1. Are a Texas Rising Star Program provider with a three-star certification or higher;
2. Are nationally accredited;
3. Are a Head Start program provider;
4. Are a Texas School Ready! participant; or
5. Meet the requirements under Education Code 29.1532.

Education Code 29.153(g)

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 who are under four years of age; 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) (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)*

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*

Prekindergarten 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 and the class size requirements for prekindergarten classes imposed under Education Code 25.112(a) [see EEB]. *Education Code 29.1532(b)*

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)

High-Quality Prekindergarten Program

"Program" means a high quality prekindergarten program for eligible children who are at least four years of age required to be provided free of tuition or fees.

Curriculum Requirements

A district shall select and implement a curriculum for a prekindergarten 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.

Education Code 29.164, .167(a)

A school district shall implement a curriculum for a high-quality prekindergarten program that addresses the 2015 Texas Prekindergarten Guidelines in the domains listed in 19 Administrative Code 102.1003(b). The district shall measure student progress and kindergarten preparation in accordance with 19 Administrative Code 102.1003(c). *19 TAC 102.1003*

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. An associate or baccalaureate degree in early childhood education or a related field;
2. A Child Development Associate (CDA) credential or another early childhood education credential approved by TEA;
3. Certification offered through a training center accredited by Association Montessori Internationale or through the Montessori Accreditation Council for Teacher Education;
4. At least eight years' experience of teaching in a nationally accredited child-care program or a Texas Rising Star Program;
5. A graduate or undergraduate degree in early childhood education or early childhood special education or a non-early childhood education degree with a documented minimum of 15 units of coursework in early childhood education;
6. Documented completion of the Texas School Ready Training Program (TSR Comprehensive);
7. Be employed as a prekindergarten teacher in a district that has met the requirements of 19 Administrative Code 102.1003(d)(6); or

8. An equivalent qualification.

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 district or an entity with which the district contracts to provide a prekindergarten program must attempt to maintain an average ratio in any prekindergarten program class of not less than one qualified teacher or teacher's aide for each 11 students.

19 TAC 102.1003(d), (h); Education Code 29.167(b)-(d)

Supervisor Requirements

Each teacher for a prekindergarten class provided by an entity with which a school district contracts to provide a prekindergarten program must be supervised by a person who meets the teacher requirements above and have one of the following qualifications:

1. At least two years' experience of teaching in a nationally accredited child-care program or a Texas Rising Star Program and:
    a. A Child Development Associate (CDA) credential or another early childhood education credential approved by TEA; or
    b. Certification offered through a training center accredited by Association Montessori Internationale or through the Montessori Accreditation Council for Teacher Education; or
2. A qualification described by provisions 1, 4, 7, or 8 above.

A person who supervises a prekindergarten program provided by an entity with which a district contracts for that purpose may supervise multiple prekindergarten classrooms to:

1. Ensure programmatic compliance; and
2. Support:
    a. Classroom instruction;
    b. The developmental needs of students; and
    c. Continuous quality improvement, including professional development.

Education Code 29.167(b-1)-(b-2)

Family Engagement Plan

A district shall develop, implement, and make available on the district or campus website by November 1 of each school year, 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 shall meet the requirements of 19 Administrative Code 102.1003(e)(2).

19 TAC 102.1003(e); Education Code 29.168(a)

Report and Evaluation

In a format prescribed by TEA, a district shall report information in compliance with 19 Administrative Code 102.1003(f).

A district shall:

1. Select and implement appropriate methods for evaluating the district's high-quality prekindergarten program 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.

19 TAC 102.1003(f)-(g); Education Code 29.169

Eligible Private Providers

A district that offers a high-quality prekindergarten 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 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;
4. Have an existing partnership with a district to provide a prekindergarten 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 and the class size requirement for prekindergarten classes imposed by Education Code 25.112(a) [see EEB].

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(a), (b), (i)

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 pre-reading instruction for the purpose of directly improving pre-reading skills and for identifying cost-effective models for pre-reading intervention. Grants funds shall be used for:

1. Professional staff development in pre-reading instruction;
2. Pre-reading curriculum and materials;

3. Pre-reading skills assessment materials; and

4. Employment of pre-reading instructors.

Education Code 29.157(b), (c)

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 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)

Mandatory Recognition Dates

A district shall regularly observe the following recognition days, weeks, and months by appropriate programs, celebrations, and activities:

Women's Independence Day

August 26: Women's Independence Day, to commemorate the ratification in 1920 of the Nineteenth Amendment to the United States Constitution, which guaranteed women the right to vote. Women's Independence Day shall be regularly observed by appropriate programs in the public schools to inspire a greater appreciation of the importance of women's suffrage. *Gov't Code 662.051*

Hydrocephalus Awareness Month

September: Hydrocephalus Awareness Month, to:

1. Increase public awareness of hydrocephalus, a serious neurological condition characterized by the abnormal buildup of cerebrospinal fluids in the ventricles of the brain; and

2. Encourage the development of partnerships between the federal government, health-care professionals, and patient advocacy groups to advance the public's understanding of the condition, improve the diagnosis and treatment of the condition, and support research for a cure.

Hydrocephalus Awareness Month shall be regularly observed by appropriate activities in public schools to increase awareness of hydrocephalus.

Gov't Code 662.106

Texas First Responders Day

September 11: Texas First Responders Day, in honor of the bravery, courage, and determination of Texas men and women who assist others in emergencies. Texas First Responders Day shall be regularly observed by appropriate ceremonies in the public schools to honor Texas first responders. A district may determine the appropriate ceremonies by which Texas observes Texas First Responders Day. *Gov't Code 662.050*

September 11

September 11: To commemorate the events of September 11, 2001, in each year that date falls on a regular school day, each public elementary and secondary school shall provide for the observance of one minute of silence at the beginning of the first class period of that day. Immediately before the required period of observance, the class instructor shall make a statement of reference to the memory of individuals who died on September 11, 2001. The required period of observance may be held in conjunction with the minute of silence required by Education Code 25.082. [See EC] *Education Code 25.0821*

Constitution Day

September 17: A district that receives federal funds for a fiscal year shall hold an educational program on the United States

Constitution for the students served by the district. *Pub. L. 108-447 (2004)*

Celebrate Freedom Week

Week of September 17: Celebrate Freedom Week, to educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded. *Education Code 29.907*

Appropriate Instruction

Each social studies class shall include, during Celebrate Freedom Week or during another full school week as determined by the board, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the United States Constitution, including the Bill of Rights, in their historical context.

The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the United States Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

19 TAC 74.33(a)

Recitation

Each district shall require that, during Celebrate Freedom Week or other prescribed week of instruction, students in grades 3-12 study and recite the following text: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness — That to secure these Rights, Governments are instituted among Men, deriving their Just Powers from the Consent of the Governed."

Exception

Each district shall excuse from recitation a student:

1. Whose parent or guardian submits to the district a written request that the student be excused;
2. Who, as determined by the district, has a conscientious objection to the recitation; or
3. Who is the child of a representative of a foreign government to whom the United States government extends diplomatic immunity.

19 TAC 74.33(b), .36

American Indian Heritage Day

The last Friday in September is in recognition of the historic, cultural, and social contributions American Indian communities and leaders have made to Texas. American Indian Heritage Day shall

	be regularly observed by appropriate ceremonies, activities, and programs in public schools to honor American Indians in Texas and to celebrate the rich traditional and contemporary American Indian culture. *Gov't Code 662.056*
Father of Texas Day	November 3: Father of Texas Day, in memory of Stephen F. Austin, the great pioneer patriot and the real and true Father of Texas. Father of Texas Day shall be regularly observed by appropriate and patriotic programs in the public schools to properly commemorate the birthday of Stephen F. Austin and to inspire a greater love for this beloved state. *Gov't Code 662.045*
Sam Rayburn Day	January 6: Sam Rayburn Day, in memory of that great Texas and American statesman, Sam Rayburn. Sam Rayburn Day shall be regularly observed by appropriate programs in the public schools to commemorate the birthday of Sam Rayburn. *Gov't Code 662.041*
State of Texas Anniversary Remembrance Day	February 19: State of Texas Anniversary Remembrance Day (STAR Day), in honor of Texas joining the Union and the day that James Pinckney Henderson became the first governor of the state of Texas in 1846. STAR Day shall be regularly observed by appropriate and patriotic programs in the public schools to properly commemorate the annexation of this state and to inspire a greater appreciation for the history of this state. *Gov't Code 662.047*
Texas History Month	March: Texas History Month, in honor of those Texans who helped shape the history of the state of Texas and in recognition of events throughout Texas's history. Texas History Month shall be regularly observed by appropriate celebrations and activities in public schools to promote interest in and knowledge of Texas history. *Gov't Code 662.102*
Texas Girls in STEM Day	March 1 is designated as Texas Girls in STEM Day to celebrate and encourage the participation of girls in this state in fields related to science, technology, engineering, and mathematics. Texas Girls in STEM Day shall be regularly observed by appropriate ceremonies, activities, and programs in public schools, public institutions of higher education, and other places to: 1. Encourage girls in this state to consider career fields in science, technology, engineering, and mathematics; and 2. Celebrate and honor the women of this state who have excelled in those fields. *Gov't Code 662.073*

In recognition of Texas Girls in STEM Day, each district may include throughout the month of March appropriate instruction, activities, and programs to encourage and celebrate women in career fields related to science, technology, engineering, and mathematics. The instruction may include programs that profile women in those fields and related fields, including finance, information technology, data analytics, cybersecurity, and health-care cloud architecture. *Education Code 29.925*

Texas Fruit and Vegetable Day

The first Friday in April is designated Texas Fruit and Vegetable Day in public schools to promote awareness of the health benefits of fruits and vegetables and to encourage students to consume more fruits and vegetables during Texas Fruit and Vegetable Month. Texas Fruit and Vegetable Day shall include appropriate instruction, as determined by the district. *Education Code 29.9073*

Public School Paraprofessional Day

The second Wednesday in May: Public School Paraprofessional Day, in recognition of education paraprofessionals including teacher assistants, instructional aides, educational trainers, library attendants, bilingual assistants, special education associates, mentors, and tutors. Public School Paraprofessional Day shall be regularly observed by appropriate ceremonies and activities in the public schools to properly recognize the paraprofessionals who have made tremendous contributions to the educational process. *Gov't Code 662.049*

Texas Military Heroes Day

To educate students about the sacrifices made by brave Texans who have served in the armed forces of the United States, the governor shall designate a day to be known as Texas Military Heroes Day in public schools.

Texas Military Heroes Day shall include appropriate instruction, as determined by each district. Instruction may include:

1. Information about persons who have served in the armed forces of the United States and are from the community or the geographic area in which the district is located; and
2. Participation, in person or using technology, in age-appropriate learning projects at battlefields and gravesites associated with a person who has served in the armed forces.

Education Code 29.9071

Generation Texas Week

Each district offering middle school, junior high school, or high school grade levels shall designate one week during the school year as Generation Texas Week. During the designated week, each middle school, junior high school, and high school shall provide students with comprehensive grade-appropriate information about the pursuit of higher education, including:

1. Higher education options;
2. Standard admission requirements for institutions of higher education, including:
    a. Overall high school grade point average;
    b. Required curriculum;
    c. College readiness standards and expectations as determined under Education Code 28.008; and
    d. Scores necessary on generally recognized tests or assessment instruments used in admissions determinations, including the Scholastic Assessment Test and the American College Test;
3. Automatic admission of certain students to general academic teaching institutions under Education Code 51.803 [see EIC]; and
4. Financial aid availability and requirements, including the financial aid information provided by school counselors under Education Code 33.007(b) [see FFEA].

In addition, each middle school, junior high school, and high school shall provide to students at least one public speaker to promote the importance of higher education.

Education Code 29.911

Holocaust Remembrance Week

To educate students about the Holocaust and inspire in students a sense of responsibility to recognize and uphold human value and to prevent future atrocities, the governor shall designate a week to be known as Holocaust Remembrance Week in public schools.

Holocaust Remembrance Week shall include age-appropriate instruction, as determined by each district. Instruction shall include:

1. Information about the history of and lessons learned from the Holocaust;
2. Participation, in person or using technology, in learning projects about the Holocaust; and
3. The use of materials developed or approved by the Texas Holocaust, Genocide, and Antisemitism Advisory Commission.

Education Code 29.9072

Optional Recognition Dates	In addition, a district may observe the following recognition days, weeks, or months, by appropriate celebrations and activities:
Dr. Hector P. Garcia Day	Third Wednesday of September: Dr. Hector P. Garcia Day, in memory of the significant contributions to the Mexican American civil rights movement of Dr. Hector P. Garcia, a distinguished physician and a recipient of the Presidential Medal of Freedom and the founder of the American GI Forum, which promotes civil rights protection of Hispanic veterans and all Americans. Dr. Garcia, a World War II hero, was awarded a Bronze Star Medal with six battle stars in recognition of his meritorious service to the United States. Dr. Hector P. Garcia Day may be regularly observed by appropriate ceremonies and activities in the public schools to properly commemorate the importance of the contributions made by Dr. Garcia. *Gov't Code 662.055*
Persons with Disabilities History and Awareness Month	October: Persons with Disabilities History and Awareness Month, to increase public awareness of the many achievements of people with disabilities; encourage public understanding of the disability rights movement; and reaffirm the local, state, and federal commitment to providing equality and inclusion for people with disabilities. A district may elect to observe Persons with Disabilities History and Awareness Month and determine the appropriate activities by which the school observes Persons with Disabilities History and Awareness Month. *Gov't Code 662.109*
Texas Native Plant Week	Third week in October: Texas Native Plant Week, to celebrate the native plants of Texas. Texas Native Plant Week may be regularly observed in public schools with programs to appreciate, explore, and study Texas native plants. *Gov't Code 662.154*
Lung Cancer Awareness Month	November: Lung Cancer Awareness Month, to increase awareness of lung cancer and encourage funding of research and more effective treatments. Lung Cancer Awareness Month may be regularly observed by appropriate activities in public schools to increase the awareness of lung cancer and support for lung cancer research. *Gov't Code 662.104*
Human Trafficking Prevention Month	January: Human Trafficking Prevention Month, to increase awareness of human trafficking in an effort to encourage people to alert authorities to any suspected incidents involving human trafficking. Human Trafficking Prevention Month may be regularly observed through appropriate activities in public schools and other places to increase awareness and prevention of human trafficking. *Gov't Code 662.107*
Law Enforcement Appreciation Day	January 9: Law Enforcement Appreciation Day may be regularly observed in public schools and other places through appropriate activities. *Gov't Code 662.067*

Iwo Jima Day	February 19: Iwo Jima Day, in memory of the heroism and courage of the men and women of the armed forces of the United States who participated in the successful capture of the island of Iwo Jima beginning February 19, 1945. Iwo Jima Day may be regularly observed through appropriate activities in public schools and other places. *Gov't Code 662.062*
Child Safety Month	April: Child Safety Month, in recognition of the children of this state as this state's most precious resource. Child Safety Month is meant to ensure that the children of this state grow up in a safe and supportive environment by promoting their protection and care through increased public awareness of ways to reduce accidental injury and death through the use of bicycle helmets, seat belts, safety and booster seats, and smoke alarms, and the dangers presented to children by unattended and unlocked vehicles and by being left in closed vehicles during hot or sunny weather. Child Safety Month may be regularly observed by appropriate celebrations and activities in public schools to promote the protection and care of children in this state. *Gov't Code 662.105*
Sexual Assault Awareness Month	April: Sexual Assault Awareness Month, to increase awareness and prevention of sexual assault. Sexual Assault Awareness Month may be regularly observed through appropriate activities in public schools and other places to increase awareness and prevention of sexual assault. *Gov't Code 662.111*
Fentanyl Poisoning Awareness Week	To educate students about the dangers posed by the drug fentanyl and the risks of fentanyl poisoning, including overdose, the governor shall designate a week to be known as Fentanyl Poisoning Awareness Week in public schools. Fentanyl Poisoning Awareness Week may include age-appropriate instruction, including instruction on the prevention of the abuse of and addiction to fentanyl, as determined by a district. *Education Code 29.9074*
Student Elections	An election for the participation of students in kindergarten through grade 12 may be held in conjunction with a general, special, or primary election. The student election may be ordered by: 1. The commissioners court, for a student election held in conjunction with an election ordered by the governor or a county authority; 2. The governing body of a political subdivision, for a student election held in conjunction with an election of the political subdivision; or

3. The county executive committee, for a student election held in conjunction with a primary election.

A student election may be held only on election day or the day before election day.

The authority ordering a student election shall specify in the order each grade that may participate in the election. A student in a specified grade may enter a precinct polling place for the purpose of casting an unofficial ballot in the student election on the same offices and measures that appear on the official ballot.

The election officers serving in the official election may not serve in the student election. The authority ordering a student election shall appoint a separate set of election officers to conduct the student election, supervise the participating students, and tabulate and report the results of that election. The authority ordering a student election shall make the results of that election available to the public but only after the polling places are closed on election day.

Expenses incurred in the conduct of a student election, including any personnel expenses, may be paid only from private grant funds or donations.

Election Code 276.007

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:

1. 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;
2. Career and technology education programs or other work-based education programs in the district, including any internship, externship, or apprenticeship programs or a P-TECH (Pathways in Technology Early College High School) program [see EHB];
3. Subsidies based on financial need available for fees paid to take college advanced placement tests or international baccalaureate examinations under Education Code 28.054; and
4. Funding for enrollment in dual credit courses under the FAST (Financial Aid for Swift Transfer) program [see below].

Districts must also notify parents of the qualifications for enrolling in programs described by items 1, 2, and 4 above.

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

Note: For information on dual credit courses available through the Texas Virtual School Network[1] (TXVSN), see EHDE.

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 the Texas Education Agency (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 (THECB); and

2. For which a student may earn credit concurrently toward both the student's high school diploma and postsecondary academic requirements.

A dual credit course must be:

1. In the core curriculum of the public institution of higher education providing college credit;

2. A career and technical education course; or

3. A foreign language course.

The requirements above do not apply to a dual credit course offered as part of the early college education program established under Education Code 29.908 or any other early college program that assists a student in earning a certificate or an associate degree while in high school.

A district is not required to pay a student’s tuition or other associated costs for taking a course under this section.

Agreements

Any agreement, including a memorandum of understanding or articulation agreement, between a school district and public institution of higher education to provide a dual credit program must:

1. Include specific program goals aligned with statewide goals developed jointly by TEA and the THECB;

2. Establish common advising strategies and terminology related to dual credit and college readiness;

3. Provide for the alignment of endorsements offered by the district [see EIF] and dual credit courses offered under the agreement that apply towards those endorsements, with postsecondary pathways and credentials at the institution and industry certifications;

4. Identify tools, including tools developed by TEA, THECB, or the Texas Workforce Commission, to assist school counselors, students, and families in selecting endorsements offered by the district and dual credit courses offered under the agreement;

5. Establish, or provide a procedure for establishing, the course credits that may be earned under the agreement, including by developing a course equivalency crosswalk or other method for equating high school courses with college courses and identifying the number of credits that may be earned for each course completed through the program;

6. Describe the academic supports and, if applicable, guidance that will be provided to students participating in the program;

7. Establish the district's and the institution's respective roles and responsibilities in providing the program and ensuring the quality and instructional rigor of the program;

8. State the sources of funding for courses offered under the program, including, at a minimum, the sources of funding for tuition, transportation, and any required fees or textbooks for students participating in the program;

9. Require the district and the institution to consider the use of free or low-cost open educational resources in courses offered under the program;

10. Ensure the accurate and timely exchange of information necessary for an eligible student to enroll at no cost in a dual credit course as provided by Education Code 28.0095 (FAST Program);

11. Be posted each year on the district's and the institution's respective websites; and

12. Designate at least one employee of the district or institution as responsible for providing academic advising to a student who enrolls in a dual credit course under the program before the student begins the course.

Education Code 28.009; 19 TAC 4.84(c)

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; or
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 any public technical institute, public junior college, public senior college or university, medical or dental unit, public state college, or other agency of higher education as defined by Education Code 61.003.

“Dual credit” means the system under which an eligible high school student enrolls in college course(s) and receives credit for the course(s) from both the college and high school.

19 TAC 4.83(4), (7); Education Code 61.003(8)

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*

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.

A course offered for joint high school and junior college credit must be:

1. In the core curriculum of the public junior college;
2. A career and technical education course; or
3. A foreign language course.

These requirements do not apply to a course offered for joint high school and junior college credit to a student as part of the early college education program established under Education Code 29.908 or any other early college program that assists a student in earning a certificate or an associate degree while in high school.

Education Code 130.008(a-1), (a-2), (d)

Student Eligibility

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).

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.).

An institution may impose additional requirements for enrollment in courses for dual credit that do not conflict with this section.

An institution is not required, under the provisions of this section, to offer dual credit courses for high school students.

19 TAC 4.85(b)

Faculty Selection, Supervision, and Evaluation

The college shall select, supervise, and evaluate instructors in accordance with 19 Administrative Code 4.85(e). *19 TAC 4.85(e)*

Transcript

For dual credit courses, high school as well as college credit should be transcripted immediately upon a student's completion of the performance required in the course. *19 TAC 4.85(h)*

Qualified Instructor

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:

1. A doctoral or master's degree in the discipline that is the subject of the course;
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

3. For a course that is offered in an associate degree program and that is not designed for transfer to a baccalaureate degree program:

    a. A degree described above;

    b. A baccalaureate degree in the discipline that is the subject of the course; or

    c. An associate degree and demonstrated competencies in the discipline that is the subject of the course, as determined by the THECB.

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 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. *Education Code 48.005(g)* [See FEB]

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 48.007(a)*

Reporting Off-Campus Programs

A board may adopt a policy that allows a student to participate in an off-campus instructional program. The program must be provided only by an institution of higher education that is accredited by one of the regional accrediting associations specified in 19 Administrative Code 74.25 (High School Credit for College Courses).

To be eligible, a student must:

1. Be in grade 11 or 12;

2. Have demonstrated college readiness as outlined in the requirements for participation in dual credit programs in the *Student Attendance Accounting Handbook*;

3. Meet any eligibility requirements adopted by the institution of higher education; and

4. Have the approval of the high school principal or other school official designated by the district.

The off-campus program must comply with rules adopted by the THECB in the Texas Administrative Code, Title 19, Part 1, with respect to teacher qualifications.

19 TAC 129.1031

Time that a student participates in an off-campus instructional program approved by the commissioner under Education Code 48.007(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 48.005(h)*

Dual Credit Agreement

For any dual credit partnership between a secondary school and a public college, an agreement must be approved by the governing boards or designated authorities (e.g., principal and chief academic officer) of both the school district and the public college prior to the offering of such courses.

Any agreement entered into or renewed between a public institution of higher education and school district on or after September 1, 2019, including a memorandum of understanding or articulation agreement, must meet the requirements of 19 Administrative Code 4.84(c).

Any dual credit agreement must also 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. Transcripting of credit;
9. Funding; and
10. Defined sequences of courses, where applicable.

19 TAC 4.84(a)-(b)

FAST Program

Eligibility

A student is eligible to enroll at no cost in a dual credit course under the Financial Aid for Swift Transfer (FAST) program if the student is enrolled in high school and in a dual credit course at a participating institution of higher education and the student was

educationally disadvantaged at any time during the four school years preceding the student's enrollment in the dual credit course.

"Dual credit course" includes a course offered for joint high school and junior college credit under Education Code 130.008 or another course offered by an institution of higher education for which a high school student may earn credit toward satisfaction of:

1. A requirement necessary to obtain an industry-recognized credential or certificate or an associate degree;
2. A foreign language requirement at an institution of higher education;
3. A requirement in the core curriculum, as that term is defined by Education Code 61.821, at an institution of higher education; or
4. A requirement in a field of study curriculum developed by the coordinating board under Education Code 61.823.

District Determination

A district shall on a high school student's enrollment in a dual credit course, determine whether the student meets the above criteria for the program and notify the institution of higher education that offers the dual credit course in which the student is enrolled of the district's determination.

A district may make the determination based on the district's records, TEA's records, or any other method authorized by commissioner or THECB rule. If the district bases the determination on a method other than TEA's records, the district shall report the method used and the data on which the method is based to TEA for purposes of verification.

Education Code 28.0095(a)(3), (c), (3)

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. Transcripting 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)*

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 instru-

ment approved by the board under 19 Administrative Code 4.56 (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 (see below).

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

An institution of higher education shall use the Texas Success Initiative (TSI) Assessment offered by the College Board as the only THECB-approved assessment instrument. *19 TAC 4.56*

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*

Off-Campus Program Provided by an Institution of Higher Education

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 48.007(a)*

Reporting Off-Campus Programs

A board may adopt a policy that allows a student to participate in an off-campus instructional program. The program must be provided only by an institution of higher education that is accredited by one of the regional accrediting associations specified in 19 Administrative Code 74.25 (High School Credit for College Courses).

To be eligible, a student must:

1. Be in grade 11 or 12;

2. Have demonstrated college readiness as outlined in the requirements for participation in dual credit programs in the *Student Attendance Accounting Handbook*;

3. Meet any eligibility requirements adopted by the institution of higher education; and

4. Have the approval of the high school principal or other school official designated by the district.

The off-campus program must comply with rules adopted by the THECB in the Texas Administrative Code, Title 19, Part 1, with respect to teacher qualifications.

19 TAC 129.1031(a), (b), (e)

Time that a student participates in an off-campus instructional program approved by the commissioner under Education Code 48.007(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 48.005(h)*

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[1] Texas Virtual School Network: https://www.txvsn.org

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 the Texas Education Agency (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 (Accreditation Status);
2. Be rated acceptable under Education Code 39.054;

3. Be rated at the Standard Achievement level or higher under the state financial accountability rating system under 19 Administrative Code 109.1001 (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 (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 (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*

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 48.003;
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;
2. The student is a dependent of a member of the United States military who has been deployed or transferred to this state and was enrolled in a publicly funded school outside of this state in the preceding school year; or
3. 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 10 school days and withdraw the student from the OLS if the student does not provide the required evidence of eligibility within 10 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:

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.

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*
Course Portability	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. *Education Code 30A.1051; 19 TAC 70.1015(d)*
Student Assessment	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. 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. All districts participating in the TXVSN OLS program are included in the state's academic accountability system. *Education Code 30A.110; 19 TAC 70.1023*
Funding	A district in which a student is enrolled is entitled to funding under Education Code Chapter 48 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. 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. *Education Code 30A.153* 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. *Education Code 26.0031(c-1)*

Course Cost

A district may charge the course cost for enrollment in a TXVSN course to a student who resides in this state and:

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
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
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;
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

Award of Credit

The award of credit for a course affirms that a student has satisfactorily met state and local requirements. Any course for which credit is awarded must be provided according to 19 TAC 74.26(a)(1) and (a)(2) [see FDA]. *19 TAC 74.26(a)*

Early Award of Credit

A district may offer courses designated for grades 9-12 in earlier grade levels. A course must be considered completed and credit must be awarded if the student has demonstrated achievement by meeting the standard requirements of the course, including demonstrated proficiency in the subject matter, regardless of the time the student received instruction in the course or the grade level at which proficiency was attained. The academic achievement record (transcript) shall reflect that students have satisfactorily completed courses at earlier grade levels from grades 9-12 and have been awarded state graduation credits. *19 TAC 74.26(b)*

Partial Award

In accordance with a district's local policy, a student who is able to successfully complete only half of a course can be awarded credit proportionately. *19 TAC 74.26(d)*

A district shall award credit proportionately to a student who is homeless or in substitute care who successfully completes only half of a course. *19 TAC 74.26(e)*

Attendance for Credit or Final Grade

Unless credit is awarded by the attendance committee or regained in accordance with a principal's plan [see FEC], a student in any grade level from kindergarten through grade 12 may not be given credit or a final grade for a class unless the student is in attendance for at least 90 percent of the days the class is offered. *Education Code 25.092*

Homeless or Substitute Care

A district shall adopt a local policy to ensure credit, including proportionate credit, has been awarded appropriately to a student who is homeless or in substitute care for coursework completed prior to the student enrolling in or transferring to the district in accordance with 19 Administrative Code 74.26 (Award of Credit).

A district must ensure that student records or transcripts provided by the previous district or charter school are evaluated promptly and are complete, accurate, and up to date.

The receiving district must develop, maintain, and regularly update local records and documentation, including transcripts if applicable, for a student who is homeless or in substitute care.

A district must ensure that the records or transcripts of a student who is homeless or in substitute care and transferring from out of state, out of country, or a Texas nonpublic school are evaluated and the award of credit is determined in a timely manner, as required by 19 Administrative Code 74.26(a)(2). [See FDA]

A district must award credit proportionately to a student who is homeless or in substitute care who successfully completes only half of a course. Districts must evaluate the student record upon a student's enrollment and ensure that proportionate credit has been awarded appropriately.

If a district determines that there are courses in which a student was enrolled but for which the student has not earned credit, the district may use a variety of methods to determine whether the student may be eligible for full or proportionate credit for coursework completed. The award of credit must be based on demonstrated proficiency in all state and local requirements for a course in accordance with 19 Administrative Code 74.26.

A district must provide opportunities for a student who is homeless or in substitute care who enrolls in the district after the start of the school year to be administered credit by examination at any point during the school year, as required by 19 Administrative Code 74.24 (Credit by Examination) [see EHDB and EHDC].

Districts must:

1. Develop processes for students who have credit deficits or incomplete coursework that would impede on-time promotion or graduation to earn credit and implement appropriate academic interventions to address any credit deficiencies identified;

2. Develop and administer a personal graduation plan in accordance with Education Code 28.0212 (see EIF) for each student in junior high or middle school who is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade 9, as determined by the district, or does not perform satisfactorily on a state assessment instrument;

3. Review personal graduation plan options with each student entering grade 9 and with that student's parent or guardian as required by Education Code 28.02121 [see EIF]. Before the conclusion of the school year, the student and the student's parent or guardian must confirm and sign a personal graduation plan for the student;

4. Ensure that school staff actively engage with the student and the student's parent or guardian, as applicable, to develop a plan to recover credits if the student has credit deficits or incomplete coursework that would impede on-time promotion or graduation; and

5. Comply with Education Code 28.025(i) [see EIF], concerning the award of diplomas for students who are homeless or in substitute care who are in grade 11 or 12.

19 TAC 89.1607

[For information on transition assistance for students who are homeless or in substitute care, including enrollment and placement in education programs and courses, see FFC.]

Graduation Requirements

Credit for courses for high school graduation may be earned only if the student received a grade equivalent to 70 on a scale of 100, based upon the essential knowledge and skills of each course. Credit earned toward state graduation requirements in an accredited school district shall be transferable and must be accepted by any other school district in the state. *19 TAC 74.26(a)(1), (c)*

Academic Achievement Record

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 a district.

Any credit earned by a student must be recorded on the academic achievement record (transcript), regardless of when the credit was earned.

A student's performance on a state assessment, including an end-of-course assessment instrument required under Education Code 39.023(c) [see EKB], must be included in the student's academic achievement record (transcript).

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. [See also FD, FDA, and FL]

Education Code 28.025(e), 39.023(c-5); 19 TAC 74.5(b)-(d)

Transcript Seals

Students who complete high school graduation requirements shall have attached to the academic achievement record (transcript) a seal approved by the State Board of Education. *19 TAC 74.5(e)*

Endorsement

Students who complete the requirements for an endorsement shall have the endorsement clearly indicated on the academic achievement record (transcript).

Performance Acknowledgment	Students who earn a performance acknowledgment shall have the performance acknowledgment clearly indicated on the academic achievement record (transcript).
Distinguished Level of Achievement	Students who earn the distinguished level of achievement shall have the distinguished level of achievement clearly indicated on the academic achievement record (transcript).
Speech Requirements	Students who demonstrate proficiency in speech as specified in 19 Administrative Code 74.11 shall have completion of the speech requirement clearly indicated on the academic achievement record (transcript).
CPR	Students who complete the required instruction in cardiopulmonary resuscitation (CPR) as specified in 19 Administrative Code 74.38 in grade 9, 10, 11, or 12 shall have completion of the CPR instruction clearly indicated on the academic achievement record (transcript).
Proper Interaction with Peace Officers	Students who complete the required instruction on proper interaction with peace officers shall have completion of the instruction clearly indicated on the academic achievement record (transcript). A district shall clearly indicate on the academic achievement record the year in which the instruction was provided to the student.
Languages Other Than English	Students who satisfy a language other than English graduation credit requirement by successfully completing a dual language immersion program at an elementary school in accordance with 19 Administrative Code 74.12 shall have the credit clearly indicated on the academic achievement record (transcript).
FAFSA/TASFA Completion	A student who completes and submits a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA) or submits the Texas Education Agency-approved opt-out form shall have the completion of the financial aid application requirement clearly indicated on the academic achievement record.
Texas First Early High School Completion Program	A student who earns a high school diploma by satisfying the requirements of the Texas First Early High School Completion Program shall have completion of the program and the distinguished level of achievement clearly indicated on the academic achievement record. [See EIF]
	Education Code 28.025; 19 TAC 74.5(f)-(n), .11(b), .39(e)
Notation on Transcript or Diploma	A district shall ensure that each student's official transcript or diploma indicates whether the student has completed or is on schedule to complete:
	1. The recommended or advanced high school curriculum; or

2. For a district that is covered by Education Code 56.304(f)(1) (unavailability of courses), the required portion of the recommended or advanced high school curriculum offered at the district's high school.

The district must include this information on the student's transcript not later than the end of the student's junior year.

Education Code 56.308(b)(2)

Certificate of Coursework Completion

A student who completes all graduation requirements except for required end-of-course assessment instruments may be issued a certificate of coursework completion. The academic achievement record (transcript) shall include a notation of the date a certificate of completion was issued to the student. *19 TAC 74.5(o)* [See FMH for participation in the graduation ceremony.]

Grading Policy

A district shall adopt a grading policy, including provisions for the assignment of grades on class assignments and examinations, before each school year. A district grading policy:

1. Must require a classroom teacher to assign a grade that reflects the student's relative mastery of an assignment;
2. May not require a classroom teacher to assign a minimum grade for an assignment without regard to the student's quality of work; and
3. May allow a student a reasonable opportunity to make up or redo a class assignment or examination for which the student received a failing grade.

Education Code 28.0216

Finality of Grade

An examination or course grade issued by a classroom teacher is final and may not be changed unless the grade is arbitrary, erroneous, or not consistent with the district grading policy applicable to the grade, as determined by the board.

A determination by the board is not subject to appeal.

This subsection does not prohibit an appeal related to a student's eligibility to participate in extracurricular activities under Education Code 33.081.

Education Code 28.0214

Student Election Clerks

A student who is appointed as a student election clerk under Election Code 32.0511, or as a student early voting clerk under Election Code 83.012, may apply the time served toward:

1. A requirement for a school project at the discretion of the teacher who assigned the project; or
2. A service requirement for participation in an advanced academic course program at the discretion of the program sponsor or a school-sponsored extracurricular activity at the discretion of the school sponsor.

Education Code 33.092

Progress Reports

A board shall adopt a policy that:

1. Provides for a conference between parents and teachers;
2. Requires a district, at least once every 12 weeks, to give written notice to a parent of a student's performance in each class or subject; and

3. Requires a district, at least once every three weeks, or during the fourth week of each nine-week grading period, to give written notice to a parent if a student's performance in a foundation curriculum subject [see EHAA] is consistently unsatisfactory, as determined by the district.

The notice required by items 2 and 3 must provide for the signature of the student's parent and must be returned to the district.

A district that uses an electronic platform for communicating student grade and performance information to parents may permit a parent to sign a required notice electronically, so long as the district retains a record verifying the parent's acknowledgment of the required notice. A district that accepts electronic signatures must offer parents the option to provide a handwritten signature.

"Parent" includes a guardian, conservator, or other person having lawful control of a student.

Exceptions

These requirements do not apply to a student who:

1. Is 18 or older and living in a different residence than the student's parents;

2. Is married; or

3. Has had the disabilities of minority removed for general purposes.

Education Code 28.022

Dyslexia Progress Reports

For information regarding required progress reports for students receiving dyslexia instruction, see EHB.

Notice of Performance Rating

The first written notice of a student's performance that a district gives during a school year under Education Code 28.022(a)(2) [see Progress Reports, item 2, above] must include a statement of whether the campus at which the student is enrolled has been awarded a distinction designation under Education Code Chapter 39, Subchapter G or has been identified as an unacceptable campus under Education Code Chapter 39A, and an explanation of the information's significance. [See AIB] *Education Code 39.361*

Notice of Student Performance

The district shall provide a record of the comparisons of student performance made under Education Code 39.034 and provided to the district under Education Code 39.302 in a written notice to the student's parent or other person standing in parental relationship.

For a student who failed to perform satisfactorily as determined under either performance standard under Education Code 39.0241 on an assessment instrument administered under Education Code

39.023(a), (c), or (l), the district shall include in the notice specific information relating to access to educational resources at the appropriate assessment instrument content level, including assessment instrument questions and answers released under Education Code 39.023(e).

Education Code 39.303

Student Advancement

A student may be promoted only on the basis of academic achievement or demonstrated proficiency of the subject matter of the course or grade level. [See EI]

In determining promotion, a district shall consider:

1. The recommendation of the student's teacher;
2. The student's grade in each subject or course;
3. The student's score on an assessment instrument administered under Education Code 39.023(a), (b), or (l), to the extent applicable; and
4. Any other necessary academic information, as determined by the district.

Education Code 28.021(a), (c)

Advancement Requirements

By the start of the school year, a district shall make public the requirements for student advancement under Education Code 28.021. *Education Code 28.021(d)*

Retention After Assessment

A district is not precluded from retaining, in accordance with state law or board policy, a student who performs satisfactorily on a state assessment. *Education Code 28.0211(g)*

Parental Option to Retain

A parent or guardian may elect for a student to:

1. Repeat prekindergarten;
2. Enroll in prekindergarten, if the student would have been eligible to enroll in prekindergarten during the previous school year under Education Code 29.153(b) [see EHBG] and the student has not yet enrolled in kindergarten;
3. Repeat kindergarten;
4. Enroll in kindergarten, if the student would have been eligible to enroll in kindergarten in the previous school year and has not yet enrolled in first grade; or
5. For grades 1 through 8, repeat the grade in which the student was enrolled during the previous school year.

For courses taken for high school credit, a parent or guardian may elect for a student to repeat any course in which the student was enrolled during the previous school year. A parent or guardian may not elect for a student to repeat a course if the district determines the student has met all of the requirements for graduation.

A parent or guardian may make an election for a student in grades 1-8 or for a high school course, or both.

An election made by a parent or guardian shall be made in writing to a district.

Retention Committee

If a district disagrees with the election, the district must convene a retention committee and meet with the parent or guardian to discuss retention. The meeting shall be conducted in person unless an alternative means is agreeable to the parent or guardian. A student may not be retained for a grade or retake a course under this provision if the parent or guardian does not meet with the retention committee.

A retention committee shall be composed of:

1. The principal or the principal's designee;
2. The student's parent or guardian;
3. The teacher who taught the grade or course for which the parent wants the student retained or repeated; and
4. Additional teachers at the discretion of the principal, if the student will potentially repeat multiple courses.

A retention committee shall:

1. Discuss the merits of and concerns with advancement and retention; and
2. Review and consider the student's grade in each subject or course, the results of any formative or summative assessments administered to the student, and any other available academic information to determine the student's academic readiness for the next grade or a given course.

If established, after the parent or guardian has participated in a retention committee meeting, the parent or guardian shall decide whether the student should be retained or retake a grade or course. The district must abide by the decision of the parent or guardian.

Retention Considerations

Except as provided by this provision or other law, retention of a student pursuant to a parent's or guardian's election under this provision shall be considered the same as retention of a student by a district.

Transfer of Rights

The rights of a parent or guardian under this provision transfer to a student if the student is 18 years of age or older or has had the disabilities of a minor removed, unless the student is under a form of guardianship imposed by law or court order that continues after the student turns 18 years of age.

Education Code 28.02124

Students with Dyslexia

In measuring the academic achievement or proficiency of a student who has dyslexia, the student's potential for achievement or proficiency in the area must be considered. *Education Code 28.021(b)* [See policies at EHB, EKB, and FB]

Optional Extended-Year Program

An optional extended year program may extend the day, the week, or the year to provide additional support and instruction for eligible students. The program shall be conducted beyond the required instructional days, which may include intercessions for year-round programs. *19 TAC 105.1001(b)*

A student is eligible for services in accordance with Education Code 29.082(a)(1)-(2). A student who does not demonstrate proficiency in a subject area as determined by the district is also eligible for services. *19 TAC 105.1001(c); Education Code 29.082(a)(1)-(2)*

A student who attends at least 90 percent of the extended-year program days and who satisfies the requirements for promotion (academic achievement or demonstrated proficiency of the subject matter of the course or grade level) shall be promoted to the next grade level at the beginning of the next school year. However, if the student's parent presents a written request to the school principal asking that the student not be promoted, the principal shall hold a formal meeting with the parent, the teacher, and the school counselor, as soon as practicable after receiving such a request. During the meeting, the principal, teacher, or school counselor shall explain the possible effects of not promoting a student. If the parent withdraws the request after the meeting, the student shall be promoted, and the district shall continue to use innovative practices to ensure that the student is successful in school in succeeding school years.

If a district provides an extended-year program, it shall adopt a policy designed to lead to immediate reduction and ultimate elimination of student retention.

Education Code 29.082(e)-(f) [See EHBC]

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High School Diploma

A student may graduate and receive a diploma only if the student:

1. Successfully completes the curriculum requirements identified by the State Board of Education (SBOE) [see State Graduation Requirements, below], has performed satisfactorily on applicable state assessments [see EKB], and complies with the financial aid application requirements in Education Code 28.0256 [see below]; or

2. Successfully completes an individualized education program (IEP) developed under Education Code 29.005. [See EHBAB]

Education Code 28.025(c)

Note: Education Code 28.0256 applies beginning with students enrolled at the 12th grade level during the 2021-22 school year.

FAFSA Required

Before graduating from high school, each student must complete and submit a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA), except as provided below.

A student is not required to comply with the above provision if:

1. The student's parent or other person standing in parental relation submits a signed form indicating that the parent or other person authorizes the student to decline to complete and submit the financial aid application;

2. The student signs and submits the form described above on the student's own behalf if the student is 18 years of age or older or the student's disabilities of minority have been removed for general purposes under Family Code Chapter 31; or

3. A school counselor authorizes the student to decline to complete and submit the financial aid application for good cause, as determined by the school counselor.

If a school counselor notifies a district whether a student has complied with this section for purposes of determining whether the student meets high school graduation requirements under Education Code 28.025, the school counselor may only indicate whether the student has complied with this section and may not indicate the manner in which the student complied, except as necessary for the district to comply with the commissioner's rules.

A school counselor may not indicate that a student has not complied with this section if the district fails to provide the required form

to the student or the student's parent or other person standing in parental relation to the student.

Education Code 28.0256; 19 TAC 74.11(b)

Opt-Out Form

The board shall adopt the standard opt-out form provided by the Texas Education Agency (TEA).

The opt-out form shall be available in English, Spanish, and any other language spoken by a majority of the students enrolled in a bilingual education or special language program in the district. A district is responsible for translations not provided by TEA.

The opt-out form must include the student's signature of intent to decline to complete a financial aid application prior to the student's anticipated graduation date.

19 TAC 74.1023(c)

Notification

A district shall provide students with the notifications regarding the financial aid application requirement, in accordance with 19 Administrative Code 74.1023(d).

Proof of Submission

A district shall require one of the following methods of proof that a student has completed and submitted the FAFSA or TASFA.

For completion and submission of the FAFSA:

1. ApplyTexas Counselor Suite FAFSA data;
2. Notification from the U.S. Department of Education that demonstrates a student has completed and submitted a FAFSA; or
3. A local policy developed by a district for the method by which a student must provide proof that the student has completed a FAFSA.

A district shall develop a local policy for the method by which a student must provide proof that the student has completed a TASFA.

19 TAC 74.1023(e)

Information Submission and Confidentiality

A district shall report through the Texas Student Data System Public Education Information Management System (TSDS PEIMS) not later than December 1 of each school year for students awarded diplomas in the previous school year the number of students who completed and submitted a financial aid application and the number of students who submitted an exception.

A district shall maintain student financial aid application information securely and ensure compliance with federal law regarding the

confidentiality of student educational information, including the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), and any state law relating to the privacy of student information [see FL].

19 TAC 74.1023(f)-(g)

Individual Graduation Committee

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)*

A student receiving special education services is not subject to the IGC requirements in Education Code 28.0258 or 19 Administrative Code 74.1025. A student's admission, review, and dismissal (ARD) committee determines whether a student is required to achieve satisfactory performance on an end-of-course (EOC) assessment to graduate. *19 TAC 74.1025(n)* [See EHBAB]

For each 11th or 12th grade student who has failed to comply with the 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 as a result of an IGC decision before the student's 12th grade year.

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.

Education Code 28.0258(a)-(c), (c-2); 19 TAC 74.1025(b)

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.

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.

Alternate Members

In the event that the teacher identified in item 2 above is unavailable, the principal shall designate as an alternate member of the committee 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.

In the event that the individual identified above in item 3 above is unavailable, the principal shall designate as an alternate member of the committee an experienced teacher certified in the subject of the EOC assessment on which the student failed to perform satisfactorily and who is familiar with the content of and instructional practices for the applicable course.

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.

19 TAC 74.1025(c), (e), (g)-(i)

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 email; 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)*

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 State Graduation Requirements, 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)*

Emergent Bilingual Students

For provisions related to an IGC and emergent bilingual students, see EKBA.

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 ARD committee shall determine if the student will be required to meet satisfactory performance on an assessment for purposes of graduation. *19 TAC 101.3023(a)* [See Graduation of Students Receiving Special Education Services, below, and EKB]

Posthumous Diploma

Beginning with students who would have graduated at the end of the 2019-20 school year, and on request of the student's parent, a district shall issue a high school diploma posthumously to each student who died while enrolled in the district at the end of the school year in which the student was expected to graduate under the regular schedule of school attendance. The high school diploma may not be issued before the graduation date of the class in which the student was enrolled at the time of death.

Exception

A district is not required to issue a posthumous diploma if the student was convicted of a felony offense under Penal Code Title 5 or 6 or adjudicated as having engaged in conduct constituting a felony offense under Penal Code Title 5 or 6.

Education Code 28.0254

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:

1. World War II, the Korean War, the Vietnam War, the Persian Gulf War, the Iraq War, or the war in Afghanistan; or
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.

Education Code 28.0251

Texas First Early High School Completion Program

A district shall allow a student to graduate and receive a high school diploma under the Texas First Early High School Completion Program if, using the standards established by TEA and the Texas Higher Education Coordinating Board and eligible institutions of higher education, the student demonstrates mastery of and early readiness for college in each of the subject areas described by the standards and in a language other than English, notwithstanding any other local or state requirements.

A student who earns a high school diploma through the program is considered to have earned a distinguished level of achievement.

Notice Upon Enrollment

On a student's initial enrollment in high school in a grade level below grade 12 in a district, the district shall provide to the student and the student's parent or guardian information regarding the requirements to earn a high school diploma under the Texas First Early High School Completion Program and the Texas First Scholarship Program.

Education Code 28.0253(e)-(g); 19 TAC 21.52(a)

The notice must include information about the requirement that a student must provide an official copy of their assessment results

and transcripts, as applicable, to receive credit for the assessments and credits required to receive early graduation from the program. *19 TAC 21.54*

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

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), (b)*
[See FMH, FNG]

State Graduation Requirements

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.

Students Entering Grade 9

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, in grade 8 or higher, 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), (d)

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(a)-(b)

Endorsements

A student shall specify in writing an endorsement the student intends to earn upon entering grade 9. *19 TAC 74.13(a)*

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. The same course may count as part of the set of four courses for more than one endorsement.

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 110-117, 127, and 130 are followed.

Education Code 28.025; 19 TAC 74.13

Exception

A student may graduate under the foundation high school program without earning an endorsement if, after the student's sophomore year:

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
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.

19 TAC 74.11(e)

Distinguished Level of Achievement

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. *19 TAC 74.11(f)*

Algebra II Notification

Not later than September 1 of each school year, a district shall notify by regular mail or email the parent of or other person standing in parental relation to each student enrolled in grade 9 or above that the student is not required to complete an Algebra II course to graduate under the foundation high school program. The notification must include information regarding the potential consequences to a student of not completing an Algebra II course, including the impact on eligibility for:

1. Automatic college admission under Education Code 51.803; and
2. Certain financial aid authorized under Title 3 of the Education Code.

Education Code 28.02123

Prerequisites

A student may not be enrolled in a course that has a required prerequisite unless:

1. The student has completed the prerequisite course(s);
2. The student has demonstrated equivalent knowledge as determined by the district; or
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.

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.

19 TAC 74.11(j)-(k)

Dual Credit Courses

Courses offered for dual credit at or in conjunction with an institution of higher education (IHE) 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. *19 TAC 74.11(i)*

Core Curriculum College Courses

A district shall permit a student to comply with the curriculum requirements under the foundation high school program by successfully completing appropriate courses in the core curriculum of an IHE. A student who has completed the core curriculum of an IHE in accordance with Education Code 61.822, as certified by the IHE in accordance with Education Code 4.28:

1. Is considered to have earned an endorsement by successfully completing the appropriate courses for that endorsement;
2. Is considered to have earned a distinguished level of achievement under the foundation high school program; and
3. Is entitled to receive a high school diploma.

19 TAC 74.11(o)

Languages Other Than English

Students may earn credit for languages other than English in accordance with 19 Administrative Code 74.12(b)(5).

A student who successfully completes a dual language immersion program may satisfy one credit of the two credits required in a language other English in accordance with 19 Administrative Code 74.12(b)(5)(F).

19 TAC 74.12(b)(5)

A student who successfully completes a course in American Sign Language while in elementary school may satisfy one credit of the two credits required in a language other than English. *19 TAC 74.12(b)(5)(G)*

Physical Education Substitutions

Other Physical Activity

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]

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.

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;

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; or

    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

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 10th 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.

Applicability

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.

19 TAC 74.61(c), (d), .71(c), (d)

Requirements

A student must earn at least 22 credits to complete the Minimum High School Program.

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.

A student who enters grade 9 before the 2012-13 school year must meet the applicable program requirements in 19 Administrative Code Chapter 74, Subchapters D-F.

Education Code 28.025; 19 TAC 74.62, .72

Recommended High School Program

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. *Education Code 28.025; 19 TAC 74.63, .73*

Advanced / Distinguished Achievement High School Program

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. *Education Code 28.025; 19 TAC 74.64, .74*

Substitutions

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. *19 TAC 74.63(d), .64(e), .73(d), .74(e)*

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(h), .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 IHE. *19 TAC 74.61(l), .71(j)*

Physical Education Substitutions

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 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)

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(g)* [See EHDB, EHDC, EHDE, and EI]

Graduation of Students Receiving Special Education Services

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 110-117, 126-128, and 130. Substitutions that are specifically authorized in statute or rule must not be considered modified curriculum or modified content. *19 TAC 89.1070(k)*

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. *19 TAC 89.1070(i)*

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), (b)(3)(A), (B), or (C) or (f)(4)(A), (B), or (C). Students who participate in graduation ceremonies but who are not graduating under subsections (b)(2), (b)(3)(A), (B), or (C) or (f)(4)(A), (B), or (C) and who will remain in school to complete their education do not have to be evaluated. *19 TAC 89.1070(g)-(h)*

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 110-117, 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 as established in Education Code Chapter 39, on the required EOC assessment instruments.

2. The student has demonstrated mastery of the required state standards (or district standards if greater) in 19 Administrative Code Chapters 110-117, 126-128, and 130 and satisfactorily completed credit requirements for graduation under the foundation high school program specified in 19 Administrative Code 74.12 applicable to students in general education but the student's ARD committee has determined that satisfactory performance on the required EOC assessment instruments is not necessary for graduation.

3. The student has demonstrated mastery of the required state standards (or district standards if greater) in 19 Administrative Code Chapters 110-117, 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 as established in Education Code Chapter 39, on the required EOC assessment instruments,

unless the student's ARD committee has determined that satisfactory performance on the required EOC assessment instruments 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.

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 or 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), (j)

Endorsements

A student who is enrolled in a special education program may earn an endorsement on the student's transcript by:

1. Successfully completing, with or without modification of the curriculum:

   a. The curriculum requirements identified by the SBOE for the foundation high school program; and

   b. The additional endorsement curriculum requirements prescribed by the SBOE; and

2. Successfully completing all curriculum requirements for that endorsement adopted by the SBOE:

   a. Without modification of the curriculum; or

   b. With modification of the curriculum, provided that the curriculum, as modified, is sufficiently rigorous as determined by the student's ARD committee.

The ARD committee of a student in a special education program shall determine whether the student is required to achieve satisfactory performance on an end-of-course assessment instrument to earn an endorsement on the student's transcript.

Education Code 28.025(c-7)-(c-8), 19 TAC 89.1070(c)

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 in accordance with 19 Administrative Code 89.1070.

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 10th-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]

Graduation of Student Who Is Homeless 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. *Education Code 28.025(i)*

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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*

Emergent Bilingual Students

In grades 3-12, an emergent bilingual student, as defined by Education Code Chapter 29, Subchapter B, shall participate in the state assessment in accordance with commissioner rules at 19 Administrative Code Chapter 101, Subchapter AA. *Education Code 39.023(l), (m)* [See EKBA]

Special Education

The Texas Education Agency (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 incorporate procedures to 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 Education Code 162.002 article VII, section C, 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 grade 10 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 [See EIF]

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) 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

On request by a district, the commissioner may allow the district to administer an assessment instrument on the first instructional day

of a week if administering the assessment instrument on another instructional day would result in a significant administrative burden due to specific local conditions. *Education Code 39.023(c-3)*

Religious Holy Days

The board may consider the dates of religious holy days or periods of observance likely to be observed by the students enrolled in the district during the period set by the State Board of Education (SBOE) for the administration of state assessment instruments in establishing:

1. The district's calendar for that school year; and
2. The instructional days within that period on which students are administered the required assessment instruments, provided that the board not exclude more than two instructional days from that period based solely on the occurrence of a single religious holy day or period of observance.

"Religious holy day or period of observance" means a holy day or a period of holy days observed by a religion whose places of worship would be exempt from property taxation under Tax Code 11.20.

In establishing a school calendar under this provision, the board shall provide for alternative dates for the administration of state assessment instruments to a student who is absent from school to observe a religious holy day or period of observance on the date an assessment instrument is administered.

Education Code 39.0238

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

Test Administration Training

The commissioner may require training for district employees involved in the administration of the assessment instruments. The commissioner may only require for the employee at each district campus who oversees the administration of the assessment instruments to annually receive the training. The district employee who oversees test administration on a district campus may, with discretion, require other district employees involved in the administration of assessment instruments to repeat the training. *Education Code 39.0304(a), (b-1)-(b-2)*

Paper Administration

A district may administer a state assessment instrument required under Education Code 39.023(a), (c), or (l) in paper format to any student whose parent, guardian, or teacher in the applicable subject area requests the assessment instrument be administered to the student in paper format.

A request for the administration of an assessment instrument in paper format to a student must be submitted to the district:

1. For a fall administration of an assessment instrument, not later than September 15 of the school year in which the assessment instrument will be administered; and

2. For a spring administration of an assessment instrument, not later than December 1 of the school year in which the assessment instrument will be administered.

The number of students enrolled at a district who are administered an assessment instrument in paper format for any single administration under this provision may not exceed three percent of the number of students enrolled in the district. On receipt of more requests for administration of an assessment instrument than the maximum number permitted, the district shall accept the requests in the order received until the maximum number is reached.

This limitation does not apply to a student whose ARD committee determines that the administration of an assessment instrument in paper format is a necessary modification for the student.

Education Code 39.02342

Notice to Parents and Students

A superintendent shall be responsible for the following in order to provide timely and full notification of graduation requirements:

1. Notifying each student and his or her parent or guardian in writing no later than the beginning of the student's seventh-grade year of the testing requirements for graduation;
2. Notifying each student in grades 7-12 new to the district and his or her parent or guardian in writing of the testing requirements for graduation; and
3. Notifying each student who shall take the tests required for graduation and his or her parent or guardian, as well as out-of-school individuals, of the dates, times, and locations of testing.

19 TAC 101.3012

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) (emergent bilingual students) or exempted under Education Code 39.027, shall be assessed in:

1. Mathematics, annually in grades 3-8;
2. Reading, annually in grades 3-8;
3. Social studies in grade 8;
4. Science in grades 5 and 8; and
5. Any other subject and grade required by federal law.

Education Code 39.023(a)

Exception

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.

For purposes of federal accountability, a grade 3-8 student who is accelerated in mathematics, reading/language arts, or science and on schedule to complete the high school end-of-course assessments in that same content area prior to high school shall be assessed at least once in high school with the ACT or the SAT.

A student is only eligible to take an assessment instrument intended for use above the student's enrolled grade if the student is on schedule to complete instruction in the entire curriculum for that subject during the semester the assessment is administered.

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 not required to be administered to the student.

Education Code 28.0211(o)-(p), 39.023(a-2); 19 TAC 101.3011(a)(1)-(4)

Kindergarten Assessment

An assessment instrument under Education Code 39.023 may not be administered to a kindergarten student except for the purpose of determining whether the student is entitled to the benefit of the Foundation School Program [see FD]. *Education Code 39.023(a-16)*

Prekindergarten Assessment

Performance on an assessment instrument administered to students in prekindergarten may not be considered for any purpose related to Education Code Chapters 39 and 39A. *Education Code 39.0237*

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)

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)*

TEA shall adopt EOC assessment instruments for secondary-level courses in Algebra I, biology, English I, English II, and United States history. The Algebra I EOC assessment instrument must be administered with the aid of technology but may include one or more parts that prohibit the use of technology. The English I and English II EOC assessment instruments must each assess essential knowledge and skills in both reading and writing and must provide a single score. A district shall comply with SBOE rules regarding administration of the assessment instruments listed in this provision.

If a student is in a special education program, the student's ARD committee shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this provision.

Education Code 39.023(c)

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) in order to be eligible to receive a Texas diploma, except as described below at Exceptions, Credits Earned Prior to Enrollment, Individual Graduation Committee, and Special Education.

The standard in place when a student first takes an EOC assessment is the standard that will be maintained throughout the student's school career.

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 emergent bilingual students who meet the criteria in 19 Administrative Code 101.1007. [See EKBA]

19 TAC 101.3022(a)-(c)

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)*

Substitute Assessments

The commissioner adopts certain assessments as substitute assessments that a student may use in place of a corresponding EOC assessment to meet the student's assessment graduation requirements. A satisfactory score on an approved assessment may be used in place of only one specific EOC assessment, except as provided by 19 Administrative Code 101.4002(d)(1) (student who qualifies for use of the Texas Success Initiative (TSI) as a substitute assessment and is enrolled in certain college preparatory courses).

A student at any grade level is eligible to use a substitute assessment as provided in the commissioner's chart at 19 Administrative Code 101.4002(b) 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 Assessment (TSIA) or a Texas Success Initiative Assessment, Version 2.0 (TSIA2) also meets the additional criteria of 19 Administrative Code 101.4002(d).

TSI Additional Criteria

A student must meet the criteria established in 19 Administrative Code 101.4002(d) in order to qualify to use TSIA or TSIA2 as a substitute assessment.

Accountability Testing

A student electing to substitute an assessment for graduation purposes must still take the corresponding EOC assessment required

under Education Code 39.023(c) at least once for accountability purposes. If a student sits for an EOC assessment, a district may not void or invalidate the test in lieu of a substitute assessment.

A student who fails to perform satisfactorily on a PSAT, PLAN, or Aspire test (or any versions of these tests) as indicated in the chart in 19 Administrative Code 101.4003(b) must take the appropriate EOC assessment required under Education Code 39.023(c). However, a student who does not receive a passing score on the EOC assessment and retakes a PSAT, PLAN, or Aspire test (or any versions of these tests) is eligible to meet the requirements specified in 19 Administrative Code 101.4002(c).

19 TAC 101.4002

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 101.4005

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] *Education Code 28.0258, 39.025(a-5)*

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. For purposes of this provision only, a student who does not make an attempt to take all required EOC assessments may not qualify to graduate by means of an individual graduation committee.

Notwithstanding any action taken by a student's individual graduation committee, 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.

19 TAC 101.3022(e)(1), (3)

For provisions related to an IGC and emergent bilingual students, see EKBA.

Special Education

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 (Graduation Requirements) and 19 Administrative Code 101.3023 (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. [See EIF]

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]

19 TAC 101.3022(f)

For more information on graduation requirements for special education students, see EIF.

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)

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 information 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 of Results, 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 charter school or private school. The scoring contractor will provide districts with the results of the machine-scorable assessments within a 21-day period following the close of the testing window. 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(a)-(d)

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), 39.023(e)*

Note: For information on instructional requirements for students who fail to perform satisfactorily on a state assessment instrument, see EHBC and EHBCA.

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(e)

Security and Confidentiality

All assessment instruments included in the student assessment program are considered secure, and the contents of these tests, including student information used or obtained in their administration, are confidential.

Districts and campuses and the superintendent and campus principals in each district and campus shall:

1. Implement and ensure compliance with state test administration procedures and training activities;
2. Notify TEA as soon as the district becomes aware of any alleged or suspected violation of the security or confidential integrity of a test [see Violations, below];
3. Report all confirmed testing violations to TEA within 10 working days of the district becoming aware of the violation in accordance with the reporting process stipulated in the test administration materials;
4. Ensure that the only individuals with access to secure test materials are district employees who have:
    a. Met the requirements to participate in the student assessment program;
    b. Received training in test security and test administration procedures; and
    c. Signed an oath affirming they understand their obligation to maintain and preserve the security and confidentiality of all state assessments and student information, acknowledge their responsibility to report any suspected testing violation, and are aware of the range of penalties that may result from a violation of test security and confidentiality or a departure from test administration procedures; and
5. Ensure the security of the test materials as required by 19 Administrative Code 101.3031(a)(2)(E).

19 TAC 101.3031(a)(1)-(2)

Violations

Violations of the security and confidential integrity of a test include:

1. Directly or indirectly assisting students with responses to test questions;
2. Tampering with student responses;
3. Falsifying holistic ratings or student responses;
4. Viewing secure test content before, during, or after an administration unless specifically authorized by TEA or by the procedures outlined in the test administration materials;
5. Discussing or disclosing secure test content or student responses;
6. Scoring students' tests, either formally or informally;

7. Duplicating, recording, or electronically capturing confidential test content unless specifically authorized by TEA or by the procedures outlined in the test administration materials;
8. Responding to secure test questions;
9. Fraudulently exempting or preventing a student from participating in the administration of a required state assessment;
10. Receiving or providing unallowable assistance during calibration activities (e.g., taking notes, providing answer sheets, or sharing answers);
11. Encouraging or assisting an individual to engage in the conduct described above or in any other serious violation of security and confidentiality;
12. Failing to report to an appropriate authority that an individual has engaged or is suspected of engaging in the above conduct or in any other serious violation of security and confidentiality under this provision;
13. Failing to implement sufficient procedures to prevent student cheating; and
14. Failing to implement sufficient procedures to prevent alteration of test documents by anyone other than the student.

Consequences

If a district determines that a student has cheated or attempted to cheat on a state assessment either by providing or receiving direct assistance, the district shall invalidate the student's test results.

Any violation of test security or confidential integrity may result in TEA:

1. Invalidating student test results;
2. Referring certified educators to the State Board for Educator Certification (SBEC) for sanctions in accordance with 19 Administrative Code Chapter 247 (Educators' Code of Ethics) and Chapter 249 (Disciplinary Proceedings, Sanctions, and Contested Cases); and
3. Lowering the district's accreditation status or a district's or campus's accountability rating in accordance with Education Code 39.003(d), or appointment of a monitor, conservator, or management team to the district in accordance with Education Code Chapter 39A.

Test Administration Procedures

Test administration procedures shall be delineated in the test administration materials provided to districts annually. Districts must

comply with all of the applicable requirements specified in the test administration materials.

Districts shall ensure that test coordinators and administrators receive training to ensure that testing personnel have the necessary skills and knowledge required to administer assessment instruments in a valid, standardized, and secure manner.

Records Retention

As part of test administration procedures, the commissioner shall require districts to maintain records related to the security of assessment instruments for five years.

19 TAC 101.3031(a)(3)-(d)

Disciplinary Action and Penalties

SBEC may take disciplinary action against a person who has violated the security or integrity of any assessment required by Education Code Chapter 39, Subchapter B or has committed an act that is a departure from the test administration procedures established by the commissioner under 19 Administrative Code Chapter 101.

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 249.15(a)-(b), (g)(8)

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)*

Confidentiality of Results

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]

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

SECTION F: STUDENTS

FA	PARENT RIGHTS AND RESPONSIBILITIES
FB	EQUAL EDUCATIONAL OPPORTUNITY
FBA	Service Animals
FC	SCHOOL ATTENDANCE AREAS
FD	ADMISSIONS
FDA	Interdistrict Transfers
FDAA	Public Education Grants
FDB	Intradistrict Transfers and Classroom Assignments
FDC	Homeless Students
FDD	Military Dependents
FDE	School Safety Transfers
FE	ATTENDANCE
FEA	Compulsory Attendance
FEB	Attendance Accounting
FEC	Attendance for Credit
FED	Attendance Enforcement
FEE	Open/Closed Campus
FEF	Released Time
FF	STUDENT WELFARE
FFA	Wellness and Health Services
FFAA	Physical Examinations
FFAB	Immunizations
FFAC	Medical Treatment
FFAD	Communicable Diseases
FFAE	School-Based Health Centers
FFAF	Care Plans
FFB	Crisis Intervention
FFBA	Trauma-Informed Care
FFC	Student Support Services
FFD	Student Insurance
FFE	Counseling and Mental Health
FFEA	Counseling
FFEB	Mental Health
FFF	Student Safety
FFFA	Supervision of Students
FFFB	Safety Patrols
FFFD	Bicycle/Automobile Use
FFFF	School Buses
FFG	Child Abuse and Neglect

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SECTION F: STUDENTS

FFH Freedom from Discrimination, Harassment, and Retaliation
FFI Freedom from Bullying

FG STUDENT AWARDS AND SCHOLARSHIPS

FH STUDENT VOLUNTEERS

FI IDENTIFICATION OF STUDENTS

FJ STUDENT FUNDRAISING

FL STUDENT RECORDS
FLA Confidentiality of Student Health Information

FM STUDENT ACTIVITIES
FMA School-Sponsored Publications
FMB Student Government
FMD Social Events
FME Performances
FMF Contests and Competition
FMG Travel
FMH Commencement

FN STUDENT RIGHTS AND RESPONSIBILITIES
FNA Student Expression
FNAA Distribution of Nonschool Literature
FNAB Use of School Facilities for Nonschool Purposes
FNB Involvement in Decision Making
FNC Student Conduct
FNCA Dress Code
FNCB Care of School Property
FNCC Prohibited Organizations and Hazing
FNCD Tobacco Use and Possession
FNCE Personal Telecommunications/Electronic Devices
FNCF Alcohol and Drug Use
FNCG Weapons
FNCH Assaults
FNCI Disruptions
FND Married Students
FNE Pregnant Students
FNF Investigations and Searches
FNG Student and Parent Complaints/Grievances

FO STUDENT DISCIPLINE
FOA Removal by Teacher or Bus Driver

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

SECTION F: STUDENTS

FOB	Out-of-School Suspension
FOC	Placement in a Disciplinary Alternative Education Setting
FOCA	Disciplinary Alternative Education Program Operations
FOD	Expulsion
FODA	Juvenile Justice Alternative Education Program
FOE	Emergency and Alternative Placement
FOF	Students with Disabilities
FP	STUDENT FEES, FINES, AND CHARGES

Note: This policy encompasses many, but not all, rights held by parents of Texas public school children. Additional information regarding parent rights exists throughout the policy manual, including:

- District-level and site-based decision making at BQA and BQB
- Access to review instructional materials at the EF series
- Requests for educational programs at EHA
- Human sexuality instruction at EHAA
- Special education at the EHBA series
- Student retention at EIE
- Homeschool rights at FD
- Consent to medical treatment at the FFA series
- Consent to mental health and counseling at FFEA and FFEB
- Access to student records at FL
- Complaints and grievances processes at FNG
- Access to campus and campus visitor policies at GKC

Education Code Chapter 26

Parents are partners with educators, administrators, and the board in their children's education. Parents shall be encouraged to actively participate in creating and implementing educational programs for their children. *Education Code 26.001(a)*

Unless otherwise provided by law, a board, an administrator, an educator, or other person may not limit parental rights. *Education Code 26.001(c)*

"Parent" Defined

For purposes of Education Code Chapter 26 (Parental Rights), "parent" includes a person standing in parental relation, but does not include a person as to whom the parent-child relationship has been terminated or a person not entitled to possession of or access to a child under a court order. Except as provided by federal law, all rights of a parent under Education Code Title 2 and all educational rights under Family Code 151.001(a)(10) shall be exercised by a student who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Family Code Chapter 31, unless the student has been determined to be incompetent or the student's rights have been otherwise restricted by a court order. *Education Code 26.002*

Parental Rights

Parental rights listed in Education Code Chapter 26 are:

1. Rights concerning academic programs. *Education Code 26.003, .0061* [See EHA, EIF, FDB, and FMH]
2. Access to student records. *Education Code 26.004* [See FL]
3. Access to state assessments. *Education Code 26.005* [See EKB]
4. Access to teaching materials and test results, and observation of virtual instruction. *Education Code 26.006* [See EF and EKB]
5. Access to board meetings, other than a closed meeting under the Open Meetings Act. *Education Code 26.007* [See BE and BEC]
6. Right to full information concerning a student. *Education Code 26.008* [See DF, FFE, and FM]
7. Right to information concerning special education and education of students with learning disabilities. *Education Code 26.0081* [See FB]
8. Requests for public information. *Education Code 26.0085* [See GBA and GBAA]
9. Consent required for certain activities. *Education Code 26.009* [See EHA, FFE, FL, FM, and FO]
10. Refusal of psychiatric or psychological treatment of child as basis for report of neglect. *Education Code 26.0091* [See FFG]
11. Exemption from instruction. *Education Code 26.010* [See EMB]

Right to Attend School Activities

Unless limited by court order, a parent appointed as a conservator of a child has at all times the right to attend school activities, including school lunches, performances, and field trips. *Family Code 153.073(a)(6)*

Objection to School Assignment

The parent or person standing in parental relation to any student may object to the student's school assignment. Upon receiving a written petition to request or object to a student's assignment, a board shall follow the procedures set forth at Education Code 25.034. *Education Code 25.033(2), .034* [See FDB]

Challenge to Education Records

A district shall give a parent or eligible student, on request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in

the records is inaccurate, misleading, or in violation of the privacy rights of the student. *34 C.F.R. 99.21* [See FL]

Public Information Requests

A district that receives a request from a parent for public information relating to the parent's child shall comply with Government Code Chapter 552 (Public Information Act). A district shall also comply with the deadlines and provisions set forth at Education Code 26.0085. *Gov't Code Ch. 552; Education Code 26.0085* [See GBAA]

Title I Funding — Parent Right to Know

Professional Qualifications

At the beginning of each school year, a district shall notify the parents of each student attending any school receiving funds under Title I, Part A of the Elementary and Secondary Education Act (ESEA), that the parents may request, and the district will provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers. *20 U.S.C. 6312(e)(1)(A)* [See DBA]

Title I Required Notice

A school that receives funds under Title I, Part A of ESEA shall provide to each individual parent of a child who is a student in such school, with respect to such student:

1. Information on the level of achievement and academic growth of the student, if applicable and available, on each of the required state academic assessments [see EKB]; and

2. 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 [see DBA].

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

For information on the parent and family engagement requirements for districts receiving funds under the Elementary and Secondary Education Act, see EHBD.

Information Collection

U.S. ED-Funded Surveys (PPRA)

Under the Protection of Pupil Rights Amendment (PPRA), no student shall be required, as part of any program funded in whole or in part by the United States Department of Education (U.S. ED), 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)

Information Collection Funded by Other Sources

Policies

Except as provided by 20 U.S.C. 1232h(a) or (b) [see U.S. ED Funded Surveys, above], as a condition of receiving funds for a program funded in whole or in part by the U.S. ED, a district shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), regarding the following:

1. The parent's right to inspect a survey created by a third party before the survey is administered or distributed by a school to the student and any applicable procedures for granting a request by a parent for reasonable access to such survey within a reasonable period of time after the request is received.

2. A district's arrangements to protect student privacy in the event a survey containing one or more of the items listed under U.S. ED-Funded Surveys, above, is administered or distributed to a student.

3. The parent's right to inspect any instructional material used in the educational curriculum for the student and any applicable procedures for granting a request by a parent for reasonable access to instructional material within a reasonable period of time after the request is received.

4. The administration of physical examinations or screenings that a district may administer to the student.

5. The collection, disclosure, or use of personal information collected from students for the purpose of marketing or selling that information. This provision does not apply to use of per-

sonal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for or to students or educational institutions, such as recruiters, book clubs, curriculum and instructional materials used by schools, sale by students of products or services to raise funds for school-related or education-related activities, or student recognition programs.

6. The parent's right to inspect any instrument used in collection of personal information in item 5 above, before the instrument is administered and any applicable procedures for granting a request by a parent for reasonable access to such instrument within a reasonable period of time after the request is received.

A district need not develop and adopt new policies if the Texas Education Agency (TEA) or the district had in place, on January 8, 2002, policies covering the requirements of 20 U.S.C. 1232h(c)(1). [See CRD, FFAA, FL, and FNG]

Parental Notification

A district shall provide for reasonable notice of the adoption or continued use of such policies directly to the parents of the students enrolled in schools served by the district. At a minimum, a district shall:

1. Provide notice at least annually, at the beginning of the school year and within a reasonable time after any substantive change in the policies; and

2. Offer an opportunity for the parent to opt the student out of participation in an activity described below.

A district shall directly notify the parent of a student, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when activities, described below, are scheduled or expected to be scheduled. The following activities require notification under this provision:

1. Activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information.

2. The administration of any survey containing one or more items described at U.S. ED-Funded Surveys, above.

3. Any nonemergency, invasive physical examination or screening that is required as a condition of attendance, administered and scheduled by the school in advance, and not necessary to protect the immediate health and safety of the student or of other students.

20 U.S.C. 1232h(c)(1)-(4) [See FFAA]

"Personal Information" Defined

The term "personal information" means individually identifiable information, including a student's:

1. First and last name;
2. Home or physical address, including street name and city or town;
3. Telephone number; or
4. Social security identification number.

20 U.S.C. 1232h(c)(6)(E)

For information about parental access to instructional materials under the PPRA, see FA.

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]

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

The person and either parent reside in the district.

Conservator

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

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

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:

1. Engaged in conduct that resulted in removal to a disciplinary alternative education program or expulsion within the preceding year;
2. Engaged in delinquent conduct or "conduct in need of supervision" and is on probation or other conditional release for that conduct; or
3. Been convicted of a criminal offense and is on probation or other conditional release.

Education Code 25.001(a)-(b), (d)

Students Who Are Homeless

The person is homeless. [See also FDC]

1. "Child who is homeless," "person who is homeless," and "student who is homeless" have the meaning assigned to the term homeless children and youths under the McKinney-Vento Homeless Assistance Act.
2. "Homeless children" under the McKinney-Vento Homeless Assistance Act, means children or youths who lack a fixed, regular, and adequate nighttime residence; and includes:

a. 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 alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;

b. 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;

c. Children who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

d. Migratory children living in circumstances described above. “Migratory child’’ means a child who made a qualifying move in the preceding 36 months:

(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 a migratory fisher. [See EEB]

Education Code 5.001(1-a), 25.001(b)(5); 20 U.S.C. 6399; 42 U.S.C. 11434a(2)

[For information regarding the transfer of records and other transition requirements for a student who is homeless, see FFC.]

Foreign Exchange Students

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:

1. This requirement would impose a financial or staffing hardship on the district;

2. The admission would diminish the district’s ability to provide high-quality education services for the district’s domestic students; or

3. 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	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)*
Students Over 18	The person resides in the district and is 18 or older or the person's disabilities of minority have been removed. *Education Code 25.001(b)(8)*
Resident Grandparent	The person does not reside in the district but the grandparent of the person: 1. Resides in the district; and 2. Provides a substantial amount of after-school care for the person as determined by the board. *Education Code 25.001(b)(9)*
Residence Homestead	The person and either parent of the person reside in a residence homestead, as defined by Tax Code 11.13(j), that is located on a parcel of property any part of which is located in the district. *Education Code 25.001(b)(10)*
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 the provision at Students Living Separate and Apart 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. *Education Code 25.001(c), (d)*
"Residence" Defined	"Residence" requires living in the district and having the present intention to remain there. *Martinez v. Bynum, 461 U.S. 321 (1983*) A district may withdraw any student who ceases to be a resident. *Daniels v. Morris, 746 F.2d 271 (5th Cir. 1984)*
Active-Duty Parent	A person whose parent or guardian is 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, may establish residency for purposes of eligibility of admission by providing to the district a copy of a military order requiring the parent's or guardian's transfer to a military installation in or adjacent to the district 's attendance zone. *Education Code 25.001(c-1)*

A person who establishes residency under Education Code 25.001(c-1) shall provide to the district proof of residence in the district's attendance zone not later than the 90th day after the arrival date specified in the military order. For purposes of this provision, "residence" includes residence in a military temporary lodging facility. *Education Code 25.001(c-2)*

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. *Plyler v. Doe, 457 U.S. 202 (1982)*

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. *Education Code 29.087(h)*

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. *Education Code 25.001(j)*

Authorization Agreement

"Adult caregiver" means an adult person whom a parent has authorized to provide temporary care for a child under Family Code Chapter 34. *Family Code 34.0015(1)*

A parent, as defined in Family Code 101.024, or both parents of a child may enter into an authorization agreement with an adult caregiver to authorize the adult caregiver 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 extracurricular, civic, social, or recreational activities, including athletic activities.

Family Code 34.002

A parent may enter into an authorization agreement with an adult caregiver 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. *Family Code 34.0021*

The authorization agreement must conform to the requirements of Family Code Chapter 34.

A child who is the subject of an authorization agreement is not considered to be placed in foster care and the parties to the agreement are not subject to any law or rule governing foster care providers. *Family Code 34.0022(b)*

An authorization agreement does not affect the rights of the child's parent or legal guardian regarding the care, custody, and control of the child, and does not mean that the adult caregiver has legal custody of the child. *Family Code 34.007(b)*

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. *Family Code 34.002(d), .008(f)*

An authorization agreement is for a term of six months and renews automatically for six-month terms unless an earlier expiration date is stated in the agreement, the agreement is terminated under Family Code 34.008, or a court authorizes continuation. *Family Code 34.0075*

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 34.007(a)*

Note: The Authorization Agreement for Nonparent Relative (PDF)[1] is available on the DFPS website.

Temporary Authorization for Care

A person eligible to consent to treatment of a child under Family Code 32.001 or a person eligible to enter an authorization agreement [see Authorization Agreement, above] may seek a court order for temporary authorization for care of a child by filing a petition in the district court in the county in which the person resides if:

1. The child has resided with the person for at least the 30 days preceding the date the petition was filed; and

2. The person does not have an authorization agreement or other signed, written documentation from a parent, conservator, or guardian that enables the person to provide necessary care for the child.

Family Code 35.001-.002

The order may authorize the petitioner to, among other things:

1. Consent to medical, dental, psychological, and surgical treatment and immunization of the child;
2. Enroll the child in the district; and
3. Authorize the child to participate in age-appropriate extracurricular, civic, social, or recreational activities, including athletic activities.

A temporary authorization order does not affect the rights of the child's parent, conservator, or guardian regarding the care, custody, and control of the child, and does not establish legal custody of the child. *Family Code 35.007(b)*

Immunity

A person who relies in good faith on a temporary authorization order is not subject to civil or criminal liability to any person, or to professional disciplinary action. *Family Code 35.007(a)*

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 at-

tend 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 in 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]

[For information regarding the transfer of records and other transition requirements for a student who is in substitute care, see FFC.]

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 stu-

dent'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 district accepts tuition is not counted for purposes of allocating state funds to the district.

Education Code 25.0031

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[2] (SEVP) under the Department of Homeland Security.

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 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 public school, the parent or other person, or the 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.
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, including for a child who most recently attended a Texas public school, a copy of the child's disciplinary record and any threat assessment involving the child's behavior conducted under Education Code 37.115 [see FFB].

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)

A district must furnish information under items 1 and 2 not later than the 10th 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)

Residential Facility

Except for a juvenile pre-adjudication secure detention facility or a juvenile post-adjudication secure correctional facility, a residential facility shall provide to a district that provides educational services to a student placed in the facility any information retained by the facility relating to:

1. The student's school records, including records regarding special education eligibility or services, behavioral intervention plans, school-related disciplinary actions, and other documents related to the student's educational needs;

2. Any other behavioral history information regarding the student that is not confidential under another law; and

3. The student's record of convictions or the student's probation, community supervision or parole status, as provided to the facility, if necessary to provide education services to the student.

Education Code 29.012(f), (g)

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 in a similar intensive program.

Education Code 25.008

Enrollment in Prekindergarten and Kindergarten

A parent or guardian may elect for a student to enroll in prekindergarten, if the student would have been eligible to enroll in prekindergarten during the previous school year under Education Code 29.153(b) [see EHBG] and the student has not yet enrolled in kindergarten, or enroll in kindergarten, if the student would have been eligible to enroll in kindergarten in the previous school year and has not yet enrolled in first grade. *Education Code 28.02124* [See EIE]

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)

Parent Contact Information

The parent of a student enrolled in a district shall provide in writing to the district:

1. On enrollment of the student in the district and not later than two weeks after the beginning of each school year, the parent's address, phone number, and email address; and
2. If the parent's contact information changes during the school year, not later than two weeks after the date the information changes, the parent's updated information.

Education Code 26.0125

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 re-

quired, 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)*

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(a)*

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)*

[For information regarding educational placement of students who are homeless or in substitute care, see FFC.]

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 18 years of age and under 50 years of age and is enrolled in an adult education program provided under the adult high school charter school program under Education Code Chapter 12, Subchapter G.
2. The person is enrolled in prekindergarten under Education Code 29.153 [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.
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), 48.003

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

Chief administrators or the integrated pest management (IPM) coordinators of schools must notify the parents or guardians of children attending the facility in writing that pesticides are periodically applied indoors and outdoors, and that information on the times and types of applications and prior notification is available upon request. Such notification must be made at the time of the students' registration. Telephonic, written, or electronic notification of

planned applications will meet the notification requirements. *4 TAC 7.148(c); Occupations Code 1951.455(b)* [See CLB]

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[1] Authorization Agreement for Nonparent Relative (PDF): https://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2638.pdf

[2] Student and Exchange Visitor Program: https://www.ice.gov/sevis

Agreement Between Districts

The boards of two or more adjoining school districts or the boards of county school trustees of two or more adjoining counties may, by agreement and in accordance with Education Code 25.032-.034, arrange for the transfer and assignment of any student from the jurisdiction of one board to that of another. In the case of the transfer and assignment of a student under this provision, the participating governing boards shall also agree to the transfer of school funds or other payments proportionate to the transfer of attendance. *Education Code 25.035*

Initiated by Student or Parent

Any student, other than a high school graduate, who is under 21 years of age and eligible for enrollment on September 1, may transfer to another Texas district, provided that both the receiving district and the applicant's parent, guardian, or person having lawful control agree in writing to the transfer.

Discipline and Threat Assessment Records

In the case of a transfer under this provision, a child's district of residence shall provide the receiving district with the child's disciplinary record and any threat assessment involving the child's behavior conducted under Education Code 37.115 [see FFB].

Education Code 25.036 [See FD for placement of transfer students.]

Transfer to a District Offering In-Person Instruction

If a district provides notice to the parent or person standing in parental relation to a student enrolled in the district of the district's intent to offer only virtual instruction for more than one grading period during a school year, the student may transfer for that school year to another district that offers in-person instruction during that school year and accepts the student's transfer.

"Virtual instruction" means instructional activities delivered to students primarily over the internet.

A student who transfers to another school district under this section may not be charged tuition. The student is included in the average daily attendance of the district in which the student attends school.

Education Code 25.045

Basis for Transfer

A board or its designee must make transfer decisions on an individual basis and may not consider as a factor in arriving at any decision regarding assignments any matter relating to the national origin of the student or the student's ancestral language. *Education Code 25.032* [See FDAA]

Transportation

A board may establish and operate an economical public school transportation system outside the district if students enrolled in the district reside outside the district and the district meets the require-

ments of Education Code 34.007(a)(3) [see CNA]. *Education Code 34.007(a)*

Funding for Transfers

Upon the filing and certification of any transfer, the state per capita apportionment shall transfer with the student. For purposes of computing state allotments to districts eligible under the Foundation School Program, the student's attendance prior to the date of transfer shall be counted by the sending district and the student's attendance after transfer shall be counted by the receiving district. *Education Code 25.037*

Credits and Records

Credits earned in local credit courses may be transferred at the enrolling 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)*

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)*

Tuition Fee for Transfer Students

A receiving district may charge a tuition fee to the extent that the district's actual expenditure per student in average daily attendance exceeds the sum of state available school fund apportionment benefits transferred under Education Code 25.037. However, unless a tuition fee is prescribed and set out in a transfer agreement prior to its execution by the parties, no increase in tuition charge shall be made for the year of that transfer that exceeds the tuition charge, if any, of the preceding school year. *Education Code 25.038*

Transfer by Servicemember Request

On request of a servicemember who is a parent of or person standing in parental relation to a student, the board or the board's designee shall transfer the student to another district campus or to another school district under an agreement under Education Code 25.035 [see Agreement Between Districts, above].

"Servicemember" means an active duty member of the armed forces of the United States, a reserve component of the armed forces of the United States, or the Texas National Guard.

A transfer under this provision must be to the campus or district, as applicable, selected by the servicemember making the request.

A district is not required to provide transportation to a student who transfers to another campus or district under this provision.

Education Code 25.0344

Transfer by Peace Officer Request

On request of a peace officer who is a parent of or person standing in parental relation to a student, the board or the board's designee shall transfer the student to another district campus or to another district under an agreement under Education Code 25.035.

"Peace officer" has the meaning assigned by Occupations Code 1701.001.

A transfer under this provision must be to the campus or school district, as applicable, selected by the peace officer making the request.

A district is not required to provide transportation to a student who transfers to another campus or district under this provision.

Education Code 25.0344

Transfers to Adjoining States

Note: The following provision applies to a district located on the border of an adjoining state.

Any student who would be entitled to attend the public school of any district situated on the border of Louisiana, Arkansas, Oklahoma, or New Mexico and who may find it more convenient to attend the public school in a district in one of those contiguous states, may have the state and county per capita apportionment of the available school funds paid to the school district of the contiguous state and may have additional tuition, if necessary, paid by the district of residence on such terms as may be agreed upon by the trustees of the receiving district and the trustees of the residence district. *Education Code 25.040*

Contracts for Education Outside Districts

Note: The following section applies only to districts that do not offer all grades, kindergarten-grade 12.

A district that does not offer each grade, kindergarten-grade 12, may provide by contract for students residing in the district who are at grade levels not offered by the district to be educated at those grade levels in one or more other districts. In each contract, the districts also shall agree to the transfer of school funds or other payments proportionate to the transfer of attendance.

Tuition

The district in which the students reside shall pay tuition to any district with which it has a contract under this section for each of its

students attending school in that district at a grade level for which the district has contracted. The amount of the tuition paid may not exceed the greater of the amount provided for by Education Code 25.038 [see above], or an amount specified by commissioner rule [see below].

A district is not required to pay tuition to any district with which it has not contracted for the attendance by any of its students at a grade level for which it has contracted under this provision with another district.

A contract under this provision may not be for a period exceeding five years.

Education Code 25.039

Definitions

"Home district" means a district of residence of a transferring student.

"Receiving district" means a district to which a student is transferring for the purpose of obtaining an education.

"Tuition" means an amount charged to the home district by the receiving district to educate the transfer student.

Tuition Allotment of the Home District

For the purposes of calculating the tuition allotment of the home district as authorized by Education Code 48.154, the amount of tuition that may be attributed to a home district for a transfer student in payment for that student's education may not exceed an amount per enrollee calculated for each receiving district. The calculated limit applies only to tuition paid to a receiving district for the education of a student at a grade level not offered in the home district. Tuition may be set at a rate higher than the calculated limit if both districts enter a written agreement, but the calculated tuition limit will be used in the calculation of the tuition allotment for the home district. The calculation will use the most currently available data in an ongoing school year to determine the limit that applies to the subsequent school year. For purposes of this provision, the number of students enrolled in a district will be appropriately adjusted to account for students ineligible for the Foundation School Program funding and those eligible for half-day attendance.

Calculated Tuition Limit

The calculated tuition limit is the sum of the excess maintenance and operations (M&O) revenue per enrollee and the excess debt revenue per enrollee, as calculated in 19 Administrative Code 61.1012(b)(2)-(3).

Notification and Appeal Process

In the spring of each school year, the commissioner will provide each district with its calculated tuition limit and a worksheet with a description of the derivation process. A district may appeal to the

commissioner if it can provide evidence that the use of projected student counts from the LPE in making the calculation is so inaccurate as to result in an inappropriately low authorized tuition charge and undue financial hardship. A district that used significant nontax sources to make any of its debt service payments during the base year for the computation may appeal to the commissioner to use projections of its tax collections for the year for which the tuition limit will apply. The commissioner's decision regarding an appeal is final.

19 TAC 61.1012

Assignments

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. *Education Code 25.031*

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. *Education Code 25.032*

Multiple Birth Siblings

"Multiple birth sibling" means a twin, triplet, quadruplet, or other sibling resulting from a multiple birth.

"Parent" includes a person standing in parental relation.

Placement

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.

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.

The school may recommend to a parent the appropriate classroom placement and may provide professional educational advice to assist the parent with the decision.

These provisions do not affect:

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
2. The right of a district or teacher to remove a student from a classroom under Chapter 37 [see FOA].

Reassignment by Principal

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.

Appeal

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]

Education Code 25.043

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 With a Peace Officer or Servicemember Parent

For information regarding intradistrict transfers upon request of a parent or person standing in parental relation who is a peace officer or servicemember, see FDA.

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.

Education Code 37.004 (Placement of Students with Disabilities) applies to a transfer under this provision of a student with a disability who receives special education services.

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

Note: For bullying rising to the level of prohibited harassment, see FFH. For all other bullying, see FFI. For transfers related to sexual assault or school safety, see FDE.

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 assigned an unacceptable rating that is made publicly available under Education Code 39.054. *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 the Texas Education Agency (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)

Note: See FDE for the school safety transfer option in Title I programs.

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]

Compulsory Attendance

Students who are at least six years of age, or who have been previously enrolled in first grade, and who have not yet reached their 19th birthday shall attend school for the entire period the program is offered, unless exempted as indicated below. On enrollment in prekindergarten or kindergarten, a student shall attend school. *Education Code 25.085(a)-(c)*

Voluntary Enrollment of Students 19 and Over

A person who voluntarily enrolls in school or voluntarily attends school after the person's 19th birthday shall attend school each school day for the entire period the program of instruction is offered. A board may adopt a policy requiring the student who is under 21 years of age to attend school until the end of the school year.

After the third unexcused absence of a person who voluntarily enrolls, a district shall issue a warning letter to the person that states the person's enrollment may be revoked for the remainder of the school year if the person has more than five unexcused absences in a semester.

A district may revoke for the remainder of the school year the enrollment of a person who has more than five unexcused absences in a semester, except a school district may not revoke the enrollment of a person under this provision on a day on which the person is physically present at school.

A person whose enrollment is revoked for exceeding this limit may be considered an unauthorized person on school grounds for the purposes of Education Code 37.107 regarding trespassing.

As an alternative to revoking a person's enrollment, a school district may impose a behavior improvement plan described by Education Code 25.0915(a-1)(1).

Education Code 25.085(e)-(h)

Accelerated / Compensatory Programs

Unless specifically exempted, a student must also attend:

1. An extended-year program for which the student is eligible that is provided by a district for students identified as likely not to be promoted to the next grade level or tutorial classes required by the district under Education Code 29.084 [see EHBC];
2. An accelerated reading instruction program to which the student has been assigned under Education Code 28.006(g) [see EKC];
3. An accelerated instruction program to which the student is assigned under Education Code 28.0211 [see EIE];

4. A basic skills program to which the student is assigned under Education Code 29.086 [see EHBC]; or

5. A summer program provided:

   a. To a student placed in in-school suspension or other alternative setting, other than a disciplinary alternative education program (DAEP), who has been offered the opportunity to complete before the beginning of the next school year each course in which the student was enrolled at the time of removal. *Education Code 37.021* [See FO]

   b. To a student removed to a DAEP who has been offered an opportunity to complete coursework before the beginning of the next school year. *Education Code 37.008(l)* [See FOCA]

Education Code 25.085(d)

Additional Instructional Days

Notwithstanding any other provision in Education Code 25.085, a student enrolled in a district is not required to attend school for any additional instructional days described by Education Code 48.0051 [See Incentive for Additional Instructional Days at FEB(LEGAL)]. *Education Code 25.085(i)*

Exemptions

A student is exempt from compulsory attendance requirements under the following statutory provisions.

Equivalency Diploma

A student is exempt from compulsory attendance requirements if the student is at least 17 years of age and has been issued a high school equivalency certificate or diploma.

Private or Home School

A student is exempt from compulsory attendance requirements if the student attends a private or parochial school that includes in its course a study of good citizenship.

A student in a home school shall be exempt from compulsory attendance if he or she is pursuing in good faith a curriculum consisting of books, workbooks, other written materials (including those that appear on an electronic screen of either a computer or video tape monitor), or any combination of these. The curriculum shall be designed to meet basic education goals of reading, spelling, grammar, mathematics, and a study of good citizenship. *Tex. Educ. Agency v. Leeper, 893 S.W.2d 432 (Tex. 1994)*

Special Education — Nondistrict Placement

A student is exempt from compulsory attendance requirements if the student is eligible to participate in a district's special education program under Education Code 29.003 and cannot be appropriately served by the resident district.

Medical Condition	A student is exempt from compulsory attendance requirements if the student has a temporary and remediable physical or mental condition that makes attendance infeasible and the student has a certificate from a qualified physician specifying the temporary condition, indicating the prescribed treatment, and covering the anticipated period of absence for the purpose of receiving and recuperating from remedial treatment.
Expulsion — No JJAEP	A student is exempt from compulsory attendance requirements if the student is expelled in accordance with legal requirements in a district that does not participate in a mandatory juvenile justice alternative education program. [See FOD]
17-Year-Old in GED Course	A student is exempt from compulsory attendance requirements if the student is at least 17 years old, is attending a course of instruction to prepare for the high school equivalency examinations, and: 1. Has the permission of the student's parent or guardian to attend the course; 2. Is required by court order to attend the course; 3. Has established a residence separate and apart from the student's parent, guardian, or other person having lawful control of the student; or 4. Is homeless.
High School Replacement Programs	A student is exempt from compulsory attendance requirements if the student is enrolled in the Texas Academy of Leadership in the Humanities, Texas Academy of Mathematics and Science, or Texas Academy of International Studies.
16-Year-Old in GED Program or Job Corps	A student is exempt from compulsory attendance requirements if the student is at least 16 years old and is attending a course of instruction to prepare for the high school equivalency examinations, if: 1. The student is recommended to take the course by a public agency that has supervision or custody of the student under a court order; or 2. The student is enrolled in a Job Corps training program under the Workforce Investment Act of 1998, 29 U.S.C. 2801. [Note: The Workforce Investment Act of 1998 has been repealed.]
Other Exemption	A student is exempt from compulsory attendance requirements if the student is specifically exempted under another law. *Education Code 25.086*

Excused Absences for Compulsory Attendance Determinations

Note: Additional information regarding attendance accounting requirements is found in the Texas Education Agency's (TEA) *Student Attendance and Accounting Handbook*.[1]

A district shall excuse a student from attending school for the following purposes, including travel for those purposes.

1. Observing religious holy days;
2. Attending a required court appearance;
3. Appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship.
4. Taking part in a United States naturalization oath ceremony;
5. Serving as an election clerk [see Early Voting Clerks, below]; or
6. If a student is in the conservatorship of the Department of Family and Protective Services (DFPS), participating, as determined and documented by DFPS, in an activity:
    a. Ordered by a court under Family Code Chapter 262 or 263, provided that it is not practicable to schedule the participation outside of school hours, or
    b. Required under a service plan under Family Code Chapter 263, Subchapter B.

Education Code 25.087(b)(1)

Religious Holy Days

For purposes of excusing a student from attending school to observe a religious holy day, a district may not require documentation from a clergy member or other religious leader and shall accept a note from the student's parent or person standing in parental relation verifying the purpose of the student's absence. *Education Code 25.087(f)*

Health-Care Appointments

A district shall excuse a student from attending school for a temporary absence resulting from an appointment with a health-care professional for the student or the student's child if the student commences classes or returns to school on the same day of the appointment. "Temporary absence" includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student's appointment with a health-care practitioner to receive a generally recognized service for persons with autism spectrum disorder, including applied behavioral analysis, speech

therapy, and occupational therapy. *Education Code 25.087(b)(2)-(b-3)*

Serious or Life-Threatening Illness

A district shall excuse an absence resulting from a serious or life-threatening illness or related treatment that makes the student's attendance infeasible, if the student or the student's parent or guardian provides a certification from a physician licensed to practice medicine in Texas specifying the student's illness and the anticipated period of the student's absence relating to the illness or related treatment. *Education Code 25.087(b)(3)*

Higher Education Visits

A district may excuse a student from attending school to visit an institution of higher education accredited by a generally recognized accrediting organization during the student's junior and senior years of high school for the purpose of determining the student's interest in attending the institution of higher education, provided that:

1. The district may not excuse for this purpose more than two days during the student's junior year and two days during the student's senior year; and
2. The district adopts:
    a. A policy to determine when an absence will be excused for this purpose; and
    b. A procedure to verify the student's visit at the institution of higher education.

Education Code 25.087(b-2)

Early Voting Clerks

A district may adopt a policy excusing a student from attending school for service as a student early voting clerk in an election. A district may excuse a student for serving as an election clerk [see Election Clerks, above] or early voting clerk for a maximum of two days in a school year. *Education Code 25.087(b-1), (e)*

Military Dependents

A district shall excuse a student whose parent, stepparent, or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or immediately returned from continuous deployment of at least four months outside the locality where the parent, stepparent, or guardian regularly resides, to visit with the student's parent, stepparent, or guardian. A district may not excuse a student under this provision more than five days in a school year. An excused absence under this provision must be taken not earlier than the 60th day before the date of deployment or not later than the 30th day after the date of return from deployment. *Education Code 25.087(b-4)* [See FDD]

Enlistment in Armed Services	A district shall excuse a student who is 17 years of age or older from attending school to pursue enlistment in a branch of the armed services of the United States or the Texas National Guard, provided that: 1. The district may not excuse for this purpose more than four days of school during the period the student is enrolled in high school; and 2. The district verifies the student's activities related to pursuing enlistment in a branch of the armed services or the Texas National Guard. A district shall adopt procedures to verify a student's activities as described in these provisions. *Education Code 25.087(b-5), (b-6)*
Visit to a Driver's License Office	A district may excuse a student who is 15 years of age or older from attending school to visit a driver's license office to obtain a driver's license or learner license, provided that the district may not excuse more than one day of school during the period the student is enrolled in high school for each of the following purposes: obtaining a driver's license; or obtaining a learner license. The district must verify the student's visit to the driver's license office in accordance with procedures adopted by the district. *Education 25.087(b-7)*
Career Investigation	A district may excuse a student from attending school for a career investigation day to visit a professional at the professional's workplace during the student's junior and senior years of high school for the purpose of determining the student's interest in pursuing a career in the professional's field, provided that the district may not excuse for this purpose more than two days during the student's junior year and two days during the student's senior year. The district must adopt a policy to determine when an absence may be excused for this purpose and a procedure to verify the student's visit at the professional's workplace. *Education 25.087(b-8)*
Taps at Military Funeral	In addition, a district may excuse a student in grades 6 through 12 for the purpose of sounding "Taps" at a military honors funeral held in this state for a deceased veteran. *Education Code 25.087(c)*
No Penalty	A student whose absence is excused for a reason described beginning at Excused Absences for Compulsory Attendance Determinations, above, may not be penalized for that absence and shall be counted as if the student attended school for purposes of calculating the average daily attendance of students in the district.

Make-Up Work

The student shall be allowed a reasonable time to make up school-work missed on the days described above. If the student satisfactorily completes the work, the days of absence shall be counted as days of compulsory attendance.

Education Code 25.087(d)

Other Excused Absences

A person required to attend school may be excused for temporary absence resulting from any cause acceptable to the teacher, principal, or superintendent of the school in which the person is enrolled. *Education Code 25.087(a)*

Notices to Parents

Warning Notice

A district shall notify a student's parent in writing at the beginning of the school year that, if the student is absent from school on 10 or more days or parts of days within a six-month period in the same school year, the student's parent is subject to prosecution under Education Code 25.093, and the student is subject to referral to a truancy court for truant conduct under Family Code 65.003(a).

Notice of Absences

A district shall notify a student's parent if the student has been absent from school, without excuse under Education Code 25.087, on three days or parts of days within a four-week period. The notice must:

1. Inform the parent that:
    a. It is the parent's duty to monitor the student's school attendance and require the student to attend school;
    b. The student is subject to truancy prevention measures under Education Code 25.0915; and
2. Request a conference between school officials and the parent to discuss the absences.

The fact that a parent did not receive the notices described above is not a defense for the parent's failure to require a child to attend school nor for the student's failure to attend school.

Education Code 25.095

Non-Attendance

Parent Liability

A parent or person standing in parental relation commits an offense if:

1. A warning notice is issued;
2. The parent with criminal negligence fails to require the child to attend school as required by law; and
3. The child has absences for the amount of time specified under Family Code 65.003(a).

The attendance officer [see FED] or other appropriate school official shall file a complaint against the parent in an appropriate court, as permitted under Education Code 25.093.

Affirmative Defense — Parent

It is an affirmative defense to prosecution that one or more of the absences required to be proven was excused by a school official or should be excused by the court. A decision by the court to excuse an absence for this purpose does not affect the ability of a district to determine whether to excuse the absence for another purpose.

Education Code 25.093

Student Liability

A child engages in truant conduct if the child is required to attend school under the compulsory attendance laws, and fails to attend school on 10 or more days or parts of days within a six-month period in the same school year. Truant conduct may be prosecuted only as a civil case in a truancy court. *Family Code 65.003(a)-(b)*

"Child" means a person who is 12 years of age or older and younger than 19 years of age. *Family Code 65.002(1)*

Truancy Courts

The following are designated as truancy courts:

1. The constitutional county court in a county with a population of 2.1 million or more;
2. Justice courts; and
3. Municipal courts.

A truancy court has exclusive original jurisdiction over cases involving allegations of truant conduct.

Family Code 65.004(a)-(b)

Affirmative Defense — Student

It is an affirmative defense to an allegation of truant conduct that one or more of the absences required to be proven:

1. Have been excused by a school official or by the court;
2. Were involuntary; or
3. Were due to the child's voluntary absence from the child's home because of abuse, as defined by Family Code 261.001.

The affirmative defense is not available if, after deducting the absences described above, there remains a sufficient number of absences to constitute truant conduct.

In asserting an affirmative defense, the burden is on the child to show by a preponderance of the evidence that the absence has been or should be excused, was involuntary, or was due to the

child's voluntary absence from the child's home because of abuse, as defined by Family Code 261.001.

A decision by the court to excuse an absence does not affect the ability of the district to determine whether to excuse the absence for another purpose.

Family Code 65.003(c)-(f)

Truancy Prevention Measures

If a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described below, the district shall initiate truancy prevention measures on the student. [See FED] *Education Code 25.0915(a-4)*

District Complaint or Referral

If a student fails to attend school without excuse on 10 or more days or parts of days within a six-month period in the same school year, a district shall within 10 school days of the student's 10th absence refer the student to a truancy court for truant conduct under Family Code 65.003(a). [See FED] *Education Code 25.0951(a)*

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[1] TEA *Student Attendance Accounting Handbook*: https://tea.texas.gov/finance-and-grants/financial-compliance/student-attendance-accounting-handbook

Students in violation of the compulsory attendance law shall be reported to the District attendance officer, who may institute court action as provided by law.

Excused Absences

In addition to excused absences required by law, the District shall excuse absences for the following purposes. A student shall be required to submit verification of these absences in accordance with administrative regulations.

Higher Education Visits

The District shall excuse a student for up to two days during the student's junior year and up to two days during the student's senior year to visit an accredited institution of higher education.

Career Investigation

The District shall excuse a student for up to two days during the student's junior year and up to two days during the student's senior year to visit a professional's workplace for purposes of exploring the student's interest in pursuing a career in that professional's field.

Armed Services Enlistment

The District shall excuse a student 17 years of age or older for up to four days during his or her enrollment in high school for activities related to pursuing enlistment in a branch of the U.S. Armed Services or Texas National Guard.

Early Voting or Election Clerk

The District shall excuse a student for up to two days per school year to serve as an early voting or election clerk.

Learner or Driver's License

The District shall excuse a student 15 years of age or older for one day during his or her enrollment in high school for each of the following:

- Visiting a driver's license office to obtain a learner license; or
- Visiting a driver's license office to obtain a driver's license.

[For extracurricular activity absences, see FM.]

Withdrawal for Nonattendance

The District may initiate withdrawal of a student under the age of 19 for nonattendance under the following conditions:

1. The student has been absent 10 consecutive school days; and
2. Repeated efforts by the attendance officer and/or principal to locate the student have been unsuccessful.

[For District-initiated withdrawal of students 19 or older, see FEA(LEGAL).]

Students Attending Homeschools

Students who are homeschooled are exempt from the compulsory attendance law to the same extent as students enrolled in other private schools.

Adequate documentation of homeschooling for withdrawal shall consist of either a statement of withdrawal in accordance with FD(LOCAL) indicating the date homeschooling began, or a signed and dated letter from a parent or guardian indicating that his or her child is being homeschooled and the date the homeschooling began.

The District may request from a parent or guardian a letter of assurance that a child is being educated using a curriculum designed to meet basic education goals of reading, spelling, grammar, mathematics, and a study of good citizenship.

Enforcing Compulsory Attendance

If a parent or guardian refuses to submit a requested statement or letter, or if the District has evidence that a school-aged child is not being homeschooled within legal requirements, the District may investigate further and, if warranted, shall pursue legal action to enforce the compulsory attendance law.

Note: Additional information regarding attendance accounting requirements is found in the Texas Education Agency's (TEA) *Student Attendance and Accounting Handbook*.[1]

Uniform Accounting System

Each district shall use a uniform accounting system adopted by the commissioner for the data required to be reported for the Public Education Information Management System. *Education Code 48.008(b)*

Student Attendance Accounting Handbook

The commissioner will annually establish student attendance accounting guidelines and procedures to be used by a district to maintain records and make reports on student attendance and student participation in special programs.

The standard procedures that a district must use to maintain records and make reports on student attendance and student participation in special programs are described in the official TEA publication *Student Attendance Accounting Handbook.* A copy of the *Student Attendance Accounting Handbook* is available on the TEA website with information related to financial compliance.

Data from previous school years will continue to be subject to the student attendance accounting handbook as the handbook existed in those years.

19 TAC 129.1025

Incentive for Additional Instructional Days

The commissioner shall adjust the average daily attendance of a district under Education Code 48.005 in the manner provided by Education Code 48.0051(b) if the district:

1. Provides the minimum number of minutes of operational and instructional time required under Education Code 25.081 and commissioner rules adopted under that section over at least 180 days of instruction; and

2. Offers an additional 30 days of half-day instruction for students enrolled in prekindergarten through fifth grade.

Education Code 48.0051(a)

Funding for Off-Campus Programs

Funding eligibility for a student participating in an off-campus program will include time instructed in the off-campus program. A campus may choose an alternate attendance-taking time for a group of students that is scheduled to be off-campus during the regular attendance-taking time. The alternate attendance-taking time will be in effect for the period of days or weeks for which the group is scheduled to be off-campus during the regular attendance-taking time (for example, for the semester or for the duration

of employment). This alternate attendance-taking time may not be changed once it is selected for a particular group of students. If attendance is taken at an off-campus location, the district must ensure that attendance is taken in accordance with the *Student Attendance Accounting Handbook*.

For a district to receive FSP funding for a student participating in an off-campus program, the district must have documentation of an agreement between the district and the college.

19 TAC 129.1031(c)-(d) [See EHDD]

[For information regarding funding for courses taken with the Texas Virtual School Network, see EHDE.]

Disasters

The commissioner may adjust the average daily attendance of a district all or part of which is located in an area declared a disaster area by the governor under Government Code Chapter 418 if the district experiences a decline in average daily attendance that is reasonably attributable to the impact of the disaster.

The commissioner may make the adjustment under this section for the two-year period following the date of the governor's initial proclamation or executive order declaring the state of disaster.

Education Code 48.006(a), (c)

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[1] TEA *Student Attendance Accounting Handbook*: https://tea.texas.gov/finance-and-grants/financial-compliance/student-attendance-accounting-handbook

Note: The Board has adopted an innovation plan[1] that affects application of provisions in this legally referenced policy.

Absences Considered

In order to receive credit or a final grade for a class, a student is required to attend class 90 percent of the days class is offered regardless of whether the student's absences are excused [see FEA] or unexcused. *Atty. Gen. Op. JC-0398 (2001)*

90 Percent Rule

Except as provided below, a student in any grade level from kindergarten through grade 12 shall not be given credit or a final grade for a class unless the student is in attendance 90 percent of the days the class is offered. This restriction does not affect a student's right to excused absences to observe religious holy days [see FEA] and does not apply to a student who receives credit by examination for a class as provided by Education Code 28.023. [See EHDC]

Serious or Life-Threatening Illness Exception

A student's excused absence resulting from a serious or life-threatening illness or related treatment [see FEA] may not be considered in determining whether the student has satisfied the attendance requirement under the 90 percent rule.

Principal's Plan

A student who is in attendance for at least 75 percent but less than 90 percent of the days a class is offered may be given credit or a final grade if the student completes a plan approved by the school's principal that provides for the student to meet the instructional requirements of the class. However, a student under the jurisdiction of a court in a criminal or juvenile justice proceeding may not receive credit or a final grade without the consent of the judge presiding over the student's case.

Extenuating Circumstances

An attendance committee may give class credit or a final grade to a student because of extenuating circumstances. A board shall establish guidelines for determining what constitutes extenuating circumstances.

A board shall adopt policies that establish alternative ways for students to make up work or regain credit or a final grade lost because of absences. The alternative ways must include at least one option that does not require a student to pay a fee. The availability of such option must be substantially the same as the availability of the educational program for which a district may charge a fee. [See FP]

Attendance Committee

A board shall appoint one or more attendance committees to hear petitions for class credit or a final grade by students who have not met the 90 percent rule and have not earned class credit or a final

grade by completing a principal's plan. Classroom teachers shall comprise a majority of the attendance committee.

Appeal

If the committee denies a student credit or a final grade, the student may appeal the decision to the board. A board's decision may be appealed to the district court of the county in which the district's central administrative office is located.

Additional Duties

A certified employee may not be assigned additional instructional duties as a result of the above provision outside of the regular workday unless the employee is compensated for the duties at a reasonable rate of pay.

Education Code 25.092

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[1] Innovation Plan: https://www.bryanisd.org/

District Complaint or Referral

Against Student

If a student fails to attend school without excuse on 10 or more days or parts of days within a six-month period in the same school year, a district shall within 10 school days of the student's 10th absence refer the student to a truancy court for truant conduct under Family Code 65.003(a). [See FEA]

Against Parent

The district may file a complaint against the student's parent in a county, justice, or municipal court for an offense of parent contributing to nonattendance under Education Code 25.093 if the district provides evidence of the parent's criminal negligence.

A court shall dismiss a complaint made by a district against a parent that does not comply with Education Code 25.0951; does not allege the elements required for the offense; is not timely filed, unless the district delayed the referral as provided below; or is otherwise substantively defective.

Delaying a Referral

A district may delay a referral of a student for truant conduct, or may choose to not refer a student for truant conduct, if the district:

1. Is applying truancy prevention measures to the student under Education Code 25.0915; and
2. Determines that the truancy prevention measures are succeeding and it is in the best interest of the student that a referral be delayed or not be made.

Education Code 25.0951

Referral Prohibited

A district may not refer a student to truancy court if the school determines that the student's truancy is the result of pregnancy, being in the state foster program, homelessness, severe or life-threatening illness or related treatment, or being the principal income earner for the student's family. [See Truancy Prevention Measures, below] *Education Code 25.0915(a-3)*

Filing Requirements

Each referral to truancy court for conduct described by Family Code 65.003(a) must:

1. Be accompanied by a statement from the student's school certifying that the school applied the truancy prevention measures to the student, and the measures failed to meaningfully address the student's school attendance; and
2. Specify whether the student is eligible for or receives special education services under Education Code Chapter 29, Subchapter A.

A truancy court shall dismiss a petition filed by a truant conduct prosecutor under Family Code 65.054, if the court determines that the district's referral:

1. Does not comply with the requirement above;
2. Does not satisfy the elements required for truant conduct;
3. Is not timely filed, unless the school district delayed the referral as provided above [see Delaying a Referral, above]; or
4. Is otherwise substantively defective.

Education Code 25.0915(b), (c)

Expunction of Records

An individual who was convicted of a truancy offense under former Education Code 25.094 or has had a complaint for a truancy offense dismissed is entitled to have the conviction or complaint and records relating to the conviction or complaint expunged.

Regardless of whether the individual has filed a petition for expunction, the court in which the individual was convicted or a complaint for a truancy offense was filed shall order the conviction, complaints, verdicts, sentences, and other documents relating to the offense, including any documents in the possession of a district or law enforcement agency, to be expunged from the individual's record. After entry of the order, the individual is released from all disabilities resulting from the conviction or complaint, and the conviction or complaint may not be shown or made known for any purpose.

Code of Crim. Proc. 45.0541

Attendance Officer

A board may select a school attendance officer. A school attendance officer also may be selected by two or more boards to serve their districts jointly. *Education Code 25.088*

In districts where no attendance officer has been selected, the superintendent and the peace officers in a district shall perform the duties of attendance officer, but no additional compensation shall be paid for the services. *Education Code 25.090* [See Peace Officers, below]

Powers and Duties

An attendance officer employed by a district who is not commissioned as a peace officer has the following powers and duties with respect to enforcement of compulsory school attendance requirements:

1. To investigate each case of a violation of the compulsory school attendance requirements referred to the attendance officer;
2. To enforce compulsory school attendance requirements by applying truancy prevention measures adopted under Educa-

tion Code 25.0915 to the student and if the measures fail to meaningfully address the student's conduct:

a. Referring the student to a truancy court if the student has unexcused absences for the amount of time specified under Family Code 65.003(a); and

b. Filing a complaint in a county, justice, or municipal court against a parent who violates Education Code 25.093;

3. To monitor school attendance compliance by each student investigated by the officer;

4. To maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the board, or the commissioner, to provide a record to the individual or entity requesting the record;

5. To make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that the attendance officer may not enter a residence without permission of the parent or of the owner or tenant of the residence; and

6. At the request of a parent, to escort a student from any location to a school campus to ensure the student's compliance with compulsory school attendance requirements.

Education Code 25.091(b)

Peace Officers

A peace officer serving as an attendance officer has the following powers and duties concerning enforcement of compulsory school attendance requirements:

1. To investigate each case of a violation of compulsory school attendance requirements referred to the peace officer;

2. To enforce compulsory school attendance requirements by applying truancy prevention measures adopted under Education Code 25.0915 to the student and if the measures fail to meaningfully address the student's conduct:

a. Referring the student to a truancy court if the student has unexcused absences for the amount of time specified under Family Code 65.003(a); or

b. Filing a complaint in a county, justice, or municipal court against a parent who violates Education Code 25.093;

3. To serve court-ordered legal process;

4. To review school attendance records for compliance by each student investigated by the officer;

5. To maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the board, or the Commissioner, to provide a record to the individual or entity requesting the record; and

6. To make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that a peace officer may not enter a residence without the permission of the parent of a student required to attend school or of the tenant or owner of the residence except to lawfully serve court-ordered legal process on the parent.

A peace officer who has probable cause to believe that a child is in violation of the compulsory attendance law may take the child into custody for the purpose of returning the child to the school campus of the child to ensure the child's compliance with compulsory attendance requirements.

Education Code 25.091(a), (b-1)

Truancy Prevention Measures

A district shall adopt truancy prevention measures designed to address student conduct related to truancy in the school setting before the student engages in conduct described by Family Code 65.003 and minimize the need for referrals to truancy court for conduct described by Family Code 65.003(a). *Education Code 25.0915(a)*

A district shall take one or more of the following actions as a truancy prevention measure:

1. Impose:

   a. A behavior improvement plan on the student that must be signed by an employee of the school, that the district has made a good faith effort to have signed by the student and the student's parent or guardian, and that includes:

      (1) A specific description of the behavior that is required or prohibited for the student;

      (2) The period for which the plan will be effective, not to exceed 45 school days after the date the contract becomes effective; or

(3) The penalties for additional absences, including additional disciplinary action or the referral of the student to a truancy court; or

b. School-based community service; or

2. Refer the student to counseling, mediation, mentoring, a teen court program, community-based services, or other in-school or out-of-school services aimed at addressing the student's truancy. A referral may include participation by the child's parent or guardian if necessary.

A school district shall offer additional counseling to a student and may not refer the student to truancy court if the school determines that the student's truancy is the result of:

1. Pregnancy;

2. Being in the state foster program;

3. Homelessness;

4. Severe or life-threatening illness or related treatment; or

5. Being the principal income earner for the student's family.

If a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described by Education Code 25.0951(a), the district shall initiate truancy prevention measures on the student.

Education Code 25.0915

Minimum Standards

The minimum standards for the truancy prevention measures implemented by a district under Education Code 25.0915 include:

1. Identifying the root cause of the student's unexcused absences and actions to address each cause;

2. Maintaining ongoing communication with students and parents on the actions to be taken to improve attendance;

3. Establishing reasonable timelines for completion of the truancy prevention measure; and

4. Establishing procedures to notify the admission, review, and dismissal committee or the Section 504 committee of attendance issues relating to a student with a disability and ensure that the committee considers whether the student's attendance issues warrant an evaluation, a reevaluation, and/or

modifications to the student's individualized education program or Section 504 plan, as appropriate.

19 TAC 129.1043

Best Practices

A district shall consider the following best practices for truancy prevention measures:

1. Develop an attendance policy that clearly outlines requirements related to truancy in accordance with Education Code, Chapter 25, Subchapter C, and communicate this information to parents at the beginning of the year.
2. Create a culture of attendance that includes training staff to talk with students and parents about the attendance policy and the root causes of unexcused absences.
3. Create incentives for perfect attendance and improved attendance.
4. Educate students and their families on the positive impact of school attendance on performance.
5. Provide opportunities for students and parents to address causes of absence and/or truancy with district staff and link families to relevant community programs and support.
6. Develop collaborative partnerships, including planning, referral, and cross-training opportunities, between appropriate school staff, attendance officers, program-related liaisons, and external partners, such as court representatives, community and faith-based organizations, state or locally funded community programs for truancy intervention or prevention, and law enforcement to assist students.
7. Determine root causes of unexcused absences and review campus- and district-level data on unexcused absences to identify systemic issues that affect attendance.
8. Use existing school programs such as Communities in Schools, 21st Century Community Learning Centers, restorative discipline, and positive behavior interventions and supports (PBIS) to provide students and their parents with services.
9. At the beginning of each school year, conduct a needs assessment and identify and list, or map, services and programs available within the district and the community that a school, a student, or a student's parent or guardian may access to address the student's barriers to attendance and make the infor-

mation available to staff, students, and parents. The information must include, but is not limited to:

a. Services for pregnant and parenting students;

b. Services for students experiencing homelessness;

c. Services for students in foster care;

d. Federal programs including, but not limited to, Title 1, Part A, of the Elementary and Secondary Education Act;

e. State programs including, but not limited to, state compensatory education programs;

f. Dropout prevention programs and programs for “at risk” youth;

g. Programs that occur outside of school time;

h. Counseling services;

i. Tutoring programs and services available at no or low cost;

j. Mental health services;

k. Alcohol and substance abuse prevention and treatment programs;

l. Mentoring programs and services;

m. Juvenile justice services and programs;

n. Child welfare services and programs;

o. Other state or locally funded programs for truancy prevention and intervention; and

p. Other supportive services that are locally available for students and families through faith-based organizations, local governments, and community-based organizations.

10. After identifying and listing, or mapping, services available in the district and community, school districts should target any new resources, programs, or services to gaps in services identified during the needs assessment.

11. School districts should ensure that personnel, including truancy prevention facilitators or juvenile case managers, attendance officers, McKinney-Vento (homeless) liaisons, foster care liaisons, Title IX coordinators, 504 coordinators, pregnancy and parenting coordinators, dropout prevention coordinators, special education staff, and other appropriate student

services personnel, meet to contribute to the needs assessment, discuss opportunities to work together, and identify strategies to coordinate both internally and externally to address students' attendance barriers.

In determining services offered to students identified in Education Code 25.091(a-3), a district shall consider:

1. Offering an optional flexible school day program and evening and online alternatives;
2. Working with businesses that employ students to help students coordinate job and school responsibilities; and
3. Offering before school, after school, and/or Saturday prevention or intervention programs or services that implement best and promising practices.

19 TAC 129.1045

Sanctions

An aggrieved party may file a written complaint with the Texas Education Agency (TEA) regarding an allegation that a district has failed to comply with Education Code 25.0915 or 19 Administrative Code Chapter 129, Subchapter BB related to truancy prevention measures. TEA may request that a district provide documentation regarding its compliance in response to a complaint. If, after a review of this documentation or a district's failure to provide this documentation, TEA determines that the district is not in compliance with required truancy prevention measure provisions, TEA may issue a preliminary report of its findings to the district in accordance with 19 Administrative Code 157.1122 (Notice). A district may request in writing an informal review of TEA's preliminary report in accordance with 19 Administrative Code 157.1123 (Informal Review). Following the informal review, or if no informal review is requested by the deadline, a final report will be issued. The commissioner of education may implement any sanction listed in Education Code 39.102(a) against a district found to be out of compliance with Education Code 25.0915 or 19 Administrative Code Chapter 129, Subchapter BB. *19 TAC 129.1047*

Truancy Prevention Facilitator or Juvenile Case Manager

A district shall employ a truancy prevention facilitator or juvenile case manager to implement the truancy prevention measures required by Education Code 25.0915 and any other effective truancy prevention measures as determined by the district or campus. At least annually, the truancy prevention facilitator shall meet to discuss effective truancy prevention measures with a case manager or other individual designated by a truancy court to provide services to students of the district in truancy cases.

Instead of employing a truancy prevention facilitator, a school district may designate an existing district employee or juvenile case manager to implement the truancy prevention measures and any other effective truancy prevention measures as determined by the district or campus.

Education Code 25.0915(d), (e)

On approval of the board, a district may employ or agree in accordance with Government Code Chapter 791, with any appropriate governmental entity to jointly employ or to jointly contribute to the costs of another entity employing:

1. A case manager to provide services in cases involving juvenile offenders who are before a court consistent with the court's statutory powers or referred to a court by a school administrator or designee for misconduct that would otherwise be within the court's statutory powers prior to a case being filed, with the consent of the juvenile and the juvenile's parents or guardians; or

2. One or more juvenile case managers who shall assist the court in administering the court's juvenile docket and in supervising the court's orders in juvenile cases, and may provide prevention services to a child considered at risk of entering the juvenile justice system, and intervention services to juveniles engaged in misconduct before cases are filed, excluding traffic offenses.

A district that jointly employs a case manager in accordance with Government Code Chapter 791 employs a juvenile case manager for purposes of Code of Criminal Procedure Chapter 102 and Government Code Chapter 102.

Code of Criminal Procedure 45.056(a), (c)

Funding

A district may apply to the criminal justice division of the governor's office for reimbursements of the costs of employing a juvenile case manager. The district may pay the salary and benefits of a juvenile case manager and the costs of training, travel, office supplies, and other necessary expenses relating to the position of the juvenile case manager from the local truancy prevention and diversion fund established under Local Government Code 134.156. *Code of Criminal Procedure 45.056(b)*

Priority

A juvenile case manager employed jointly under Government Code Chapter 791 shall give priority to cases brought under Education Codes 25.093 (parent contributing to nonattendance). *Code of Criminal Procedure 45.056(e)*

Rules

The board of a district that employs a juvenile case manager shall adopt and implement reasonable rules for juvenile case managers that provide a code of ethics, and for the enforcement of the code of ethics; appropriate educational preservice and in-service training standards for juvenile case managers; and training in:

1. The role of the juvenile case manager;
2. Case planning and management;
3. Applicable procedural and substantive law;
4. Courtroom proceedings and presentation;
5. Services to at-risk youth under Family Code Chapter 264, Subchapter D;
6. Local programs and services for juveniles and methods by which juveniles may access those programs and services; and
7. Detecting and preventing abuse, exploitation, and neglect of juveniles.
8. The juvenile case manager shall timely report to the judge who signed the order or judgment and, on request, to the judge assigned to the case or the presiding judge any information or recommendations relevant to assisting the judge in making decisions that are in the best interest of the child.

Code of Criminal Procedure 45.056(f)-(i)

Parent Contributing Agreement

A parent against whom a complaint for parent contributing to nonattendance under Education Code 25.093 has been filed and the district at which the parent's child is enrolled may enter into a written agreement requiring the parent to complete counseling, training, or another program as designated by the district.

A parent who fulfills the terms of an agreement not later than the 30th day after the date on which the complaint was filed or within the period provided by the agreement is entitled to dismissal of the complaint in accordance with Code of Criminal Procedure article 45.0531(b). *Education Code 25.094*

Consent to Medical Treatment

The school in which a minor student is enrolled may consent to medical, dental, psychological, and surgical treatment of that student, provided all of the following conditions are met:

1. The person having the power to consent as otherwise provided by law cannot be contacted.
2. Actual notice to the contrary has not been given by that person.
3. Written authorization to consent has been received from that person.

Family Code 32.001(a)(4)

Form of Consent

Consent to medical treatment under this policy shall be in writing, signed by the school official giving consent, and given to the doctor, hospital, or other medical facility that administers the treatment. The consent must contain:

1. The name of the student.
2. The name of one or both parents, if known, and the name of the managing conservator or guardian of the student, if either has been appointed.
3. The name of the person giving consent and the person's relation to the student.
4. A statement of the nature of the medical treatment to be given.
5. The date on which the treatment is to begin.

Family Code 32.002

Minor's Consent to Treatment

A minor may consent to medical, dental, psychological, and surgical treatment furnished by a licensed physician or dentist if the minor:

1. Is 16 years of age and residing separate and apart from the minor's parents, managing conservator, or guardian, with or without the consent of the parents, conservator, or guardian and regardless of the duration of the residence, and is managing his or her own financial affairs, regardless of the source of the income;
2. Consents to the diagnosis and treatment of any infectious, contagious, or communicable disease required to be reported to the Texas Department of State Health Services (TDSHS), including all reportable diseases under Health and Safety Code 81.041;

3. Is unmarried and pregnant, and consents to hospital, medical, or surgical treatment, other than abortion, related to her pregnancy; or

4. Consents to examination and treatment for drug or chemical addiction, drug or chemical dependency, or any other condition directly related to drug or chemical use.

Family Code 32.003; Planned Parenthood of Cent. Mo. v. Danforth, 428 U.S. 52 (1976); Bellotti v. Baird, 443 U.S. 622 (1979)

Administering Medication

Upon adoption of policies concerning the administration of medication to students by district employees, the district, its board, and its employees are immune as described below, provided:

1. The district has received a written request to administer the medication from the parent, legal guardian, or other person having legal control of the student.

2. When administering prescription medication, the medication is administered either:

   a. From a container that appears to be the original container and to be properly labeled; or

   b. From a properly labeled unit dosage container filled by a registered nurse or another qualified district employee, as determined by district policy, from a container that appears to be the original container and to be properly labeled.

By Volunteer Professionals

If a district provides liability insurance for a licensed physician or registered nurse who provides volunteer services to the district, a board may allow the physician or nurse to administer to any student nonprescription medication or medication currently prescribed for the student by the student's personal physician.

Immunity from Civil Liability

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 this policy.

Education Code 22.052(a), (b)

[See DG regarding protection of nurses for refusal to perform acts.]

Self-Administration of Asthma or Anaphylaxis Medicine

A student with asthma or anaphylaxis may possess and self-administer prescription asthma or anaphylaxis medicine while on school property or at a school-related event or activity if:

1. The medicine has been prescribed for that student as indicated by the prescription label on the medicine;

2. The student has demonstrated to the student's physician or other licensed health-care provider and the school nurse, if available, the skill level necessary to self-administer the prescription medication, including the use of any device required to administer the medication;

3. The self-administration is done in compliance with the prescription or written instructions from the student's physician or other licensed health-care provider; and

4. A parent of the student provides to the school:

   a. Written authorization, signed by the parent, for the student to self-administer the prescription medicine while on school property or at a school-related event or activity; and

   b. A written statement, signed by the student's physician or other licensed health-care provider, that states:

      (1) That the student has asthma or anaphylaxis and is capable of self-administering the medicine;

      (2) The name and purpose of the medicine;

      (3) The prescribed dosage for the medicine;

      (4) The times at which or circumstances under which the medicine may be administered; and

      (5) The period for which the medicine is prescribed.

The physician's statement must be kept on file in the school nurse's office, or, if there is no school nurse, in the office of the principal of the school the student attends.

[See FFAF for care of students with diagnosed food allergies at risk for anaphylaxis.]

No Waiver of Immunity

The provisions above neither waive any liability or immunity nor create any liability for or a cause of action against a district, a board, or its employees.

Education Code 38.015

Sunscreen Products

A student may possess and use a topical sunscreen product while on school property or at a school-related event or activity to avoid overexposure to the sun and not for the medical treatment of an injury or illness if the product is approved by the federal Food and Drug Administration for over-the-counter use. This provision does not waive any immunity from liability of a district, its board, or its

employees; or create any liability for or a cause of action against a district, its board, or its employees. *Education Code 38.021*

Dietary Supplements

A district employee commits a Class C misdemeanor offense if the employee:

1. Knowingly sells, markets, or distributes a dietary supplement that contains performance enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's school district duties; or

2. Knowingly endorses or suggests the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by a primary or secondary education student with whom the employee has contact as part of the employee's school district duties.

Education Code 38.011(a), (c)

Prescription Medication and Special Education Students

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

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

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

[See FFEB for information regarding psychotropic drugs and psychiatric evaluations]

Low-THC Cannabis

A district may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the cultivation, production, dispensing, or possession of low-THC cannabis, as authorized by the Texas Compassionate-Use Act. *Health and Safety Code 487.201*

Dextromethorphan (Certain Cold Medication)

A district may not adopt or enforce an ordinance, order, rule, regulation, or policy that governs the sale, distribution, or possession of dextromethorphan. *Health and Safety Code 488.005*

Maintenance and Administration of Opioid Antagonists

Each district shall adopt and implement a policy regarding the maintenance, administration, and disposal of opioid antagonists at each campus in the district that serves students in grades 6 through 12 and may adopt and implement such a policy at each

campus in the district, including campuses serving students in a grade level below grade 6.

The policy adopted must:

1. Provide that school personnel and school volunteers who are authorized and trained may administer an opioid antagonist to a person who is reasonably believed to be experiencing an opioid-related drug overdose;

2. Require that each school campus subject to a policy adopted under this provision have one or more school personnel members or school volunteers authorized and trained to administer an opioid antagonist present during regular school hours;

3. Establish the number of opioid antagonists that must be available at each campus at any given time; and

4. Require that the supply of opioid antagonists at each school campus subject to a policy adopted under this provision must be stored in a secure location and be easily accessible to school personnel and school volunteers authorized and trained to administer an opioid antagonist.

Education Code 38.222(a), (c)

Reporting Requirement

Not later than the 10th business day after the date a school personnel member or school volunteer administers an opioid antagonist in accordance with the policy, the school shall report the following information to the district, the physician or other person who prescribed the opioid antagonist, and the commissioner of state health services:

1. The age of the person who received the administration of the opioid antagonist;

2. Whether the person who received the administration of the opioid antagonist was a student, a school personnel member or school volunteer, or a visitor;

3. The physical location where the opioid antagonist was administered;

4. The number of doses of opioid antagonist administered;

5. The title of the person who administered the opioid antagonist; and

6. Any other information required by the commissioner of education.

Education Code 38.223

Training

A district that adopts an opioid antagonist policy is responsible for training school personnel and school volunteers in the administration of an opioid antagonist.

Training required under this provision must:

1. Include information on:
    a. Recognizing the signs and symptoms of an opioid-related drug overdose;
    b. Administering an opioid antagonist;
    c. Implementing emergency procedures, if necessary, after administering an opioid antagonist; and
    d. Properly disposing of used or expired opioid antagonists;
2. Be provided in a formal training session or through online education; and
3. Be provided in accordance with the district professional development policy [see DMA].

A district that adopts an opioid antagonist policy must maintain records on the training required under this provision.

Education Code 38.2249

Standing Order

A physician or person who has been delegated prescriptive authority under Occupations Code Chapter 157 may prescribe opioid antagonists in the name of a school district. *Education Code 38.225(a)*

Gifts, Grants, and Donations

A district may accept gifts, grants, donations, and federal and local funds to implement these provisions. *Education Code 38.226*

Immunity

A person who in good faith takes, or fails to take, any action under Education Code Chapter 38, Subchapter E-1 is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act as described by Education Code 38.227.

Education Code 38.227

Maintenance and Administration of Epinephrine Auto-Injectors

Note: The following provisions apply only to a district that will adopt an unassigned epinephrine auto-injector policy.

A district may adopt and implement a policy regarding the maintenance, administration, and disposal of epinephrine auto-injectors at each campus in the district.

If a policy is adopted, the policy:

1. Must provide that school personnel and school volunteers who are authorized and trained may administer an epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis on a school campus; and

2. May provide that school personnel and school volunteers who are authorized and trained may administer an epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis at an off-campus school event or while in transit to or from a school event.

A district that adopts a policy must require that each campus have one or more school personnel members or school volunteers authorized and trained to administer an epinephrine auto-injector present during all hours the campus is open.

The supply of epinephrine auto-injectors at each campus must be stored in a secure location and be easily accessible to school personnel and school volunteers authorized and trained to administer an epinephrine auto-injector.

Education Code 38.208

Definitions

All Hours the Campus Is Open

"All hours the campus is open" is defined as, at a minimum, during regular on-campus school hours, and when school personnel are physically on site for school-sponsored activities.

Campus

A "campus" is defined as a unit of a school district that has an assigned administrator, has enrolled students who are counted for average daily attendance, has assigned instructional staff, provides instructional services to students, has one or more grades in the range from early childhood education through grade 12 or is ungraded, and complies with relevant Texas laws.

Unassigned Epinephrine Auto-Injector

An "unassigned epinephrine auto-injector" is an epinephrine auto-injector prescribed by an authorized health-care provider in the name of the school issued with a non-patient-specific standing delegation order for the administration of an epinephrine auto-injector, issued by a physician or person who has been delegated prescriptive authority under Occupations Code Chapter 157.

25 TAC 37.603

Prompt Notification

Local emergency medical services must be promptly notified by the school when an individual is suspected of experiencing anaphylaxis and when an epinephrine auto-injector is administered. If the trained school personnel or school volunteer is the only individual available to notify emergency medical services, the trained individ-

ual should administer the unassigned epinephrine auto-injector before notifying emergency medical services.

The parent, legal guardian, or emergency contact must be promptly notified by the school when an unassigned epinephrine auto-injector is utilized on their child as soon as is feasible during the emergency response to suspected anaphylaxis.

25 TAC 37.605(e)-(f)

Records

School records of the administration of the unassigned epinephrine auto-injector and suspected anaphylaxis must be provided to the parent or guardian of the recipient upon request. *25 TAC 37.605(f)*

Reports

Not later than the 10th business day after the date a school personnel member or school volunteer administers an epinephrine auto-injector in accordance with district policy, the school shall send a report to the school district; the physician who prescribed the epinephrine auto-injector; and the commissioner of state health services.

The report must include the following information:

1. The age of the person who received the administration of the epinephrine auto-injector;
2. Whether the person who received the administration of the epinephrine auto-injector was a student, a school personnel member or school volunteer, or a visitor;
3. The physical location where the epinephrine auto-injector was administered;
4. The number of doses of epinephrine auto-injector administered;
5. The title of the person who administered the epinephrine auto-injector; and
6. Any other information required by the commissioner of education.

Education Code 38.209

Notifications to the commissioner of TDSHS shall be submitted on the designated electronic form available on the TDSHS School Health Program website. *25 TAC 37.608*

Personnel or Volunteers

At each campus in which a school adopts an unassigned epinephrine auto-injector policy, the principal may assign school personnel or school volunteers to be trained to administer unassigned epinephrine auto-injectors or seek school personnel or school volun-

teers who volunteer to be trained to administer unassigned epinephrine auto-injectors.

In order to increase the number of trained individuals in the administration of unassigned epinephrine auto-injectors, schools may distribute to school personnel or school volunteers in the district, at least once per school year, a notice that includes a description of the request seeking volunteers to be trained to administer an epinephrine auto-injector to a person believed to be experiencing anaphylaxis and a description of the training that the school personnel or school volunteers will receive in the administration of epinephrine with an auto-injector.

25 TAC 37.606(a)-(b)

Signed Statement

Trained school personnel or school volunteers who administer the unassigned epinephrine auto-injector must submit a signed statement indicating that they agree to perform the service of administering an unassigned epinephrine auto-injector to a student or individual that may be experiencing anaphylaxis. *25 TAC 37.606(c)*

Training

A district that adopts an unassigned epinephrine auto-injector written policy is responsible for training school personnel and school volunteers in the administration of an unassigned epinephrine auto-injector.

Training must include information on:

1. Recognizing the signs and symptoms of anaphylaxis;
2. Administering an epinephrine auto-injector;
3. Implementing emergency procedures, if necessary, after administering an epinephrine auto-injector; and
4. Properly disposing of used or expired epinephrine auto-injectors.

Training must be provided in a formal training session or through online education and must be provided in accordance with the district professional development policy [see DMA].

Education Code 38.210(a), (b)

Training must include information on properly inspecting unassigned epinephrine auto-injectors for usage and expiration. *25 TAC 37.607(1)-(2)*

The initial training must include hands-on training with an epinephrine auto-injector trainer. The annual refresher training must include a hands-on demonstration of administration skills. The train-

ing must also include information about promptly notifying local emergency medical services.

Each school campus shall maintain training records and make available upon request a list of those school personnel or school volunteers trained and authorized to administer the unassigned epinephrine auto-injector on the campus.

25 TAC 37.607(3)-(6)

Standing Orders

A physician or person who has been delegated prescriptive authority under Occupations Code Chapter 157 may prescribe epinephrine auto-injectors in the name of a district in accordance with law. *Education Code 38.211(a)*

A district shall obtain a prescription from an authorized health-care provider each year, to stock, possess, and maintain at least one unassigned adult epinephrine auto-injector pack (two doses) on each school campus.

A school may choose to stock unassigned pediatric epinephrine auto-injector packs, based on the need of the school's population.

25 TAC 37.605(a)

Epinephrine Coordinator

The superintendent will designate appropriate school personnel to coordinate and manage policy implementation, including training of school personnel, and the acquisition or purchase, usage, expiration, and disposal of unassigned epinephrine auto-injectors. Throughout the school calendar year, the designated school personnel shall coordinate with each campus to ensure that the unassigned epinephrine auto-injectors are checked monthly for expiration and usage and the findings are documented. *19 TAC 37.605(b)*

Notice to Parents

If a district implements a policy for the maintenance, administration, and disposal of epinephrine auto-injectors, the district shall provide written notice of the policy to a parent or guardian of each student enrolled in the district. Notice must be provided before the policy is implemented by the district and before the start of each school year. *Education Code 38.212*

A district shall provide electronic or written notice to the parent or guardian of each student.

If a district changes or discontinues the policy under this subchapter, written or electronic notice detailing the change or discontinuation must be provided to the parent or guardian of each student within 15 calendar days.

25 TAC 37.609

Storage

Unassigned epinephrine auto-injectors shall be stored in a secure, easily accessible area for an emergency, in accordance with manufacturer's guidelines. It is recommended that the school administrator develop a map to be placed in high traffic areas that indicates the location of the unassigned epinephrine auto-injectors on each school campus. It is recommended that the map also indicates the locations of the automated external defibrillator (AED). *25 TAC 37.605(h)*

Replacement

The district shall develop a plan to replace, as soon as reasonably possible, any unassigned epinephrine auto-injector that is used or close to expiration. *25 TAC 37.605(i)*

Disposal

Used unassigned epinephrine auto-injectors shall be considered infectious waste and shall be disposed of according to the school's bloodborne pathogen control policy.

Expired unassigned epinephrine auto-injectors shall be disposed of according to the school's medication disposal policy.

25 TAC 37.605(j)-(k) [See DBB]

Gifts, Grants, and Donations

A district may accept gifts, grants, donations, and federal and local funds to implement its policy. *Education Code 38.213*

Maintenance and Administration of Medication for Respiratory Distress

Note: The following provisions apply only to a district that will adopt a policy on medication for respiratory distress.

A district may adopt and implement a policy regarding the maintenance, administration, and disposal of medication for respiratory distress at each campus in the district. *Education Code 38.208(a-1)*

If a policy is adopted, the policy must provide that school personnel and school volunteers who are authorized and trained may administer medication for respiratory distress to a person reasonably believed to be experiencing respiratory distress on a school campus, or at a school-sponsored or school-related activity on or off school property. *Education Code 38.208(b-1)*

Definitions

"Medication for respiratory distress" means albuterol, levalbuterol, or another medication designated by the executive commissioner of the Health and Human Services Commission for treatment of respiratory distress Education Code 38.208(c).

"School personnel" means an employee of a district. The term includes a member of the board.

Education Code 38.201(3-a), (6)

Regular School Hours

Each district that adopts a policy must require that each campus have one or more school personnel or school volunteers authorized and trained to administer medication for respiratory distress present during regular school hours. *Education Code 38.208(d-1)*

Referral Required

If medication for respiratory distress is administered to a student whose parent or guardian has not provided notification to the school that the student has been diagnosed with asthma, the school must refer the student to the student's primary care provider on the day the medication for respiratory distress is administered and inform the student's parent or guardian regarding the referral. The referral must include:

1. The symptoms of respiratory distress observed;
2. The name of the medication for respiratory distress administered to the student; and
3. Any patient care instructions given to the student.

If a student who has received medication for respiratory distress does not have a primary care provider or the parent or guardian of the student has not engaged a primary care provider for the student, the student's parent or guardian must receive information to assist the parent or guardian in selecting a primary care provider for the student.

Education Code 38.208(b-2)-(b-3)

Storage

The supply of medication for respiratory distress at each campus must be stored in a secure location and be easily accessible to authorized school personnel and school volunteers. *Education Code 38.208(e-1)*

Training

Each district that adopts a policy for the administration of medication for respiratory distress is responsible for training school personnel and school volunteers in the administration of medication for respiratory distress. The training must include information on:

1. Recognizing the signs and symptoms of respiratory distress;
2. Administering medication for respiratory distress;
3. Implementing emergency procedures, if necessary, after administering medication for respiratory distress; and
4. Proper sanitization, reuse, and disposal of medication for respiratory distress.

Education Code 38.210(a-1)

Training must be provided in a formal training session or through online education and must be provided in accordance with the district professional development policy [see DMA]. *Education Code 38.210(b)*

Reporting Requirement

Not later than the 10th business day after the date a school personnel member or school volunteer administers medication for respiratory distress to a person experiencing respiratory distress, the school shall report the following information to the district, the physician or other person who prescribed the medication for respiratory distress, and the commissioner of state health services:

1. The age of the person who received the administration of the medication for respiratory distress;
2. Whether the person who received the administration of the medication for respiratory distress was a student, a school personnel member or school volunteer, or a visitor;
3. The dosage of the medication for respiratory distress administered;
4. The title of the person who administered the medication for respiratory distress; and
5. Any other information required by the commissioner.

Education Code 38.2091

No Negative Fiscal Impact

The policy may not require a district to purchase prescription medication for respiratory distress or require any other expenditure related to the maintenance or administration of medication for respiratory distress that would result in a negative fiscal impact on the district or school. *Education Code 38.208(f)*

Standing Order

A physician or person who has been delegated prescriptive authority under Occupations Code Chapter 157 may prescribe medication for respiratory distress in the name of a school district. *Education Code 38.211(a)*

Notice to Parents

If a district implements a policy for the maintenance, administration, and disposal of medication for respiratory distress, the district shall provide written notice of the policy to a parent or guardian of each student enrolled in the district. Notice must be provided before the policy is implemented by the district and before the start of each school year. *Education Code 38.212*

Refusal to Administer

A school personnel member or school volunteer may not be subject to any penalty or disciplinary action for refusing to administer or receive training to administer epinephrine auto-injectors or medication for respiratory distress, as applicable, in accordance with a

policy for the maintenance and administration of epinephrine autoinjectors or a policy for medication for respiratory distress. *Education Code 38.208(d-2)*

Immunity from Liability

A person who in good faith takes, or fails to take, any action related to Education Code Chapter 38, Subchapter E, related to the maintenance and administration of epinephrine auto-injectors and medication for respiratory distress, is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act as described by Education Code 38.215 and 25 Administrative Code 40.49. *Education Code 38.215; 25 TAC 40.49*

No employee shall give any student prescription medication, nonprescription medication, herbal substances, anabolic steroids, or dietary supplements of any type, except as authorized by this or other District policy.

Medication Provided by Parent

The Superintendent shall designate the employees who are authorized to administer medication that has been provided by a student's parent. An authorized employee is permitted to administer the following medication in accordance with administrative regulations:

1. Prescription medication in accordance with legal requirements.
2. Nonprescription medication, upon a parent's written request, when properly labeled and in the original container.
3. Herbal substances or dietary supplements provided by the parent and only if required by the individualized education program or Section 504 plan for a student with disabilities.

Medication Provided by District

Except as required by law and provided by this policy, the District shall not purchase medication to administer to a student.

Athletic Program

The District shall purchase nonprescription medication that may be used to prevent or treat illness or injury in the District's athletic program. Only a licensed athletic trainer or a physician licensed to practice medicine in the state of Texas may administer this medication and may do so only if:

1. The District has prior written consent for medication to be administered [see Medical Treatment, below]; and
2. The administration of a medication by an athletic trainer is in accordance with a standing order or procedures approved by a physician licensed to practice medicine in the state of Texas.

Epinephrine

The District authorizes school personnel who have agreed in writing and been adequately trained to administer an unassigned epinephrine auto-injector in accordance with law and this policy. Administration of epinephrine shall only be permitted when an authorized and trained individual reasonably believes a person is experiencing anaphylaxis.

On Campus

Authorized and trained individuals may administer an unassigned epinephrine auto-injector at any time to a person experiencing anaphylaxis on a school campus.

The District shall ensure that at each campus a sufficient number of authorized individuals are trained to administer epinephrine so

	that at least one trained individual is present on campus during all hours the campus is open. In accordance with state rules, the campus shall be considered open for this purpose during regular on-campus school hours and whenever school personnel are physically on site for school-sponsored activities.
Off Campus	Authorized and trained individuals may administer an unassigned epinephrine auto-injector to a person experiencing anaphylaxis at an off-campus school event or while in transit to or from a school event when an unassigned epinephrine auto-injector is available.
Maintenance, Availability, and Training	The Superintendent shall develop administrative regulations designating a coordinator to manage policy implementation and addressing annual training of authorized individuals in accordance with law; procedures for auto-injector use; and acquisition or purchase, maintenance, expiration, disposal, and availability of unassigned epinephrine auto-injectors at each campus.
Notice to Parents	In accordance with law, the District shall provide notice of the policy to parents regarding the epinephrine program, including notice of any change to or discontinuation of this program.
Opioid Antagonist	This provision shall be applicable to every campus.
On Campus	The District authorizes school personnel who have been adequately trained to administer an opioid antagonist in accordance with law and this policy. Administration of an opioid antagonist shall only be permitted when an authorized and trained individual reasonably believes a person is experiencing an opioid-related overdose. Each applicable campus shall have at least one individual who is authorized and trained to administer an opioid antagonist present during regular school hours.
Maintenance, Availability, Training, and Reporting	Each applicable campus shall have at least two unused, unexpired opioid antagonist doses available. All opioid antagonists shall be stored in a secure location and shall be easily accessible by individuals who are authorized and trained to administer an opioid antagonist. The Superintendent shall develop administrative regulations addressing acquisition, maintenance, expiration, and disposal of opioid antagonists in the District, as well as reporting, employee training, and emergency notification requirements.
Psychotropics	Except as permitted by law, an employee shall not: 1. Recommend to a student or a parent that the student use a psychotropic drug;

2. Suggest a particular diagnosis; or

3. Exclude the student from a class or a school-related activity because of the parent's refusal to consent to psychiatric evaluation or examination or treatment of the student.

Medical Treatment

A student's parent, legal guardian, or other person having lawful control shall annually complete and sign a form that provides emergency information and addresses authorization regarding medical treatment. A student who has reached age 18 shall be permitted to complete this form.

The District shall seek appropriate emergency care for a student as required or deemed necessary.

Note: See FB for the application of Section 504 of the Rehabilitation Act to students who qualify for individualized health plans.

Diabetes Management and Treatment Plan

The parent or guardian of a student who will seek care for diabetes while at school or while participating in a school activity, and the physician responsible for the student's diabetes treatment, shall develop a diabetes management and treatment plan (DMTP).

Required Elements

The DMTP must:

1. Identify the health-care services the student may receive at school;
2. Evaluate the student's ability to manage and level of understanding of the student's diabetes; and
3. Be signed by the parent or guardian and the physician.

Submission to School

The parent or guardian must submit the DMTP to the school, and the school must review the plan:

1. Before or at the beginning of the school year;
2. On enrollment of the student, if the student enrolls after the beginning of the school year; or
3. As soon as practicable following a diagnosis of diabetes for the student.

Health and Safety Code 168.002

Individualized Health Plan

Upon receiving the student's DMTP, the school principal, or designee, and the school nurse, if a school nurse is assigned to the school, shall develop an individualized health plan (IHP) for the student. The IHP shall be developed in collaboration with the student's parent or guardian and, to the extent practicable, the physician responsible for the student's diabetes treatment and one or more of the student's teachers.

A student's IHP must incorporate components of the student's DMTP, including the information required under Health and Safety Code 168.002(b) [see Required Elements, above].

Health and Safety Code 168.001(3), .003

Independent Monitoring and Treatment

In accordance with the student's IHP, a school shall permit the student to attend to the management and care of the student's diabetes, which may include:

1. Performing blood glucose level checks;

2. Administering insulin through the insulin delivery system the student uses;

3. Treating hypoglycemia and hyperglycemia;

4. Possessing on the student's person at any time any supplies or equipment necessary to monitor and care for the student's diabetes; and

5. Otherwise attending to the management and care of the student's diabetes in the classroom, in any area of the school or school grounds, or at any school-related activity.

Health and Safety Code 168.008

Required Care

Each school shall adopt a procedure to ensure that a school nurse or at least one unlicensed diabetes care assistant (UDCA) is present and available to provide the required care to a student with diabetes during the regular school day. A district may not restrict the assignment of a student with diabetes to a particular campus on the basis that the campus does not have the required UDCAs. *Health and Safety Code 168.007(c)-(d)*

If a school nurse is assigned to a campus and the nurse is available, the nurse shall perform the tasks necessary to assist a student with diabetes in accordance with the student's IHP.

School Nurse Not Available

If a school nurse is not assigned to the campus or a school nurse is not available, a UDCA shall perform the tasks necessary to assist the student in accordance with the student's IHP and in compliance with any guidelines provided during UDCA training. A UDCA may perform these tasks only if the parent or guardian of the student signs an agreement that:

1. Authorizes a UDCA to assist the student; and

2. States that the parent or guardian understands that a UDCA is not liable for civil damages [see Immunity from Liability, below].

Health and Safety Code 168.007(a)

If a school nurse is not assigned to a campus:

1. A UDCA must have access to an individual with expertise in the care of persons with diabetes, such as a physician, a registered nurse, a certified diabetes educator, or a licensed dietitian; or

2. The principal must have access to the physician responsible for the student's diabetes treatment.

Health and Safety Code 168.007(b)

Unlicensed Diabetes Care Assistants

At each school in which a student with diabetes is enrolled, the principal, or designee, shall:

1. Seek school employees who are not health-care professionals to serve as UDCAs and to care for students with diabetes; and

2. Make efforts to ensure the school has:

    a. At least one UDCA if a full-time nurse is assigned to the school; and

    b. At least three UDCAs if a full-time nurse is not assigned to the school.

"School employee" means a person employed by a school, a local health department that assists the school under Health and Safety Code Chapter 168 (Care of Students with Diabetes), or another entity with whom the school has contracted to perform its duties under that chapter.

"Unlicensed diabetes care assistant" means a school employee who has successfully completed the required training [see UDCA Training, below].

A school employee may not be subject to any penalty or disciplinary action for refusing to serve as a UDCA.

A UDCA shall serve under the supervision of the principal.

Health and Safety Code 168.001(5)-(6), .003-.004

UDCA Training

If a school nurse is assigned to a campus, the nurse shall coordinate the training of school employees acting as UDCAs. Training for UDCAs must be provided by a health-care professional with expertise in the care of persons with diabetes or by a school nurse. The training must include instruction in the elements set forth at Health and Safety Code 168.005(d).

Training must be provided before the beginning of the school year or as soon as practicable following:

1. The enrollment of a student with diabetes at a campus that previously had no students with diabetes; or

2. A diagnosis of diabetes for a student at a campus that previously had no students with diabetes.

The school nurse or principal shall maintain a copy of the training guidelines and any records associated with the training.

Health and Safety Code 168.005

Note: Guidance for the care of students with diabetes is available on the Texas Department of State Health Services (TDSHS) website.[1]

Information to Employees

A district shall provide to each district employee who is responsible for providing transportation for a student with diabetes or supervising a student with diabetes during an off-campus activity a one-page information sheet that:

1. Identifies the student who has diabetes;
2. Identifies potential emergencies that may occur as a result of the student's diabetes and the appropriate responses to such emergencies; and
3. Provide the telephone number of a contact person in case of an emergency involving the student with diabetes.

Health and Safety Code 168.006

Immunity from Liability

A school employee may not be subject to any disciplinary proceeding, as defined by Education Code 22.0512(b), resulting from any action taken in compliance with Health and Safety Code Chapter 168. The requirements of Chapter 168 are considered to involve the employee's judgment and discretion and are not considered ministerial acts for purposes of immunity under Education Code 22.0511. *Health and Safety Code 168.009(a)* [See DG]

A school nurse is not responsible for and may not be subject to disciplinary action under Occupations Code Chapter 301 for actions performed by a UDCA. *Health and Safety Code 168.009(b)*

A UDCA who assists a student as provided above [see Required Care, above] in compliance with the student's IHP:

1. Is not considered to be engaging in the practice of professional or vocational nursing under Occupations Code Chapter 301 or other state law; and
2. Is exempt from any applicable state law or rule that restricts the activities that may be performed by a person who is not a health-care provider.

A UDCA may exercise reasonable judgment in deciding whether to contact a health-care provider in the event of a medical emergency involving a student with diabetes.

Health and Safety Code 168.007(e)-(f)

Students at Risk for Anaphylaxis

The board shall adopt and administer a policy for the care of students with a diagnosed food allergy at risk for anaphylaxis based on Guidelines for the Care of Students with Food Allergies at Risk for Anaphylaxis[2] developed by the commissioner of state health services. A district shall annually review the policy and, as necessary, revise its policy for the care of students with a diagnosed food allergy at risk for anaphylaxis to ensure the policy is consistent with the most current version of the guidelines.

This section does not waive any liability or immunity of the district or its officers or employees or create any liability for or a cause of action against the district or its officers or employees.

Notwithstanding any other law, these provisions do not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides the basis for a cause of action.

Education Code 38.0151(a)-(b), (d), (i)-(j)

A district that provides for the maintenance, administration, and disposal of epinephrine auto-injectors under Education Code Chapter 38, Subchapter E [see FFAC] is not required to comply with Education Code 38.0151. *Education Code 38.0151(f)*

Website Requirements

Each school year, the board shall post a summary of the guidelines on the district's website [see CQA], including instructions on obtaining access to the complete guidelines document. The district's website must be accessible by each student enrolled in the district and a parent or guardian of each student. Any forms used by a district requesting information from a parent or guardian enrolling a child with a food allergy in the district must include information to access on the district's website a summary of the guidelines and instructions on obtaining access to the complete guidelines document. *Education Code 38.0151(g)*

Seizure Management and Treatment Plan

The parent or guardian of a student with a seizure disorder may seek care for the student's seizures while the student is at school or participating in a school activity by submitting to the district at which the student is enrolled a copy of a seizure management and treatment plan developed by the student's parent or guardian and the physician responsible for the student's seizure treatment. The plan must be on a form adopted by the Texas Education Agency (TEA) and submitted to and reviewed by the district:

1. Before or at the beginning of the school year;
2. On enrollment of the student, if the student enrolls in the district after the beginning of the school year; or
3. As soon as practicable following a diagnosis of a seizure disorder for the student.

Education Code 38.032(a)

Immunity

The care of a student with a seizure disorder by a district employee under a seizure management plan submitted under Education Code 38.032 is incident to or within the scope of the duties of the employee's position of employment and involves the exercise of judgment or discretion on the part of the employee for purposes of Education Code 22.0511, regarding immunity from liability.

The immunity from liability provided by Education Code 22.0511 applies to an action or failure to act by a district employee in administering a medication, assisting with self-administration, or otherwise providing for the care of a student under a seizure management plan submitted for the student.

Education Code 38.032(c)-(d)

[See DMA for seizure recognition and related first aid training.]

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[1] TDSHS guidance for the care of students with diabetes: https://www.dshs.texas.gov/diabetes/diabetes-children
[2] TDSHS Guidelines for the Care of Students with Food Allergies at Risk for Anaphylaxis: https://www.dshs.texas.gov/sites/default/files/schoolhealth/pdf/FINAL%20Guidelines%20for%20Food%20Allergies%203.2023.pdf

Threat Assessment

Definitions

"Harmful, threatening, or violent behavior" includes behaviors, such as verbal threats, threats of self harm, bullying, cyberbullying, fighting, the use or possession of a weapon, sexual assault, sexual harassment, dating violence, stalking, or assault, by a student that could result in:

1. Specific interventions, including mental health or behavioral supports;
2. In-school suspension;
3. Out-of-school suspension; or
4. The student's expulsion or removal to a disciplinary alternative education program (DAEP) or a juvenile justice alternative education program (JJAEP).

"Team" means a threat assessment and safe and supportive school team established by the board under Education Code 37.115.

Education Code 37.115(a)

Threat Assessment Team

The board shall establish a threat assessment and safe and supportive school team to serve at each campus of the district and shall adopt policies and procedures for the teams.

The team is responsible for developing and implementing the safe and supportive school program in compliance with Texas Education Agency (TEA) rules at the district campus served by the team.

The policies and procedures adopted under Education Code 37.115 must:

1. Be consistent with the model policies and procedures developed by the Texas School Safety Center (TxSSC) [see Education Code 37.220];
2. Require each team to complete training provided by the TxSSC or a regional education service center (ESC) regarding evidence-based threat assessment programs;
3. Require each team established under this section to report the required information regarding the team's activities to TEA [see Reporting to TEA, below];
4. Require each district campus to establish a clear procedure for a student to report concerning behavior exhibited by another student for assessment by the team or other appropriate school employee; and

5. Provide for:

    a. A district employee who reports a potential threat to a team to elect for the employee's identity to be confidential and not subject to disclosure Government Code Chapter 552 (Public Information Act), except as necessary for the team, the district, or law enforcement to investigate the potential threat; and

    b. The district to maintain a record of the identity of a district employee who elects for the employee's identity to be confidential.

Membership

The superintendent shall ensure, to the greatest extent practicable, that the members appointed to each team have expertise in counseling, behavior management, mental health and substance use, classroom instruction, special education, school administration, school safety and security, emergency management, and law enforcement. A team may serve more than one campus of a district, provided that each district campus is assigned a team.

Oversight Committee

The superintendent may establish a committee, or assign to an existing committee established by the district, the duty to oversee the operations of teams established for the district. A committee with oversight responsibility must include members with expertise in human resources, education, special education, counseling, behavior management, school administration, mental health and substance use, school safety and security, emergency management, and law enforcement.

Team Duties

Each team shall:

1. Conduct a threat assessment that includes assessing and reporting individuals who make threats of violence or exhibit harmful, threatening, or violent behavior in accordance with district policies and procedures; and gathering and analyzing data to determine the level of risk and appropriate intervention, including:

    a. Referring a student for mental health assessment; and

    b. Implementing an escalation procedure, if appropriate, based on the team's assessment, in accordance with district policy;

2. Provide guidance to students and school employees on recognizing harmful, threatening, or violent behavior that may pose a threat to the community, school, or individual; and

3. Support the district in implementing the district's multihazard emergency operations plan [see CKC].

Parental Participation

Before a team may conduct a threat assessment of a student, the team must notify the parent of or person standing in parental relation to the student regarding the assessment. In conducting the assessment, the team shall provide an opportunity for the parent or person to participate in the assessment, either in person or remotely, and to submit to the team information regarding the student.

After completing a threat assessment of a student, the team shall provide to the parent of or person standing in parental relation to the student the team's findings and conclusions regarding the student.

Consent for Mental Health-Care Service

A team may not provide a mental health-care service to a student who is under 18 years of age unless the team obtains written consent from the parent of or the person standing in parental relation to the student before providing the mental health-care service. The consent must be submitted on a form developed by the district that complies with all applicable state and federal law. The student's parent or person standing in parental relation to the student may give consent for a student to receive ongoing services or may limit consent to one or more services provided on a single occasion.

Education Code 37.115(c)-(g)

Determination of Risk

On determination that a student or other individual poses a serious risk of violence to self or others, a team shall immediately report the team's determination to the superintendent. If the individual is a student, the superintendent shall immediately attempt to inform the parent or person standing in parental relation to the student. These requirements do not prevent an employee of the school from acting immediately to prevent an imminent threat or respond to an emergency.

A team identifying a student at risk of suicide shall act in accordance with the district's suicide prevention program. If the student at risk of suicide also makes a threat of violence to others, the team shall conduct a threat assessment in addition to actions taken in accordance with the district's suicide prevention program.

A team identifying a student using or possessing tobacco, drugs, or alcohol shall act in accordance with district policies and procedures related to substance use prevention and intervention.

Education Code 37.115(h)-(j)

Recordkeeping

Materials and information provided to or produced by a team during a threat assessment of a student under this provision must be maintained in the student's school record until the student's 24th birthday. *Education Code 37.115(j-1)*

[For information regarding the transfer of threat assessment records between school districts, see FD and FDA.]

Reporting to TEA

A team must report to TEA in accordance with TEA-developed guidelines the following information regarding the team's activities and other information for each campus the team serves:

1. The occupation of each person appointed to the team;
2. The number of threats and description of the type of threats reported to the team;
3. The outcome of each assessment made by the team, including:
    a. Any disciplinary action taken, including a change in school placement;
    b. Any action taken by law enforcement; or
    c. A referral to or change in counseling, mental health, special education, or other services;
4. The total number, disaggregated by student gender, race, and status as receiving special education services, being at risk of dropping out of school, being in foster care, experiencing homelessness, being a dependent of military personnel, being pregnant or a parent, having limited English proficiency, or being a migratory child, of, in connection with an assessment or reported threat by the team:
    a. Citations issued for Class C misdemeanor offenses;
    b. Arrests;
    c. Incidents of uses of restraint;
    d. Changes in school placement, including placement in a JJAEP or DAEP;
    e. Referrals to or changes in counseling, mental health, special education, or other services;
    f. Placements in in-school suspension or out-of-school suspension and incidents of expulsion;
    g. Unexcused absences of 15 or more days during the school year; and

h. Referrals to juvenile court for truancy; and

5. The number and percentage of school personnel trained in:

   a. A best-practices program or research-based practice under Education Code 38.351 [see FFEB], including the number and percentage of school personnel trained in suicide prevention or grief and trauma-informed practices;

   b. Mental health or psychological first aid for schools;

   c. Training relating to the safe and supportive school program; or

   d. Any other program relating to safety identified by the commissioner.

Education Code 37.115(k)

Threat Assessment and Safe and Supportive Team

In compliance with law, the Superintendent shall ensure that a multidisciplinary threat assessment and safe and supportive team is established to serve each campus. The Superintendent shall appoint team members. The team shall be responsible for developing and implementing a safe and supportive school program at each campus served by the team and shall support the District in implementing its multi-hazard emergency operations plan.

Training

Each team shall complete training provided by an approved provider on evidence-based threat assessment programs.

Student Reports

Each campus shall establish a clear procedure for a student to report concerning behavior exhibited by another student for assessment by the team or other appropriate District employee.

Employee Confidentiality

A District employee who reports a potential threat may elect for the employee's identity to remain confidential and not be subject to disclosure under the state's public information law. The employee's identity shall only be revealed when necessary for the team, the District, or law enforcement to investigate the reported threat.

The District shall maintain a record of the identity of a District employee who elects for the employee's identity to remain confidential.

Imminent Threats or Emergencies

A member of the team or any District employee may act immediately to prevent an imminent threat or respond to an emergency, including contacting law enforcement directly.

Threat Assessment Process

The District shall develop procedures as recommended by the Texas School Safety Center. In accordance with those procedures, the threat assessment and safe and supportive team shall conduct threat assessments using a process that includes:

1. Identifying individuals, based on referrals, tips, or observations, whose behavior has raised concerns due to threats of violence or exhibition of behavior that is harmful, threatening, or violent.
2. Conducting an individualized assessment based on reasonably available information to determine whether the individual poses a threat of violence or poses a risk of harm to self or others and the level of risk.
3. Implementing appropriate intervention and monitoring strategies, if the team determines an individual poses a threat of harm to self or others. These strategies may include referral of a student for a mental health assessment and escalation procedures as appropriate.

For a student or other individual the team determines poses a serious risk of violence to self or others, the team shall immediately report to the Superintendent, who shall immediately attempt to contact the student's parent or guardian. Additionally, the Superintendent shall coordinate with law enforcement authorities as necessary and take other appropriate action in accordance with the District's multihazard emergency operations plan.

For a student the team identifies as at risk of suicide, the team shall follow the District's suicide prevention program.

For a student the team identifies as having a substance abuse issue, the team shall follow the District's substance abuse program.

For a student whose conduct may constitute a violation of the District's Student Code of Conduct, the team shall make a referral to the campus behavior coordinator or other appropriate administrator to consider disciplinary action.

As appropriate, the team may refer a student:

1. To a local mental health authority or health-care provider for evaluation or treatment; or
2. For a full individualized and initial evaluation for special education services.

The team shall not provide any mental health-care services, except as permitted by law.

Guidance to School Community

The team shall provide guidance to students and District employees on recognizing harmful, threatening, or violent behavior that may pose a threat to another person, the campus, or the community and methods to report such behavior to the team, including through anonymous reporting.

Reports

The team shall provide reports to the Texas Education Agency as required by law.

Trauma-Informed Care Policy

A district shall adopt and implement a policy requiring the integration of trauma-informed practices in each school environment. A district must include the policy in the district improvement plan required under Education Code 11.252 [see BQ].

The policy must address:

1. Using resources developed by the Texas Education Agency (TEA), methods for:
    a. Increasing staff and parent awareness of trauma-informed care; and
    b. Implementation of trauma-informed practices and care by district and campus staff; and
2. Available counseling options for students affected by trauma or grief.

Education Code 38.036(a)-(b)

Training

The methods for increasing awareness and implementation of trauma-informed care must include training as provided below. The training must be provided:

1. Through a program selected from the list of recommended best practice-based programs and research-based practices established under Education Code 38.351;
2. In accordance with the district professional development policy [see DMA]; and
3. As part of any new employee orientation for all new district educators.

The training must address how grief and trauma affect student learning and behavior and how evidence-based, grief-informed, and trauma-informed strategies support the academic success of students affected by grief and trauma. The training may include two or more listed topics together.

For any training under this provision, a district shall maintain records that include district staff members who participated in the training.

If a district determines that the district does not have sufficient resources to provide the training required under this provision, the district may partner with a community mental health organization to provide training that meets the requirements at no cost to the district.

Education Code 38.036(c)-(d), (f)

[For more information on mental health training for district employees, see DMA.]

Parental Consent and Review

A board shall adopt guidelines to ensure that written consent is obtained from the parent, legal guardian, or other person entitled to enroll the student under Education Code 25.001(j) for the student to participate in those activities for which parental consent is required. *Education Code 33.003*

Each school shall obtain, and keep as part of the student's permanent record, this written consent by the parent or legal guardian. The consent form shall include specific information on the content of the program and the types of activities in which the student will be involved.

Each school, before implementing a comprehensive school counseling program, shall annually conduct a preview of the program for parents and guardians. All materials, including curriculum to be used during the year that is not available digitally through an instructional material parent portal under Education Code 31.154, must be available for a parent or guardian to preview during school hours. Materials or curriculum not included in the materials on an instructional materials parent portal or available on the campus for preview may not be used.

Education Code 33.004

Child Consent to Counseling

A child may consent to counseling for:

1. Suicide prevention,
2. Chemical addiction or dependency; or
3. Sexual, physical, or emotional abuse.

Family Code 32.004(a)

[For more information about consent for mental health treatment, see FFEB.]

Comprehensive School Counseling Program

A school counselor shall work with the school faculty and staff, students, parents, and the community to plan, implement, and evaluate a comprehensive school counseling program that conforms to the most recent edition of the Texas Model for Comprehensive School Counseling Programs developed by the Texas Counseling Association.

The school counselor shall design the developmental guidance and counseling program to include:

1. A guidance curriculum to help students develop their full educational potential, including the student's interests and career objectives.

2. A responsive services component to intervene on behalf of any student whose immediate personal concerns or problems put the student's continued educational, career, personal, or social development at risk.

3. An individual planning system to guide a student as the student plans, monitors, and manages the student's own educational, career, personal, and social development.

4. System support to support the efforts of teachers, staff, parents, and other members of the community in promoting the educational, career, personal, and social development of students.

Education Code 33.005

Higher Education Counseling

Each school counselor at an elementary, middle, or junior high school shall advise students and their parents or guardians regarding the importance of postsecondary education, coursework designed to prepare students for postsecondary education, and financial aid availability and requirements.

During the first school year a student is enrolled in high school, and again during each year of a student's enrollment in high school, a school counselor shall provide information about higher education to the student and the student's parent or guardian. The information must cover:

1. The importance of postsecondary education;

2. The advantages of earning an endorsement and a performance acknowledgment and completing the distinguished level of achievement under the foundation high school program;

3. The disadvantages of taking courses to prepare for a high school equivalency examination relative to the benefits of taking courses leading to a high school diploma;

4. Financial aid eligibility;

5. Instruction on how to apply for federal financial aid;

6. The center for financial aid information established under Education Code 61.0776;

7. The automatic admission of certain students to general academic teaching institutions as provided by Education Code 51.803;

8. The eligibility and academic performance requirements for the TEXAS Grant;

9. The availability of programs in a district under which a student may earn college credit, including advanced placement programs, dual credit programs, joint high school and college credit programs, and international baccalaureate programs;

10. The availability of education and training vouchers and tuition and fee waivers to attend an institution of higher education as provided by Education Code 54.366 for a student who is or was previously in the conservatorship of the Department of Family and Protective Services; and

11. The availability of college credit awarded by institutions of higher education to veterans and military servicemembers for military experience, education, and training obtained during military service as described by the information materials developed by the commissioner in cooperation with the Texas Higher Education Coordinating Board under Labor Code 302.0031(h).

When providing information under item 10, above, the school counselor must report to the student and the student's parent or guardian the number of times the counselor has provided the information to the student.

When providing information under item 11, the school counselor must explain to any student who is enlisted or intends to enlist in the armed forces of the United States the informational materials developed under Labor Code 302.0031.

Automatic Admission

At the beginning of grades 10 and 11, a certified school counselor shall explain the requirements of automatic admission to a general academic teaching institution to each student who has a grade point average in the top 25 percent of the student's high school class. [See EIC]

Education Code 33.007; 19 TAC 61.1071

Notice of Grant Programs

In a manner that assists the district in implementing the district improvement plan, a district shall notify students in middle school, junior high school, and high school and those students' teachers, school counselors, and parents of:

1. The TEXAS Grant;

2. Teach for Texas Grant programs;

3. Future Texas Teachers Scholarship programs;

4. The eligibility requirements of each program;

5. The need for students to make informed curriculum choices to be prepared for success beyond high school; and

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

Education Code 56.308(b)(1)

Policy and Program to Address Sexual Abuse, Trafficking, and Maltreatment

A district shall provide child abuse antivictimization programs in elementary and secondary schools. *Education Code 38.004*

A district shall adopt and implement a policy addressing sexual abuse, sex trafficking, and other maltreatment of children, to be included in the district improvement plan [see BQ] and any information handbook provided to students and parents. *Education Code 38.0041(a)*

The policy included in any informational handbook provided to students and parents must address the following:

1. Methods for increasing staff, student, and parent awareness of issues regarding sexual abuse, trafficking, and other forms of maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim;
2. Actions a child who is a victim of sexual abuse, trafficking, or other maltreatment should take to obtain assistance and intervention; and
3. Available counseling options for students affected by sexual abuse, trafficking, or other maltreatment.

19 TAC 61.1051(b)(3)

Definitions

Child Abuse or Neglect — The definition of child abuse or neglect includes the trafficking of a child in accordance with Education Code 38.004.

Other Maltreatment — This term has the meaning assigned by Human Resources Code 42.002.

Trafficking of a Child — This term has the meaning assigned by Penal Code 20A.02(a)(5), (6), (7), or (8).

19 TAC 61.1051(a)

Duty to Report

Report by Any Person — Any person who has reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as required by law. *Family Code 261.101(a)*

Report by Any Professional — Any professional who has reasonable cause to believe that a child has been or may be abused or neglected shall make a report as required by law. The report must be made within 48 hours after the professional first has reasonable cause to believe that the child has been or may be abused or neglected or is the victim of an offense of indecency with a child.

A professional may not delegate to or rely on another person to make the report.

A "professional" is a person who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, juvenile probation officers, and juvenile detention or correctional officers.

Family Code 261.101(b)

Abuse of Persons with Disabilities

A person having cause to believe that a person with a disability is in a state of abuse, neglect, or exploitation shall report the information immediately to the Texas Department of Family and Protective Services (DFPS).

A person commits a Class A misdemeanor if the person has cause to believe that a person with a disability has been abused, neglected, or exploited or is in a state of abuse, neglect, or exploitation and knowingly fails to report.

A person filing a report or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of his or her petition, report, testimony, or participation, unless the person acted in bad faith or with a malicious purpose.

Human Resources Code 48.051, .052, .054

Adult Victims of Abuse

A person or professional shall make a report in the manner required above if the person or professional has reasonable cause to believe that an adult was a victim of abuse or neglect as a child and the person or professional determines in good faith that disclosure of the information is necessary to protect the health and safety of another child or an elderly person or person with a disability. *Family Code 261.101(b-1)*

Restrictions on Reporting

Psychotropic Drugs and Psychological Testing

An employee may not use or threaten to use the refusal of a parent, guardian, or managing or possessory conservator to administer or consent to the administration of a psychotropic drug to a child, or to consent to any other psychiatric or psychological testing or treatment of the child, as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal:

1. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or

2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

Education Code 26.0091; Family Code 261.111(a) [See FFEB]

Contents of Report

The report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect. The individual making the report shall identify, if known:

1. The name and address of the child;
2. The name and address of the person responsible for the care, custody, or welfare of the child;
3. The facts that caused the individual to believe the child has been abused or neglected and the source of the information;
4. The individual's name and telephone number;
5. The individual's:
    a. Home address; or
    b. If the individual is a professional as defined by Family Code 261.101(b) [see Report by Any Professional, above], the individual's business address and profession; and
6. Any other pertinent information concerning the alleged or suspected abuse or neglect.

Family Code 261.102, .104

Confidentiality of Report

A report of alleged or suspected abuse or neglect and the identity of the person making the report is confidential and not subject to release under Government Code Chapter 552 (Public Information Act) and may be disclosed only for purposes consistent with the Family Code and applicable federal or state law or under rules adopted by an investigating agency. *Family Code 261.201(a)-(a)(1)*

Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only to a law enforcement officer for the purposes of a criminal investigation of the report, or as ordered by a court under Family Code 261.201. *Family Code 261.101(d)*

Abuse and Neglect Involving School Personnel and Those Responsible for Care

If the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to DFPS, unless the report is made to a state agency under item 4, below, or the report involves a juvenile justice program or facility [see JJAEPS, below].

All other reports shall be made to:

1. Any local or state law enforcement agency;
2. DFPS, Child Protective Services (CPS) Division;
3. A local office of CPS, where available; or
4. The state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred.

Family Code 261.103(a); 19 TAC 61.1051(b)(1)-(2)

"Person responsible for a child's care, custody, or welfare" means a person who traditionally is responsible for a child's care, custody, or welfare, including:

1. A parent, guardian, managing or possessory conservator, or foster parent of the child;
2. A member of the child's family or household as defined by Family Code Chapter 71;
3. A person with whom the child's parent cohabits;
4. School personnel or a volunteer at the child's school;
5. Personnel or a volunteer at a public or private child-care facility that provides services for the child or at a public or private residential institution or facility where the child resides; or
6. An employee, volunteer, or other person working under the supervision of a licensed or unlicensed child-care facility, including a family home, residential child-care facility, employer-based day-care facility, or shelter day-care facility, as those terms are defined in Human Resources Code Chapter 42.

Family Code 261.001(5)

Reporting Abuse, Neglect, or Exploitation in a JJAEP

Any report of alleged abuse, neglect, or exploitation, as those terms are defined in Family Code 261.405, in a juvenile justice program or facility shall be made to the Texas Juvenile Justice Department and a local law enforcement agency for investigation. The term "juvenile justice program" includes a juvenile justice alternative education program. *Family Code 261.405(a)(4)(A), (b)*

Immunity from Liability

A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is

immune from any civil or criminal liability that might otherwise be incurred or imposed. *Family Code 261.106*

A district may not suspend or terminate the employment of, or otherwise discriminate against, or take any other adverse employment action against a professional who makes a good faith report of abuse or neglect. *Family Code 261.110(b)* [See DG]

Criminal Offenses

Failure to Report

A person commits a Class A misdemeanor if he or she is required to make a report under Family Code 261.101(a) [see Duty to Report, above] and knowingly fails to make a report as provided by law.

A person who is a professional commits a Class A misdemeanor if the person is required to make a report under Family Code 261.101(b) [see Duty to Report] and knowingly fails to make a report as provided by law. The professional commits a state jail felony if he or she intended to conceal the abuse or neglect.

Family Code 261.109

False Report

A person commits an offense if, with the intent to deceive, the person knowingly makes a report of abuse and neglect that is false. The offense is a state jail felony, except that it is a felony of the third degree if the person has previously been convicted of the offense. *Family Code 261.107(a)*

Coercion

A public servant, including as a school administrator, who coerces another into suppressing or failing to report child abuse or neglect to a law enforcement agency commits a Class C misdemeanor offense. *Penal Code 39.06*

SBEC Disciplinary Action

The State Board for Educator Certification (SBEC) may take any of the actions listed in 19 Administrative Code 249.15(a) (impositions, including revocation of a certificate and administrative penalties) based on satisfactory evidence that the person has failed to report or has hindered the reporting of child abuse pursuant to Family Code 261.001, or has failed to notify the SBEC, the commissioner of education, or the school superintendent or director under the circumstances and in the manner required by Education Code 21.006, 21.0062, 22.093, and 19 Administrative Code 249.14(d)-(f). *19 TAC 249.15(b)(4)*

Note: The following legal provisions address child abuse and neglect investigations generally. See GRA for additional legal provisions addressing notification requirements and right of access to students when DFPS investigates reports of abuse and neglect at school. See 40 Administrative Code Chapter 707, Subchapter B for more information regarding investigations of abuse or neglect in a school setting.

Investigations

Reports to District

If DFPS initiates an investigation and determines that the abuse or neglect involves an employee of a public elementary or secondary school, and that the child is a student at the school, the department shall orally notify the superintendent of the district in which the employee is employed. *Family Code 261.105(d)*

On request, DFPS shall provide a copy of the completed report of its investigation to the board, the superintendent, and the school principal, unless the principal is alleged to have committed the abuse or neglect. The report shall be edited to protect the identity of the person who made the report. *Family Code 261.406(b)*

Interview of Student

The investigating agency shall be permitted to interview the child at any reasonable time and place, including at the child's school. *Family Code 261.302(b)* [See GRA]

Interference with Investigation

A person may not interfere with an investigation of a report of child abuse or neglect conducted by DFPS. *Family Code 261.303(a)*

Confidentiality

A photograph, videotape, audiotape, or other audio or visual recording, depiction, or documentation of a child that is made by DFPS in the course of an inspection or investigation is confidential, is not subject to release under the Public Information Act, and may be released only as required by state or federal law or rules adopted by the DFPS. *Human Resources Code 42.004*

Reporting Policy

A board shall adopt and annually review policies for reporting child abuse and neglect. The policies shall follow the requirements of Family Code Chapter 261. *19 TAC 61.1051(b)*

The policies must require every school employee, agent, or contractor who suspects a child's physical or mental health or welfare has been adversely affected by abuse or neglect to submit a written or oral report to at least one of the authorities listed above [see To Whom Reported, above] within 48 hours or less, as determined by the board, after learning of facts giving rise to the suspicion. *19 TAC 61.1051(b)(1)*

The policies must be consistent with the Family Code Chapter 261 and 40 Administrative Code Chapter 700 (CPS) regarding investigations by DFPS, including regulations governing investigation of abuse by school personnel and volunteers. [See GRA]

The policies must require a report to DFPS if the alleged abuse or neglect involves a person responsible for the care, custody, or welfare of the child and must notify school personnel of the following:

1. Penalties under Penal Code 39.06 (misuse of official information), Family Code 261.109 (failure to report), and 19 Administrative Code Chapter 249 (actions against educator's certificate) for failure to submit a required report of child abuse or neglect;
2. Applicable prohibitions against interference with an investigation of a report of child abuse or neglect, including:
    a. Family Code 261.302 and 261.303, prohibiting school officials from denying an investigator's request to interview a student at school; and
    b. Family Code 261.302, prohibiting school officials from requiring the presence of a parent or school administrator during an interview by an investigator.
3. Immunity provisions applicable to a person who reports child abuse or neglect or otherwise assists an investigation in good faith;
4. Confidentiality provisions relating to a report of suspected child abuse or neglect;
5. Any disciplinary action that may result from noncompliance with a district's reporting policy; and
6. The prohibition under Education Code 26.0091 [see Psychotropic Drugs and Psychological Testing, above].

19 TAC 61.1051(b)(2)

The policies may not require that school personnel report suspicions of child abuse or neglect to a school administrator before making a report to one of the agencies listed above.

The policies must:

1. Include the current toll-free number for DFPS;
2. Provide for cooperation with law enforcement child abuse investigations without the consent of the child's parent, if necessary, including investigations by DFPS; and

3. Include child abuse anti-victimization programs in elementary and secondary schools consisting of age-appropriate, research-based prevention designed to promote self-protection and prevent sexual abuse and trafficking.

19 TAC 61.1051(b)(5)-(b)(8)

Annual Distribution and Staff Development

The policies required by these provisions and adopted by the board shall be distributed to all personnel at the beginning of each school year. The policies shall be addressed in staff development programs at regular intervals determined by a board. *19 TAC 61.1051(c)* [See also DH and GRA]

[For training requirements under these provisions, see DMA.]

Required Poster

Using a format and language that is clear, simple, and understandable to students, each public school shall post, in English and in Spanish:

1. The current toll-free DFPS Abuse Hotline telephone number;
2. Instructions to call 911 for emergencies; and
3. Directions for accessing the DFPS Texas Abuse Hotline website[1] for more information on reporting abuse, neglect, and exploitation.

A district shall post the information specified above at each school campus in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The information must be on a poster (11x17 inches or larger) in large print and placed at eye-level to the student for easy viewing. Additionally, the current toll-free Texas Department of Family and Protective Services Abuse Hotline telephone number should be in bold print.

Education Code 38.0042; 19 TAC 61.1051(e)-(f)

[1] Texas Abuse Hotline website: https://www.txabusehotline.org/

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Note: For information regarding law enforcement and schools, see GRAA. For information regarding juvenile law enforcement records, see GBA.

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. *20 U.S.C. 1232g; Health and Safety Code 36.006, 37.003, 95.004; 25 TAC 37.145(b)* [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. [See FD]

Education Code 25.0022(d)-(f)

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 per-

sonnel 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 must 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 shall serve as the academic record for each student and must be maintained permanently by the district. A district must ensure that copies of the record are made available for a student transferring from one district to another. To ensure appropriate placement of a transfer student, a district must respond promptly to each request for student records from a receiving district. *19 TAC 74.5(b)-(c)* [See EI]

Enrollment Records

For information on enrollment records, see FD.

Access, Disclosure, and Amendment

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.

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.

Biometric Record

"Biometric record" means 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).

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.

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.

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 social security number, student number, or biometric record;
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.

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)

Disclosure With Consent

The parent or eligible student shall provide a signed and dated written consent before a district discloses personally identifiable information from a student's education records, except as provided by 34 C.F.R. 99.31. The written consent must specify the records that may be disclosed, state the purpose of the disclosure, and identify the part or class or parties to whom the disclosure may be made.

When a disclosure is made under written consent, if a parent or eligible student requests, the district shall provide a copy of the records disclosed and if the parent of a student who is not an eligible student requests, the district shall provide the student with a copy of the records disclosed.

34 C.F.R. 99.30(a)-(c)

Access by Parents

A district shall give full rights under these provisions to either parent, unless the district has been provided with evidence that there is a court order, state statute, or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes these rights. *34 C.F.R. 99.4*

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. *Family Code 153.012*

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, reports of behavioral patterns, and records relating to assistance provided for learning difficulties, including information collected regarding any intervention strategies used with the child.

"Intervention strategy" means a strategy in a multi-tiered system of supports that is above the level of intervention generally used in that system with all children. The term includes response to intervention and other early intervening strategies.

Education Code 26.004

If the education records of a student contain information on more than one student, the parent or eligible student may inspect and review or be informed of only the specific information about that student. *34 C.F.R. 99.12(a)*

Access by Student

"Eligible student" means a student who has reached 18 years of age or is attending an institution of postsecondary education. *34 C.F.R. 99.*3

When a student becomes an eligible student, the rights accorded to, and consent required of, parents under these provisions transfer from the parents to the student.

Nothing in this provision 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, .31(a)(8), (a)(10), .36

Disclosure Without Consent

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

School officials, including teachers, who have legitimate educational interests.

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:

1. Performs an institutional service or function for which the district would otherwise use employees;
2. Is under the direct control of the district with respect to the use and maintenance of education records; and
3. 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 compliance with the legitimate educational interest requirement.

34 C.F.R. 99.31(a)(1)

An administrator, nurse, or teacher is entitled to access to a student's medical records maintained by a district for reasons determined by district policy. *Education Code 38.009*

Officials of Other Schools

Officials of educational agencies or institutions, including officials of another school or institution of postsecondary education 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 shall:

1. Make a reasonable attempt to notify the parent or eligible student at the last known address of the parent or eligible student, unless:
    a. The disclosure is initiated by the parent or eligible student; or
    b. The annual notification under 34 C.F.R. 99.7 includes a notice that the district forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll or is already enrolled so long as the disclosure is for the purposes related to the student's enrollment or transfer;
2. Give the parent or eligible student, upon request, a copy of the record that was disclosed; and
3. Give the parent or eligible student, upon request, an opportunity for a hearing under 34 C.F.R. Part 99, Subpart C.

34 C.F.R. 99.31(a)(2), .34

Authorized Government Representatives

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)(1)*

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(g), or any corresponding regulation. *8 C.F.R. 214.1(h); 8 U.S.C. 1372(c)(2)*

Financial Aid Personnel

Personnel involved with a student's application for, or receipt of, financial aid. *34 C.F.R. 99.31(a)(4)(i)*

Juvenile Justice Officials

State and local officials to whom such information is specifically allowed to be reported or disclosed by state statute if:

1. 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
2. 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.

34 C.F.R. 99.31(a)(5)(i), .38

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

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 in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization that 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:

1. Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
2. 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;
3. 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
4. Requires the organization to destroy all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted 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.

34 C.F.R. 99.31(a)(6)(i)-(iv)

Accrediting Organizations

Accrediting organizations to carry out their accrediting functions. *34 C.F.R. 99.31(a)(7)*

Health or Safety Emergency

Appropriate parties, including the student's parents, in connection with an emergency if the knowledge of the information is necessary to protect the health or safety of the student or other individuals.

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 United States Department of Education (U.S. ED) will not substitute its judgment for that of the district in evaluating the circumstances and making its determination.

34 C.F.R. 99.31(a)(10), .36(a),(c)

Agriculture Secretary

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 [see COB] for which the results will be reported in an aggregate form, on the conditions as follows:

1. Any data collected under this paragraph shall be protected in a manner that will not permit the personal identification of students and their parents by other than the authorized representatives of the United Stated Secretary of Education; and

2. Any personally identifiable data shall be destroyed when the data are no longer needed for program monitoring, evaluations, and performance measurements.

20 U.S.C. 1232g(b)(1)(K)

Child Welfare Agency

An agency caseworker or other representative of a state or local child welfare agency or tribal organization, who has the right to access a student's case plan, as defined and determined by the state or tribal organization, when the agency or organization is legally responsible, in accordance with state or tribal law, for the care and protection of the student. Education records, or the personally identifiable information contained in such records, of the student shall not be disclosed by the agency or organization, except to an individual or entity engaged in addressing the student's education needs and authorized by the agency or organization to receive the disclosure. A disclosure must be consistent with state or tribal laws applicable to protecting the confidentiality of a student's education records. *20 U.S.C. 1232g(b)(1)(L)*

Directory Information

Any person requesting directory information after a district has given public notice of that definition. [See Directory Information, below] *34 C.F.R. 99.37*

Subpoenaed Records

A district shall release student records in compliance with a judicial order, or pursuant to any lawfully issued subpoena, except when a parent is a party to a court proceeding involving child abuse and neglect (as defined in section 3 of the Child Abuse Prevention and Treatment Act [42 U.S.C. 5101 note]) or dependency matters, and the order is issued in the context of that proceeding, additional notice to the parent by the educational agency or institution is not required. *20 U.S.C. 1232g(b)(1)(J), (b)(2)(B)*

The educational agency or institution may disclose information under this section only if the agency or institution makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so that the parent or eligible student may seek protective action, unless the disclosure is in compliance with:

1. A federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed;

2. Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or

3. An ex parte court order obtained by the United States 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.

If the district initiates legal action against a parent or student, the district may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the district to proceed with the legal action as plaintiff.

If a parent or eligible student initiates legal action against a district, the district may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the district to defend itself.

34 C.F.R. 99.31(a)(9)

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. *34 C.F.R. 99.31(a)(16)*

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, but not more than 45 days after it has received the request. A district shall respond to reasonable requests for explanations and interpretations of the records. *34 C.F.R. 99.10*

Records Destruction

A district shall not destroy any education records if there is an outstanding request to inspect and review the records. *34 C.F.R. 99.10(e)*

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. *34 C.F.R. 99.31(b)(1)*

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.

34 C.F.R. 99.31(b)(2)

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(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 or fails to destroy the information as required by 20 U.S.C. 1232g(b)(1)(F), 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

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 re-

questing 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); 34 C.F.R. 99.33(a)(2)*

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

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 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 in-

form the parent of its decision and his or her right to a hearing to challenge the content of the student's education records. *34 C.F.R. 99.20*

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. 99.21*

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 a copy of education records which is made for the parent or an eligible student, unless the imposition of a fee effectively prevents a parent or eligible student from exercising the right to inspect and review those records. *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*

Record Types and Locations

A district shall provide parents on request a list of types and locations of education records. *34 C.F.R. 300.616*

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. *34 C.F.R. 300.622*

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. *34 C.F.R. 300.623*

Information Destruction 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.

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.

34 C.F.R. 300.624

Annual Notification of Rights A district shall give parents of students in attendance and eligible students in attendance annual notification of their rights under FERPA.

The notice must inform parents or eligible students that they have the right to:

1. Inspect and review the student's education records;
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;
3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the Act and 34 C.F.R. 99.31 authorize disclosure without consent; and

4. File with the U.S. ED 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

Directory Information

"Directory Information" Defined

"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.

34 C.F.R. 99.3

Disclosure of Directory Information

A district may release directory information if it has given public notice to parents of students in attendance and eligible students in attendance at the district of:

1. The types of personally identifiable information that it has designated as directory information.
2. A parent's or eligible student's right to refuse to let the district designate any or all of those types of information about the student as directory information.
3. The period of time within which the parent has to 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.

Restrictions on the Right of Refusal

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 email address in a class in which the student is enrolled or to prevent a district from requiring a student to wear, to display publicly, or to disclose a student ID card or badge that exhibits information that may be designated as directory information and that has been properly designated by the district as directory information in the public notice provided under this section.

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)*

Directory Information Designation

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 (Public Information Act). [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

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 implementing an opt-in process or any other process other than the written consent request process above.

20 U.S.C. 7908

A district shall:

1. Provide to military recruiters the same access to secondary school students as is provided generally to postsecondary educational institutions or to prospective employers of those students; and

2. Upon a request made by military recruiters for military recruiting purposes, provide access to secondary school student names, addresses, electronic mail addresses (which shall be the electronic mail addresses provided by the school, if available), and telephone listings, notwithstanding directory information requirements in FERPA [see above].

A district shall notify parents of their right to submit a request to the district that the student's name, address, electronic mail address, and telephone listing not be released.

10 U.S.C. 503(c)(1)(A)-(B) [See also GKC]

Videotapes and Recordings

For information about videotaping or audio recording a child, see FA.

Comprehensive System

The Superintendent shall develop and maintain a comprehensive system of student records and reports dealing with all facets of the school program operation and shall ensure through reasonable procedures that records are accessed by authorized persons only, as allowed by this policy. These data and records shall be stored in a safe and secure manner and shall be conveniently retrievable for use by authorized school officials.

Cumulative Record

A cumulative record shall be maintained for each student from entrance into District schools until withdrawal or graduation from the District.

This record shall move with the student from school to school and be maintained at the school where currently enrolled until graduation or withdrawal. Records for nonenrolled students shall be retained for the period of time required by law. No permanent records may be destroyed without explicit permission from the Superintendent. [See CPC]

Custodian of Records

The principal is custodian of all records for currently enrolled students. The Superintendent is the custodian of records for students who have withdrawn or graduated. The student handbook made available to all students and parents shall contain a listing of the addresses of District schools, as well as the Superintendent's business address.

Types of Education Records

The record custodian shall be responsible for the education records of the District. These records may include:

1. Admissions data, personal and family data, including certification of date of birth.
2. Standardized test data, including intelligence, aptitude, interest, personality, and social adjustment ratings.
3. All achievement records, as determined by tests, recorded grades, and teacher evaluations.
4. All documentation regarding a student's testing history and any accelerated instruction he or she has received, including any accelerated education plan developed for the student.
5. Health services record, including:
    a. The results of any tuberculin tests required by the District.
    b. The findings of screening or health appraisal programs the District conducts or provides. [See FFAA]
    c. Immunization records. [See FFAB]

6. Attendance records.
7. Student questionnaires.
8. Records of teacher, school counselor, or administrative conferences with the student or pertaining to the student.
9. Verified reports of serious or recurrent behavior patterns.
10. Copies of correspondence with parents and others concerned with the student.
11. Records transferred from other districts in which the student was enrolled.
12. Records pertaining to participation in extracurricular activities.
13. Information relating to student participation in special programs.
14. Records of fees assessed and paid.
15. Records pertaining to student and parent complaints.
16. Other records that may contribute to an understanding of the student.

Access by Parents

The District shall make a student's records available to the student's parents, as permitted by law. The records custodian or designee shall use reasonable procedures to verify the requester's identity before disclosing student records containing personally identifiable information.

Records may be reviewed in person during regular school hours without charge upon written request to the records custodian. For in-person viewing, the records custodian or designee shall be available to explain the record and to answer questions. The confidential nature of the student's records shall be maintained at all times, and records to be viewed shall be restricted to use only in the Superintendent's, principal's, or school counselor's office, or other restricted area designated by the records custodian. The original copy of the record or any document contained in the cumulative record shall not be removed from the school.

Copies of records are available at a per copy cost, payable in advance. Copies of records must be requested in writing. Parents may be denied copies of records if they fail to follow proper procedures or pay the copying charge. If the student qualifies for free or reduced-price lunches and the parents are unable to view the records during regular school hours, upon written request of a parent, one copy of the record shall be provided at no charge.

A parent may continue to have access to his or her child's records under specific circumstances after the student has attained 18 years of age or is attending an institution of postsecondary education. [See FL(LEGAL)]

Access by School Officials

A school official shall be allowed access to student records if he or she has a legitimate educational interest in the records.

For the purposes of this policy, "school officials" shall include:

1. An employee, Board member, or agent of the District, including an attorney, a consultant, a contractor, a volunteer, a school resource officer, and any outside service provider used by the District to perform institutional services.
2. An employee of a cooperative of which the District is a member or of a facility with which the District contracts for placement of students with disabilities.
3. A contractor retained by a cooperative of which the District is a member or by a facility with which the District contracts for placement of students with disabilities.
4. A parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.
5. A person appointed to serve on a team to support the District's safe and supportive school program.

All contractors provided with student records shall follow the same rules as employees concerning privacy of the records and shall return the records upon completion of the assignment.

A school official has a "legitimate educational interest" in a student's records when he or she is:

1. Working with the student;
2. Considering disciplinary or academic actions, the student's case, or an individualized education program for a student with disabilities;
3. Compiling statistical data;
4. Reviewing an education record to fulfill the official's professional responsibility; or
5. Investigating or evaluating programs.

Transcripts and Transfers of Records

The District may request transcripts from previously attended schools for students transferring into District schools; however, the

ultimate responsibility for obtaining transcripts from sending schools rests with the parent or student, if 18 or older.

For purposes of a student's enrollment or transfer, the District shall promptly forward in accordance with the timeline provided in law education records upon request to officials of other schools or school systems in which the student intends to enroll or enrolls. [See FD(LEGAL), Required Documentation] The District may return an education record to the school identified as the source of the record.

Records Responsibility for Students in Special Education

The special education director shall be responsible for ensuring the confidentiality of any personally identifiable information in records of students in special education.

A current listing of names and positions of persons who have access to records of students in special education is maintained at the District special education office.

Procedure to Amend Records

Within 15 District business days of the record custodian's receipt of a request to amend records, the District shall notify the parents in writing of its decision on the request and, if the request is denied, of their right to a hearing. If a hearing is requested, it shall be held within 10 District business days after the request is received.

Parents shall be notified in advance of the date, time, and place of the hearing. An administrator who is not responsible for the contested records and who does not have a direct interest in the outcome of the hearing shall conduct the hearing. The parents shall be given a full and fair opportunity to present evidence and, at their own expense, may be assisted or represented at the hearing.

The parents shall be notified of the decision in writing within 10 District business days of the hearing. The decision shall be based solely on the evidence presented at the hearing and shall include a summary of the evidence and reasons for the decision. If the decision is to deny the request, the parents shall be informed that they have 30 District business days within which to exercise their right to place in the record a statement commenting on the contested information and/or stating any reason for disagreeing with the District's decision.

Directory Information

Directory information for District students has been classified into two separate categories:

1. Items for use only for school-sponsored purposes; and
2. Items for all other purposes.

School-Sponsored Purposes	For the following school-sponsored purposes — all District publications and announcements — directory information shall include student name; address; telephone listing; electronic mail address; photograph; date and place of birth; degrees, honors, and awards received; dates of attendance; grade level; most recent school previously attended; enrollment status; participation in officially recognized activities and sports; and weight and height of members of athletic teams.
All Other Purposes	For all other purposes, directory information shall include student name; address; telephone listing; degrees, honors, and awards received; grade level; and participation in officially recognized activities and sports.

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UIL Rules and District Policies

A student enrolled in a district or who participates in an extracurricular activity or a University Interscholastic League (UIL) competition is subject to district policy and UIL rules regarding participation only when the student is under the direct supervision of an employee of the school or district in which the student is enrolled or at any other time specified by resolution of a board. *Education Code 33.081(b)* [See FO regarding additional standards of conduct for extracurricular activities]

Athletic Activities

UIL Forms

Each student participating in an extracurricular athletic activity must complete the UIL forms entitled "Preparticipation Physical Evaluation—Medical History" and "Acknowledgement of Rules." Each form must be signed by both the student and the student's parent or guardian. *Education Code 33.203(a)*

Notices

Each school that offers an extracurricular athletic activity shall:

1. Prominently display at its administrative offices the telephone number and electronic mail address that the commissioner of education maintains for reporting violations of Education Code Chapter 33, Subchapter F; and
2. Provide each student participant and the student's parent or guardian a copy of the text of Education Code 33.201-33.207 and a copy of the UIL's parent information manual. The document may be provided in an electronic format unless otherwise requested.

Education Code 33.207(b), .208

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 enrolled in the district who is required to receive safety training.

A campus that is determined by the superintendent to be out of compliance with the safety training requirements or the requirements regarding unsafe practices and safety precautions (see below) shall be subject to the range of penalties determined by the UIL.

Education Code 33.206

Unsafe Practices

A coach, trainer, or sponsor for an extracurricular athletic activity may not encourage or permit a student participant to engage in any unreasonably dangerous athletic technique that unnecessarily endangers the health of a student, including using a helmet or any other sports equipment as a weapon. *Education Code 33.204*

Safety Precautions

A coach, trainer, or sponsor for an extracurricular athletic activity shall at each athletic practice or competition ensure that:

1. Each student participant is adequately hydrated;
2. Any prescribed asthma medication for a student participant is readily available to the student;
3. Emergency lanes providing access to the practice or competition area are open and clear; and
4. Heatstroke prevention materials are readily available.

If a student participating in a practice or competition becomes unconscious during the activity, the student may not:

1. Return to the activity during which the student became unconscious; or
2. Participate in any extracurricular athletic activity until the student receives written authorization for such participation from a physician.

Education Code 33.205

Concussions

"Interscholastic athletic activity" includes practice and competition, sponsored or sanctioned by a district, including a home-rule district, or a public school, including any school for which a charter has been granted under Education Code Chapter 12, or the UIL. *Education Code 38.152*

"Concussion" means a complex pathophysiological process affecting the brain caused by a traumatic physical force or impact to the head or body, which may include temporary or prolonged altered brain function resulting in physical, cognitive, or emotional symptoms or altered sleep patterns, and involve loss of consciousness. *Education Code 38.151(4)*

Concussion Oversight Team

The board of a district with students enrolled who participate in an interscholastic athletic activity shall appoint or approve a concussion oversight team. *Education Code 38.153(a)*

Each concussion oversight team must include at least one physician and, to the greatest extent practicable, considering factors including the population of the metropolitan statistical area in which the district is located, district enrollment, and the availability of and access to licensed health-care professionals in the district or charter school area, must also include one or more of the following: an athletic trainer, an advanced practice nurse, a neuropsychologist, or a physician assistant. If a district employs an athletic trainer, the athletic trainer must be a member of the concussion oversight

team. If a district employs a school nurse, the school nurse may be a member of the district concussion oversight team if requested by the school nurse.

A district may include a licensed chiropractor or physical therapist as a member of the district concussion oversight team, provided that the person meets the training requirements.

Education Code 38.154

Training Requirements

Each member of the concussion oversight team must have had training in the evaluation, treatment, and oversight of concussions at the time of appointment or approval as a member of the team. The members also must take a training course at least once every two years and submit proof of timely completion to the superintendent or designee in accordance with Education Code 38.158. *Education Code 38.154(c), .158(f)*

A school nurse or licensed health-care professional who is not in compliance with these training requirements may not serve on a concussion oversight team in any capacity. *Education Code 38.158(g)*

Return-to-Play Protocol

Each concussion oversight team shall establish a return-to-play protocol, based on peer-reviewed scientific evidence, for a student's return to interscholastic athletics practice or competition following the force or impact believed to have caused a concussion. *Education Code 38.153(b)*

Required Annual Form

A student may not participate in an interscholastic athletic activity for a school year until both the student and the student's parent or guardian or another person with legal authority to make medical decisions for the student have signed a form for that school year that acknowledges receiving and reading written information that explains concussion prevention, symptoms, treatment, and oversight and that includes guidelines for safely resuming participation in an athletic activity following a concussion. The form must be approved by the UIL. *Education Code 38.155*

Removal from Play

A student shall be removed from an interscholastic athletics practice or competition immediately if one of the following persons believes the student might have sustained a concussion during the practice or competition: a coach; a physician; a licensed health-care professional, as defined by Education Code 38.151(5); a licensed chiropractor or physical therapist; a school nurse; or the student's parent or guardian or another person with legal authority to make medical decisions for the student. *Education Code 38.156*

Return to Play

A student removed from an interscholastic athletics practice or competition under Education Code 38.156 may not be permitted to

practice or compete again following the force or impact believed to have caused the concussion until:

1. The student has been evaluated, using established medical protocols based on peer-reviewed scientific evidence, by a treating physician chosen by the student or the student's parent or guardian or another person with legal authority to make medical decisions for the student;

2. The student has successfully completed each requirement of the return-to-play protocol established under Education Code 38.153 necessary for the student to return to play;

3. The treating physician has provided a written statement indicating that, in the physician's professional judgment, it is safe for the student to return to play; and

4. The student and the student's parent or guardian or another person with legal authority to make medical decisions for the student have acknowledged that the student has completed the requirements of the return-to-play protocol necessary for the student to return to play, have provided the treating physician's written statement to the person responsible for compliance with the return-to-play protocol and the person who has supervisory responsibilities, and have signed a consent form indicating that the person signing:

    a. Has been informed concerning and consents to the student participating in returning to play in accordance with the return-to-play protocol;

    b. Understands the risks associated with the student returning to play and will comply with any ongoing requirements in the return-to-play protocol;

    c. Consents to the disclosure to appropriate persons, consistent with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, of the treating physician's written statement and, if any, the return-to-play recommendations of the treating physician; and

    d. Understands the immunity provisions under Education Code 38.159.

A coach of an interscholastic athletics team may not authorize a student's return to play.

The superintendent or designee shall supervise an athletic trainer or other person responsible for compliance with the return-to-play

protocol. The person who has supervisory responsibilities may not be a coach of an interscholastic athletics team.

Education Code 38.157

Immunity

These provisions do not:

1. Waive any immunity from liability of a district or of district officers or employees;
2. Create any liability for a cause of action against a district or against district officers or employees;
3. Waive any immunity from liability under Civil Practice and Remedies Code 74.151; or
4. Create any cause of action or liability for a member of a concussion oversight team arising from the injury or death of a student participating in an interscholastic athletics practice or competition, based on service or participation on the concussion oversight team.

Education Code 38.159

Football Helmet Safety Requirements

A district may not use a football helmet that is 16 years old or older in the district's football program. A district shall ensure that each football helmet used in the district's football program that is 10 years old or older is reconditioned at least once every two years.

A district shall maintain and make available to parents of students enrolled in the district documentation indicating the age of each football helmet used in the district's football program and the dates on which each helmet is reconditioned.

Education Code 33.094(a)-(c)

Steroid Testing

The UIL shall adopt rules for the annual administration of a steroid testing program under which high school students participating in an athletic competition sponsored or sanctioned by the league are tested at multiple times throughout the year for the presence of steroids [see FNF].

Results of such steroid tests are confidential and, unless required by court order, may be disclosed only to the student and the student's parent and the activity directors, principal, and assistant principals of the school attended by the student.

Education Code 33.091(d)-(e)

Cardiac Assessment

A district must provide a district student who is required under UIL rule or policy to receive a physical examination before being allowed to participate in an athletic activity sponsored or sanctioned

by the UIL, information about sudden cardiac arrest and electrocardiogram testing and notification of the option of the student to request the administration of an electrocardiogram, in addition to the physical examination.

A student may request an electrocardiogram from any health-care professional, including a health-care professional provided through a district program, provided that the health-care professional is appropriately licensed in Texas and authorized to administer and interpret electrocardiograms under the health-care professional's scope of practice, as establish by the health-care professional's Texas licensing act.

Immunity

These provisions do not create a cause of action or liability or a standard of care, obligation, or duty that provides a basis for a cause of action or liability against a health-care professional described in the provision, the UIL, a district, or a district officer or employee for:

1. The injury or death of a student participating in or practicing for an athletic activity sponsored or sanctioned by the UIL based on or in connection with the administration or interpretation of or reliance on an electrocardiogram; or
2. The content or distribution of the information required under these provisions or the failure to distribute the required information.

Education Code 33.096

Safety of Official

A district that holds an extracurricular athletic activity or a UIL athletic competition on district property shall provide a peace officer, a school resource officer, an administrator, or security personnel to ensure the safety of a referee, judge, or other official of the activity or competition until the official departs district property if:

1. A participant or spectator of the activity or competition engages in, attempts to engage in, or threatens violent conduct against the official or otherwise disrupts the duties or free movement of the official; or
2. The district reasonably suspects that an incident described above may occur at the activity or competition.

Education Code 33.099

[For information regarding the suspension of an individual who causes bodily injury to an official, see Suspension for Certain Conduct Involving Extracurricular Officials and Spectator Suspension, below.]

Interscholastic Athletic Competition Based on Biological Sex	An interscholastic athletic team sponsored or authorized by a district may not allow a student to compete in an interscholastic athletic competition sponsored or authorized by the district that is designated for the biological sex opposite to the student's biological sex as correctly stated on the student's official birth certificate, as described below, or if the student's official birth certificate is unobtainable, another government record.
Exception	An interscholastic athletic team sponsored or authorized by a district may allow a female student to compete in an interscholastic athletic competition that is designated for male students if a corresponding interscholastic athletic competition designated for female students is not offered or available.
Birth Certificate Statement	For purposes of this provision, a statement of a student's biological sex on the student's official birth certificate is considered to have correctly stated the student's biological sex only if the statement was entered at or near the time of the student's birth or modified to correct any type of scrivener or clerical error in the student's biological sex.
	Education Code 33.0834
Water Activities	
Definitions	“Body of water” means an artificial or natural body of water, including a swimming pool, lake, or river, typically used for recreational swimming, bathing, or play. The term does not include a wading pool. “Child” means an individual younger than 12 years of age. “Organized water activity” means an activity an organization conducts in which a participant will enter or travel on a body of water as part of the activity. “Wading pool” means a pool, including a pool that contains a public interactive water feature and fountain as defined by department rule, with a maximum water depth of not more than 18 inches.
Parent Affirmation	An organization, including a school, that authorizes a child to engage in an organized water activity shall require the child’s parent or legal guardian to affirm in writing whether the child is able to swim or is at risk of injury or death when swimming or otherwise accessing a body of water.
Flotation Device Required	The organization shall provide to each child who is unable to swim or is at risk of injury or death when swimming or otherwise entering a body of water a properly fitted and fastened Type I, II, or III United States Coast Guard approved personal flotation device or a device the executive commissioner of Texas Health and Human Services determines is equivalent. The organization shall ensure

the child is wearing the personal flotation device and the device is properly fitted and fastened for the child.

The organization is not required to provide a child with a flotation device or ensure the child is wearing the device if the child is actively participating in swim instruction or a competition and the organization ensures each child participating in the instruction or a competition is closely supervised during the instruction or competition.

Failure to Comply

An organization that violates this provision or rules adopted under this provision is subject to disciplinary action.

Health and Safety Code 341.0646(a)-(e)

Rodeos

This section applies only to a primary or secondary school that sponsors, promotes, or otherwise is associated with a rodeo in which children who attend the school are likely to participate.

"Rodeo" means an exhibition or competition, without regard to whether the participants are compensated, involving activities related to cowboy skills, including:

1. Riding a horse, with or without a saddle, with the goal of remaining on the horse while it attempts to throw off the rider;
2. Riding a bull;
3. Roping an animal, including roping as part of a team;
4. Wrestling a steer; and
5. Riding a horse in a pattern around preset barrels or other obstacles.

Educational Program

A primary or secondary school to which this section applies shall, before the first rodeo associated with the school in each school year, conduct a mandatory educational program on safety, including the proper use of protective gear, for children planning to participate in the rodeo, in accordance with 25 Administrative Code 104.4. The educational program may consist of an instructional video, subject to the Department of State Health Services approval.

Restriction on Participation

A child may not participate in a rodeo associated with the child's school during a school year unless the child has completed the educational program not more than one year before the first day of the rodeo.

Protective Gear for Bull Riding

A child may not engage in bull riding, including engaging in bull riding outside a rodeo for the purpose of practicing bull riding, unless

the child is wearing a protective vest and bull riding helmet in accordance with 25 Administrative Code 104.3.

Health and Safety Code 768.001(6), .003; 25 TAC 104.2-.4

Eligibility

A student otherwise eligible to participate in an extracurricular activity or a UIL competition is not ineligible because the student is enrolled in a course offered for joint high school and college credit, or in a course offered under a concurrent enrollment program, regardless of the location at which the course is provided. *Education Code 33.087*

Military Dependents

The district shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified. *Education Code 162.002 art. VI, § B* [See FDD]

Attendance and Participation

The State Board of Education (SBOE) by rule shall limit participation in and practice for extracurricular activities during the school day and the school week.

The board of a district may adopt a policy establishing the number of times a student who is otherwise eligible to participate in an extracurricular activity may be absent from class to participate in an extracurricular activity sponsored or sanctioned by the district, UIL, or an organization sanctioned by board resolution. The policy must permit a student to be absent from class at least 10 times during the school year, and the policy prevails over any conflicting policy adopted by the SBOE.

Education Code 33.081(a), .0811

SBOE Rules

The following provisions apply to any UIL activity.

Other organizations requiring student participation that causes a student to miss a class may request sanction from a board. If sanctioned by resolution of the board, student participation in the organization's activities shall be subject to all provisions of statute and to 19 Administration Code 76.1001. If a board does not grant sanction, any absences incurred by a student while participating with that organization's activities shall be subject to the attendance provisions of the Education Code. *19 TAC 76.1001(f)* [See FEB]

Extracurricular Activities

An extracurricular activity is an activity sponsored by the UIL, a board, or an organization sanctioned by board resolution. The activity is not necessarily directly related to instruction of the essential knowledge and skills but may have an indirect relation to some areas of the curriculum.

Extracurricular activities include, but are not limited to, public performances, contests, demonstrations, displays, and club activities. In addition, an activity is subject to this policy if any one of the following criteria applies:

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

Exceptions

Public Performances

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

1. The general public is invited; and
2. The requirement for student participation in public is stated in the essential knowledge and skills of the course.

State-Approved Music Courses

A student ineligible to participate in an extracurricular activity, but who is enrolled in a state-approved music course that participates in UIL Concert and Sight-Reading Evaluation, may perform with the ensemble during the UIL evaluation performance.

19 TAC 76.1001(a)

Limits on Participation and Practice

During the School Week

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

1. For any given extracurricular activity, a student may not participate in more than one activity per school week, excluding holidays, except as provided in item 2, below.
2. A student may also participate in a tournament or post-district contest, as well as a contest postponed by weather or public disaster that may determine advancement to a post-district level of competition.
3. For each extracurricular activity, a district must limit students to a maximum of eight hours of practice and rehearsal outside the school day per school week.
4. The commissioner recommends that districts avoid scheduling extracurricular activities or public performances on the day

or evening immediately preceding the day on which the statewide student assessment program is scheduled for grades 3-11.

19 TAC 76.1001(d); Education Code 33.081(a)

During the School Day

Limitations on practice and rehearsal during the school day shall be as follows:

1. A district must limit a student to one period of practice during the regularly scheduled school day for practice of extracurricular activities, such as athletics, drill team, or cheerleading.
2. The limit in item 1 does not prohibit a student from enrolling in any state-approved class. A student who is enrolled in a state-approved class that includes essential knowledge and skills that relate to the preparation for an extracurricular activity may practice that extracurricular activity for no more than one period during the school day.
3. A student may not be permitted to miss a scheduled academic class to practice for an unrelated extracurricular activity.
4. A district must limit extracurricular practice during the school day to ensure that class periods for extracurricular practice do not exceed the time allotted for other class periods.
5. Regardless of the schedule type in place (traditional or nontraditional), a school may elect to practice extracurricular activities daily, provided the total minutes allowed for the extracurricular practice is not greater than 300 minutes during the school week.

19 TAC 76.1001(e); Education Code 33.081(a)

Record of Absences

A district shall maintain an accurate record of extracurricular absences for each student in the district each school year. *19 TAC 76.1001(c)*

Students Receiving Outpatient Mental Health Services

A district may not adopt or enforce policies that restrict participation in UIL activities by a student who receives outpatient mental health services from a mental health facility and is enrolled in the district or otherwise receives public education services from a district based solely on the student's receipt of outpatient mental health services from a mental health facility or the student's absence during instructional time while receiving outpatient mental health services from a mental health facility.

This provision does not exempt a student to whom this section applies from any eligibility requirement for participation in UIL activi-

ties other than an eligibility requirement based solely on the criteria of receipt of outpatient mental health services from a mental health facility.

Education Code 33.0833(c)-(d)

Participation by Homeschooled Students

A public school that participates in an activity sponsored by UIL may provide a non-enrolled student, who otherwise meets UIL eligibility standards to represent that school in a UIL activity, with the opportunity to participate in the activity on behalf of the school in the same manner that the school provides the opportunity to participate to students enrolled in the school.

"Non-enrolled student" means a student who receives instruction as a homeschooled student as described by Education Code 29.916(a)(1) from a nonpublic school [see EK].

Relevant Policies

A non-enrolled student who seeks to participate or participates in a UIL activity on behalf of a school is subject to the following relevant policies that apply to students enrolled in the school:

1. Registration for UIL activities;
2. Age eligibility;
3. Fees;
4. Insurance;
5. Transportation;
6. Physical condition;
7. Qualifications;
8. Responsibilities;
9. Event schedules;
10. Standards of behavior; and
11. Performance.

Residency Requirements

A non-enrolled student may only participate in a UIL activity for the school in the district that the student would be eligible to attend based on the student's residential address. A non-enrolled student who seeks to participate in a UIL activity on behalf of a school shall be required to establish minimum proof of residency acceptable to the district in the same manner as an applicant to attend a school in the district under Education Code 25.001 [see FD].

Academic Requirements

The parent or person standing in parental relation to a non-enrolled student is responsible for oversight of academic standards relating

to the student's participation in a UIL activity. As a condition of eligibility to participate in a UIL activity during the first six weeks of a school year, a non-enrolled student must demonstrate grade-level academic proficiency on any nationally recognized, norm-referenced assessment instrument, such as the Iowa Test of Basic Skills, Stanford Achievement Test, California Achievement Test, or Comprehensive Test of Basic Skills. A non-enrolled student demonstrates the required academic proficiency by achieving a composite, core, or survey score that is within the average or higher than average range of scores, as established by the applicable testing service. A district shall accept assessment results administered or reported by a third party.

A non-enrolled student's demonstration of academic proficiency is sufficient for the school year in which the student achieves the required score and the subsequent school year.

After the first six weeks of a school year, the parent or person standing in parental relation to a non-enrolled student participating in a UIL activity on behalf of a public school must periodically, in accordance with the school's grading calendar, provide written verification to the school indicating that the student is receiving a passing grade in each course or subject being taught.

Previous Enrollment in Public School

A non-enrolled student is not authorized by this section to participate in a UIL activity during the remainder of any school year during which the student was previously enrolled in a public school.

Prohibitions

With respect to a non-enrolled student's education program, nothing in these provisions shall be construed to permit an agency of this state, a public school district, or any other governmental body to exercise control, regulatory authority, or supervision over a non-enrolled student or a parent or person standing in parental relation to a non-enrolled student beyond the control, regulatory authority, or supervision required to participate in a UIL activity.

Subject only to eligibility requirements, the curriculum or assessment requirements, performance standards, practices, or creed of the education program provided to a non-enrolled student may not be required to be changed in order for the non-enrolled student to participate in a UIL activity. Subject only to eligibility requirements, for a non-enrolled student participating in an education program on January 1, 2021, the education program provided to that student may not be required to comply with any state law or agency rule relating to that education program unless the law or rule was in effect on January 1, 2021.

UIL Classification

When assigning league classification to a public school based on student enrollment, the UIL must use the same student enrollment

calculation formula for a school that allows a non-enrolled student to participate in a league activity as the formula used to determine the student enrollment of a school that does not allow a nonenrolled student to participate in the league activity.

Education Code 33.0833

Allotments

For each nonenrolled student who participates in a UIL activity for a school in a district that allows participation of nonenrolled students, the district is entitled to an annual allotment of $1,500 per league activity in which the nonenrolled student participates. *Education Code 48.305*

Suspension from Extracurricular Activities

A student shall be suspended from participation in any extracurricular activity sponsored or sanctioned by a district or the UIL after a grade evaluation period in which the student received a grade lower than the equivalent of 70 on a scale of 100 in any academic class other than a course described below at Exempt Courses.

Length of Suspension

A suspension continues for at least three school weeks and is not removed during the school year until the conditions of Reinstatement, described below, are met. A suspension shall not last beyond the end of a school year.

Grade Evaluation Period

“Grade evaluation period” means:

1. The six-week grade reporting period; or
2. The first six weeks of a semester and each grade reporting period thereafter, in the case of a district with a grade reporting period longer than six weeks.

Education Code 33.081(c)

School Week

The school week is defined as beginning at 12:01 a.m. on the first instructional day of the calendar week and ending at the close of instruction on the last instructional day of the calendar week, excluding holidays. *19 TAC 76.1001(b)*

Exempt Courses

The suspension and reinstatement provisions of Education Code 33.081(c) and (d) do not apply to an advanced placement or international baccalaureate course, or to an honors or dual credit course in the subject areas of English language arts, mathematics, science, social studies, economics, or a language other than English. *Education Code 33.081(d-1)*

Honors classes for purposes of eligibility to participate in extracurricular activities are listed at 19 Administrative Code 74.30(a).

Districts may identify additional honors courses in the subject areas of English language arts, mathematics, science, social studies,

or a language other than English for the purposes of extracurricular eligibility but must identify such courses before the semester in which any exemptions related to extracurricular activities occur.

Districts are neither required to nor restricted from considering courses as honors for the purpose of grade point average calculation.

19 TAC 74.30

Students with Disabilities

In the case of a student with a disability that significantly interferes with the student's ability to meet regular academic standards, suspension must be based on the student's failure to meet the requirements of the student's individualized education program (IEP). The determination of whether the disability substantially interferes with the student's ability to meet the requirements of the student's IEP must be made by the admission, review, and dismissal (ARD) committee.

For the purposes of this provision, "student with a disability" means a student who is eligible for a district's special education program under Education Code 29.003(b).

Education Code 33.081(e)

Practice or Rehearsal

A student suspended under Education Code 33.081 may practice or rehearse with other students for an extracurricular activity but may not participate in a competition or other public performance. This provision does not apply to a student prohibited from participation for certain conduct involving extracurricular officials [see below]. *Education Code 33.081(f)*

Reinstatement

Until the suspension is removed or the school year ends, a district shall review the grades of a student at the end of each three-week period following the date on which the suspension began. At the time of a review, the suspension is removed if the student's grade in each class, other than a course described above at Exempt Courses, is equal to or greater than the equivalent of 70 on a scale of 100. The principal and each of the student's teachers shall make the determination concerning the student's grades. *Education Code 33.081(d)*

Suspension for Certain Conduct Involving Extracurricular Officials

A student who is enrolled in a district in Texas or who participates in a UIL competition shall be prohibited from participation in any future extracurricular activity sponsored or sanctioned by the district or the UIL if the state executive committee of the league determines that the student intentionally, knowingly, or recklessly causes bodily injury to a person serving as referee, judge, or other official of an extracurricular activity in retaliation for or as a result of

the person's actions taken in performing the duties of a referee, judge, or other official of the extracurricular activity.

Reinstatement After Conduct

A student prohibited from participation may submit to the UIL a request that the student be permitted to participate in future extracurricular activities sponsored or sanctioned by the UIL. The request must be submitted at least one year after the date the student engaged in the conduct that resulted in the prohibition if the student was enrolled in eighth grade or below at the time of the conduct or two years after the date the student engaged in the conduct that resulted in the prohibition if the student was enrolled in ninth grade or above at the time of the conduct.

Education Code 33.081(e-1)-(e-2)

Spectator Suspension

A district shall prohibit a spectator of an extracurricular athletic activity or competition, including a parent or guardian of a student participant, from attending any future extracurricular athletic activity or competition sponsored or sanctioned by the district or the UIL if the spectator engages in conduct that intentionally, knowingly, or recklessly causes bodily injury to a person serving as referee, judge, or other official of an extracurricular athletic activity or competition in retaliation for or as a result of the person's actions taken in performing the duties of a referee, judge, or other official of the extracurricular athletic activity or competition.

A district may establish an appeals process by which a person may appeal the prohibition to the district and the district may determine the facts associated with the conduct for which the district imposed the prohibition.

A prohibition imposed under this provision must be for not less than one year after the date on which the prohibition is imposed but may not exceed five years from the date on which the prohibition is imposed.

Education Code 33.081(f-1)-(f-3)

Parental Notice and Consent

A parent is entitled to full information regarding the school activities of a parent's child except as provided by Education Code 38.004 (child abuse investigations). *Education Code 26.008(a)*

Anonymous Evaluations

Anonymous evaluations of a student that determine whether the student may participate in a school-related program do not provide full information about the student's school activities. A district may by policy establish the parameters for parental contact with evaluating teachers, taking into account the type of evaluation, the information elicited in the evaluation, and scheduling and workload requirements of the teachers. *Byard v. Clear Creek Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 020-R5-1001 (June 17, 2002)*

Videotaping and Recording	A district employee is not required to obtain the consent of a child's parent before the employee may videotape the child or record the child's voice if the videotape or recording is to be used only for a purpose related to a cocurricular or extracurricular activity. *Education Code 26.009(b)(2)*
Discriminatory Club	An extracurricular activity sponsored or sanctioned by a district, including an athletic event or an athletic team practice, may not take place at an athletic club located in the United States that denies any person full and equal enjoyment of equipment or facilities provided by the athletic club because of the person's race, color, religion, creed, national origin, or sex. "Athletic club" means an entity that provides sports or exercise equipment or facilities to its customers or members or to the guests of its customers or members. *Education Code 33.082*
Special Olympics Recognition	If a district allows high school students to earn a letter for academic, athletic, or extracurricular achievements, the district must allow high school students to earn a letter on the basis of a student's participation in a Special Olympics event. *Education Code 33.093*
Student Election Clerks	Unless applied toward instructional requirements [see EIA], a student who is appointed as a student election clerk under Election Code 32.0511 or as a student early voting clerk under Election Code 83.012, may apply the time served toward a service requirement for participation in a school-sponsored extracurricular activity at the discretion of the school sponsor. *Education Code 33.092*
Before-School and After-School Programs	The board may establish before-school or after-school programs for students enrolled in elementary or middle school grades. A program established under this section may operate before, after, or before and after school hours. A student is eligible to participate in the district's before-school or after-school program if the student is enrolled in a public or private school or resides within the boundaries of the district. A district shall conduct a request for proposals procurement process to enable the district to determine if contracting with a child-care facility that provides a before-school or after-school program, as defined by Human Resources Code 42.002, to provide the district's before-school or after-school program would serve the district's best interests. Following the request for proposals procurement process, the district may enter into a contract with a child-care facility or implement a before-school or after-school program operated by the district. If the district enters into a contract

with a child-care facility, the contract must comply with the requirements of Education Code 44.031 and may not exceed a term of three years.

The board may adopt rules in accordance with Education Code 11.165 [see BAA] to provide access to school campuses before or after school hours for the purpose of providing a before-school or after-school program.

Education Code 33.9031

Uniforms

If the board determines that requiring school uniforms would improve the learning environment at a school in a district, the board may adopt rules that require students at that school to wear school uniforms. Students shall wear uniforms beginning on the 90th day after the date on which the board adopts the rules.

Funding

The rules adopted by the board must designate a source of funding to be used to provide uniforms for educationally disadvantaged students.

Exemptions

A parent or guardian of a student assigned to a school where uniforms are required may choose for the student to be exempted from the uniform requirement or for the student to be transferred to a school where uniforms are not required and at which space is available. In order to exercise one of these options, the parent or guardian must provide a written statement that states a religious or philosophical objection to the uniform requirement that the board determines is bona fide.

Education Code 11.162

Grooming Regulations

Any student dress or grooming policy adopted by a district, including a student dress or grooming policy for any extracurricular activity, may not discriminate against a hair texture or protective hairstyle commonly or historically associated with race.

“Protective hairstyle” includes braids, locks, and twists.

Education Code 25.902

Membership and Solicitation

Misdemeanor Offense

A person commits a Class C misdemeanor if the person:

1. Is a member of, pledges to become a member of, joins, or solicits another person to join or pledge to become a member of a public school fraternity, sorority, secret society, or gang; or
2. Is not enrolled in a public school and solicits another person to attend a meeting of a public school fraternity, sorority, secret society, or gang or a meeting at which membership in one of those groups is encouraged.

Education Code 37.121(a), (c)

Public School Fraternity, Sorority, Secret Society, or Gang

A "public school fraternity, sorority, secret society, or gang" means an organization composed wholly or in part of students of public primary or secondary schools that seeks to perpetuate itself by taking in additional members from the students enrolled in school on the basis of the decision of its membership rather than on the free choice of a student in the school who is qualified by the rules of the school to fill the special aims of the organization. The term does not include an agency for public welfare, including Boy Scouts, Hi-Y, Girl Reserves, DeMolay, Rainbow Girls, Pan-American Clubs, scholarship societies, or other similar educational organizations sponsored by state or national education authorities. *Education Code 37.121(d)*

DAEP Placement

A board or an educator shall recommend placing in a disciplinary alternative education program any student who commits the offenses described above. *Education Code 37.121(b)*

Criminal Offense

A person commits an offense if the person, with intent to coerce, induce, or solicit a child to actively participate in the activities of a criminal street gang or foreign terrorist organization, threatens the child or a member of the child's family with imminent bodily injury or causes the child or a member of the child's family bodily injury. *Penal Code 71.022(a-1)*

Personal Hazing Offense

A person commits an offense if the person:

1. Engages in hazing.
2. Solicits, encourages, directs, aids, or attempts to aid another in engaging in hazing.
3. Has firsthand knowledge of the planning of a specific hazing incident involving a student in an educational institution, or firsthand knowledge that a specific hazing incident has occurred, and knowingly fails to report that knowledge to a prin-

cipal, the superintendent or other appropriate official, a peace officer, or a law enforcement agency.

Education Code 37.152(a)

Immunity for Reporting Hazing

Any person, including an entity organized to support an organization, who voluntarily reports a specific hazing incident involving a student in accordance with the requirements of Education Code 37.155 is immune from civil or criminal liability that might otherwise be incurred or imposed as a result of the reported hazing incident. *Education Code 37.155*

Definitions

Hazing

"Hazing" means any intentional, knowing, or reckless act occurring on or off the campus of an educational institution, by one person alone or acting with others, directed against a student for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any organization if the act:

1. Is any type of physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity;
2. Involves sleep deprivation, exposure to the elements, confinement in a small space, calisthenics, or other similar activity that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;
3. Involves consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance, other than as described by item 5, below, that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;
4. Is any activity that induces, causes, or requires the student to perform a duty or task that involves a violation of the Penal Code; or
5. Involves coercing, as defined by Penal Code 1.07, the student to consume:
    a. A drug; or
    b. An alcoholic beverage or liquor in an amount that would lead a reasonable person to believe that the student is intoxicated, as defined by Penal Code 49.01.

Education Code 37.151(6)

Educational Institution

"Educational institution" for purposes of this policy includes a public high school.

Student	“Student” means any person who: 1. Is registered in or in attendance at an educational institution; 2. Has been accepted for admission at the educational institution where the hazing incident occurs; or 3. Intends to attend an educational institution during any of its regular sessions after a period of scheduled vacation.
Organization	"Organization" means a fraternity, sorority, association, corporation, order, society, corps, club, or student government, a band or musical group or an academic, athletic, cheerleading, or dance team, including any group or team that participates in National Collegiate Athletic Association competition, or a service, social, or similar group, whose members are primarily students. *Education Code 37.151*
Information Regarding Gang-Free Zones	A superintendent shall ensure that the student handbook for each campus includes information on gang-free zones and the consequences of engaging in organized criminal activity within those zones. *Education Code 37.110*

Use or Possession by Students

A board shall prohibit students from smoking, using, or possessing e-cigarettes or tobacco products at a school-related or school-sanctioned activity on or off school property.

"E-cigarette" means an electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device or a consumable liquid solution or other material aerosolized or vaporized during the use of an electronic cigarette or other device. The term does not include a prescription medical device unrelated to the cessation of smoking. The term "e-cigarette" includes:

1. A device regardless of whether it is manufactured, distributed, or sold as an e-cigarette, e-cigar, or e-pipe or under another product name or description; and
2. A component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device.

Health and Safety Code 161.081(1-a)

[For information regarding the disciplinary consequences of student e-cigarette use, see FOC.]

Enforcement

The board shall ensure that district personnel enforce the policies on school property. *Education Code 38.006* [See DH and GKA]

Alcohol

A board shall prohibit the use of alcoholic beverages at school-related or school-sanctioned activities on or off school property. *Education Code 38.007(a)*

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.

Education Code 38.007(b)

Districts in Large Municipalities

If the majority of the area of a district is located in a municipality with a population of 1.3 million 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. *Education Code 38.007(b); Alcoholic Beverage Code 101.75, 109.33, .59*

Criminal Offense

A person commits an offense (a Class C misdemeanor) if the person possesses an intoxicating beverage for consumption, sale, or distribution while:

1. On the grounds or in a building of a public school; or
2. Entering or inside any enclosure, field, or stadium where an athletic event sponsored or participated in by a public school is being held.

Education Code 37.122

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:

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
2. On a school bus.

Health and Safety Code 481.134(d)(1)-(2)

Abusable 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:

1. Contrary to directions for use, cautions, or warnings appearing on a label of a container of the chemical; and

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(a)-(b)

Delivery to a Minor

A person commits an offense if the person knowingly delivers an abusable volatile chemical to a person who is younger than 18 years of age. *Health and Safety Code 485.032*

Paraphernalia

A person commits an offense (Class B misdemeanor) if the person knowingly uses or possesses with intent to use inhalant paraphernalia to inhale, ingest, or otherwise introduce into the body an abusable volatile chemical.

A person commits an offense (Class A misdemeanor) if the person delivers or sells, possesses with intent to deliver or sell, or manufactures with intent to deliver or sell, inhalant paraphernalia, and at that time knows that the person who receives or is intended to receive the paraphernalia intends that it be used to inhale, ingest, apply, use, or otherwise introduce into the body an abusable volatile chemical.

Health and Safety Code 485.033

Note: For disciplinary consequences associated with the offenses above, see FOC and FOD.

Steroid Law Notice

Each school in a district in which there is a grade level of seven or higher shall post in a conspicuous location in the school gymnasium and each other place in a building where physical education classes are conducted the following notice:

Anabolic steroids are for medical use only. State law prohibits possession, dispensing, delivery, or administering an anabolic steroid in any manner not allowed by state law. State law provides that body building, muscle enhancement, or the increase of muscle bulk or strength through the use of an anabolic steroid or human growth hormone by a person who is in good health is not a valid medical purpose. Only a medical doctor may prescribe an anabolic steroid or human growth hormone for a person. A violation of state law concerning anabolic steroids or human growth hormones is a criminal offense punishable by confinement in jail or imprisonment in the Texas Department of Criminal Justice.

Education Code 38.008

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, subject to the requirements of Education Code 37.009(a) (pre-placement proceedings). *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

Handgun

A person commits an offense if the person:

1. Intentionally, knowingly, or recklessly carries on or about his or her person a handgun;

2. At the time of the offense is younger than 21 years of age or has been convicted of certain offenses described in Penal Code 46.02(a); and

3. Is not on the person's own premises or premises under the person's control; 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)

Location-Restricted Knife

A person commits an offense if the person:

1. Intentionally, knowingly, or recklessly carries on or about his or her person a location-restricted knife;

2. Is younger than 18 years of age at the time; and

3. Is not:

   a. On the person's own premises or premises under the person's control;

   b. Inside of or directly en route to a motor vehicle that is owned by the person or under the person's control; or

   c. Under the direct supervision of a parent or legal guardian of the person.

Penal Code 46.02(a-4)

Additional Handgun Offenses

A person commits an offense if the person carries a handgun in violation of Penal Code 46.02(a-5)-(a-7). *Penal Code 46.02*

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)*

Location-Restricted Knife

“Location-restricted knife” means a knife with a blade over 5-1/2 inches. *Penal Code 46.01(6)*

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. 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)*

5. 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)*

6. 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)*

7. 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)*

8. An improvised explosive device (a completed and operational bomb designed to cause serious bodily injury, death, or substantial property damage that is fabricated in an improvised manner using nonmilitary components. It does not include unassembled components that can be legally purchased and possessed without a license, permit, or other governmental

approval; or an exploding target that is used for firearms practice, sold in kit form, and contains the components of a binary explosive. *Penal Code 46.01(19)*

A person does not commit an offense if an item is listed at items 1-3, above, and is registered in the National Firearms Registration and Transfer Record maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives or otherwise not subject to that registration requirement or unless the item is classified as a curio or relic by the United States Department of Justice.

Penal Code 46.05(a)

Note: For provisions regarding parental rights, see FA. For provisions concerning students with disabilities, see EHBAB. For provisions concerning student discipline, see the FO series. For provisions concerning student records, see FL.

United States Constitution

A district shall take no action abridging the freedom of speech or the right of the people to petition the board for redress of grievances. *U.S. Const. Amend. I, XIV* [See FNA]

A board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when a board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. *Rosenberger v. Rector & Visitors of Univ. of Virginia, 515 U.S. 819, 828 (1995); City of Madison v. Wis. Emp. Rel. Comm'n, 429 U.S. 167, 174 (1976); Pickering v. Bd. of Educ., 391 U.S. 563, 568 (1968)*

Texas Constitution

Citizens shall have the right, in a peaceable manner, to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. *Tex. Const. Art. I, Sec. 27*

There is no requirement that a board negotiate or even respond to complaints. However, a board must stop, look, and listen and must consider the petition, address, or remonstrance. *Prof'l Ass'n of College Educators v. El Paso County Cmty. [College] Dist., 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)*

Federal Laws

Section 504

A district that receives federal financial assistance, directly or indirectly, and that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973. *34 C.F.R. 104.7(b)*

Americans with Disabilities Act

A district that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Code of Federal Regulations, Title 28, Part 35 (Americans with Disabilities Act regulations). *28 C.F.R. 35.107*

Title IX

A district that receives federal financial assistance, directly or indirectly, must adopt and publish grievance procedures providing for prompt and equitable resolution of student complaints alleging any

action prohibited by Title IX of the Education Amendments of 1972. *34 C.F.R. 106.8(c)* [See FB and FFH]

Complaint Procedures

A board shall provide for procedures to consider complaints that a parent's right has been denied. *Education Code 26.001(d)*

A board shall adopt a grievance procedure under which the board shall address each complaint that it receives concerning a violation of a right guaranteed by Education Code Chapter 26 (Parental Rights).

The board is not required by the provision above or Education Code 11.1511(b)(13) (requiring adoption of a process to hear complaints) to address a complaint concerning a student's participation in an extracurricular activity that does not involve a violation of a right guaranteed by Education Code Chapter 26. This provision does not affect a claim brought by a parent under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) or a successor federal statute addressing special education services for a child with a disability.

Education Code 26.011

Denial of Class Credit or Final Grade

If a student is denied credit or a final grade for a class by an attendance committee, the student may appeal the decision to the board. *Education Code 25.092(d)* [See FEC]

Complaints Against Professional Employees

A person may not file suit against a professional employee of a district unless the person has exhausted the district's remedies for resolving the complaint. *Education Code 22.0514*

"Professional employee of a district" includes:

1. A superintendent, principal, teacher, including a substitute teacher, supervisor, social worker, school counselor, nurse, and teacher's aide employed by a district;
2. A teacher employed by a company that contracts with a district to provide the teacher's services to the district;
3. A student in an education preparation program participating in a field experience or internship;
4. A DPS-certified school bus driver;
5. A member of the board; and
6. Any other person whose employment by a district requires certification and the exercise of discretion.

Education Code 22.051(a)

Finality of Grades

An examination or course grade issued by a classroom teacher is final and may not be changed unless the grade is arbitrary, erroneous, or not consistent with a district's grading policy applicable to the grade, as determined by the board.

A board's determination is not subject to appeal. This provision does not prohibit an appeal related to a student's eligibility to participate in extracurricular activities under Education Code 33.081. [See FM]

Education Code 28.0214

Closed Meeting

A board may conduct a closed meeting on a parent or student complaint to the extent required or provided by law. *Gov't Code Ch. 551, Subch. D* [See BEC]

Record of Proceedings

An appeal of a board's decision to the commissioner of education shall be decided based on a review of the record developed at the district level. "Record" includes, at a minimum, an audible electronic recording or written transcript of all oral testimony or argument. *Education Code 7.057(c), (f)*

It is a district's responsibility to make and preserve the records of the proceedings before the board. If a district fails to create and preserve the record without good cause, all substantial evidence issues that require missing portions of the record for resolution shall be deemed against the district. The record shall include:

1. A tape recording or a transcript of the hearing at the local level. If a tape recording is used:
    a. The tape recording must be complete, audible, and clear; and
    b. Each speaker must be clearly identified.
2. All evidence admitted;
3. All offers of proof;
4. All written pleadings, motions, and intermediate rulings;
5. A description of matters officially noticed;
6. If applicable, the decision of the hearing examiner;
7. A tape recording or transcript of the oral argument before the board; and
8. The decision of the board.

19 TAC 157.1073(d)

Disruption

It is a criminal offense for a person, with intent to prevent or disrupt a lawful meeting, to substantially obstruct or interfere with the ordinary conduct of a meeting by physical action or verbal utterance and thereby curtail the exercise of others' First Amendment rights. *Penal Code 42.05; Morehead v. State, 807 S.W. 2d 577 (Tex. Crim. App. 1991)*

Student Code of Conduct

The board shall adopt a Student Code of Conduct for a district, with the advice of its district-level committee. The Student Code of Conduct must:

1. Specify the circumstances, in accordance with Education Code Chapter 37, Subchapter A, under which a student may be removed from a classroom, campus, disciplinary alternative education program (DAEP), or vehicle owned or operated by the district.
2. Specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a DAEP.
3. Outline conditions under which a student may be suspended, as provided by Education Code 37.005 [see FOB], or expelled, as provided by Education Code 37.007 [see FOD].
4. Specify that consideration will be given, as a factor in each decision concerning suspension, removal to a DAEP, expulsion, or placement in a juvenile justice alternative education program (JJAEP), regardless of whether the decision concerns a mandatory or discretionary action, to:
    a. Self-defense;
    b. Intent or lack of intent at the time the student engaged in the conduct;
    c. A student's disciplinary history;
    d. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;
    e. A student's status in the conservatorship of the Department of Family and Protective Services; or
    f. A student's status as a student who is homeless.
5. Provide guidelines for setting the length of removal to a DAEP or of expulsion. Except as provided by Education Code 37.007(e) (Gun-Free Schools Act [see FOD]), a district is not required to specify a minimum term of removal or expulsion.
6. Address the notification of the parent or guardian of a student's violation of the Student Code of Conduct that results in suspension, removal to a DAEP, or expulsion.
7. Prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions. "Bullying" has the meaning provided by Education Code 37.0832. [See

FFI] "Harassment" means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student's physical or emotional health or safety. "Hit list" means a list of people targeted to be harmed using a firearm, as defined by Penal Code 46.01(3) [see FNCG]; a knife, as defined by Penal Code 46.01(7) (any bladed hand instrument that is capable of inflicting serious bodily injury or death by cutting or stabbing a person with the instrument); or any other object to be used with intent to cause bodily harm.

8. Provide, as appropriate for students at each grade level, methods, including options, for:

   a. Managing students in the classroom, on school grounds, and on a vehicle owned or operated by the district;

   b. Disciplining students; and

   c. Preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists.

9. Include an explanation of the provisions regarding refusal of entry to or ejection from district property under Education Code 37.105 [see GKA], including the appeal process established under 37.105(h).

The methods adopted must provide that a student who is enrolled in a special education program under Education Code Chapter 29, Subchapter A, may not be disciplined for bullying, harassment, or making hit lists until an admission, review, and dismissal (ARD) committee meeting has been held to review the conduct. [See FOF]

Education Code 37.001(a)-(b-1), (e)

Law Enforcement Duties

The law enforcement duties of peace officers, school resource officers, and security personnel [see CKE] must be included in the Student Code of Conduct. *Education Code 37.081(d)(2)*

Changes in SCOC

Once a Student Code of Conduct is promulgated, any change or amendment shall be approved by a board.

Posting — The Student Code of Conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal.

Education Code 37.001(b-1)-(c)

Notice to Parents — Each school year, a district shall provide parents with notice of and information regarding the Student Code of Conduct. *Education Code 37.001(d)*

Noncustodial Parent — A noncustodial parent may request in writing that, for the remainder of the school year in which the request is received, a district provide that parent with a copy of any written notification that is generally provided to a student's parent or guardian, relating to student misconduct under Education Code 37.006 or 37.007. A district may not unreasonably deny the request. Notwithstanding this requirement, a district shall comply with any applicable court order of which the district has knowledge. *Education Code 37.0091*

Copies to Staff — The district shall provide each teacher and administrator with a copy of Education Code Chapter 37, Subchapter A regarding student discipline and with a copy of the related local policy. *Education Code 37.018*

Campus Behavior Coordinator — A person at each campus must be designated to serve as the campus behavior coordinator (CBC). The person may be the campus principal or any other campus administrator selected by the principal.

The CBC is primarily responsible for maintaining student discipline and the implementation of Education Code Chapter 37, Subchapter A.

Duties — The specific duties of the CBC may be established by campus or district policy. Unless the policy provides otherwise, duties imposed on a campus principal or other campus administrator by Education Code Chapter 37, Subchapter A must be performed by the CBC and a power granted to a campus principal may be exercised by the CBC.

Notice to Parents — The CBC shall promptly notify a student's parent or guardian if the student is placed into in-school or out-of-school suspension, placed in a DAEP, expelled, or placed in a JJAEP or is taken into custody by a law enforcement officer.

A CBC must provide notice by promptly contacting the parent or guardian by telephone or in person; and making a good faith effort to provide written notice of the disciplinary action to the student, on the day the action is taken, for delivery to the student's parent or guardian.

If a parent or guardian entitled to notice has not been reached by telephone or in person by 5 p.m. of the first business day after the day the disciplinary action is taken, a CBC shall mail written notice of the action to the parent or guardian at the parent's or guardian's last known address.

If a CBC is unable or not available to promptly provide notice, the principal or other designee shall provide the notice.

Education Code 37.0012

Website Requirement

A district shall post on the district's website, for each campus, the email address and dedicated telephone number of a person clearly identified as:

1. The campus behavior coordinator; or
2. If the district has been designated as a district of innovation under Education Code Chapter 12A [see AF] and is exempt from the requirement to designate a campus behavior coordinator under the district's local innovation plan, a campus administrator designated as being responsible for student discipline.

Education Code 26.015

No Unsupervised Setting

Except for students who are suspended or expelled, no student may be placed in an unsupervised setting as a result of conduct for which a student may be placed in a DAEP. *Education Code 37.008(h)*

Continuation of Disciplinary Action

If a district takes disciplinary action against a student and the student subsequently enrolls in another district or school before the expiration of the period of disciplinary action, the district or school taking the disciplinary action shall provide to the district or school in which the student enrolls, at the same time other records of the student are provided, a copy of the order of disciplinary action.

"Disciplinary action" means a suspension, expulsion, placement in an alternative education program, or other limitation in enrollment eligibility of a student.

"District or school" includes an independent school district, a home-rule school district, a campus or campus program charter holder, or an open-enrollment charter school.

Education Code 37.022

Opportunity to Complete Courses

If a student is placed in in-school suspension or other alternative setting other than a DAEP, a district shall offer the student the opportunity to complete, before the beginning of the next school year,

each course in which the student was enrolled at the time of removal. A district may provide the opportunity by any method available, including a correspondence course, distance learning, or summer school. *Education Code 37.021* [For DAEP notice requirements, see FOCA.]

Alternative Means to Receive Coursework

A district shall provide to a student during the period of the student's suspension under Education Code 37.005, regardless of whether the student is placed in in-school or out-of-school suspension, an alternative means of receiving all coursework provided in the classes in the foundation curriculum under Education Code 28.002(a)(1) that the student misses as a result of the suspension. A district must provide at least one option for receiving the coursework that does not require the use of the internet. *Education Code 37.005(e)*

Seclusion

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

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

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

Education Code 37.0021(b)(2)

This section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

1. Is employed or commissioned by a school district; or
2. Provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the district and a local law enforcement agency.

Education Code 37.0021(h)

Exceptions

This prohibition on seclusion does not apply to:

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

Law Enforcement Duties

"Law enforcement duties" means activities of a peace officer relating to the investigation and enforcement of state criminal laws and other duties authorized by the Code of Criminal Procedure.

Education Code 37.0021(b)(4), (g)

[For information on seclusion involving students in special education, see FOF.]

Officer or Security Personnel Use of Restraint or Taser

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

Definitions

"Taser" means a device manufactured, sold, or distributed by Taser International, Incorporated, that is intended, designed, made, or adapted to incapacitate a person by inflicting an electrical charge through the emission of a projectile or conductive stream. The term, for purposes of this provision, includes a similar device manufactured, sold, or distributed by another person.

Prohibition

A peace officer performing law enforcement duties or school security personnel performing security-related duties on school property or at a school-sponsored or school-related activity may not restrain or use a chemical irritant spray or Taser on a student enrolled in fifth grade or below unless the student poses a serious risk of harm to the student or another person.

Education Code 37.0021(b)(1), (b)(5), (j)

[For information on restraint involving students in special education, see FOF.]

Restraint Reports

A district shall report electronically to the Texas Education Agency (TEA), in accordance with standards provided by commissioner rule, information relating to the use of restraint by a peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity. The report must be consistent with the requirements adopted by commissioner rule for reporting the use of restraint involving students with disabilities [see FOF]. *Education Code 37.0021(i)*

Corporal Punishment

If the board adopts a policy under Education Code 37.001(a)(8) under which corporal punishment is permitted as a method of student discipline, a district educator may use corporal punishment to discipline a student unless the student's parent or guardian or other person having lawful control over the student has previously provided a written, signed statement prohibiting the use of corporal punishment as a method of student discipline. *Education Code 37.0011(b)*

Parent Statement

To prohibit the use of corporal punishment as a method of student discipline, each school year a student's parent or guardian or other person having lawful control over the student must provide a separate written, signed statement to the board in the manner established by the board. The student's parent or guardian or other person having lawful control over the student may revoke the statement provided to the board at any time during the school year by submitting a written, signed revocation to the board in the manner established by the board. *Education Code 37.0011(c)-(d)*

Definition

"Corporal punishment" means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline. The term does not include physical pain caused by reasonable physical activities associated with athletic training, competition, or physical education or the use of restraint as authorized under Education Code 37.0021 [see FOF]. *Education Code 37.0011(a*)

Use of Force to Maintain Discipline

The use of force, but not deadly force, against a student is justified if the teacher or administrator is entrusted with the care, supervision, or administration of the student when, and to the degree the teacher or administrator reasonably believes the force is necessary, to further the purpose of education or to maintain discipline in a group. *Penal Code 9.62*

Aversive Techniques

A district or district employee or volunteer or an independent contractor of a district may not apply an aversive technique, or by authorization, order, or consent, cause an aversive technique to be applied, to a student.

"Aversive technique" means a technique or intervention that is intended to reduce the likelihood of a behavior reoccurring by intentionally inflicting on a student significant physical or emotional discomfort or pain. The term includes a technique or intervention that:

1. Is designed to or likely to cause physical pain, other than an intervention or technique permitted under Education Code 37.0011 [see Corporal Punishment, above];
2. Notwithstanding the above corporal punishment provisions, is designed to or likely to cause physical pain through the use of electric shock or any procedure that involves the use of pressure points or joint locks;
3. Involves the directed release of a noxious, toxic, or otherwise unpleasant spray, mist, or substance near the student's face;
4. Denies adequate sleep, air, food, water, shelter, bedding, physical comfort, supervision, or access to a restroom facility;

5. Ridicules or demeans the student in a manner that adversely affects or endangers the learning or mental health of the student or constitutes verbal abuse;

6. Employs a device, material, or object that simultaneously immobilizes all four extremities, including any procedure that results in such immobilization known as prone or supine floor restraint;

7. Impairs the student's breathing, including any procedure that involves:

   a. Applying pressure to the student's torso or neck; or

   b. Obstructing the student's airway, including placing an object in, on, or over the student's mouth or nose or placing a bag, cover, or mask over the student's face;

8. Restricts the student's circulation;

9. Secures the student to a stationary object while the student is in a sitting or standing position;

10. Inhibits, reduces, or hinders the student's ability to communicate;

11. Involves the use of a chemical restraint;

12. Constitutes a use of timeout that precludes the student from being able to be involved in and progress appropriately in the required curriculum and, if applicable, toward the annual goals included in the student's individualized education program, including isolating the student by the use of physical barriers; or

13. Except as provided below, deprives the student of the use of one or more of the student's senses.

Education Code 37.0023(a)-(b)

An aversive technique that deprives the student of the use of one or more of the student's senses may be used if the technique is executed in a manner that:

1. Does not cause the student discomfort or pain; or

2. Complies with the student's individualized education program or behavior intervention plan.

Nothing in this section may be construed to prohibit a teacher from removing a student from class under Education Code 37.002. [See FOA]

Education Code 37.0023(c)-(d)

Videotapes and Recordings

A district employee is not required to obtain the consent of a child's parent before the employee may make a videotape of the child or authorize the recording of the child's voice if the videotape or recording is to be used only for purposes of safety, including the maintenance of order and discipline in common areas of the school or on school buses. *Education Code 26.009(b)(1)*

Teacher Documentation

A teacher may document any conduct by a student that does not conform to the Student Code of Conduct and may submit that documentation to the principal. A district may not discipline a teacher on the basis of the submitted documentation. *Education Code 37.002(b-1)*

Reports

Disciplinary Alternative Education Programs

For each placement in a disciplinary alternative education program (DAEP), a district shall annually report to the commissioner:

1. Information identifying the student, including the student's race, sex, and date of birth, that will enable TEA to compare placement data with information collected through other reports;
2. Information indicating whether the placement was based on:
    a. Conduct violating the Student Code of Conduct;
    b. Conduct for which a student may be removed from class by a teacher [see FOA and the Student Code of Conduct];
    c. Conduct for which placement in a DAEP is required [see FOC and the Student Code of Conduct]; or
    d. Conduct occurring while a student was enrolled in another district and for which placement in a DAEP is permitted by Education Code 37.008(j);
3. The number of full or partial days the student was assigned to the program and the number of full or partial days the student attended the program; and
4. The number of placements that were inconsistent with the guidelines on length of placement in the Student Code of Conduct.

Expulsions

For each expulsion, a district shall annually report to the commissioner:

1. Information identifying the student, including the student's race, sex, and date of birth, that will enable TEA to compare placement data with information collected through other reports;
2. Information indicating whether the expulsion was based on:
    a. Conduct for which expulsion is required, including information specifically indicating whether a student was expelled for bringing a firearm to school; or
    b. Conduct for which expulsion is permitted;
3. The number of full or partial days the student was expelled;
4. Information indicating whether:
    a. The student was placed in a JJAEP;
    b. The student was placed in a DAEP; or
    c. The student was not placed in a JJAEP or other alternative education program; and
5. The number of expulsions that were inconsistent with the guidelines on length of expulsion in the Student Code of Conduct.

Out-of-School Suspensions

For each out-of-school suspension under Education Code 37.005, a district shall report:

1. Information identifying the student, including the student's race, sex, and date of birth, that will enable TEA to compare placement data with information collected through other reports;
2. Information indicating the basis for the suspension;
3. The number of full or partial days the student was suspended; and
4. The number of out-of-school suspensions that were inconsistent with the guidelines included in the Student Code of Conduct under Education Code 37.001(a)(3) [see Student Code of Conduct, item 3, above].

Education Code 37.020

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, subject to the requirements of Education Code 37.009(a) [see Process for Removal and Mitigating Factors, below]. *Education Code 37.006*

[For additional factors that must be considered in each decision concerning suspension, removal to a DAEP, expulsion, or placement in a juvenile justice alternative education program (JJAEP), see FO and the Student Code of Conduct.]

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. 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., excluding marijuana, as defined by Health and Safety Code 481.002, or tetrahydrocannabinol, as defined by Department of Public Safety rule;
    b. A dangerous drug, as defined by the Texas Dangerous Drug Act, Health and Safety Code Chapter 483.
4. Possesses, uses, or is under the influence of, or sells, gives, or delivers to another person marijuana or tetrahydrocannabinol, as defined above;

5. Possesses, uses, sells, gives, or delivers to another person an e-cigarette, as defined by Health and Safety Code 161.081 [see FNCD];

6. 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.

7. 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.

8. Engages in conduct that contains the elements of the offense of public lewdness under Penal Code 21.07.

9. Engages in conduct that contains the elements of the offense of indecent exposure under Penal Code 21.08.

10. Engages in conduct that contains the elements of the offense of harassment under Penal Code 42.07(a)(1), (2), (3), or (7) against an employee of the district.

Education Code 37.006(a)

Exception Removal to a DAEP for school-related misconduct is not required if the student is expelled for the same conduct. *Education Code 37.006(m)*

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 under Penal Code 36.06, against any school employee. *Education Code 37.006(b)*

Conduct Unrelated to School 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:

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;

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

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.

Education Code 37.006(c)

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 other than information requested under Code of Criminal Procedure Article 15.27(k-1). *Education Code 37.006(e); Code of Criminal Procedure 15.27(a)* [See GRAA]

Title 5 Felonies

The following are felony offenses listed in Penal Code, Title 5, Offenses Against the Person.

1. Murder. *Penal Code 19.02*
2. Capital Murder. *Penal Code 19.03*
3. Manslaughter. *Penal Code 19.04*
4. Criminally Negligent Homicide. *Penal Code 19.05*
5. Unlawful Restraint, if:
    a. The person restrained was younger than 17 years of age; or
    b. The actor recklessly exposes the victim to a substantial risk of serious bodily injury; restrains an individual the actor knows is a public servant while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty; or while in custody restrains any other person. *Penal Code 20.02*
6. Kidnapping. *Penal Code 20.03*
7. Aggravated Kidnapping. *Penal Code 20.04*
8. Smuggling of Persons. *Penal Code 20.05*
9. Continuous Smuggling of Persons. *Penal Code 20.06*
10. Trafficking of Persons. *Penal Code 20A.02*
11. Continuous Trafficking of Persons. *Penal Code 20A.03*

12. Continuous Sexual Abuse of Young Child or Disabled Individual. *Penal Code 21.02*
13. Bestiality. *Penal Code 21.09*
14. Indecency with a Child. *Penal Code 21.11*
15. Improper Relationship between Educator and Student. *Penal Code 21.12*
16. Invasive Visual Recording. *Penal Code 21.15*
17. Unlawful Disclosure or Promotion of Intimate Visual Material. *Penal Code 21.16*
18. Voyeurism, if the victim was younger than 14 years of age at the time of the offense. *Penal Code 21.17*
19. Sexual Coercion. *Penal Code 21.18*
20. Assault, if the offense is punishable as a felony. *Penal Code 22.01*
21. Sexual Assault. *Penal Code 22.011*
22. Aggravated Assault. *Penal Code 22.02*
23. Aggravated Sexual Assault. *Penal Code 22.021*
24. Injury to a Child, Elderly Individual, or Disabled Individual. *Penal Code 22.04*
25. Abandoning or Endangering a Child, Elderly Individual, or Disabled Individual. *Penal Code 22.041*
26. Deadly Conduct, if the person knowingly discharges a firearm at or in the direction of one or more individuals, or at or in the direction of a habitation, building, or vehicle and is reckless as to whether the habitation, building, or vehicle is occupied. *Penal Code 22.05*
27. Terroristic Threat, if the actor threatens to commit any offense involving violence to any person or property with intent to:
    a. Place any person in fear of imminent serious bodily injury if the actor knows the person is a peace officer or judge;
    b. Prevent or interrupt the occupation or use of a building, room, place of assembly, place to which the public has access, place of employment or occupation, aircraft, automobile, or other form of conveyance, or other public

place if the prevention or interruption causes pecuniary loss of $1,500 or more to the owner;

c. Cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service;

d. Place the public or a substantial group of the public in fear of serious bodily injury; or

e. Influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision. *Penal Code 22.07*

28. Aiding Suicide, if the conduct causes suicide or attempted suicide that results in serious bodily injury. *Penal Code 22.08*

29. Tampering with Consumer Product. *Penal Code 22.09*

30. Harassment by Persons in Certain Facilities or of Public Servant. *Penal Code 22.11*

Sexual Assault of Another Student

A student shall be removed from class and placed in a DAEP or juvenile justice alternative education program (JJAEP) if:

1. The student was convicted of, received adjudication for, or was placed on probation for sexual assault of another student who was a young child or disabled individual while the students were assigned to the same campus, regardless of whether the assault occurred on or off school property;

2. The parent of the victim of the assault has requested that the student be transferred to a campus other than that to which the victim is assigned; and

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 above at Title 5 Felonies]; 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)

Bullying

A student may be removed from class and placed in a DAEP if the student:

1. Engages in bullying that encourages a student to commit or attempt to commit suicide;

2. Incites violence against a student through group bullying; or

3. Releases or threatens to release intimate visual material of a minor or student who is 18 years of age or older without the student's consent.

Nothing in this provision exempts a school from reporting a finding of intimate visual material of a minor.

Definitions

Bullying

"Bullying" has the meaning assigned by Education Code 37.0832. [See FFI]

Intimate Visual Material

"Intimate visual material" has the meaning assigned by Civil Practice and Remedies Code 98B.001.

Education Code 37.0052

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

district shall revoke the student's admission. *Education Code 25.001(b-1)*

Placement of Younger Students

A student who is younger than 10 shall be removed from class and placed in a DAEP if the student engages in conduct for which expulsion would be required by Section 37.007. *Education Code 37.006(f), .007(e)* [See FOD]

Students Younger Than Six

Notwithstanding any other provision of the Education Code, a student who is younger than six years of age may not be removed from class and placed in a DAEP, except that a student younger than six years of age who has been expelled pursuant to the Gun Free Schools Act [see FOD] shall be provided educational services in a DAEP. *Education Code 37.006(l), .007(e)(2)*

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, 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.

Education Code 37.009(a) [See Student Code of Conduct]

Right to Request a Special Education Evaluation

On the placement of a student in a DAEP, the district shall provide information to the student's parent or person standing in parental relation to the student regarding the process for requesting a full individual and initial evaluation of the student under Education Code 29.004 [see EHBAA]. *Education Code 37.006(p)*

Term of Removal

The period of the placement after removal 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. *Education Code 37.009(a)*

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 placement in a DAEP 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 or extended placement is in the best interest of the student. *Education Code 37.009(d)*

Beyond Grading Period or 60 Days

If placement in a DAEP is to extend beyond 60 days or the end of the next grading period, whichever is earlier, the student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before a board or designee.

No Appeal

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.

Education Code 37.009(b)

Beyond End of School Year

Before a student may be placed in a DAEP for a period that extends beyond the end of the school year, a board or designee must determine that:

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

Education Code 37.009(c)

Order of Removal

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. *Education Code 37.009(g)*

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. *Education Code 37.010(a)*

Activities

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

In addition to any notice required under Code of Criminal Procedure 15.27 [see 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 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)

DAEP at Capacity

If a DAEP is at capacity at the time a CBC is deciding placement for a student who engaged in conduct described under Education Code 37.006(a)(2)(C-1) (possession or use of marijuana), (C-2) (possession, use, delivery of an e-cigarette), (D) (delivery of alcohol), or (E) (abuse of volatile chemical), the student shall be placed in in-school suspension; and if a position becomes available in the program before the expiration of the period of the placement, transferred to the program for the remainder of the period.

If a DAEP is at capacity at the time a CBC is deciding placement for a student who engaged in conduct described under Education Code 37.007 that constitutes violent conduct, as defined by commissioner rule, a student who has been placed in the program for conduct described under Education Code 37.006(a)(2)(C-1), (C-2), (D), or (E) (above) may be removed from the program and placed in in-school suspension to make a position in the program available for the student who engaged in violent conduct. If removed from the program and a position in the program becomes available before the expiration of the period of the placement, the student shall be returned to the program for the remainder of the period.

Education Code 37.009(a-1)-(a-2)

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 without completing the period of placement. [See FO] The district in which the student enrolls may take any of these actions if:

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

Education Code 37.008(j)

Out-of-State Placement

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

1. The student is a threat to the safety of other students or to district employees; or

2. Extended placement is in the best interest of the student.

Education Code 37.008(j-1)

Court-Ordered Placement

Unless 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:

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

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(e)*

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 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:

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)

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]

Note: See FOF for provisions concerning students with disabilities.

A disciplinary alternative education program (DAEP) is an educational and self-discipline alternative instruction program, adopted by local policy, for students in elementary through high school grades who are removed from their regular classes for mandatory or discretionary disciplinary reasons and placed in a DAEP. *19 TAC 103.1201(a)*

[See board-adopted Student Code of Conduct for information regarding DAEP.]

Joint/Contracted DAEP

A district may provide a DAEP jointly with one or more other districts or may contract with third parties for DAEP services. The district must require and ensure compliance with district responsibilities that are transferred to the third-party provider. *Education Code 37.008(d); 19 TAC 103.1201(d)*

A DAEP may provide for a student's transfer to a different campus, a school-community guidance center, or a community-based alternative school. *Education Code 37.008(b)*

Community Organizations

A district shall cooperate with government agencies and community organizations that provide services in the district to students placed in a DAEP. *Education Code 37.008(e)*

Shared Service Arrangements

A district that participates in a shared service arrangement for DAEP services shall ensure that the district improvement plan and each campus-level plan include the performance of the DAEP student group for the district in accordance with 19 Administrative Code 103.1201(b) [see BQ]. *19 TAC 103.1201(b)*

Funding

A student removed to a DAEP is counted in computing a district's average daily attendance for the student's time in actual attendance in the program. *Education Code 37.008(f)*

A district shall allocate to a DAEP the same expenditure per student attending the DAEP that would be allocated to the student's school if the student were attending the student's regularly assigned education program, including a special education program. *Education Code 37.008(g)* [See also EHBC(LEGAL), Limit on DAEP Expenditures]

Location

A DAEP shall be provided in a setting other than the student's regular classroom. *Education Code 37.008(a)(1)*

A DAEP may be located on-campus or off-campus in adherence with requirements of the *Student Attendance Accounting Handbook*. For reporting purposes, the DAEP shall use the county-district-campus number of the student's locally assigned campus (the campus the student would be attending if the student was not at-

tending the DAEP). *19 TAC 103.1201(c); Education Code 37.008(a)(2)*

An off-campus DAEP is not subject to a requirement imposed by the Education Code, other than a limitation on liability, a reporting requirement, or a requirement imposed by Education Code Chapter 37 or Chapter 39 or 39A. *Education Code 37.008(c)*

An elementary school student may not be placed in a DAEP with a student who is not an elementary school student. The designation of elementary and secondary is determined by adopted local policy. *Education Code 37.006(f); 19 TAC 103.1201(h)(1)*

Students who are assigned to the DAEP shall be separated from students who are not assigned to the program. Notwithstanding this requirement, summer programs provided by the district may serve students assigned to a DAEP in conjunction with other students, as determined by local policy.

Students in the DAEP shall be separated from students in a juvenile justice alternative education program.

Education Code 37.008(a)(3), (c); 19 TAC 103.1201(f)(3), (h)(3)

Safety

A district is responsible for the safety and supervision of the students assigned to the DAEP; however, the immunity from the liability established in Education Code 22.0511 [see DG], shall not be impacted. The DAEP staff shall be prepared and trained to respond to health issues and emergencies.

Each district shall establish a board-approved policy for discipline and intervention measures to prevent and intervene against unsafe behavior and include disciplinary actions that do not jeopardize students' physical health and safety, harm emotional well-being, or discourage physical activity.

19 TAC 103.1201(h)

Staffing

A DAEP shall employ only teachers who meet certification requirements under Education Code Chapter 21, Subchapter B. The certified teacher-to-student ratio in a DAEP shall be one teacher for each 15 students in elementary through high school grades. *Education Code 37.008(a)(7); 19 TAC 103.1201(h)(1)*

Staff at each DAEP shall participate in training programs on education, behavior management, and safety procedures that focus on positive and proactive behavior management strategies. The training programs must also target prevention and intervention that include:

1. Training on the education and discipline of students with disabilities who receive special education services;
2. Instruction in social skills and problem-solving skills that addresses diversity, dating violence, anger management, and conflict resolution to teach students how to interact with teachers, family, peers, authority figures, and the general public; and
3. Annual training on established procedures for reporting abuse, neglect, or exploitation of students.

19 TAC 103.1201(i)

Entrance Procedures

Procedures for each DAEP shall be developed and implemented for newly entering students and their parents or guardians on the expectations of the DAEP. These procedures shall include written contracts between students, parents or guardians, and the DAEP that formalize expectations and establish the students' individual plans for success. *19 TAC 103.1201(j)*

Academics

The academic mission of DAEPs shall be to enable students to perform at grade level. A DAEP shall focuses on English language arts, mathematics, science, history, and self-discipline. *Education Code 37.008(a)(4), (m)*

A district shall provide an academic and self-discipline program that leads to graduation and includes instruction in each student's currently enrolled foundation curriculum necessary to meet the student's individual graduation plan, including special education services. A student's required high school personal graduation plan [see EIF] may not be altered when the student is assigned to a DAEP.

Opportunity to Complete Course

A district shall offer a student removed to a DAEP an opportunity to complete a foundation curriculum course in which the student was enrolled at the time of removal, before the beginning of the next school year, through any method available, including a correspondence course, distance learning, or summer school. The district may not charge the student for a course provided under this provision.

Education Code 37.008(l); 19 TAC 103.1201(f)

A district shall provide the parents of a student removed to a DAEP with written notice of the district's obligation to provide the student with an opportunity to complete coursework required for graduation. The notice must include information regarding all methods available for completing the coursework and state that the methods are available at no cost to the student. *Education Code 37.008(l-1)*

School Day

The school day for a DAEP shall be at least 240 minutes in length each day, including intermissions and recesses. *19 TAC 103.1201(f)(2)*

Accountability

The campus of accountability for student performance must be the student's locally assigned campus, including when the district or shared services arrangement contracts with a third party for DAEP services. *19 TAC 103.1201(e)*

Academic Assessments

A district shall administer to a student placed in a DAEP program for a period of 90 school days or longer an assessment instrument:

1. Initially on placement of the student in the program; and
2. Subsequently on the date of the student's departure from the program, or as near that date as possible.

The assessment instrument:

1. Must be designed to assess at least a student's basic skills in reading and mathematics;
2. May be:
    a. Comparable to any assessment instrument generally administered to students placed in juvenile justice alternative education programs for a similar purpose; or
    b. Based on an appropriate alternative assessment instrument developed by the agency to measure student academic growth; and
3. Is in addition to the required state assessments [see EKB].

Education Code 37.0082

Released state assessments for reading and mathematics for the appropriate grade may be used. A district may apply for approval of an assessment that includes the Texas Essential Knowledge and Skills for reading and mathematics for the student's assigned grade. The commissioner will publish on the Texas Education Agency (TEA) website a list of assessments approved for use in each school year. A district may contact TEA to obtain accommodated versions of particular assessments.

The grade level of an assessment shall be based upon the academic grade completed prior to the student being assigned to a DAEP if placement occurs in the fall or first semester of the academic school year. If placement occurs in the spring or second semester of the academic school year, the student shall be administered an assessment based on the current grade level.

Each district shall provide an academic report to the student's locally assigned campus, which shall include the pre- and post-assessment results of the student's basic skills in reading and mathematics, within 10 school days of the student completing the post-assessment.

Procedures for administering the pre- and post-assessment, including appropriate accommodations as needed, shall be developed and implemented in accordance with local district policy.

A student in the district's DAEP must also be assessed under the required state assessment [see EKB].

19 TAC 103.1203

Special Populations

Special Education

A DAEP serving a student with a disability who receives special education services shall provide educational services that will support the student in meeting the goals identified in the individualized education program (IEP) established by a duly-constituted admission, review, and dismissal (ARD) committee, in accordance with Education Code 37.004 and federal requirements. *19 TAC 103.1201(g)*

Drug and Alcohol Treatment

A program of educational and support services may be provided to a student and the student's parents when the offense involves drugs, e-cigarettes, or alcohol as specified under Education Code 37.006 and 37.007. A DAEP that provides chemical dependency treatment services must be licensed under Health and Safety Code Chapter 464. *Education Code 37.008(k)*

Transition to Regular Classroom

The transition services established for a student who is exiting a DAEP and returning to the student's locally assigned campus shall be implemented as required by Education Code 37.023.*19 TAC 103.1201(k)*

Definitions

"Alternative education program" includes:

1. A disciplinary alternative education program operated by a school district or open-enrollment charter school;
2. A juvenile justice alternative education program; and
3. A residential program or facility operated by or under contract with the Texas Juvenile Justice Department, a juvenile board, or any other governmental entity.

"Licensed clinical social worker" has the meaning assigned by Occupations Code 505.002.

Education Code 37.023(a)

After Determination of the Release Date

As soon as practicable after an alternative education program determines the date of a student's release from the program, the alternative education program administrator shall:

1. Provide written notice of that date to:
    a. The student's parent or a person standing in parental relation to the student; and
    b. The administrator of the campus to which the student intends to transition; and
2. Provide the campus administrator:
    a. An assessment of the student's academic growth while attending the alternative education program; and
    b. The results of any assessment instruments administered to the student.

Education Code 37.023(b)

Coordination After Release

Not later than five instructional days after the date of a student's release from an alternative education program, the campus administrator shall coordinate the student's transition to a regular classroom. The coordination must include assistance and recommendations from:

1. School counselors;
2. School district peace officers;
3. School resource officers;
4. Licensed clinical social workers;
5. Campus behavior coordinators;
6. Classroom teachers who are or may be responsible for implementing the student's personalized transition plan; and
7. Any other appropriate school district personnel.

Education Code 37.023(c)

Personalized Transition Plan

The assistance described above must include a personalized transition plan for the student developed by the campus administrator. A personalized transition plan:

1. Must include:
    a. Recommendations for the best educational placement of the student; and

b. The provision of information to the student's parent or a person standing in parental relation to the student regarding the process to request a full individual and initial evaluation of the student for purposes of special education services under Education Code 29.004 [see EHAA]; and

2. May include:

a. Recommendations for counseling, behavioral management, or academic assistance for the student with a concentration on the student's academic or career goals;

b. Recommendations for assistance for obtaining access to mental health services provided by the district or school, a local mental health authority, or another private or public entity; and

c. A regular review of the student's progress toward the student's academic or career goals.

Education Code 37.023(d)

Parent Meeting

If practicable, the campus administrator, or the administrator's designee, shall meet with the student's parent or a person standing in parental relation to the student to coordinate plans for the student's transition.

Applicability

Education Code 37.023 applies only to a student subject to compulsory attendance requirements under Education Code 25.085 [see FEA].

Education Code 37.023(e)-(f)

Students Younger Than 10

A student younger than 10 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

Subject to the requirements of Education Code 37.009(a) [see Preplacement Proceedings, below], 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 disabled individual, 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), 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 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 10 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 10 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 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:

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.

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.

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.

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)

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 Offense, 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)*

Bullying

A student may be removed from class and expelled if the student:

1. Engages in bullying that encourages a student to commit or attempt to commit suicide;

2. Incites violence against a student through group bullying; or

3. Releases or threatens to release intimate visual material of a minor or student who is 18 years of age or older without the student's consent.

Nothing in this provision exempts a school from reporting a finding of intimate visual material of a minor.

Definitions

Bullying

“Bullying” has the meaning assigned by Education Code 37.0832. [See FFI]

Intimate Visual Material

“Intimate visual material” has the meaning assigned by Civil Practice and Remedies Code 98B.001.

Education Code 37.0052

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)

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 Education 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)

Pre-placement Proceedings

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

Before ordering removal, 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 the Placement

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.

Education Code 37.009(a) [See Student Code of Conduct]

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)*

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.

Notice

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.

Hearing

The rights of the student may properly be determined upon the hearsay evidence of school administrators who investigate disciplinary infractions.

[See also *Brewer v. Austin Indep. Sch. Dist.*, 779 F.2d 260 (5th Cir. 1985); *Keough v. Tate Cnty. Bd. of Educ.*, 748 F.2d 1077 (5th Cir. 1984); *McClain v. Lafayette Cnty. Sch. Bd. of Educ.*, 673 F.2d 106 (5th Cir. 1982); *Tasby v. Estes*, 643 F.2d 1103 (5th Cir. 1981); *Boykins v. Fairfield Bd. of Educ.*, 492 F.2d 697 (5th Cir. 1974), cert. denied, 420 US 962 (1975); *Dixon v. Alabama State Bd. of Educ.*, 294 F.2d 150 (5th Cir. 1961), cert. denied, 368 U.S. 930 (1961)]

Representative

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.

Mitigating Factors Before Ordering Expulsion

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. [See Student Code of Conduct, item 4, at FO(LEGAL) for additional mitigating factors.]

Appeal

If the decision to expel a student is made by the board's designee, the decision may be appealed to the board. The decision of the board may be appealed by trial de novo to a district court of the county in which the district's central administrative office is located.

Education Code 37.009(f)

Term of Expulsion

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.

Beyond One Year

The period of expulsion may not exceed one year unless a 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 37.009(h)

Notice of Expulsion Order

To Parent or Guardian

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. *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.

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)

District Responsibility for Expelled 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 233,500; 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.

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)

Note: See FOF for provisions concerning expulsion of students with disabilities.

Meetings with Juvenile Board

A board or designee shall regularly meet with either:

1. The juvenile board for the county in which a district's central administrative office is located; or
2. The juvenile board's designee.

The meeting shall be called by the board president and shall address supervision and rehabilitative services appropriate for expelled students and students assigned to disciplinary alternative education programs (DAEPs).

Matters for discussion shall include:

1. Service by probation officers at the DAEP site;
2. Recruitment of volunteers to serve as mentors and provide tutoring services; and
3. Coordination with other social service agencies.

Education Code 37.013

Juvenile Justice Alternative Education Program

For the purposes of the following provisions, only a DAEP operated under the authority of a juvenile board of a county is considered a juvenile justice alternative education program (JJAEP).

Mandatory JJAEP

The juvenile board of a county with a population greater than 125,000 shall develop a JJAEP, subject to the approval of the Texas Juvenile Justice Department (TJJD).

Voluntary JJAEP

The juvenile board of a county with a population of 125,000 or less may develop a JJAEP. Such a JJAEP is not required to be approved by the TJJD. Further, it is not subject to Education Code 37.011(c), (d), (f), (g), (k) or (m).

Education Code 37.011(a), (k), (m)

County Population

A county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if:

1. The county had a population of 125,000 or less according to the 2000 federal census and the juvenile board of the county enters into, with the approval of the TJJD, a memorandum of understanding (MOU) with each school district within the county that:
    a. Outlines the responsibilities of the board and school districts in minimizing the number of students expelled without receiving alternative educational services; and
    b. Includes the coordination procedures required by Education Code 37.013, above.

2. Has a population of 195,000 or less; is adjacent to two counties, each of which has a population of more than 1.7 million; and has seven or more school districts located wholly within the county's boundaries.

3. Has a population of more than 200,000 and less than 233,500; 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.

Education Code 37.011(a-1)-(a-3)

Note: The following provisions apply to all districts that operate JJAEPs, whether voluntary or mandatory.

Placement of Students in JJAEP — Expelled Students

An expelled student shall, to the extent provided by law or by the MOU, immediately attend the educational program from the date of expulsion. *Education Code 37.010(a)* [See FOD]

Court-Ordered Placement

If a student admitted under Education Code 25.001(b) is expelled for conduct for which expulsion is required under Education Code 37.007(a), (d), or (e) or for conduct that contains the elements of the offense of terroristic threat as described by Penal Code 22.07(c-1), (d), or (e), the juvenile court, juvenile board, or juvenile board's designee, as appropriate, shall:

1. If the student is placed on probation under Family Code 54.04, order the student to attend the JJAEP in the county in which the student resides from the date of disposition as a condition of probation, unless the child is placed in a post-adjudication treatment facility;

2. If the student is placed on deferred prosecution under Family Code 53.03 by the court, prosecutor, or probation department, require the student to immediately attend the JJAEP in the county in which the student resides for a period not to exceed six months as a condition of the deferred prosecution;

3. In determining the condition of the deferred prosecution or court-ordered probation, consider the length of a district's expulsion order for the student; and

4. Provide timely educational services to the student in the JJAEP in the county in which the student resides, regardless of the student's age or whether the juvenile court has jurisdiction over the student. This provision does not require that ed-

ucational services be provided to a student who is not entitled to admission under Education Code 25.001(b).

Education Code 37.011(b)-(b-1)

A student transferred to a JJAEP must participate in the program for the full period ordered by the juvenile court, unless a district agrees to accept the student before the date ordered by the juvenile court. *Education Code 37.011(i)*

Students Who Move

If a student who is ordered to attend a JJAEP moves from one county to another, the juvenile court may request the JJAEP in the county to which the student moves to provide educational services to the student in accordance with the local MOU between the district and the juvenile board in the receiving county. *Education Code 37.011(n)*

Entry and Exit Transition Plans

For each student, the JJAEP must coordinate with the sending school district to develop a written transition plan for entrance into the JJAEP. For each student, the JJAEP must develop a written exit transition plan, provide the plan to the receiving school district, and maintain written verification that the plan was sent. The exit transition plan must include all information regarding courses in progress or completed, current grades for courses in progress, and the number of attendance days and absent days. *37 TAC 348.212(b)*

[See FOCA for requirements regarding transition to the regular classroom.]

Funding for JJAEPs

Except as determined by the commissioner of education, a student served by a JJAEP on the basis of conduct for which expulsion is required under Education Code 37.007 is not eligible for Foundation School Program funding if the JJAEP receives funding from the TJJD. *Education Code 37.011(h)*

Mandatory Expulsions

Court-Assigned Students

A district is not required to provide funding to a juvenile board for a student who is assigned by a court to a JJAEP but who has not been expelled. *Education Code 37.012*

Title 5 Felony Placements

A district shall reimburse a JJAEP in which a student is placed under Education Code 37.0081 [see FOE] for the actual cost incurred each day the student is enrolled in the program. For purposes of this subsection:

1. The actual cost incurred each day for the student is determined by the juvenile board of the county operating the program; and

2. The juvenile board shall determine the actual cost each day of the program based on the board's annual audit.

Education Code 37.0081(g)

Funding for Discretionary Expulsions

Subject to Education Code 37.011(n) [see Students Who Move, above], the district in which a student is enrolled on the date the student is expelled for conduct for which expulsion is permitted but not required under Education Code 37.007 shall, if the student is served by the JJAEP, provide funding to the juvenile board in an amount determined by the MOU under Education Code 37.011(k).

The amount of the funds transferred is determined by the portion of the school year for which the JJAEP provides educational services to a district.

Education Code 37.012(a)

Arbitration of Disputes

If a district elects to contract with the juvenile board for the placement of students who are expelled for conduct for which expulsion is permitted but not required under Education Code 37.007, and the juvenile board and the district are unable to reach an agreement in the MOU, either party may request that the issues of dispute be referred to a binding arbitration process that uses a qualified alternative dispute resolution arbitrator.

Each party shall pay its pro rata share of the arbitration costs and shall submit its final proposal to the arbitrator. If the parties cannot agree on an arbitrator, the juvenile board shall select an arbitrator, the district shall select an arbitrator, and those two arbitrators shall select an arbitrator who shall decide the issues in dispute.

Decision of Arbitrator

The arbitration decision is enforceable in a court in the county in which the JJAEP is located. Any decision by an arbitrator concerning the amount of the funding for a student who is expelled and attending a JJAEP must provide an amount sufficient based on operation of the JJAEP. In determining the amount to be paid by a district for an expelled student enrolled in a JJAEP, the arbitrator shall consider the relevant factors, including evidence of:

1. The actual average total per student expenditure in the district's DAEP;

2. The expected per student cost in the JJAEP as described and agreed on in the MOU and in compliance with Education Code Chapter 37; and

3. The costs necessary to achieve the accountability goals under Education Code Chapter 37.

Education Code 37.011(p)

Fees

Except as otherwise authorized by law [see FP], a JJAEP may not require a student, or the parent or guardian, to pay any fee, including an entrance or supply fee, for participating in the program. *Education Code 37.012(e)*

Location and Staffing

A JJAEP may be provided in a facility owned by a district. A district may provide personnel and services for a JJAEP under a contract with the juvenile board. *Education Code 37.011(e)*

Academic Mission of JJAEP

Academically, the mission of the JJAEP shall be to enable students to perform at grade level.

Accountability

For purposes of accountability under Education Code Chapters 39 and 39A, a student enrolled in a JJAEP is reported as if the student were enrolled at the student's assigned campus in the student's regularly assigned education program, including a special education program.

Education Code 37.011(h)

Program Requirements

JJAEP programs operated under Education Code 37.011 must comply with the requirements found at 37 Administrative Code Chapter 348. *37 TAC 348.104(b)*

Note: The following provisions apply only to districts located in counties with a population greater than 125,000 that are not exempt from the application of the provisions as detailed in Education Code 37.011(a-1), (a-2), or (a-3) [see County Population, above].

Memorandum of Understanding

A district and the county juvenile board shall, no later than September 1 of each school year, enter into a joint MOU that:

1. Outlines the responsibilities of the juvenile board concerning the establishment and operation of a JJAEP;
2. Defines the amount and conditions on payments from the district to the juvenile board for students who are served in the JJAEP whose placement was not made on the basis of expulsion required under Education Code 37.007(a), (d), or (e);
3. Establishes that a student may be placed in the JJAEP if the student engages in serious misbehavior, as defined by Education Code 37.007(c);
4. Identifies and requires a timely placement and specifies a term of placement for expelled students for whom the district has received a notice under Family Code 52.041(d);

5. Establishes services for the transitioning of expelled students to the district before the completion of the student's placement in the JJAEP;

6. Establishes a plan that provides transportation services for students placed in the JJAEP;

7. Establishes the circumstances and conditions under which a juvenile may be allowed to remain in the JJAEP setting once the juvenile is no longer under juvenile court jurisdiction; and

8. Establishes a plan to address special education services required by law.

Education Code 37.011(k)-(m)

The memorandum of understanding must be submitted to TJJD no later than October 1 of each year. *37 TAC 348.200(c)*

Placement in JJAEP Every expelled student who is not detained or receiving treatment under an order of the juvenile court must be enrolled in an educational program. *Education Code 37.010(a)*

Operating Requirements The JJAEP shall be subject to a written operating policy developed by the local juvenile justice board and submitted to the TJJD for review and comment. The JJAEP is not subject to a requirement imposed by Education Code Title II, other than a reporting requirement or a requirement imposed by Education Code Chapters 37, 39, or 39A. *Education Code 37.011(g)*

Student Code of Conduct The JJAEP shall adopt a Student Code of Conduct in accordance with Education Code 37.001. *Education Code 37.011(c); 37 TAC 348.224*

Educational Program The JJAEP shall focus on English language arts, mathematics, science, social studies, and self-discipline.

Assessment The JJAEP shall administer assessment instruments under Education Code Chapter 39, Subchapter B.

Equivalency The JJAEP shall offer a high school equivalency program.

Review of Progress The juvenile board or the board's designee, with the parent or guardian of each student, shall regularly review the student's academic progress. In the case of a high school student, the board or 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 program is not required to provide a course nec-

essary to fulfill a student's high school graduation requirements other than a course specified above.

Education Code 37.011(d)

Days and Hours

The JJAEP must operate at least seven hours per day and 180 days per year, except that a JJAEP may apply to the TJJD for a waiver of the 180-day requirement. The commissioner may not grant a waiver to a JJAEP for a number of days that exceeds the highest number of instructional days waived by the commissioner during the same school year for a district served by the program. *Education Code 37.011(f)*

Performance Reports

TJJD completes a performance assessment report as required by the General Appropriations Act. At mandatory JJAEPs (i.e., JJAEPs whose operation is required by law), the JJAEP administrator must provide a copy of the report to the juvenile board and the superintendent of each school district that participates in the JJAEP. *37 TAC 348.300*

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Note: For forms prescribed by the attorney general, see the Attorney General's Public Information website.[1]

Public Information

See GB(LEGAL) for the definition of public information.

Availability of Public Information

Public information is available to the public at a minimum during the normal business hours of a district. Government Code Chapter 552 (Public Information Act [PIA]) does not authorize the withholding of public information or limit the availability of public information to the public, except as expressly provided by the PIA. *Gov't Code 552.006, .021*

Special Rights of Access

Person Whose Information the District Holds

A person or a person'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 person and that is protected from public disclosure by laws intended to protect that person's privacy interests. A district may not deny this access on the grounds that the information is considered confidential by privacy principles under the Public Information Act but may assert as grounds for denial other provisions of the PIA or other law not intended to protect the person's privacy interests. Access to information under this provision shall be provided in the manner prescribed by Government Code 552.229 (consent to release) and 552.307 (timely release), below. *Gov't Code 552.023(a), (b), (e)*

Board Members

For information on board members' special access rights to district information, see BBE.

Parents

A district that receives a request from a parent for public information relating to the parent's child shall comply with the Public Information Act. *Education Code 26.0085(e)*

For information on parents' special access rights to their child's education records, see FL.

Information That Must Be Disclosed

The following categories of information are public information and not excepted from required disclosure unless made confidential under the Public Information Act or other law:

1. A completed report, audit, evaluation, or investigation made of, for, or by a board or district, 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 or other funds by a board.

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 central and campus organization, including 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, a description of forms available or the places at which 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 as authorized by law, and a statement of general policy or interpretation of general applicability formulated and adopted by the board.
10. Each amendment, revision, or repeal of the information described in items 6-9.
11. Final opinions and orders issued in the 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

Contracting Information

Contracting information, as that term is defined in Government Code 552.003(1-a) [see GBAA], is public and must be released unless excepted from disclosure under the Public Information Act.

The exceptions to disclosure provided by Government Code 552.110 (trade secrets) and 552.1101 (proprietary information) do not apply to the types of contracting information listed at Government Code 552.0222(b). *Gov't Code 552.0222(a), (b)* [See GBAA for additional procedures related to contracting information.]

Investment Information

Certain categories of information held by a district relating to its investments, as specified by Government Code 552.0225(b), are public information and not excepted from disclosure under the Public Information Act. *Gov't Code 552.0225*

Confidential Information That Must Not Be Disclosed

A person commits an offense if the person distributes information considered confidential under the terms of the Public Information Act. A violation under this provision also constitutes official misconduct. *Gov't Code 552.352*

Confidential by Law

Information is excepted from public disclosure if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *Gov't Code 552.101*

Note: For confidentiality and access provisions addressed by specific statutes other than Government Code Chapter 552 (Public Information Act), see the applicable policy code.

Privileged Attorney-Client Information

The Texas Rules of Civil Procedure and the Texas Rule of Evidence are "other law" within the meaning of Government Code 552.022 (allowing "other law" to make information confidential from required disclosure). A district does not forfeit the attorney-client privilege by failing to timely request an attorney general's decision, and the privilege is sufficiently compelling to rebut the presumption of public disclosure after an untimely request. *In re City of Georgetown, 53 S.W.3d 328, 336 (Tex. 2001); Paxton v. City of Dallas, 509 S.W.3d 247 (Tex. 2017)*

The attorney-client privilege does not apply if the attorney or attorney's representative acts in a capacity other than that of providing or facilitating professional legal services to the client. *Harlandale Indep. Sch. Dist. V. Cornyn, 25 S.W.3d 328 (Tex. App.—Austin 2000, pet. Denied)*

Closed Meeting Records

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); Atty. Gen. ORD 684 (2009)*

[For information regarding minutes or recording of an open meeting, see BE.]

Student Education Records

The Public Information Act does not require the release of information contained in education records of the district, except in conformity with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1232g (FERPA).

In this provision, "student record" means information that constitutes education records as that term is defined by FERPA or information in a record of an applicant for admission to an educational institution, including a transfer applicant.

Information is confidential and excepted from required disclosure if it is information in a student record at a district.

The district is not prohibited from disclosing or providing information included in an education record if the disclosure or provision is authorized by FERPA or other federal law. In addition, a student record shall be made available on the request of district personnel, the student, the student's parents, legal guardian, or spouse, or a person conducting a child abuse investigation required by Family Code Chapter 261, Subchapter D.

Except as provided by Government Code 552.114(e) (information in enrollment or transfer records, below), a district may redact information in a student record from information required to be disclosed under the Public Information Act without requesting a decision from the attorney general.

Gov't Code 552.026, .114 [See FL]

Enrollment or Transfer Information

If an applicant, or a parent or legal guardian of a minor applicant, for admission to an educational institution funded wholly or partly by state revenue 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 552.114(e)*

Student Victim Information

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)*

Juvenile Law Enforcement Records

Except as provided by Family Code 58.008(c) (person with a determinate sentence), law enforcement records concerning a child, as defined by Family Code 51.02(2), and information concerning a child that are stored by electronic means or otherwise and from

which a record could be generated may not be disclosed to the public. *Family Code 58.008(b)*

Law enforcement records concerning a child may be inspected or copied by:

1. A juvenile justice agency, as defined by Family Code 58.101;
2. A criminal justice agency, as defined by Government Code 411.082;
3. The child;
4. The child's parent or guardian; or
5. The chief executive officer or the officer's designee of a primary or secondary school where the child is enrolled only for the purpose of conducting a threat assessment or preparing a safety plan related to the child. [See FFB]

Family Code 58.008(d), (d-1)

Exclusions

These provisions do not apply to a record relating to a child that is required or authorized to be maintained under the laws regulating the operation of motor vehicles in Texas or subject to disclosure under Code of Criminal Procedure Chapter 62 (registered sex offenders). *Family Code 58.008(a)*

Certain Personnel Information

Note: For previous determinations by the attorney general allowing governmental bodies to withhold specific categories of information in personnel records, including direct deposit forms; employment forms I-9, W-2, W-4; and fingerprints, without the necessity of requesting an attorney general decision, see Attorney General Open Records Decision (ORD) 684 (2009).

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)*

Invasion of Privacy

Information is excepted from public disclosure if it is information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, except that all information in the personnel file of a district employee is to be made available to that employee or the employee's designated representative as public information is made available under the Public Information Act. The exception to public disclosure created by this provision is in addition to any exception created by Government Code 552.024. Public access to personnel information covered by Government Code 552.024 is denied to the extent provided by that provision. *Gov't Code 552.102(a)*

Employee Birth Dates

Disclosure of employee birth dates would constitute a clearly unwarranted invasion of personal privacy, and thus such dates are excepted from disclosure under Government Code 552.102(a). *Texas Comptroller of Public Accts. v. Atty. Gen'l of Texas, 354 S.W.3d 336 (Tex. 2010)*

College Transcripts

Information is excepted from public disclosure if it is a transcript from an institution of higher education maintained in the personnel file of a professional employee, except that this provision does not exempt from disclosure the degree obtained or the curriculum on a transcript in the personnel file of the employee. *Gov't Code 552.102(b)*

Evaluations

A document evaluating the performance of a teacher or administrator is confidential and is not subject to disclosure under the Public Information Act.

At the request of a school district, open-enrollment charter school, or private school at which a teacher or administrator has applied for employment, a district shall give the requesting district or school a document evaluating the performance of a teacher or administrator employed by the school.

A district shall give the Texas Education Agency (TEA) a document evaluating the performance of a teacher or administrator employed by the district for purposes of an investigation conducted by TEA.

Education Code 21.355(a), (c), (d)

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)*

Employee Accused of Improper Relationship with Student

A primary or secondary school may not release externally to the general public the name of an employee who is accused of committing an offense under Penal Code 21.12 (improper relationship between educator and student) until the employee is indicted for the offense. The school may release the name of the accused employee regardless of whether the employee has been indicted for the offense as necessary for the school to:

1. Report the accusation:
    a. To TEA, another state agency, or local law enforcement or as otherwise required by law; or
    b. To the school's community in accordance with the school's policies or procedures; or

2. Conduct an investigation of the accusation.

Penal Code 21.12(d-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(e) 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

Email Addresses of the Public

An email 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.

This confidentiality does not apply to an email 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 provision includes a state agency permit, certificate, approval, registration, or similar form of permission required by law.

A district may also disclose an email address for any reason to another governmental body or to a federal agency.

Gov't Code 552.137, 2001.003(2); Atty. Gen. ORD 684 (2009)

Individuals Who Inform of Legal Violations

An informer's name or information that would substantially reveal the identity of an informer is excepted from public disclosure.

"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.

This exception does not apply if the informer:

1. If the informer is a student or former student, and the student, student's legal guardian, or student's spouse consents to disclosure of the student's name;

2. If the informer is an employee or former employee who consents to disclosure of the employee's name; or

3. The informer planned, initiated, or participated in the possible violation.

Information 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 Public Information Act.

Gov't Code 552.135

Crime Victim Information

Address Confidentiality Program

Information relating to a participant in the Address Confidentiality Program for Certain Crime Victims (including from family violence, sexual assault or abuse, stalking, child abduction, or trafficking of persons under Code of Criminal Procedure Chapter 58, Subchapter B) is confidential, except as provided by Code of Criminal Procedure 58.061, and may not be disclosed under the Public Information Act. *Code of Criminal Procedure 58.060*

Employee Victims

A district employee who is a victim under Code of Criminal Procedure Chapter 56B (Crime Victims' Compensation Act) regardless of

whether the employee has filed an application for compensation 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 district 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(d)

Victims of Certain Crimes

Information is confidential and excepted from public disclosure if the information identifies an individual as a victim of:

1. A criminal offense specified by Government Code 552.1315(a)(1)(A) and (B), or
2. Any criminal offense if the victim was younger than 18 years of age when any element of the offense was committed.

Notwithstanding the above, information may be disclosed:

1. To any victim identified by the information;
2. To the parent or guardian of a victim described by item 2 above who is identified by the information;
3. To a law enforcement agency for investigative purposes; or
4. In accordance with a court order requiring the disclosure.

Gov't Code 552.1315

Location or Layout of Shelter Centers

Information that relates to the location or physical layout of a family violence shelter center or victims of trafficking shelter center is confidential. A district may redact this information from any information the district discloses 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 552.138(e) 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.

Restriction on Release of Licensee Information

A district may not sell or otherwise release certain information listed about a person who holds, previously held, or is an applicant for a license issued by the district if the person meets the requirements under Government Code 552.138.

Gov't Code 552.138(b-1), (c), (d), (f)

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*

A district may not release or disclose to any person criminal history record information (CHRI) obtained from the Federal Bureau of Investigation.

CHRI obtained by the district or obtained by an entity that contracts to provide services to a district from the Texas Department of Public Safety or any other Texas criminal justice agency may not be released to any person in the original form or any subsequent form except:

1. The individual who is the subject of the information;
2. TEA;
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) [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 public disclosure, regardless of the date that the image was taken or recorded. A district may not permit a person to view or copy the image unless the person is one of the individuals specified by Government Code 552.1085(d) and the district is not otherwise asserting an exception to disclosure under another provision of the Public Information Act or another law. *Gov't Code 552.1085*

Computer Security

Computer Networks

Information is excepted from public disclosure if it is 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.

The following information is confidential:

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;
3. A photocopy or other copy of an identification badge issued to an official or employee of a district; and
4. Information directly arising from a governmental body's routine efforts to prevent, detect, investigate, or mitigate a computer security incident, including information contained in or derived from an information security log. This does not affect the notification requirements related to a breach of system security as defined by Business and Commerce Code 521.053. [See CQB]

   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 [see Voluntary Disclosure, below].

Gov't Code 552.139

Cybersecurity Information

A cyber threat indicator or defensive measure shared with the federal government under Title 6, United States Code, shall be:

1. Exempt from disclosure under federal freedom of information law and any state or local provision of public information law requiring disclosure of information or records; and
2. Withheld, without discretion, from the public under federal freedom of information law and any state or local provision of public information law requiring disclosure of information or records.

6 U.S.C. 1504(d)(4)(B) [See CQB]

Texas VIRT Information

Information written, produced, collected, assembled, or maintained by a participating district or a volunteer from the district in the implementation of Government Code Chapter 2054, Subchapter N-2 (Texas Volunteer Incident Response Team) is confidential and not subject to disclosure under the Public Information Act if the information:

1. Contains the contact information for a volunteer;
2. Identifies or provides a means of identifying a person who may, as a result of disclosure of the information, become a victim of a cybersecurity event;
3. Consists of a participating district's cybersecurity plans or cybersecurity-related practices; or
4. Is obtained from a participating district or from a participating district's computer system in the course of providing assistance under Subchapter N-2.

Gov't Code 2054.52010

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. During that period, the district may only permit inspection, copying, or disclosure of the information contained in the record only in accordance with Government Code 552.140 or a court order. The district is authorized to withhold a Form DD-214 or other military discharge record that is first recorded with or that otherwise first comes into the possession of the district on or after September 1, 2003, under this provision without the necessity of requesting an attorney general decision. *Gov't Code 552.140(a), (b); Atty. Gen. ORD 684 (2009)*

Limited Use

A district that obtains this information from another governmental body shall limit the district's use and disclosure of the information to the purpose for which the information was obtained. *Gov't Code 552.140(e)*

Firefighter or EMS Work Schedules

A work schedule or a time sheet of a firefighter or volunteer firefighter or emergency medical services personnel as defined by Health and Safety Code 773.003 is confidential and excepted from public disclosure. *Gov't Code 552.159*

Out-of-State Health-Care Provider Information

Information obtained by a district that was provided by an out-of-state health-care provider in connection with a quality management, peer review, or best practices program that the out-of-state

health-care provider pays for is confidential and excepted from public disclosure. *Gov't Code 552.162*

Applicant for Disaster Recovery Funds

The following information maintained by a district is confidential:

1. The name, social security number, house number, street name, and telephone number of an individual or household that applies for state or federal disaster recovery funds;
2. The name, tax identification number, address, and telephone number of a business entity or an owner of a business entity that applies for state or federal disaster recovery funds; and
3. Any other information the disclosure of which would identify or tend to identify a person or household that applies for state or federal disaster recovery funds.

The street name and census block group of and the amount of disaster recovery funds awarded to a person or household are not confidential after the date on which disaster recovery funds are awarded to the person or household.

Gov't Code 552.160(b), (c)

Threat of Physical Harm

Information in the custody of a district that relates to an employee or officer of the district is excepted from public disclosure 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*

Exceptions to Disclosure

Voluntary Disclosure

The Public Information Act does not prohibit a district or its officer for public information from voluntarily making part or all of its information available to the public, unless the disclosure is expressly prohibited by law or the information is confidential under law. Information voluntarily made available as allowed under this provision must be made available to any person and cannot be withheld from further disclosure. *Gov't Code 552.007; Atty. Gen. ORD 518 (1989)*

Right of Access After 75 Years

Except for social security numbers, the confidentiality provisions of the Public Information Act, or as otherwise provided by law, information that is not confidential but is excepted from required disclosure under Government Code Chapter 552, Subchapter C, is public information and is available to the public on or after the 75th anniversary of the date the information was originally created or received by the 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*

Information Relating to Litigation

Information is excepted from public disclosure if it is 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 on the date the district's public information officer receives the request. *Gov't Code 552.103(a), (c)*

Election Information

The litigation exception to disclosure does not apply to information requested under the Public Information Act if the information relates to a general, primary, or special election and the information is in the possession of a governmental body that administers elections. *Gov't Code 551.103(d)*

Information Related to Competition or Bidding

Information is excepted from public disclosure if the district demonstrates that the release of the information would harm its interests by providing an advantage to a competitor or bidder in a particular ongoing competitive situation or in a particular competitive situation where the district establishes the situation at issue is set to reoccur or there is a specific and demonstrable intent to enter into the competitive situation again in the future. Required disclosure under Government Code 552.022 does not apply to information that is excepted from required disclosure under this provision.

Parades, Concerts, and Entertainment Events

Information relating to the receipt or expenditure of public or other funds by a district for a parade, concert, or other entertainment event paid for in whole or part with public funds is not excepted from public disclosure. A person, including a district, may not include a provision in a contract related to an event that prohibits or would otherwise prevent the disclosure of this information. A contract provision that violates Government Code 552.104(c) is void.

Gov't Code 552.104

Certain Information on Real or Personal Property

Information is excepted from public disclosure if it is information relating to the location of real or personal property for a public purpose prior to public announcement of the project, or information relating 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*

Drafts Involving Legislation

A draft or working paper involved in the preparation of proposed legislation is excepted from public disclosure. *Gov't Code 552.106*

Certain Legal Information

Information is excepted from public disclosure if it is not privileged information but information that an attorney of a district is prohibited from disclosing because of a duty to the board 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*

Certain Law Enforcement Information

Information (other than basic information about an arrested person, an arrest, or a crime) held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from public disclosure if:

1. Release of the information would interfere with the detection, investigation, or prosecution of crime; or
2. It is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication.

An internal record or notation of a law enforcement agency that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from public disclosure if:

1. Release of the internal record or notation would interfere with law enforcement or prosecution; or
2. The internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication.

Basic Information

A district shall promptly release basic information about an arrested person, an arrest, or a crime responsive to a Public Information Act request unless the district seeks to withhold the information as provided by another provision of the PIA. The district shall promptly release the information regardless of whether the district requests an attorney general decision regarding other information subject to the request.

Certain Crime Information

Information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication is not excepted from disclosure of information, records, or notations if:

1. A person who is described by or depicted in the information, record, or notation, other than a peace officer, is deceased or incapacitated; or
2. Each person who is described by or depicted in the information, record, or notation, other than a person who is deceased or incapacitated, consents to the release of the information, record, or notation.

Gov't Code 552.108

Private Correspondence of Elected Official

Private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy are excepted from public disclosure. *Gov't*

	Code 552.109; Industrial Foundation of the South v. Texas Indus. Acc. Bd., 540 S.W.2d 668 (Tex. 1976)
Trade Secrets	Except as provided by Government Code 552.0222 (disclosure of contracting information), information is excepted from public disclosure if it is demonstrated based on specific factual evidence that the information is a trade secret, as defined by Government Code 552.110(a). *Gov't Code 552.110(b)*
Certain Commercial and Financial Information	Except as provided by Government Code 552.0222 (disclosure of contracting information), 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 is excepted from public disclosure. *Gov't Code 552.110(c)*
Proprietary Information	Except as provided by Government Code 552.0222 (disclosure of contracting information), information submitted to a district by a vendor, contractor, potential vendor, or potential contractor in response to a request for a bid, proposal, or qualification is excepted from public disclosure if the vendor, contractor, potential vendor, or potential contractor demonstrates based on specific factual evidence that disclosure of the information would be proprietary as specified under Government Code 552.1101(a). This exception to disclosure may be asserted only by a vendor, contractor, potential vendor, or potential contractor in the manner described by Government Code 552.305(b) for the purpose of protecting the interests of the vendor, contractor, potential vendor, or potential contractor. A district must decline to release this information as provided by Government Code 552.305(a) to the extent necessary to allow a vendor, contractor, potential vendor, or potential contractor to assert the exception to disclosure provided by Government Code 552.1101(a) (proprietary information). *Gov't Code 552.1101* [See GBAA for additional procedures related to information involving proprietary interests of a vendor, contractor, or potential vendor or contractor.]
Proprietary Records and Trade Secrets in Certain Partnerships	Information in the custody of a district that relates to a proposal for a qualifying project authorized under Government Code Chapter 2267 is excepted from public disclosure if the information and records meet the criteria outlined at Government Code 552.153(b). The district is not authorized to withhold information as outlined by Government Code 552.153(c). *Gov't Code 552.153* [See CDH]

Certain Memoranda

An interagency or intra-agency memorandum or letter that would not be available by law to a party in litigation with a district is excepted from public disclosure. *Gov't Code 552.111; City of Garland v. Dallas Morning News, 22 S.W.3d 351 (Tex. 2000)*

Audit Working Paper

An audit working paper of an auditor of a school district, including any audit relating to the criminal history background check of a public school employee, is excepted from public disclosure. If information in an audit working paper is also maintained in another record, that other record is not excepted.

"Audit" means an audit authorized or required by a statute of Texas or the United States or a resolution or other action of a board of trustees of a school district, including an audit by the district relating to the criminal history background check of a public school employee, and includes an investigation.

"Audit working paper" includes all information, documentary or otherwise, prepared or maintained in conducting an audit or preparing an audit report, including intra-agency and interagency communications and drafts of the audit report or portions of those drafts. *Gov't Code 552.116*

Personal Information of Certain Individuals

Board Members and Others

Option to Restrict Access

Information that relates to the home address, home telephone number, emergency contact information, date of birth, or social security number of an individual to whom Government Code 552.1175(a) applies (including a current or honorably retired peace officer, commissioned security officer, elected public officer, members of the military, or a firefighter or volunteer firefighter), or that reveals whether the individual has family members is confidential and may not be disclosed to the public if the individual to whom the information relates 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. This choice remains valid until rescinded in writing by the individual.

Redaction and Notice to Requestor

In accordance with Government Code 552.1175(f), a district may redact information that must be withheld under this provision from any information the district discloses under the Public Information Act 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 552.1175(h) 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

Board Member and Employee Personnel Information

Information is excepted from public disclosure if it is information that relates to the home address, home telephone number, emergency contact information, or social security number of the persons listed at Government Code 552.117(a) or that reveals whether the person has family members. Government Code 552.117(a) includes the following:

1. A current or former district employee or board member, except as provided by Government Code 552.024, below;
2. Certain peace officers, security officers, law enforcement personnel, and first responders; and
3. An elected public officer, regardless of whether the officer complies with Government Code 552.024, below, or .1175, above.

Gov't Code 552.117

Choice To Allow Access

Each current or former employee or board member of a district shall choose whether to allow public access to information in the custody of the district that relates to the person's home address, home telephone number, emergency contact information, or social security number, or that reveals whether the person has family members.

Each current or former employee and board member shall state that person's choice to the main personnel officer of the district in a signed writing not later than the 14th day after the date on which the employee begins employment with the district, the board member is elected or appointed, or the former employee or official ends service with the district.

If the current or former employee or board member fails to state the person's choice within the period established by this provision, the information is subject to public access.

A current or former employee or board member who wishes to close or open public access to the information may request in writing that the main personnel officer of the district close or open access.

Exercising the option to close public access to protect personal information does not apply to a public information request made before the option was exercised.

Gov't Code 552.024; Atty. Gen. ORD 530 (1989)

Redaction and Notice to Requestors

If the current or former employee or board member chooses not to allow public access to the information, the district may redact the information from any information the district discloses without the

necessity of requesting a decision from the attorney general. *Gov't Code 552.024(c)*

A district that redacts or withholds information under this provision 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-1), (c-2)*

Photograph of Peace Officer

A photograph that depicts a peace officer, the release of which would endanger the life or physical safety of the officer, is excepted from public disclosure unless:

1. The officer is under indictment or charged with an offense by information;
2. The officer is a party in a fire or police civil service hearing or a case in arbitration; or
3. 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

Testing Items

A test item developed by an educational institution that is funded wholly or in part by state revenue or by a district is excepted from public disclosure. *Gov't Code 552.122*

Certain Library Records

A record of a library or library system, supported in whole or in part by public funds, that identifies or serves to identify a person who requested, obtained, or used a library material or service is excepted from public disclosure, unless the record is disclosed:

1. 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;
2. To a person with a special right of access under Government Code 552.023; or
3. To a law enforcement agency or prosecutor under a court order or a subpoena obtained in compliance with this provision.

Gov't Code 552.124

Superintendent Applicants

The name of an applicant for superintendent of a district is excepted from public disclosure, except that the board must give public notice of the name or names of the finalists being considered for

that position at least 21 days before the date of the meeting at which final action or a vote is to be taken on the applicant's employment. *Gov't Code 552.126*

Certain Motor Vehicle and Personal Identification Information

Information is excepted from public disclosure if the information relates to:

1. A motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;
2. A motor vehicle title or registration issued by an agency of this state or another state or country; or
3. 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 if, and in the manner, authorized by 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 (including a Texas driver's license number, a copy of a Texas driver's license, a Texas license plate number, the portion of a photograph that reveals a Texas license plate number, and the portion of any video depicting a discernible Texas license plate number) 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(e) 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; Atty. Gen. ORD 684 (2009)

Economic Development Negotiations

Information is excepted from public disclosure if the information 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 and the information relates to:

1. A trade secret of the business prospect; or
2. 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)

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 is excepted from public disclosure.

After an agreement is made, the exception no longer applies to information about a financial or other incentive being offered to the business prospect:

1. By the board; or
2. 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)

Social Security Numbers of Any Living Person

Except for the social security number of a district employee in the custody of the district, the social security number of a living person is excepted from public disclosure, but is not confidential under the Public Information Act. 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(a), (c)*

Exclusions from Public Information

Protected Health Information

An individual's protected health information as defined by Health and Safety Code 181.006 is not public information and is not subject to disclosure under the Public Information Act. *Gov't Code 552.002(d)*

Subpoena or Discovery Request

A subpoena duces tecum or a request for discovery that is issued in compliance with a statute or a rule of civil or criminal procedure is not considered to be a request for information under the Public Information Act. The Public Information Act does not affect the scope of civil discovery under the Texas Rules of Civil Procedure, and exceptions from disclosure under the PIA do not create new privileges from discovery. *Gov't Code 552.005, .0055*

No Right of Access

Commercially Available Publications

A district is not required under the Public Information Act 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.

Exception

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 board or district.

Gov't Code 552.027

Requests from Incarcerated Individuals

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 Public Information Act. This provision does not prohibit a district from disclosing to an incarcerated individual or the individual's agent information held by the district that pertains to the individual. *Gov't Code 552.028*

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 that are in the custody of the system or in the custody of an administering firm, a carrier, the district, or another governmental body, acting in cooperation with or on behalf of the retirement system are confidential and not subject to public disclosure.

An administering firm, carrier, or the 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 this provision, "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(c), (h), 825.507(g)

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[1] Office of the Attorney General and the Public Information Act: https://www.texasattorneygeneral.gov/open-government/office-attorney-general-and-public-information-act

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Note: For forms prescribed by the attorney general, see the Attorney General's Public Information website.[1]

Officer for Public Information and Required Sign

Officer and Agents

The superintendent of a district is the officer for public information. Each department head is an agent of the officer for public information for purposes of complying with Government Code Chapter 552 (Public Information Act [PIA]).

Duties

The officer is responsible for the release of public information as required by the Public Information Act. Subject to penalties provided by the Public Information Act, the officer for public information shall:

1. Make public information available for public inspection and copying;
2. Carefully protect public information from deterioration, alteration, mutilation, loss, or unlawful removal;
3. Repair, renovate, or rebind public information when necessary to maintain it properly; and
4. Make reasonable efforts to obtain public information from a temporary custodian if:
    a. The information has been requested from the district;
    b. The officer is aware of facts sufficient to warrant a reasonable belief that the temporary custodian has possession, custody, or control of the information;
    c. The officer is unable to comply with the duties imposed by the Public Information Act without obtaining the information from the temporary custodian; and
    d. The temporary custodian has not provided the information to the officer or the officer's agent.

The officer is not responsible for the use made of the information by the requestor or the release of the information after it is removed from a record as a result of an update, correction, or change of status of the person to whom the information pertains.

Gov't Code 552.201(a)-.204; Keever v. Finlan, 988 S.W.2d 300 (Tex. App.—Dallas 1999, pet. dism'd) (a district's chief administrative officer is the superintendent)

Training

This provision applies to an elected or appointed board member and the officer for public information.

Each person shall complete a course of training of not less than one and not more than two hours regarding the responsibilities of the district and its board members and employees under the Public Information Act not later than the 90th day after the date:

1. The board member takes the oath of office; or
2. The officer for public information assumes duties as officer for public information.

A public information coordinator who is primarily responsible for administering the responsibilities of the board under the Public Information Act and designated for board members to satisfy the training requirement of this provision shall complete the training course regarding the responsibilities of the board and district employees under the PIA not later than the 90th day after the date the coordinator assumes the person's duties as coordinator. [See BBD, CPC(LOCAL)]

Designation of a public information coordinator does not relieve a board member from the duty to comply with any other requirement of the Public Information Act that applies to the board member.

A district shall maintain and make available for public inspection the record of its board members' or, if applicable, the public information coordinator's completion of the training.

Gov't Code 552.012(a)-(c), (e)

Training After Failure to Comply

The attorney general may require each elected or appointed board member and the officer for public information of a district to complete the course of training if the attorney general determines that the district has failed to comply with a requirement of the Public Information Act. The attorney general must notify each person in writing of the attorney general's determination and the requirement to complete the training. A person who receives notice from the attorney general under this provision must complete the training not later than the 60th day after the date the person receives the notice. *Gov't Code 552.012(a),(b-1)*

PIA Sign

The officer for public information shall prominently display a sign (PIA sign) in the form prescribed by the attorney general that contains basic information about the rights of a requestor, the responsibilities of a district, and the procedures for inspecting or obtaining a copy of public information under the Public Information Act. The officer shall display the sign at one or more places in the district's administrative offices where it is plainly visible to:

1. Members of the public who request public information in person; and

2. Employees of the district whose duties include receiving or responding to public information requests.

Gov't Code 552.205(a)

Requests for Public Information

A person may make a written request for public information only by delivering the request by one of the following methods to the officer for public information or a person designated by that officer:

Method of Requesting Public Information

1. United States mail;
2. Electronic mail;
3. Hand delivery; or
4. Any other appropriate method approved by the district, including facsimile transmission and electronic submission through the district's website.

A district is considered to have approved another method only if the district includes a statement on the PIA sign or the district's website that states a request for public information may be made by that method.

Designated Addresses to Receive Requests

A district may designate one mailing address and one electronic mail address for receiving written requests for public information and shall provide the designated mailing address and electronic mailing address to any person on request.

A district that posts a designated mailing address or electronic mail address on the district's website or that prints those addresses on the PIA sign is not required to respond to a written request for public information unless the request is received:

1. At one of those addresses;
2. By hand delivery; or
3. By a method described above that has been approved by the district.

Gov't Code 552.234(c), (d)

Optional Request Form

The attorney general shall create a public information request form that provides a requestor the option of excluding from a request information that the district determines is:

1. Confidential; or
2. Subject to an exception to disclosure that the district would assert if the information were subject to the request.

A district that allows requestors to use the attorney general's form and maintains a website shall post the form on its website.

Gov't Code 552.235

District Response to Requests

The officer for public information or the officer's agent shall treat all requests for information uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media. *Gov't Code 552.223*

Uniform Treatment

Inquiries by District

The officer for public information and the officer's agent may not make an inquiry of a requestor except to establish proper identification or except as provided below.

Requests to Clarify or Narrow

If what information is requested is unclear to the district, the district may ask the requestor to clarify the request. If a large amount of information has been requested, the district may discuss with the requestor how the scope of the request might be narrowed, but the district may not inquire into the purpose for which the information will be used.

Additional Information for Vehicle Records

If the information requested relates to a motor vehicle record, the officer for public information or agent may require the requestor to provide additional identifying information sufficient for the officer or agent to determine whether the requestor is eligible to receive the information under Transportation Code Chapter 730. In this provision, "motor vehicle record" has the meaning assigned that term by Transportation Code 730.003.

Gov't Code 552.222(a)-(c)

Statement of Consequences

A written request for clarification or discussion or for additional information, as described above, must include a statement as to the consequences of the failure by the requestor to timely respond to the request for clarification, discussion, or additional information. *Gov't Code 552.222(e)*

Requestor's Failure to Respond

If by the 61st day after the date the district sends a written request for clarification or discussion or for additional information, as described above, the district, officer for public information, or agent does not receive a written response from the requestor, the underlying request for public information is considered to have been withdrawn by the requestor.

Exception to Automatic Withdrawal

Except when the requestor's information request was sent by electronic mail, described below, if the requestor's information request included the requestor's physical or mailing address, the request may not be considered to have been withdrawn unless the district or officer for public information or agent sends the request for clari-

fication or discussion or for additional information, as described above, to that address by certified mail.

If the requestor's information request was sent by electronic mail, the request may be considered to have been withdrawn if:

1. The district, officer for public information, or agent sends the request for clarification or discussion or the written request for additional information by electronic mail to the same electronic mail address from which the original request was sent or to another electronic mail address provided by the requestor; and

2. The district, officer for public information, or agent does not receive from the requestor a written response or response by electronic mail within the period described by Government Code 552.222(d).

Gov't Code 552.222(d), (f)-(g)

Time for Production

Promptly

An officer for public information shall promptly produce public information for inspection, duplication, or both, on application by any person to the officer. "Promptly" means as soon as possible under the circumstances, that is, within a reasonable time, without delay. A district may not automatically withhold for 10 business days public information not excepted from disclosure. *Gov't Code 552.221(a); Atty. Gen. ORD 664 (2000)*

Business Day

In the Public Information Act, "business day" means a day other than a Saturday or Sunday, a national holiday, or a state holiday [see below].

Rosh Hashanah, Yom Kippur, or Good Friday are not business days of a district if the officer for public information of the district observes the optional holidays.

The Friday before or Monday after a national or state holiday is not a business day of a district if the holiday occurs on a Saturday or Sunday and the district observes the holiday on that Friday or Monday.

The fact that an employee works from an alternative work site does not affect whether a day is considered a business day.

Locally Designated Nonbusiness Days

A district may designate a day on which the district's administrative offices are closed or operating with minimum staffing as a nonbusiness day. The designation of a nonbusiness day for a district must be made by the board. A district may designate not more than 10 nonbusiness days under this subsection each calendar year.

Gov't Code 552.0031(a)-(c), (e)-(f), 662.003(c)

National Holidays

A national holiday includes only the following days:

1. The first day of January, “New Year’s Day”;
2. The third Monday in January, “Martin Luther King, Jr., Day” in observance of the birthday of Dr. Martin Luther King, Jr.;
3. The third Monday in February, “Presidents’ Day”;
4. The last Monday in May, “Memorial Day”;
5. The fourth day of July, “Independence Day”;
6. The first Monday in September, “Labor Day”;
7. The 11th day of November, “Veterans Day,” dedicated to the cause of world peace and to honoring the veterans of all wars in which Texans and other Americans have fought;
8. The fourth Thursday in November, “Thanksgiving Day”; and
9. The 25th day of December, “Christmas Day.”

State Holidays

A state holiday includes only the following days:

1. The 19th day of January, “Confederate Heroes Day,” in honor of Jefferson Davis, Robert E. Lee, and other Confederate heroes;
2. The second day of March, “Texas Independence Day”;
3. The 21st day of April, “San Jacinto Day”;
4. The 19th day of June, “Emancipation Day in Texas,” in honor of the emancipation of the slaves in Texas in 1865;
5. The 27th day of August, “Lyndon Baines Johnson Day, in observance of the birthday of Lyndon Baines Johnson;
6. The Friday after Thanksgiving Day;
7. The 24th day of December; and
8. The 26th day of December.

Gov’t Code 662.003(a)-(b)

Certifications of Availability

If an officer for public information cannot produce the public information for inspection or duplication within 10 business days after the date the information is requested, the officer shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

If the requested information is unavailable at the time of the request to examine because it is in storage or active use, an officer for public information shall certify this fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

Gov't Code 552.221(c), (d)

Administrative Offices Closed

Unless the district has initiated a temporary suspension of the Public Information Act during a catastrophe [see below], if a district closes its physical offices, but requires staff to work, including remotely, then the district shall make a good faith effort to continue responding to applications for public information, to the extent staff have access to public information responsive to an application while its administrative offices are closed.

Failure to respond to requests may constitute a refusal to request an attorney general's decision or a refusal to supply public information or information that the attorney general has determined is public information that is not excepted from disclosure.

Gov't Code 552.2211

Methods of Production

An officer for public information complies with the requirement to promptly produce public information by:

1. Providing the information for inspection or duplication in the offices of a district. The Public Information Act does not authorize a requestor to remove an original copy of a public record from the office of a district;

2. Sending copies of the information by first class United States mail, if the requestor requests that copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Government Code Chapter 552, Subchapter F [see Authorized Costs and Charges, below]; or

3. Referring a requestor to an exact internet location or uniform resource locator (URL) address on a website maintained by the district and accessible to the public if the requested information is identifiable and readily available on that website. If the person requesting the information prefers a manner other than access through the URL, the district must supply the information in the manner described above at items 1 and 2.

   If the officer for public information provides by email an internet location or URL address as permitted by item 3, above, the email must contain a statement in a conspicuous font clearly indicating that the requestor may nonetheless access the requested information by inspection or duplication or by

receipt through United States mail, as described above at items 1 and 2.

Gov't Code 552.221(b)-(b-2), .226

Inspection and Duplication Procedures

A district may promulgate reasonable rules of procedure under which public information may be inspected and copied efficiently, safely, and without delay. These rules may not be inconsistent with any provision of the Public Information Act. *Gov't Code 552.230*

The officer for public information or agent shall give the requestor all reasonable comfort and facility for the full exercise of the right granted by the Public Information Act. *Gov't Code 552.224*

Time For District to Provide Copies

It shall be a policy of a district to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested. *Gov't Code 552.228(a)*

Time for Requestor to Appear and Complete Inspection

A request is considered to have been withdrawn if the requestor fails to inspect or duplicate the public information in district offices on or before the 60th day after the date the information is made available or fails to pay the postage and any other applicable charges accrued under Government Code Chapter 552, Subchapter F on or before the 60th day after the date the requestor is informed of the charges.

A requestor must complete the examination of the information not later than the 10th business day after the date the custodian of the information makes it available. If the requestor does not complete the examination within 10 business days and does not file a request for additional time under Government Code 552.225(b) (described below), the requestor is considered to have withdrawn the request.

The officer for public information shall extend the initial examination period by an additional 10 business days if, within the initial period, the requestor files with the officer a written request for additional time. The officer shall extend an additional examination period by another 10 business days if, within the first additional period, the requestor files with the officer a written request for more additional time.

The time during which a person may examine information may be interrupted by the officer if the information is needed for use by the district. The period of interruption is not considered to be a part of the time during which the person may examine the information.

Gov't Code 552.221(e), .225

Electronic Data

If public information exists in an electronic or magnetic medium, the requestor may request a copy in an electronic medium, such as on diskette or on magnetic tape. A district shall provide a copy in the requested medium if:

1. The district has the technological ability to produce a copy of the information in the requested medium;
2. The district is not required to purchase any software or hardware to accommodate the request; and
3. Provision of a copy of the information in the requested medium will not violate the terms of any copyright agreement between the district and a third party.

If a district is unable to comply with a request to produce a copy of information in a requested medium for any of these reasons, the district shall provide a copy in another medium that is acceptable to the requestor. A district is not required to copy information onto a diskette or other material provided by the requestor but may use district supplies.

Gov't Code 552.228(b), (c)

Requests Requiring Programming or Data Manipulation

Written Statement Required

A district shall provide to a requestor a written statement, described below, if the district determines:

1. That responding to a request for information will require programming or manipulation of data; and
2. That:
   a. Compliance with the request is not feasible or will result in substantial interference with operations; or
   b. The information could be made available in the requested form only at a cost that covers the programming and manipulation of data.

The written statement shall include:

1. A statement that the information is not available in the requested form;
2. A description of the form in which the information is available;
3. A description of any contract or services that would be required to provide the information in the requested form;
4. A statement of the estimated cost of providing the information in the requested form, as determined in accordance with the

rules established by the attorney general under Government Code 552.262; and

5. A statement of the anticipated time required to provide the information in the requested form.

Time For Programming or Manipulation Statement

A district shall provide the written statement to the requestor within 20 days after the date the district receives the request. The district has an additional 10 days to provide the statement if the district gives written notice to the requestor, within 20 days after receiving the request, that additional time is needed.

Requestor Reply Required

On providing the written statement described above, the district does not have any further obligation to provide the information in the requested form or in the form in which it is available, unless within 30 days the requestor states in writing that the requestor:

1. Wants the district to provide the information in the requested form according to the cost and time parameters set out in the written statement or according to other terms to which the requestor and the district agree; or

2. Wants the information in the form in which it is available.

If a requestor does not make a timely written statement to the district, the requestor is considered to have withdrawn the request for information.

Processing Procedures and Recordkeeping

The officer for public information shall establish policies that assure the expeditious and accurate processing of requests for information that require programming or manipulation of data. A district shall maintain a file containing all written statements issued concerning responding to requests for information that require programming or manipulation of data in a readily accessible location.

Gov't Code 552.231

Repetitious or Redundant Requests

A district that determines a requestor has made a request for information for which the district has previously furnished or made copies available to the requestor on payment of applicable charges must respond to the request, in relation to the information for which copies have already been furnished or made available, except that:

1. The district is not prohibited from furnishing the information or making the information available to the requestor again in accordance with the request; and

2. The district is not required to comply with these provisions in relation to information that the district simply furnishes or makes available to the requestor again in accordance with the request.

Gov't Code 552.232(a)

These provisions do not apply to information not previously furnished to a requestor or made copies available to the requestor on payment of applicable charges.

A request by the requestor for information for which copies have not previously been furnished or made available to the requestor, including information for which copies were not furnished or made available because the information was redacted from other information that was furnished or made available or because the information did not exist at the time of an earlier request shall be treated in the same manner as any other request for public information under the Public Information Act.

Gov't Code 552.232(d)

Certification of Previous Production

A district shall certify to the requestor that copies of all or part of the requested information were previously furnished or made available to the requestor. The certification must include:

1. A description of the information for which copies have been previously furnished or made available to the requestor;
2. The date the district received the requestor's original request for that information;
3. The date the district previously furnished copies or made available copies of the information to the requestor;
4. A certification that no subsequent additions, deletions, or corrections have been made to that information; and
5. The name, title, and signature of the officer for public information or agent making the certification.

A charge may not be imposed for making and finishing this certification.

Gov't Code 552.232(b), (c)

Withholding Excepted Information

Request for Attorney General Decision Required

A district that receives a written request for information that it wishes to withhold from public disclosure and that it considers to be within one of the exceptions to required disclosure under Government Code Chapter 552, Subchapter C [see GBA] must ask for a decision from the attorney general about whether the information is within that exception if there has not been a previous determination about whether the information falls within one of the exceptions [see Request for Attorney General Decision Not Required, below]. *Gov't Code 552.301(a)*

Consequences of Missed Deadlines

If a district does not request an attorney general decision and provides the requestor with the information required by Government Code 552.301(d) and (e-1) [see Information to Requestor, below], the information requested in writing is presumed to be subject to public disclosure and must be released unless there is a compelling reason to withhold it. *Gov't Code 552.302*

Electronic Submission

A district that requests an attorney general decision must submit the request through the attorney general's designated electronic filing system. This requirement does not apply if:

1. The district has fewer than 16 full-time employees;
2. The district is located in a county with a population of less than 150,000;
3. The amount or format of responsive information at issue in a particular request makes use of the attorney general's electronic filing system impractical or impossible; or
4. The request is hand delivered to the office of the attorney general.

Gov't Code 552.3031(a)-(b)

Request and Submissions to Attorney General

The district must ask for the attorney general's decision and state the exceptions that apply within a reasonable time but not later than the 10th business day after the date of receiving the written request.

When a district requests an attorney general decision, it shall, within a reasonable time but not later than the 15th business day after receiving the request for information, submit to the attorney general all of the following:

1. Written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld;
2. A copy of the written request for information;
3. A signed statement as to the date on which the written request for information was received by the district or evidence sufficient to establish that date; and
4. A copy of the specific information requested, or representative samples of the information if a voluminous amount of information was requested. The district shall label the copies or representative samples to indicate which exceptions apply to which parts of the copy.

Gov't Code 552.301(b), (e)

Information to Requestor

A district that requests an attorney general decision shall provide to the requestor within a reasonable time but not later than the 10th business day after the date of receiving the requestor's written request:

1. A written statement that the district wishes to withhold the requested information and has asked for a decision from the attorney general about whether the information is within an exception to public disclosure; and

2. A copy of the district's written communication to the attorney general asking for the decision. If a district's written communication to the attorney general discloses the requested information, the district shall provide a redacted copy of that written communication.

The district shall send a copy of the comments to the requestor not later than the 15th business day after the district receives the written request. If the written comments disclose or contain the substance of the information requested, the copy of the comments provided to the requestor shall be redacted.

Gov't Code 552.301(d), (e-1)

Calculating Timeliness

For the purposes of Government Code Chapter 552, Subchapter G (Attorney General Decisions), if a district receives a written request by United States mail and cannot adequately establish the actual date of receipt, the request is considered to have been received by the district on the third business day after the date of the postmark on a properly addressed request. *Gov't Code 552.301(a-1)*

When Government Code Chapter 552, Subchapter G requires a request, notice, or other document to be submitted or otherwise given to the attorney general within a specified period, the requirement is met in a timely fashion if the district submits the document through the attorney general's designated electronic filing system within that period. This provision does not affect the right of a district to submit information to the attorney general by specified methods of mail under Government Code 552.308.

When the attorney general is required to deliver a notice, decision, or other document within a specified period, the requirement is met in a timely fashion if the attorney general electronically transmits the document within that period.

For information surrendered or returned to a district by a temporary custodian, the district is considered to receive the request for that

information on the date the information is surrendered or returned to the district. [See GB]

Gov't Code 552.233(d), .309

Except as required by Government Code 552.031 (electronic submission [see above]), when the attorney general decision process requires a request, notice, or other document to be submitted or otherwise given to a person within a specified period, the requirement is met in a timely fashion if the document is sent to the person by first class United States mail or common or contract carrier properly addressed with postage or handling charges prepaid and:

1. It bears a post office cancellation mark or a receipt mark of a common or contract carrier indicating a time within that period; or

2. The person required to submit or otherwise give the document furnishes satisfactory proof that it was deposited in the mail or with a common or contract carrier within that period.

Gov't Code 552.308

Third Party Privacy or Property Interests

In a case in which information is requested under the Public Information Act and a person's privacy or property interests may be involved, including a case under Government Code 552.101 (information confidential by law), 552.110 (trade secrets), 552.1101 (proprietary information), 552.114 (student records), 552.131 (economic development information), or 552.143 (investment information), a district may decline to release the information for the purpose of requesting a decision from the attorney general.

Third Party Submissions

A person whose interests may be involved as described above, or any other person, may submit in writing to the attorney general the person's reasons why the information should be withheld or released. A district may, but is not required to, submit its reasons why the information should be withheld or released. The proprietary information exception to disclosure provided by Government Code 552.1101(a) may be asserted only by a vendor, contractor, potential vendor, or potential contractor in the manner described by Government Code 552.305(b) for the purpose of protecting the interests of the vendor, contractor, potential vendor, or potential contractor.

Gov't Code 552.305(a)-(c), .1101(c)

Notice to Third Party

If release of a person's proprietary information may be subject to exception under Government Code 552.101 (information confidential by law), 552.110 (trade secrets), 552.1101 (proprietary information), 552.113 (geological or geophysical information), 552.131

(economic development information), or 552.143 (investment information), a district that requests an attorney general decision shall make a good faith attempt to notify that person of its request. The notice must:

1. Be in writing and sent within a reasonable time not later than the 10th business day after the district receives the request for information; and

2. Include:

   a. A copy of the written request for information, if any, received by the district; and

   b. A statement, in the form prescribed by the attorney general, that the person is entitled to submit to the attorney general, not later than the 10th business day after the person receives the notice:

      (1) Each reason the person has as to why the information should be withheld; and

      (2) A letter, memorandum, or brief in support of that reason.

A person who submits a letter, memorandum, or brief to the attorney general under this provision shall send a copy of that letter, memorandum, or brief to the person who requested the information from the district. If the letter, memorandum, or brief submitted to the attorney general contains the substance of the information requested, the copy of the letter, memorandum, or brief may be a redacted copy.

Gov't Code 552.305(d), (e)

Requests for Contracting Information Not Maintained by the District

"Contracting information" means the following information maintained by a district or sent between a district and a vendor, contractor, potential vendor, or potential contractor:

1. Information in a voucher or contract relating to the receipt or expenditure of public funds by a district;

2. Solicitation or bid documents relating to a contract with a district;

3. Communications sent between a district and a vendor, contractor, potential vendor, or potential contractor during the solicitation, evaluation, or negotiation of a contract;

4. Documents, including bid tabulations, showing the criteria by which a district evaluates each vendor, contractor, potential vendor, or potential contractor responding to a solicitation

and, if applicable, an explanation of why the vendor or contractor was selected; and

5. Communications and other information sent between a district and a vendor or contractor related to the performance of a final contract with the district or work performed on behalf of the district.

Gov't Code 552.003(1-a)

Government Code 552.371 applies to an entity that is not a governmental body that executes a contract with a district that:

1. Has a stated expenditure of at least $1 million in public funds for the purchase of goods or services by the district; or

2. Results in the expenditure of at least $1 million in public funds for the purchase of goods or services by the district in a fiscal year of the district.

Government Code 552.371 applies to a written request for public information received by a district that is party to a contract described above for contracting information related to the contract that is in the custody or possession of the entity and not maintained by the district.

Gov't Code 552.371(a), (b)

District Request to Contracting Entity

A district that receives a written request for contracting information shall request that the entity provide the information to the district. The district must send the request in writing to the party not later than the third business day after the date the district receives the written request. *Gov't Code 552.371(c)*

Requesting Decision About Contracting Information

A district's request for an attorney general's decision to determine whether contracting information not maintained by the district falls within an exception to disclosure under the Public Information Act is considered timely if made not later than the 13th business day after the date the district receives the written request described above. *Gov't Code 552.371(d)(1)*

The statement and copy described above [see Information to Requestor] is considered timely if provided to the requestor not later than the 13th business day after the date the district receives the written request. *Gov't Code 552.371(d)(2)*

A submission and copy described above [see Request and Submissions to Attorney General] is considered timely if sent not later than the 18th business day after the date the district receives the written request. *Gov't Code 552.371(d)(3), (4)*

The presumption that information is subject to disclosure for failing to comply with Government Code 552.301 [see Request and Submissions to Attorney General, above] does not apply if a district:

1. Complies with the requirements of Government Code 552.371(c) in a good faith effort to obtain contracting information not maintained by the district;
2. Is unable to meet a deadline because the contracting entity failed to provide the information to the district not later than the 13th business day after the date the district received the written request for the information; and
3. Complies with all notice requirements not later than the eighth business day after the date the district receives the information from the contracting entity.

Gov't Code 552.371(e)

Nothing in Government Code 552.371 affects the deadlines or duties of a district related to requesting an attorney general opinion regarding contracting information the district maintains. *Gov't Code 552.371(f)*

Request for Attorney General Decision Not Required

A district must release the requested information and is prohibited from asking for a decision from the attorney general about whether information requested under this chapter is within an exception under Government Code Chapter 552, Subchapter C if the district has previously requested and received a determination from the attorney general concerning the precise information at issue in a pending request and the attorney general or a court determined that the information is public information that is not excepted by Subchapter C. *Gov't Code 552.301(f)*

Previous Determinations

Same Information

Categories of Previously Determined Information

A district may rely on a previous determination by the attorney general regarding a specific, clearly delineated category of information if:

1. The previous decision is applicable to a school district;
2. The previous decision concludes that the category of information is or is not excepted from public disclosure;
3. The elements of law, fact, and circumstances are met to support the previous decision's conclusion that the requested records and information at issue are or are not excepted from public disclosure; and
4. The previous decision explicitly provides that the governmental body or bodies, such as the district, to which the decision

applies may withhold the information without the necessity of seeking a decision from the attorney general.

Atty. Gen. ORD 673 (2001)

A district that relies on a previous determination to withhold information from disclosure should notify the requestor in writing of the decision or ruling upon which it is relying. *Atty. Gen. ORD 684 (2009)*

When Request Is Allowed for Previous Determination

A district may ask for another decision from the attorney general concerning the precise information that was at issue in a prior decision made by the attorney general if:

1. A suit challenging the prior decision was timely filed against the attorney general in accordance with the Public Information Act concerning the precise information at issue;
2. The attorney general determines that the requestor has voluntarily withdrawn the request for the information in writing or has abandoned the request; and
3. The parties agree to dismiss the lawsuit.

Gov't Code 552.301(g)

Response After Attorney General Decision

A district shall as soon as practicable but within a reasonable period of time after the date the attorney general issues an opinion regarding information requested under the Public Information Act:

1. Provide the requestor of the information an itemized estimate of charges for production of the information if the estimate is required by Government Code 552.2615;
2. If the requested information is voluminous:
    a. Take the following actions if the district determines that it is able to disclose the information in a single batch:
        (1) Provide a written certified notice to the requestor and the attorney general that it is impractical or impossible for the district to produce the information within a reasonable period of time;
        (2) Include in the notice the date and hour that the district will disclose the information to the requestor, which may not be later than the 15th business day after the date the district provides the notice; and
        (3) Produce the information at the date and time included in the notice; or

b. Take the following actions if the district determines that it is unable to disclose the information in a single batch:

(1) Provide a written certified notice to the requestor and the attorney general that it is impractical or impossible for the district to produce the information within a reasonable period of time and in a single batch;

(2) Include in the notice the date and hour that the district will disclose the first batch of information to the requestor, which may not be later than the 15th business day after the date the district provides the notice;

(3) Provide a written certified notice to the requestor and the attorney general when each subsequent batch of information is disclosed to the requestor of the date and hour that the district will disclose the next batch of information to the requestor, which may not be later than the 15th business day after the date the district provides the notice; and

(4) Produce the requested information at each date and time included in a notice;

3. Produce the information if it is required to be produced;

4. Notify the requestor in writing that the district is withholding the information as authorized by the opinion; or

5. Notify the requestor in writing that the district has filed suit against the attorney general under Government Code 552.324 [see Filing Suit to Challenge Attorney General's Decision, below] regarding the information.

A district is presumed to have complied with the above requirements if the district takes an action regarding information that is the subject of an opinion issued by the attorney general not later than the 30th day after the date the attorney general issues the opinion.

Gov't Code 552.306(c)-(d)

Note: For rules regarding the attorney general's review of redactions, see 1 Administrative Code Chapter 63. For complete cost rules issued by the attorney general, see 1 Administrative Code Chapter 70.

Authorized Costs and Charges

Attorney General's Cost Rules

A district shall use the attorney general's rules to determine the charges for providing copies of public information and to determine the charge, deposit, or bond required for making public information that exists in a paper record available for inspection, except to the extent that other law provides for charges for specific kinds of public information. The charges for providing copies of public information may not be excessive and may not exceed the actual cost of producing the information or for making public information that exists in a paper record available for inspection.

A district may determine its own charges for providing copies of public information and its own charge, deposit, or bond for making public information that exists in a paper record available for inspection. However, a district may not charge an amount that is greater than 25 percent more than the amount established by the attorney general, unless the district requests an exemption.

Gov't Code 552.262(a); 1 TAC 70.1(b), .3, .10.

Exemption

A district may request that it be exempt from part or all of the rules adopted by the attorney general for determining charges. The request must be made in writing to the attorney general and must state the reason for the exemption. If a district receives notice from the attorney general that an exemption has been granted, the district may amend its charges according to the attorney general's determination. *Gov't Code 552.262(c)*

Multiple Requests

All requests received in one calendar day from an individual may be treated as a single request for purposes of calculating costs. A district may not combine multiple requests from separate individuals who submit requests on behalf of an organization. *Gov't Code 552.261(e)*

Charges for Producing Copies

The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the information, including costs of materials, labor, and overhead.

50 Pages or Less

If a request is for 50 or fewer pages of paper records, the charge for providing the copy of the information may not include costs of materials, labor, or overhead, but shall be limited to the charge for each page of the paper record that is photocopied, unless the pages to be photocopied are located in two or more separate buildings that are not physically connected with each other or a remote storage facility. A connection of two buildings by a covered or open sidewalk, an elevated or underground passageway, or a similar facility is insufficient to cause the buildings to be considered separate buildings.

Statement of Labor Costs

If the charge for providing a copy of public information includes costs of labor, the requestor may require the officer for public information or agent to provide the requestor with a written statement as to the amount of time that was required to produce and provide the copy. The statement must be signed by the officer or agent, and the officer or agent's name must be typed or legibly printed below the signature. A charge may not be imposed for providing the written statement to the requestor.

Accrual of Charges

Charges for providing a copy of public information are considered to accrue at the time the district advises the requestor that the copy is available on payment of the applicable charges.

Gov't Code 552.261(a)-(d)

Deposit or Bond for Copies

The officer for public information or agent may require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information if:

1. The officer or agent has provided the requestor with the written itemized statement required by Government Code 552.2615 (itemized estimate of charges, below); and
2. The charge for providing the copy is estimated by the district to exceed $100, if the district has more than 15 full-time employees, or $50, if the district has fewer than 16 full-time employees.

The officer or agent may not require a deposit or bond as a down payment for copies of public information that the requestor may request in the future.

Gov't Code 552.263(a), (b)

Effect on Timelines

For purposes of Government Code Chapter 552, Subchapters F (Charges for Providing Copies of Public Information) and G (Attorney General Decisions), a request for a copy of public information is considered to have been received by the district on the date the district receives the deposit or bond for payment of anticipated costs or unpaid amounts if the officer for public information or agent requires a deposit or bond.

A requestor who fails to make such a deposit or post such a bond for payment of anticipated costs for the preparation of copies before the 10th business day after the date the deposit or bond is required is considered to have withdrawn the request for the copy of public information that precipitated the requirement of the deposit or bond.

Gov't Code 552.263(e), (f)

Modified Request — If a requestor modifies a request in response to the requirement of a deposit or bond, the modified request is considered a separate request and is considered received on the date the district receives the written modified request. *Gov't Code 552.263(e-1)*

Unpaid Amounts — The officer for public information or agent may require a deposit or bond for payment of unpaid amounts the requestor owes a district in relation to previous public information requests before preparing a copy of public information in response to a new request, if those unpaid amounts exceed $100. The officer for public information or agent may not seek payment of those unpaid amounts through any other means.

Documentation of Unpaid Amounts — A district must fully document the existence and amount of those unpaid amounts or the amount of any anticipated costs before requiring a deposit or bond. The documentation is subject to required public disclosure.

Gov't Code 552.263(c), (d)

Pre-Payments — A district that receives a request from a requestor to produce public information for inspection or publication or to produce copies of public information in response to a requestor who, within the preceding 180 days, has accepted but failed to pay written itemized statements of estimated charges from the district as provided under Government Code 552.261(b) (statement of labor costs, above) may require the requestor to pay the estimated charges for the request before the request is fulfilled. *Gov't Code 552.2661*

Waivers — A district shall provide a copy of public information without charge or at a reduced charge if the district determines that waiver or reduction of the charge is in the public interest because providing the information primarily benefits the general public.

If the cost to a district of processing the collection of a charge for providing a copy of public information will exceed the amount of the charge, the district may waive the charge.

Gov't Code 552.267

District Publications — Government Code Chapter 552, Subchapter F (charges for providing copies of public information) does not apply to a publication that is compiled and printed by or for a district for public dissemination. If the cost of the publication is not determined by state law, a district may determine the charge for providing the publication. This provision does not prohibit the district from providing the publication free of charge if state law does not require that a certain charge be made. *Gov't Code 552.270*

Copies for Parents

A district may charge a reasonable fee in accordance with the above requirements for copies of materials provided to parents pursuant to Education Code Chapter 26. *Education Code 26.012*

Charges for Inspection Without Copies

If the requestor does not request a copy of public information, a district may not impose a charge for making available for inspection any public information that exists in a paper record, except as set forth below.

Copy of Edited Page

If a page contains confidential information that must be edited from the record before the information can be made available for inspection, the district may charge for the cost of making a photocopy of the page from which the confidential information must be edited. No charge other than the cost of the photocopy may be imposed.

Payment, Deposit, or Bond for Inspections

The officer for public information or agent may require a requestor to pay, or to make a deposit or post a bond for the payment of, anticipated personnel costs for making available for inspection public information that exists in paper records if:

1. The information specifically requested by the requestor is older than five years or completely fills, or when assembled will completely fill, six or more archival boxes; and
2. The officer for public information or agent estimates that more than five hours will be required to make the information available for inspection.

Gov't Code 552.271(a)-(c)

Exception for Certain Small Districts

If a district has fewer than 16 full-time employees, the payment, deposit, or bond may be required only if:

1. The information specifically requested by the requestor is older than three years or completely fills, or when assembled will completely fill, three or more archival boxes; and
2. The officer for public information or agent estimates that more than two hours will be required to make the information available for inspection.

Gov't Code 552.271(d)

Inspection of Electronic Records

In response to a request to inspect information that exists in an electronic medium and that is not available directly online to the requestor, a charge may not be imposed for access to the information unless complying with the request will require programming or manipulation of data. If programming or manipulation of data is required, a district shall notify the requestor before assembling the information and provide the requestor with an estimate of charges

that will be imposed to make the information available [see also Requests Requiring Programming or Data Manipulation, above].

If public information exists in an electronic form on a computer owned or leased by a district and if the public has direct access to that computer through a computer network or other means, the electronic form of the information may be electronically copied from that computer without charge if accessing the information does not require processing, programming, or manipulation on the district-owned or district-leased computer before the information is copied. If such information also requires processing, programming, or manipulation before it can be electronically copied, a district may impose charges.

If information is created or kept in an electronic form, a district is encouraged to explore options to separate confidential information from public information and make the public information available to the public through electronic access through a computer network or by other means.

Gov't Code 552.272

Itemized Estimate of Charges

If a request for a copy of public information will result in the imposition of a charge that exceeds $40, or a request to inspect a paper record without requesting copies will result in the imposition of a charge that exceeds $40, a district shall provide the requestor with a written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If an alternative less costly method of viewing the records is available, the statement must include a notice that the requestor may contact the district regarding the alternative method. A district must inform the requestor of the responsibilities imposed on the requestor by Government Code 552.2615 and the rights granted by that section and give the requestor the information needed to respond as detailed in Government Code 552.2615(a).

If, after a district provides the requestor the itemized statement but before it makes the copy or the paper record available, the district determines that the estimated charges will exceed the charges detailed in the original itemized statement by 20 percent or more, the district shall send to the requestor an updated written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs.

Requestor's Response

A request for which a district is required to produce an (original or updated) itemized statement of estimated charges is considered to have been withdrawn if the requestor does not respond in writing to the itemized statement by informing the district within 10 business days after the date the statement is sent to the requestor that:

1. The requestor will accept the estimated charges;
2. The requestor is modifying the request in response to the itemized statement; or
3. The requestor has sent to the attorney general a complaint alleging that the requestor has been overcharged for being provided with a copy of the public information.

Actual Charges

If the actual charges exceed $40, the charges may not exceed:

1. The amount estimated in the updated itemized statement; or
2. If an updated itemized statement is not sent to the requestor, an amount that exceeds by 20 percent or more the amount estimated in the original itemized statement.

No Effect on Deadlines To Request Attorney General Decision

An original or updated itemized statement is considered to have been sent by a district, and a requestor is considered to have responded to the statement, on the date that the statement or response is:

1. Delivered in person;
2. Deposited, properly addressed, in the United States mail; or
3. Transmitted by electronic mail or facsimile, provided the requestor agrees to receive the statement by those means.

The time deadlines for providing or responding to the required statement of estimated charges do not affect the application of a time deadline imposed on a district for requesting a decision by the attorney general under Government Code Chapter 552, Subchapter G.

Gov't Code 552.2615

Temporary Suspension of Requirements for Districts Impacted by Catastrophe

The requirements of the Public Information Act do not apply to a district that is currently significantly impacted by a catastrophe such that the catastrophe directly causes the inability of the district to comply with the requirements of the PIA and the district complies with requirements below to elect a suspension period.

"Catastrophe" means a condition or occurrence that directly interferes with the ability of a district to comply with the requirements of the PIA, including:

1. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
2. Power failure, transportation failure, or interruption of communication facilities;

3. Epidemic; or

4. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

"Catastrophe" does not mean a period when staff is required to work remotely and can access information responsive to an application for information electronically, but the physical office of the governmental body is closed.

"Suspension period" means the period of time during which a district may suspend the applicability of the requirements of the Public Information Act.

Initial Suspension Period

A district may suspend the applicability of the Public Information Act to the district for an initial suspension period only once for each catastrophe, which may not exceed seven consecutive days and must occur during the period that:

1. Begins not earlier than the second day before the date the district submits notice to the attorney general; and

2. Ends not later than the seventh day after the date the district submits that notice.

Extension of Initial Suspension Period

A board may extend an initial suspension period if the board determines that the district is still impacted by the catastrophe on which the initial suspension period was based. The initial suspension period may be extended one time for not more than seven consecutive days that begin on the day following the day the initial suspension period ends.

Maximum Suspension Period Per Catastrophe

A board that initiates an initial suspension period may not initiate another suspension period related to the same catastrophe, except for a single extension period as described above.

The combined suspension period for a district filing for both an initial suspension period and a subsequent extension may not exceed a total of 14 consecutive calendar days with respect to any single catastrophe.

Upon conclusion of any suspension period the district shall immediately resume compliance with all requirements of the Public Information Act.

Notices to the Attorney General

A district that elects to suspend the Public Information Act must submit notice to the attorney general that the district is currently impacted by a catastrophe and has elected to suspend the applicability of the PIA during the initial suspension period.

A board that elects to extend an initial suspension period must submit notice of the extension on the form prescribed by the attorney general.

The notices on the form prescribed by the attorney general must require the district to:

1. Identify and describe the catastrophe that the district is currently impacted by;
2. State the date the initial suspension period determined by the board begins and the date that period ends;
3. If the board has determined to extend the initial suspension period:
    a. State that the district continues to be impacted by the catastrophe; and
    b. State the date the extension to the initial suspension period begins and the date the period ends; and
4. Provide any other information the office of the attorney general determines necessary.

Notice to the Public

A district that elects to suspend the Public Information Act must provide notice to the public of the suspension in a place readily accessible to the public and in each other location the district is required to post a notice under Government Code Chapter 551, Subchapter C (Notice of Meetings). The district must maintain the notice of the suspension during the suspension period.

Requests During Suspension Period

Notwithstanding another provision of the Public Information Act, a request for public information received by a district during a suspension period is considered to have been received by the district on the first business day after the date the suspension period ends.

Pending Requests Tolled

A request for public information received by a district before the date an initial suspension period begins are tolled until the first business day after the date the suspension period ends.

Gov't Code 552.2325(a)-(j), (l), (m)

Large or Frequent Requests

Annual Limits on Personnel Time

A district may establish reasonable monthly and yearly limits on the amount of time that district employees are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time. A yearly time limit may not be less than 36 hours for a requestor during the 12-month period that corresponds to a district's fiscal year.

A monthly time limit may not be less than 15 hours for a requestor for a one-month period.

Request by Minor In determining whether a time limit applies, any time spent complying with a request submitted in the name of a minor, as defined by Family Code 101.003(a), is to be included in the calculation of the cumulative amount of time spent complying with a request for public information by a parent, guardian, or other person who has control of the minor under a court order and with whom the minor resides, unless that parent, guardian, or other person establishes that another person submitted that request in the name of the minor.

Gov't Code 552.275(a), (b), (c)

Written Statement of Cumulative Personnel Time — If a district establishes a time limit, each time the district complies with a request for public information, the district shall provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable monthly or yearly period. The amount of time spent preparing the written statement may not be included in the amount of time included in the statement to the requestor unless the requestor's time limit for the period has been exceeded. *Gov't Code 552.275(d)*

Photo Identification — A district may request photo identification from a requestor for the sole purpose of establishing that the requestor has not exceeded a limit established by the district and concealed the requestor's identity.

Statement Required A request for photo identification must include a written estimate of charges applicable to the requestor who has exceeded a limit established by the district and a statement that describes each specific reason why the request for photo identification may apply to the requestor.

Proof or Payment The district shall accept as proof of a requestor's identification physical presentment of photo identification or an image of the photo identification that is transmitted electronically or through the mail. A requestor from whom a district has requested photo identification may decline to provide identification and obtain the requested information by paying the charge assessed in the written estimate.

Gov't Code 552.275(n)-(o)

Written Estimate of Charges Beyond Time Limit

Subject to unpaid cost estimates for large and frequent requests, as described below, if in connection with a request for public information, the cumulative amount of personnel time spent complying with requests for public information from the same requestor equals or exceeds the district-established time limit, the district shall provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. The written estimate must be provided to the requestor on or before the 10th day after the date on which the public information was requested. The amount of this charge relating to the cost of locating, compiling, and producing the public information shall be established by rules prescribed by the attorney general under Government Code 552.262(a) and (b).

Additional Time

If a district provides the requestor with written notice that additional time is required to prepare the written estimate, the district must provide the written estimate as soon as practicable, but on or before the 10th day after the date the district provided the notice that additional time was required.

Gov't Code 552.275(e), (f)

Unpaid Cost Estimate

When a request is made by a requestor who has made a previous request to the district that has not been withdrawn, for which the district has located and compiled documents in response, and for which the district has issued a written estimate of charges that remains unpaid on the date the requestor submits the new request, the district is not required to locate, compile, produce, or provide copies of documents or prepare an estimate of charges in response to a new request until the date the requestor pays each unpaid statement issued in connection with a previous request or withdraws the previous request to which the statement applies. *Gov't Code 552.275(e-1)*

Production Not Required Until Payment

If a district provides a requestor with a written estimate of charges or a written statement regarding photo identification and the district's time limits regarding the requestor have been exceeded, the district is not required to produce public information for inspection or duplication or to provide copies of public information in response to the requestor's request unless on or before the 10th day after the date the district provided the written estimate, the requestor submits payment of the amount stated in the written estimate or provides identification.

If the requestor fails or refuses to provide identification or submit payment, the requestor is considered to have withdrawn the request.

Gov't Code 552.275(g)-(h)

Exceptions

The provisions above concerning requests that require large amounts of employee or personnel time do not apply if the requestor is:

1. An individual who, for a substantial portion of the individual's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information for and is seeking the information for:
    a. Dissemination by a news medium or communication service provider (as defined by Government Code 552.275(m)), including:
        (1) An individual who supervises or assists in gathering, preparing, and disseminating the news or information; or
        (2) An individual who is or was a journalist, scholar, or researcher employed by an institution of higher education at the time the person made the request for information; or
    b. Creation or maintenance of an abstract plant as described by Insurance Code 2501.004.
2. An elected official of the United States, this state, or a political subdivision of this state.
3. A representative of a publicly funded legal services organization that is exempt from federal income taxation under Internal Revenue Code 501(a), as amended, by being listed as an exempt entity under 501(c)(3) of that code.

Gov't Code 552.275(j)-(l)

No Inspections for Others Until Payment

A requestor who has exceeded a limit established by a district under Government Code 552.275 may not inspect public information on behalf of another requestor unless the requestor who exceeded the limit has paid each statement issued by the district under Government Code 552.175(e). *Gov't Code 552.271(e)*

Filing Suit to Challenge Attorney General's Decision

The only suit a district may file seeking to withhold information from a requestor is a suit that:

1. Is filed in a Travis County district court against the attorney general in accordance with Government Code 552.325, and
2. Seeks declaratory relief from compliance with a decision by the attorney general issued under Government Code Chapter 552, Subchapter G.

The district must bring the suit not later than the 30th calendar day after the date the district receives the attorney general's decision determining that the requested information must be disclosed to the requestor. If the district does not bring suit within that period, the district shall comply with the decision of the attorney general.

Exception for Affirmative Defenses

If the district wishes to preserve an affirmative defense for its officer for public information as provided by Government Code 552.353(b)(3), the district must file suit not later than the 10th calendar day after receipt of the attorney general's decision.

Gov't Code 552.324, .353(b)(3)

Suits Over Parent's Request

A district that seeks to withhold information from a parent who has requested public information relating to the parent's child under the Public Information Act, and that files suit as described by Government Code 552.324 to challenge a decision by the attorney general, must bring the suit not later than the 30th calendar day after the date the district receives the decision of the attorney general, unless an earlier deadline is established by the Public Information Act.

A court shall grant such a suit precedence over other pending matters to ensure prompt resolution of the subject matter of the suit. Notwithstanding any other law, a district may not appeal the decision of the court. This prohibition does not affect the right of a parent to appeal the decision. If a district does not bring suit within the period established, the district shall comply with the decision of the attorney general.

This provision does not affect the earlier deadline for purposes of Government Code 532.353(b)(3) (exception for affirmative defenses, above) for a suit brought by an officer for public information.

Education Code 26.0085

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[1] Office of the Attorney General and the Public Information Act: https://www.texasattorneygeneral.gov/open-government/office-attorney-general-and-public-information-act

To the extent a law requiring or authorizing the publication of a notice in a newspaper by a district or its representative does not specify the manner of publication, including the number of times that the notice is required to be published and the period during which the notice is required to be published, the district shall follow Government Code Chapter 2051, Subchapter C. *Gov't Code 2051.042*

Definitions

"Governmental representative" includes an officer, employee, or agent of a district.

"Notice" means any matter, including a proclamation or advertisement, required or authorized by law to be published in a newspaper by a district or representative.

Gov't Code 2051.041

Time of Publication

A notice must be published in a newspaper issued at least one day before the occurrence of the event to which the notice refers. *Gov't Code 2051.050*

Unless notice is posted on the door of the county courthouse under Government Code 2051.048(d), a notice shall be published in at least one issue of a newspaper. *Gov't Code 2051.043*

Selection of Newspaper

A district or representative required to publish a notice in a newspaper shall, in accordance with Government Code Chapter 2051, Subchapter C, select one or more newspapers to publish the notice. *Gov't Code 2051.049*

Except as provided at Government Code 2051.0441, the newspaper in which a notice is published must:

1. Devote not less than 25 percent of its total column lineage to general interest items;
2. Be published at least once each week;
3. Be entered as second-class postal matter in the county where published; and
4. Have been published regularly and continuously for at least 12 months before the governmental entity or representative publishes notice. A weekly newspaper has been published regularly and continuously if the newspaper omits not more than two issues in the 12-month period.

Gov't Code 2051.044

Selection of Newspaper in Certain Counties

If a notice is to be published in: (a) a county with a population of at least 30,000 and not more than 42,000, that borders the Red River; or (b) a county that does not have a newspaper published in the county that meets the requirements at Government Code 2051.044, the newspaper in which the notice is published must:

1. Devote not less than 20 percent of its total column lineage to general interest items;
2. Be published at least once each week;
3. Be entered as a periodical postal matter in the county where published or have a mailed or delivered circulation of at least 51 percent of the residences in the county where published; and
4. Have been published regularly and continuously for at least 12 months before publication of the notice. A weekly newspaper has been published regularly and continuously if the newspaper omits not more than two issues in the 12-month period.

Gov't Code 2051.0441

Rate for Publication

A notice shall be published in a newspaper that is published in the district and that will publish the notice at or below the legal rate. The legal rate for publication of a notice in a newspaper is the newspaper's lowest published rate for classified advertising.

If no newspaper published in the district will publish the notice at or below the legal rate, the district shall publish the notice in a newspaper that is published in the county in which the district is located and will charge the legal rate or a lower rate.

If no newspaper published in the county in which the district is located will publish the notice at or below the legal rate, the district shall post the notice at the door of the county courthouse of the county in which the district is located.

Gov't Code 2051.045, .048

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Applicability of Criminal Laws

The criminal laws of the state apply to the areas under the control and jurisdiction of the board. *Education Code 37.101*

Trespass

An unauthorized person who trespasses on the grounds of a school district commits a Class C misdemeanor. *Education Code 37.107*

Refusal of Entry or Ejection of Unauthorized Persons

A school administrator, school resource officer, or school district peace officer may refuse to allow persons to enter on or may eject a person from property under the district's control if the person refuses to leave peaceably on request and:

1. The person poses a substantial risk of harm to any person; or
2. The person behaves in a manner that is inappropriate for a school setting and:
    a. The administrator, resource officer, or peace officer issues a verbal warning to the person that the person's behavior is inappropriate and may result in the person's refusal of entry or ejection; and
    b. The person persists in that behavior.

Identification may be required of any person on property under the district’s control.

A district shall maintain a record of each verbal warning issued, including the name of the person to whom the warning was issued and the date of issuance.

At the time a person is refused entry to or ejected from a school district's property, the district shall provide to the person written information explaining the appeal process.

If a parent or guardian of a child enrolled in a school district is refused entry to the district’s property, the district shall accommodate the parent or guardian to ensure that the parent or guardian may participate in the child’s admission, review, and dismissal committee or in the child’s team established under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), in accordance with federal law.

The term of a person’s refusal of entry to or ejection from a school district's property under this section may not exceed two years.

A district shall post on the district's website and each district campus shall post on any campus website a notice regarding these provisions, including the appeal process.

The board shall adopt a policy that uses the district’s existing grievance process [see FNG, GF] to permit a person refused entry to or

ejected from property controlled by the district to appeal such refusal of entry or ejection. The policy must permit a person appealing under this section to address the board in person within 90 days of the commencement of the appeal, unless the appeal is granted before the board considers the appeal.

The board's decision to grant or deny an appeal under this section is final and may only be further appealed under the applicable provisions of Texas Education Code 7.057.

Education Code 37.105; 19 TAC 103.1207

[For information on visitor requirements, including requesting identification, see GKC.]

Vehicles on School Property

A board may bar or suspend a person from driving or parking a vehicle on any school property as a result of the person's violation of any rule or regulation promulgated by the board or set forth in Education Code Chapter 37, Subchapter D. [See CLC] *Education Code 37.106*

Disruption of Lawful Assembly

A person commits a Class B misdemeanor if the person, alone or in concert with others, intentionally engages in disruptive activity on the campus or property of a public school.

Disruptive activity means:

1. Obstructing or restraining the passage of persons in an exit, entrance, or hallway of any building without the authorization of the administration of the school;
2. Seizing control of any building or portion of a building to interfere with any administrative, educational, research, or other authorized activity;
3. Preventing or attempting to prevent by force or violence or the threat of violence any lawful assembly authorized by the school administration so that a person attempting to participate in the assembly is unable to participate due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur;
4. Disrupting by force or violence or the threat of force or violence a lawful assembly in progress; or
5. Obstructing or restraining the passage of any person at an exit or entrance to the campus or property or preventing or attempting to prevent by force or violence or by threats thereof the ingress or egress of any person to or from the property or campus without the authorization of the administration of the school.

Free Speech

This provision shall not be construed to infringe upon any right of free speech or expression guaranteed by the constitutions of the United States or the state of Texas.

Education Code 37.123

Disruption of Classes

A person, other than a primary or secondary grade student enrolled in the school, commits a Class C misdemeanor if the person, on school property or on public property within 500 feet of school property, alone or in concert with others, intentionally disrupts the conduct of classes or other school activities. It is an exception to the application of the offense that, at the time the person engaged in the prohibited conduct, the person was younger than 12 years of age.

Disrupting the conduct of classes or other school activities includes:

1. Emitting noise of an intensity that prevents or hinders classroom instruction.
2. Enticing or attempting to entice a student away from a class or other school activity that the student is required to attend.
3. Preventing or attempting to prevent a student from attending a class or other school activity that the student is required to attend.
4. Entering a classroom without the consent of either the principal or the teacher and, through either acts of misconduct or use of loud or profane language, disrupting class activities.

“School property” includes a public school campus or school grounds on which a public school is located, and any grounds or buildings used by a school for an assembly or other school-sponsored activity.

“Public property” includes a street, highway, alley, public park, or sidewalk.

Education Code 37.124

Disruption of Transportation

A person, other than a primary or secondary grade student, commits a Class C misdemeanor if the person intentionally disrupts, prevents, or interferes with the lawful transportation of students to and from school, or to or from activities sponsored by a school, on a vehicle owned and/or operated by a district. It is an exception to the application of the offense that, at the time the person engaged in the prohibited conduct, the person was younger than 12 years of age. *Education Code 37.126*

Tobacco and E-Cigarettes

A board shall prohibit smoking or using e-cigarettes or tobacco products at a school-related or school-sanctioned activity on or off school property. School personnel shall enforce these policies on school property. *Education Code 38.006* [See FNCD for the definition of e-cigarette.]

Smoking in Buildings

A district shall not permit smoking within any indoor facility used for provision of routine or regular kindergarten, elementary, or secondary education or library services to children; or regular or routine health care or day care or early childhood development (Head Start) services to children or for the use of employees who provide such services. *20 U.S.C. 6083; 20 U.S.C. 7183*

Criminal Penalty

A person commits an offense if the person is in possession of a burning tobacco product, smokes tobacco, or operates an e-cigarette in a facility of a public school.

Defense

It is a defense to prosecution that a district does not have prominently displayed a reasonably sized notice that smoking is prohibited by state law in such place and that an offense is punishable by a fine not to exceed $500.

Facilities for Extinguishment

A district shall be equipped with facilities for extinguishment of smoking materials.

Penal Code 48.01(a)-(c)

Alcohol

A board shall prohibit the use of alcoholic beverages at school-related or school-sanctioned activities on or off school property. *Education Code 38.007(a)* [See FNCF regarding alcohol-free zones.]

Intoxicants

A person commits a Class C misdemeanor if the person possesses an intoxicating beverage for consumption, sale, or distribution while:

1. On the grounds or in a building of a public school; or
2. Entering or inside any enclosure, field, or stadium where any athletic event sponsored or participated in by a public school is being held.

Education Code 37.122 [See also FNCF]

Fireworks

A person may not explode or ignite fireworks within 600 feet of any school unless the person receives authorization in writing from the school. *Occupations Code 2154.251(a)(1)*

Federal Gun-Free School Zones Act

It is unlawful for any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone.

"School zone" means in, or on the grounds of, a school; or within a distance of 1,000 feet from the grounds of a school.

This prohibition does not apply to the possession of a firearm:

1. On private property not part of school grounds;
2. If the individual possessing the firearm is licensed to do so by the state, and the law of the state requires that, before an individual obtains such a license, the law enforcement authorities of the state verify that the individual is qualified under law to receive the license;
3. That is not loaded and in a locked container, or a locked firearms rack that is on a motor vehicle;
4. By an individual for use in a program approved by a school in the school zone;
5. By an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;
6. By a law enforcement officer acting in his or her official capacity; or
7. That is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

It is unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm at a place that the person knows is a school zone.

This prohibition does not apply to the discharge of a firearm:

1. On private property not part of school grounds;
2. As part of a program approved by a school in the school zone, by an individual who is participating in the program;
3. By an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or
4. By a law enforcement officer acting in his or her official capacity.

18 U.S.C. 921(a)(25), .922(q)

Possession of Weapons

Unless entitled to a defense or otherwise excepted by Penal Code 46.15, a person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, location-restricted knife, club, or prohibited weapon [see FNCG]:

1. On the premises of a school, on any grounds or building owned by and under the control of a school and on which an activity sponsored by the school is being conducted, or in a passenger transportation vehicle of a school, unless pursuant to written regulations or written authorization of the school;
2. On the premises of a polling place on the day of an election or while early voting is in progress;
3. On the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the person is a participant in the event and a firearm, location-restricted knife, club, or prohibited weapon is used in the event;
4. In the room or rooms where a meeting of a governmental entity is held, if the meeting is an open meeting subject to the OMA, and the entity provided required notice of the meeting.

It is not a defense to prosecution that the person possessed a handgun and was licensed to carry a handgun.

Penal Code 46.03(a)(1), (2), (8), (14), (f)

"Premises" Defined

"Premises," for purposes of this policy, means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area. *Penal Code 46.03(c)(4)*

Notice to Public

A district may provide notice that firearms and other weapons are prohibited under Penal Code 46.03 on the premises or other property, as applicable, by posting a sign at each entrance to the premises or other property that:

1. Includes language that is identical to or substantially similar to the following: "Pursuant to Section 46.03, Penal Code (places weapons prohibited), a person may not carry a firearm or other weapon on this property";
2. Includes the language described above in both English and Spanish;
3. Appears in contrasting colors with block letters at least one inch in height; and

4. Is displayed in a conspicuous manner clearly visible to the public.

Without a sign described above posted prominently at each entrance to the premises or other property, as applicable, a person can assert a defense to prosecution for unlawfully carrying a handgun if the person personally received notice that carrying a firearm was prohibited and promptly departed from the premises or other property.

Penal Code 46.15(m)-(o)

Transportation or Storage of Firearm in School Parking Area

A district may not prohibit a person who holds a license to carry a handgun under Government Code, Chapter 411, Subchapter H, from transporting or storing a handgun or other firearm or ammunition in a locked, privately owned or leased motor vehicle in a parking lot, parking garage, or other parking area provided by the district, and may not regulate the manner in which the handgun, firearm, or ammunition is stored in the vehicle, provided that the handgun, firearm, or ammunition is not in plain view.

This does not authorize a person to possess, transport, or store a handgun, a firearm, or ammunition in violation of Education Code 37.125, Penal Code 46.03, or other law.

Education Code 37.0815

Volunteer Emergency Services Personnel

A district is not liable in a civil action arising from the discharge of a handgun by an individual who is volunteer emergency services personnel and licensed to carry the handgun under Government Code, Chapter 411, Subchapter H.

The discharge of a handgun by an individual who is volunteer emergency services personnel and licensed to carry the handgun under Subchapter H, Chapter 411, Government Code, is outside the course and scope of the individual's duties as volunteer emergency services personnel.

The district does not waive immunity from suit or liability under the Texas Tort Claims Act or any other law.

“Volunteer emergency services personnel” includes a volunteer firefighter, an emergency medical services volunteer as defined by Health and Safety Code 773.003, and any individual who, as a volunteer, provides services for the benefit of the general public during emergency situations. The term does not include a peace officer or reserve law enforcement officer, as those terms are defined

by Occupations Code 1701.001, who is performing law enforcement duties.

Civ. Prac. & Rem. Code 112.001; Penal Code 46.01(18)

Exhibition of Firearm

A person commits a third degree felony if, in a manner intended to cause alarm or personal injury to another person or to damage school property, the person intentionally:

1. Exhibits or uses a firearm:
    a. In or on any property, including a parking lot, parking garage, or other parking area, that is owned by a private or public school; or
    b. On a school bus being used to transport children to and from school-sponsored activities;
2. Threatens to exhibit or use a firearm in or on property described above or on a bus and was in possession of or had immediate access to the firearm.

A person commits a Class A misdemeanor if the person threatens to exhibit or use a firearm, but was not in possession of or did not have immediate access to the firearm.

Education Code 37.125

Trespass — Concealed Carry of Handgun

A license holder commits an offense if the license holder:

1. Carries a concealed handgun on the property of another without effective consent; and
2. Received notice that entry on the property by a license holder with a concealed handgun was forbidden.

An offense under Penal Code 30.06 is a Class C misdemeanor, except that the offense is a Class A misdemeanor if, after entering the property, the license holder was personally given the notice that entry or remaining on the property with a concealed handgun was forbidden and subsequently failed to depart.

Notice / Sign — Concealed Carry of Handgun

For purposes of Penal Code 30.06, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

“Written communication” means:

1. A card or other document on which is written language identical to the following: “Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a per-

son licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun"; or

2. A sign posted on the property that includes the language described above in both English and Spanish, appears in contrasting colors with block letters at least one inch in height, and is displayed in a conspicuous manner clearly visible to the public.

Exception

It is an exception to Penal Code 30.06 that the property on which the license holder carries a concealed handgun is owned or leased by a district and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Penal Code 46.03.

Penal Code 30.06 [See also FNCG]

Unauthorized Notice

A district may not take any action, including an action consisting of the provision of notice, by a communication described by Penal Code 30.06 or 30.07 that states or implies that a license holder who is carrying a handgun under the authority of Government Code Chapter 411 is prohibited from entering or remaining on a premises or other place owned or leased by the district unless license holders are prohibited from carrying a handgun on the premises or other place by Penal Code 46.03 or other law. *Gov't Code 411.209*

Trespass — Open Carry of Handgun

A holder of a license to openly carry a handgun commits an offense if the license holder:

1. Openly carries a handgun on property of another without effective consent; and

2. Received notice that entry on the property by a license holder openly carrying a handgun was forbidden.

Notice / Sign — Open Carry of Handgun

For purposes of Penal Code 30.07, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

"Written communication means":

1. A card or other document on which is written language identical to the following: "Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly"; or

2. A sign posted on the property that includes the language described above in both English and Spanish, appears in contrasting colors with block letters at least one inch in height, and is displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

An offense under Penal Code 30.07 is a Class C misdemeanor, except that the offense is a Class A misdemeanor if, after entering the property, the license holder was personally given the notice by oral communication that entry or remaining on the property with an openly carried handgun was forbidden and subsequently failed to depart.

Exception

It is an exception to Penal Code 30.07 that the property on which the license holder openly carries the handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Penal Code 46.03.

Penal Code 30.07

Unmanned Aircraft Systems

Note: For provisions applicable to the use of drones for law enforcement purposes, see CKEA

Federal Law

The U.S. Government has exclusive sovereignty of airspace of the United States. *49 U.S.C. 40103*

Small Unmanned Aircraft

"Small unmanned aircraft" means an unmanned aircraft weighing less than 55 pounds on takeoff, including everything that is on board or otherwise attached to the aircraft.

Small Unmanned Aircraft System

"Small unmanned aircraft system" (small UAS) means a small unmanned aircraft and its associated elements (including communication links and the components that control the small unmanned aircraft) that are required for the safe and efficient operation of the small unmanned aircraft in the national airspace system.

14 C.F.R. 1.1, 107.3

Operation of Small UAS

The registration, airman certification, and operation of civil small UAS within the United States is subject to 14 C.F.R. Part 107. Part 107 does not apply to the following:

1. Air carrier operations;
2. Any aircraft subject to the provisions of 14 C.F.R. Part 101;
3. Any operation that a remote pilot in command elects to conduct pursuant to an exemption issued under 49 U.S.C. 44807, unless otherwise specified in the exemption; or

4. Any operation that a person elects to conduct under 14 C.F.R. Part 91 with a small UAS that has been issued an airworthiness certificate.

14 C.F.R. 107.1

Exception for Limited Recreational Operation

A person may operate a small unmanned aircraft without specific certification or operating authority from the Federal Aviation Administration (FAA) if the operation adheres to all of the following limitations:

1. The aircraft is flown strictly for recreational purposes.
2. The aircraft is operated in accordance with or within the programming of a community-based organization's set of safety guidelines that are developed in coordination with the FAA.
3. The aircraft is flown within the visual line of sight of the person operating the aircraft or a visual observer co-located and in direct communication with the operator.
4. The aircraft is operated in a manner that does not interfere with and gives way to any manned aircraft.
5. In Class B, Class C, or Class D airspace or within the lateral boundaries of the surface area of Class E airspace designated for an airport, the operator obtains prior authorization from the administrator of the FAA or designee before operating and complies with all airspace restrictions and prohibitions.
6. In Class G airspace, the aircraft is flown from the surface to not more than 400 feet above ground level and complies with all airspace restrictions and prohibitions.
7. The operator has passed an aeronautical knowledge and safety test and maintains proof of test passage to be made available to the FAA or law enforcement upon request.
8. The aircraft is registered and marked in accordance with 49 U.S.C. Chapter 441 and proof of registration is made available to the FAA or law enforcement upon request.

49 U.S.C. 44809(a)

State Law

Regulation Limited

A political subdivision, including a school district, may not adopt or enforce any ordinance, order, or other similar measure regarding the operation of an unmanned aircraft. An ordinance, order, or other similar measure that violates this provision is void and unenforceable. *Gov't Code 423.009(b), (d)*

Exception

A political subdivision may adopt and enforce an ordinance, order, or other similar measure regarding:

1. The use of an unmanned aircraft during a special event;
2. The political subdivision's use of an unmanned aircraft; or
3. The use of an unmanned aircraft near a facility or infrastructure owned by the political subdivision, if the political subdivision:
    a. Applies for and receives authorization from the Federal Aviation Administration to adopt the regulation; and
    b. After providing reasonable notice, holds a public hearing on the political subdivision's intent to apply for the authorization.

"Special event" means a festival, celebration, or other gathering that involves the reservation and temporary use of all or a portion of a public park, road, or other property of a political subdivision; and entertainment, the sale of merchandise, food, or beverages, or mass participation in a sports event; and requires a significant use or coordination of a political subdivision's services.

Gov't Code 423.009(a)(2), (c)

Privacy Law

It is lawful to capture an image using an unmanned aircraft in this state for the reasons listed in Government Code 423.002, including:

1. With the consent of the individual who owns or lawfully occupies the real property captured in the image; or
2. From a height no more than eight feet above ground level in a public place, if the image was captured without using any electronic, mechanical, or other means to amplify the image beyond normal human perception.

Gov't Code 423.002(a)

Identification

A district may require a person who enters property under the district's control to display the person's driver's license or another form of identification containing the person's photograph issued by a governmental entity or, if applicable, the person's district employee or student identification card.

The person must provide the identification on request.

A district may eject a person from district property if the person refuses or fails to provide on request identification and it reasonably appears that the person has no legitimate reason to be on district property.

Education Code 38.022(a), (a-1)

[For information on ejection for other conduct on school premises, see GKA.]

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

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.

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.

Education Code 38.022(b)-(d)

Notice of Entry onto School Premises

"Premises" means a building or portion of a building and the grounds on which the building is located, including any public or private driveway, street, sidewalk or walkway, parking lot, or parking garage on the grounds.

"School" means a private or public elementary or secondary school or a day-care center.

A registered sex offender who enters the premises of any school in Texas during the standard operating hours of the school shall immediately notify the administrative office of the school of the person's presence on the premises of the school and the person's registration status. The office may provide a chaperon to accompany the person while the person is on the premises of the school.

These requirements do not apply to:

1. A student enrolled at the school;
2. A student from another school participating at an event at the school; or
3. A person who has entered into a written agreement with the school that exempts the person from these requirements.

Code of Crim. Proc. 62.065; Health and Safety Code 481.134

Ordinances in General-Law Municipalities

"Child safety zone" means premises where children commonly gather. The term includes a school, day-care facility, playground, public or private youth center, public swimming pool, video arcade facility, or other facility that regularly holds events primarily for children.

"Playground," "premises," "school," "video arcade facility," and "youth center" have the meanings assigned by Health and Safety Code 481.134.

"Registered sex offender" means an individual who is required to register as a sex offender under Code of Criminal Procedure, Chapter 62.

To provide for the public safety, the governing body of a general-law municipality by ordinance may restrict a registered sex offender from going in, on, or within a specified distance of a child safety zone in the municipality.

It is an affirmative defense to prosecution of an offense under the ordinance that the registered sex offender was in, on, or within a specified distance of a child safety zone for a legitimate purpose, including transportation of a child that the registered sex offender is legally permitted to be with, transportation to and from work, and other work-related purposes.

The ordinance may establish a distance requirement at any distance of not more than 1,000 feet.

The ordinance shall establish procedures for a registered sex offender to apply for an exemption from the ordinance.

The ordinance must exempt a registered sex offender who established residency in a residence located within the specified distance of a child safety zone before the date the ordinance is adopted. The exemption must apply only to areas necessary for the registered sex offender to have access to and to live in the resi-

dence, and the period the registered sex offender maintains residency in the residence.

Local Gov't Code 341.906

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. *20 U.S.C. 7908(a)(3)*

Armed Services Vocational Aptitude Battery Test

Each school year each school district shall provide students in grades 10 through 12 an opportunity to take the Armed Services Vocational Aptitude Battery (ASVAB) test and consult with a military recruiter. [See EK] *Education Code 29.9015*

A district shall develop a volunteer program. In developing the program, a district shall consider volunteers a resource that requires advance planning and preparation for effective use. If practicable, a district shall include volunteers in addition to paid staff in planning the implementation of the program. *Gov't Code 2109.003*

Program Requirements and Guidelines

A volunteer program shall include:

1. An effective training program for paid staff and prospective volunteers.
2. The use of paid staff to plan and implement the volunteer program.
3. An evaluation mechanism to assess the performance of volunteers, the cooperation of paid staff with the volunteers, and the overall volunteer program.
4. Follow-up studies to ensure the effectiveness of the program.

Gov't Code 2109.004(a)

A volunteer program may:

1. Establish a program to reimburse volunteers for actual and necessary expenses incurred in the performance of volunteer services.
2. Establish an insurance program to protect volunteers in the performance of volunteer services.
3. Cooperate with private organizations that provide services similar to those provided by a district.
4. Purchase engraved certificates, plaques, pins, and/or other awards of a similar nature that do not exceed $75 per person in value to recognize special achievement and outstanding service of volunteers.

Gov't Code 2109.004(b)

Criminal History Record

A district or shared services arrangement shall obtain from the Texas Department of Public Safety (DPS) and may obtain from any other law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), all criminal history record information (CHRI) that relates to a volunteer or person who has indicated, in writing, an intention to serve as a volunteer with the district or shared services arrangement. *Education Code 22.0835(a)*

The prospective volunteer must provide the district a driver's license or another form of identification containing the person's photograph issued by an entity of the United States government. *Education Code 22.0835(c)*

A person may not perform any volunteer duties until these requirements have been satisfied. *Education Code 22.0835(d)*

Exception

A district is not required to obtain all CHRI that relates to a person who volunteers or is applying to volunteer with a district or shared services arrangement if the person:

1. Is the parent, guardian, or grandparent of a child who is enrolled in the district for which the person volunteers or is applying to volunteer;
2. Will be accompanied by a district employee while on a school campus; or
3. Is volunteering for a single event on the school campus.

A district may obtain from DPS or any law enforcement or criminal justice agency all CHRI that relates to a person to whom this exception applies.

Education Code 22.0835(e)-(f)

Costs

A district may require a volunteer or volunteer applicant to pay any costs related to obtaining CHRI. *Education Code 22.0835(g)*

[See DBAA(LEGAL) for definitions and provisions regarding confidentiality, records retention, and criminal history record checks of employees.]

Immunity

Generally

A volunteer who is serving as a direct service volunteer in a district is immune from civil liability to the same extent as a district employee under Education Code 22.0511. However, this section of law does not limit the liability of a person for intentional misconduct or gross negligence.

A "volunteer" is a person rendering services for or on behalf of a district on district premises or at a school-sponsored or school-related activity on or off school property who does not receive compensation in excess of reimbursement for expenses.

Education Code 22.053

Extracurricular Activities

A person who volunteers to assist with an extracurricular activity is not liable for civil damages arising out of an act or omission relating to the requirements under Education Code 33.205 regarding safety precautions [see FM(LEGAL)] unless the act or omission is willfully or wantonly negligent. *Education Code 33.211*

Physical Examinations

Subject to Civil Practice and Remedies Code 91.003 (liability insurance requirements), a health-care practitioner who, without compensation or expectation of compensation, conducts a physical examination or medical screening for the purpose of determining the physical health and fitness of the patient to participate in a school-sponsored extracurricular or sporting activity is immune from civil liability for any act or omission resulting in the death of or injury to the patient if:

1. The health care practitioner was acting in good faith and in the course and scope of the health-care practitioner's duties;
2. The health-care practitioner commits the act or omission in the course of conducting the physical examination or medical screening of the patient;
3. The services provided to the patient are within the scope of the license of the health-care practitioner; and
4. Before the health-care practitioner conducts the physical examination or medical screening, the patient signs a written statement that acknowledges:
    a. That the health-care practitioner is conducting a physical examination or medical screening that is not administered for or in expectation of compensation; and
    b. The limitations on the recovery of damages from the health-care practitioner in connection with the physical examination or medical screening being performed.

    If the patient is a minor or is otherwise legally incompetent, the patient's parent, managing conservator, legal guardian, or other person with legal responsibility for the care of the patient must sign the written statement.

Civ. Prac. & Rem. Code 91.002

Immunity for Shelter Workers

A district volunteer 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*

FERPA Provisions

A district may disclose personally identifiable information from an education record of a student without the consent required by the Family Educational Rights and Privacy Act of 1974 (FERPA) (20 U.S.C. 1232g) [see FL] if:

1. The disclosure is to state and local officials or authorities to whom this information is specifically allowed to be reported or disclosed, pursuant to state statute adopted after November 19, 1974; and
2. The state statute concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records are released.

The officials and authorities to whom the records are disclosed must 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.

34 C.F.R. 99.31(a)(5) , 99.38

Juvenile Service Provider

A superintendent or designee shall disclose information in a student's educational records to a juvenile service provider as required by Family Code 58.0051.

A district is not required or authorized to release student-level information except in conformity with FERPA. [See FL]

Education Code 37.084

Definitions

For purposes of the following provisions, "educational records" means records in the possession of a district that contain information relating to a student, including information relating to the student's identity, special needs, educational accommodations, assessment or diagnostic test results, attendance records, disciplinary records, medical records, and psychological diagnoses.

"Juvenile service provider" means a governmental entity that provides juvenile justice or prevention, medical, educational, or other support services to a juvenile. The term includes:

1. A state or local juvenile justice agency as defined by Family Code 58.101;
2. Health and human services agencies, as defined by Government Code 531.001 and the Health and Human Services Commission;
3. The Department of Public Safety;
4. The Texas Education Agency;

5. An independent school district;
6. A juvenile justice alternative education program;
7. A charter school;
8. A local mental health authority or local intellectual and developmental disability authority;
9. A court with jurisdiction over juveniles;
10. A district attorney's office;
11. A county attorney's office; and
12. A children's advocacy center established under Family Code 264.402.

"Student" means a person who is registered or in attendance at a primary or secondary educational institution and is younger than 18 years of age.

Family Code 58.0051(a)

Disclosure of Educational Records

At the request of a juvenile service provider, a district shall disclose to the service provider confidential information in a student's educational records if the student has been taken into custody under Family Code 52.01 [see GRA] or referred to a juvenile court for allegedly engaging in delinquent conduct or conduct indicating a need for supervision. The district shall comply with the request regardless of whether other state law makes the information confidential.

If a district discloses confidential information to a juvenile service provider, the district may not destroy a record of the disclosed information before the seventh anniversary of the date the information is disclosed.

Family Code 58.0051(b)-(d)

Certification from Requestor

The juvenile service provider that receives the confidential information from the district shall certify in writing that the provider has agreed not to disclose the information to a third party, other than another juvenile service provider. The provider shall use the confidential information only to verify the identity of a student involved in the juvenile justice system and to provide delinquency prevention or treatment services to the student. *Family Code 58.0051(e)*

Internal Protocol and Memorandum of Understanding

A district may establish an internal protocol for sharing information with other juvenile service providers as necessary to efficiently and promptly disclose and accept the information. The protocol may specify the types of information that may be shared under Family

Code 58.0051 without violating federal law, including any federal funding requirements.

A district may enter into a memorandum of understanding with another juvenile service provider to share information according to the district's protocols. A district shall comply with Family Code 58.0051 regardless of whether the district establishes an internal protocol or enters into a memorandum of understanding, unless compliance would violate federal law.

Family Code 58.0051(f)

Confidentiality of Information

Family Code 58.0051 does not affect the confidential status of the information being shared. The information may be released to a third party only as directed by a court order or as otherwise authorized by law. Personally identifiable information disclosed to a juvenile service provider under this section is not subject to disclosure to a third party under Government Code Chapter 552 (Public Information Act). *Family Code 58.0051(g)*

Fee

A juvenile service provider that requests information under this section shall pay a fee to the district in the same amounts charged for the provision of public information under Government Code Chapter 552 [see GBAA], unless:

1. The provider and the district have entered into a memorandum of understanding that prohibits the payment of a fee, provides for the waiver of a fee; or provides an alternate method of assessing a fee;
2. The district waives the payment of the fee; or
3. Disclosure of the information is required by other law.

Family Code 58.0051(g)

Juvenile Justice Information System

Juvenile justice agencies in a county or region of Texas may jointly create and maintain a local juvenile justice information system in accordance with Family Code Chapter 58, Subchapter D. A local juvenile justice information system shall include each public school district in the county. *Family Code 58.303, .305*

Districts that are served by a local juvenile justice information system shall have Level 1 Access. Level 1 Access is information that relates to a child:

1. Who:
    a. A school official has reasonable grounds to believe has committed an offense for which a report is required under Education Code 37.015; or

b. Has been expelled, the expulsion of which is required to be reported under Family Code 52.041; and

2. Who has not been charged with a fineable only offense, a status offense, or delinquent conduct.

Family Code 58.306

Information that is part of a local juvenile justice information system is not public information and may not be released, except as authorized by law. *Family Code 58.307*

General Authority

A district may contract with another local government or a federally recognized Indian tribe that is located in Texas. A party to an interlocal contract may contract with a state agency or similar agency of another state.

An interlocal contract may:

1. Study the feasibility of the performance of a governmental function or service by interlocal contract; or
2. Provide a governmental function or service that each party to the contract is authorized to perform individually.

An interlocal contract shall comply with the requirements at Government Code Chapter 791. [See CH for interlocal purchasing contracts]

Gov't Code 791.011

Health-Care and Hospital Services

A district may contract with another local government authorized to provide health-care and hospital services to provide those services for the district's officers and employees and their dependents. *Gov't Code 791.030*

A hospital district may contract with a school district included in the hospital district to provide nursing services and assistance to employees or students of the district. *Health and Safety Code 281.0465*

Transportation System

A board may establish and operate an economical public school transportation system outside the district if the district enters into an interlocal contract as provided by Government Code Chapter 791. *Education Code 34.007(a)*

School Crossing Guards

A municipality with a population greater than 1.3 million may contract with one or more school districts to provide school crossing guards. Under such a contract, a district may provide school crossing guard services to areas of the municipality that are not part of the district. *Local Gov't Code 343.011, .012*

State Hospital for Accountability Purposes

A memorandum of understanding between a district and a state hospital under which the district provides educational services to a student who resides in the state hospital must provide that the district include the performance of the student on an assessment instrument or other achievement indicator adopted under Education Code 39.053 or a reporting indicator adopted under Education Code 39.301 in determining the performance of the district. *Education Code 39.0552*

Intergovernmental Support Agreements

A district may enter into an intergovernmental support agreement with a branch of the armed forces of the United States under the National Defense Authorization Act (10 U.S.C. Section 2679) to provide installation-support services to a military installation located in this state. *Gov't Code 793.002*

"Installation-support services" means those services, supplies, resources, and support typically provided by a local government for its own needs and without regard to whether such services, supplies, resources, and support are provided to its residents generally, except that the term does not include security guard or fire-fighting functions. *10 U.S.C. 2679(f)(1)*

Plan

The District shall develop a cybersecurity plan to secure the District's cyberinfrastructure against a cyberattack or any other cybersecurity incidents, determine cybersecurity risk, and implement appropriate mitigation planning.

Coordinator

The Superintendent shall designate a cybersecurity coordinator. The cybersecurity coordinator shall serve as the liaison between the District and the Texas Education Agency in cybersecurity matters.

Training

The Board delegates to the Superintendent the authority to:

1. Determine the cybersecurity training program to be used in the District;
2. Verify and report compliance with training requirements in accordance with guidance from the Department of Information Resources; and
3. Remove access to the District's computer systems and databases for noncompliance with training requirements as appropriate.

The District shall complete periodic audits to ensure compliance with the cybersecurity training requirements.

Security Breach Notifications

Upon discovering or receiving notification of a breach of system security or a security incident, as defined by law, the District shall disclose the breach or incident to affected persons or entities in accordance with the time frames established by law. The District shall give notice by using one or more of the following methods:

1. Written notice.
2. Email, if the District has email addresses for the affected persons.
3. Conspicuous posting on the District's websites.
4. Publication through broadcast media.

The District shall disclose a breach or incident involving sensitive, protected, or confidential student information as required by law.

Building Access Control

Audits of building access control shall include weekly inspections of instructional facilities during school hours to certify all exterior doors are, by default, set to closed, latched, and locked status and cannot be opened from the outside without a key.

The Superintendent shall ensure that the findings of the weekly inspections are:

1. Reported to the District safety and security committee; and
2. Reported to the campus principal or lead administrator of the instructional facility to ensure awareness of any deficiencies identified.

The campus principal or lead administrator shall assign appropriate staff to take action to reduce the likelihood of similar deficiencies in the future.

The results of the weekly reports shall be kept for review as part of the required safety and security audit.

The District's building access control procedures shall not be interpreted as discouraging parents or guardians who have been properly verified as authorized visitors from visiting their student's campus. [See GKC]

Personnel Duties

The Superintendent shall define the qualifications, duties, and responsibilities of all positions and shall ensure that job descriptions are current and accessible to employees and supervisors.

Posting Vacancies

The Superintendent or designee shall establish guidelines for advertising employment opportunities and posting notices of vacancies. These guidelines shall advance the Board's commitment to equal opportunity employment and to recruiting well-qualified candidates. Current District employees may apply for any vacancy for which they have appropriate qualifications.

Applications

All applicants shall complete the application form supplied by the District. Information on applications shall be confirmed before a contract is offered for a contractual position and before hiring or as soon as possible thereafter for a noncontractual position.

[For information related to the evaluation of criminal history records, see DBAA.]

Employment of Personnel

Note: For employment of a bus driver related to a Board member or the Superintendent, see DBE(LEGAL).

The Board delegates to the Superintendent the final authority to hire contractual (professional) and noncontractual (paraprofessional and auxiliary) personnel, except for the personnel identified below.

The term "hire" shall mean the initial employment of a person or the rehiring of a person after a break in previous employment with the District. All other actions regarding the contracts of current employees shall be taken according to applicable Board policy. [See also BJA]

In addition, the Board delegates to the Superintendent the authority to dismiss auxiliary and non-Chapter 21 contract employees, in accordance with DCD(LOCAL) and DCE(LOCAL).

All selection and employment decisions made by the Superintendent shall be made in accordance with District policies, procedures, and practices.

Exceptions

The Board retains final authority to select and employ principals, directors, executive directors, assistant superintendents, and the Superintendent.

Campus Hiring

The campus principal shall approve appointments of campus teachers and staff from a pool of applicants selected by the District

or from a pool of applicants who meet the hiring requirements established by the Superintendent. [See DK]

References

All applicants shall have on file one or more positive references deemed appropriate and acceptable to the Superintendent for the position being filled.

Employment Assistance Prohibited

No District employee shall assist another employee of the District or of any school district in obtaining a new job if the employee knows, or has probable cause to believe, that the other employee engaged in sexual misconduct regarding a minor or student in violation of the law. Routine transmission of an administrative or personnel file does not violate this prohibition. [See CJ for prohibitions relating to contractors and agents and DH(EXHIBIT) for the Educators' Code of Ethics.]

Dyslexia and Related Disorders

The District shall comply with all rules and standards adopted by the State Board of Education and guidance published by the commissioner of education to implement the program to test students for dyslexia and related disorders.

In accordance with administrative procedures, the District shall provide regular training opportunities for teachers of students with dyslexia that include new research and practices for educating students with dyslexia.

Each student who has been identified as being at risk of dropping out of school, who is not performing at grade level, or who did not perform satisfactorily on a state-mandated assessment shall be provided accelerated and/or compensatory educational services.

Accelerated Instruction

The District shall provide accelerated instruction in accordance with law if a student fails to perform satisfactorily on a state-mandated assessment.

Accelerated Learning Committee

When a student fails to perform satisfactorily on a math or reading state-mandated assessment in grades 3, 5, or 8, an accelerated learning committee shall develop a written educational plan in accordance with law. If a parent requests that the student be assigned to a particular teacher the following school year, the request shall be addressed in accordance with the District's administrative procedures.

A parent complaint about the content or implementation of the educational plan shall be filed in accordance with FNG.

Each student who has been identified as being at risk of dropping out of school, who is not performing at grade level, or who did not perform satisfactorily on a state-mandated assessment shall be provided accelerated and/or compensatory educational services.

Accelerated Instruction

The District shall provide accelerated instruction in accordance with law if a student fails to perform satisfactorily on a state-mandated assessment.

Parent Request

If a student fails to perform satisfactorily on a state-mandated assessment, a parent's request that the student be assigned to a particular teacher the following school year shall be addressed in accordance with the District's administrative procedures.

Accelerated Education Plan

Appropriate District staff shall develop an accelerated education plan for a student who fails to perform satisfactorily on the same state-mandated assessment for two or more consecutive years.

A parent complaint about the content or implementation of the accelerated education plan shall be filed in accordance with FNG.

Students in violation of the compulsory attendance law shall be reported to the District attendance officer, who may institute court action as provided by law.

Excused Absences

In addition to excused absences required by law, the District shall excuse absences for the following purposes. A student shall be required to submit verification of these absences in accordance with administrative regulations.

Higher Education Visits

The District shall excuse a student for up to two days during the student's junior year and up to two days during the student's senior year to visit an accredited institution of higher education.

Career Investigation

The District shall excuse a student for up to two days during the student's junior year and up to two days during the student's senior year to visit a professional's workplace for purposes of exploring the student's interest in pursuing a career in that professional's field.

Armed Services Enlistment

The District shall excuse a student 17 years of age or older for up to four days during his or her enrollment in high school for activities related to pursuing enlistment in a branch of the U.S. Armed Services or Texas National Guard.

Early Voting or Election Clerk

The District shall excuse a student for up to two days per school year to serve as an early voting or election clerk.

Learner or Driver's License

The District shall excuse a student 15 years of age or older for one day during his or her enrollment in high school for each of the following:

- Visiting a driver's license office to obtain a learner license; or
- Visiting a driver's license office to obtain a driver's license.

[For extracurricular activity absences, see FM.]

Withdrawal for Nonattendance

The District may initiate withdrawal of a student under the age of 19 for nonattendance under the following conditions:

1. The student has been absent ~~ten~~10 consecutive school days; and
2. Repeated efforts by the attendance officer and/or principal to locate the student have been unsuccessful.

[For District-initiated withdrawal of students 19 or older, see FEA(LEGAL).]

Students Attending Homeschools

Students who are homeschooled are exempt from the compulsory attendance law to the same extent as students enrolled in other private schools.

Adequate documentation of homeschooling for withdrawal shall consist of either a statement of withdrawal in accordance with FD(LOCAL) indicating the date homeschooling began, or a signed and dated letter from a parent or guardian indicating that his or her child is being homeschooled and the date the homeschooling began.

The District may request from a parent or guardian a letter of assurance that a child is being educated using a curriculum designed to meet basic education goals of reading, spelling, grammar, mathematics, and a study of good citizenship.

Enforcing Compulsory Attendance

If a parent or guardian refuses to submit a requested statement or letter, or if the District has evidence that a school-aged child is not being homeschooled within legal requirements, the District may investigate further and, if warranted, shall pursue legal action to enforce the compulsory attendance law.

No employee shall give any student prescription medication, nonprescription medication, herbal substances, anabolic steroids, or dietary supplements of any type, except as authorized by this or other District policy.

Medication Provided by Parent

The Superintendent shall designate the employees who are authorized to administer medication that has been provided by a student's parent. An authorized employee is permitted to administer the following medication in accordance with administrative regulations:

1. Prescription medication in accordance with legal requirements.
2. Nonprescription medication, upon a parent's written request, when properly labeled and in the original container.
3. Herbal substances or dietary supplements provided by the parent and only if required by the individualized education program or Section 504 plan for a student with disabilities.

Medication Provided by District

Except as required by law and provided by this policy, the District shall not purchase medication to administer to a student.

Athletic Program

The District shall purchase nonprescription medication that may be used to prevent or treat illness or injury in the District's athletic program. Only a licensed athletic trainer or a physician licensed to practice medicine in the state of Texas may administer this medication and may do so only if:

1. The District has prior written consent for medication to be administered [see Medical Treatment, below]; and
2. The administration of a medication by an athletic trainer is in accordance with a standing order or procedures approved by a physician licensed to practice medicine in the state of Texas.

Epinephrine

The District authorizes ~~school personnel~~school personnel who have agreed in writing and been adequately trained to administer an unassigned epinephrine auto-injector in accordance with law and this policy. Administration of epinephrine shall only be permitted when an authorized and trained individual reasonably believes a person is experiencing anaphylaxis.

On Campus

Authorized and trained individuals may administer an unassigned epinephrine auto-injector at any time to a person experiencing anaphylaxis on a school campus.

The District shall ensure that at each campus a sufficient number of authorized individuals are trained to administer epinephrine so

that at least one trained individual is present on campus during all hours the campus is open. In accordance with state rules, the campus shall be considered open for this purpose during regular on-campus school hours and whenever school personnel are physically on site for school-sponsored activities.

Off Campus

Authorized and trained individuals may administer an unassigned epinephrine auto-injector to a person experiencing anaphylaxis at an off-campus school event or while in transit to or from a school event when an unassigned epinephrine auto-injector is available.

Maintenance, Availability, and Training

The Superintendent shall develop administrative regulations designating a coordinator to manage policy implementation and addressing annual training of authorized individuals in accordance with law; procedures for auto-injector use; and acquisition or purchase, maintenance, expiration, disposal, and availability of unassigned epinephrine auto-injectors at each campus~~, at off-campus events, and while in transit to and from a school event~~.

Notice to Parents

In accordance with law, the District shall provide notice of the policy to parents regarding the epinephrine program, including notice of any change to or discontinuation of this program.

Opioid Antagonist

This provision shall be applicable to every campus.

On Campus

The District authorizes school personnel who have been adequately trained to administer an opioid antagonist in accordance with law and this policy. Administration of an opioid antagonist shall only be permitted when an authorized and trained individual reasonably believes a person is experiencing an opioid-related overdose.

Each applicable campus shall have at least one individual who is authorized and trained to administer an opioid antagonist present during regular school hours.

Maintenance, Availability, Training, and Reporting

Each applicable campus shall have at least two unused, unexpired opioid antagonist doses available.

All opioid antagonists shall be stored in a secure location and shall be easily accessible by individuals who are authorized and trained to administer an opioid antagonist.

The Superintendent shall develop administrative regulations addressing acquisition, maintenance, expiration, and disposal of opioid antagonists in the District, as well as reporting, employee training, and emergency notification requirements.

Psychotropics

Except as permitted by law, an employee shall not:

1. Recommend to a student or a parent that the student use a psychotropic drug;
2. Suggest a particular diagnosis; or
3. Exclude the student from a class or a school-related activity because of the parent's refusal to consent to psychiatric evaluation or examination or treatment of the student.

Medical Treatment

A student's parent, legal guardian, or other person having lawful control shall annually complete and sign a form that provides emergency information and addresses authorization regarding medical treatment. A student who has reached age 18 shall be permitted to complete this form.

The District shall seek appropriate emergency care for a student as required or deemed necessary.

Threat Assessment and Safe and Supportive Team

In compliance with law, the Superintendent shall ensure that a multidisciplinary threat assessment and safe and supportive team is established to serve each campus. The Superintendent shall appoint team members. The team shall be responsible for developing and implementing a safe and supportive school program at each campus served by the team and shall support the District in implementing its multi-hazard emergency operations plan.

Training

Each team shall complete training provided by an approved provider on evidence-based threat assessment programs.

Student Reports

Each campus shall establish a clear procedure for a student to report concerning behavior exhibited by another student for assessment by the team or other appropriate District employee.

Employee Confidentiality

A District employee who reports a potential threat may elect for the employee's identity to remain confidential and not be subject to disclosure under the state's public information law. The employee's identity shall only be revealed when necessary for the team, the District, or law enforcement to investigate the reported threat.

The District shall maintain a record of the identity of a District employee who elects for the employee's identity to remain confidential.

Imminent Threats or Emergencies

A member of the team or any District employee may act immediately to prevent an imminent threat or respond to an emergency, including contacting law enforcement directly.

Threat Assessment Process

The District shall develop procedures as recommended by the Texas School Safety Center. In accordance with those procedures, the threat assessment and safe and supportive team shall conduct threat assessments using a process that includes:

1. Identifying individuals, based on referrals, tips, or observations, whose behavior has raised concerns due to threats of violence or exhibition of behavior that is harmful, threatening, or violent.
2. Conducting an individualized assessment based on reasonably available information to determine whether the individual poses a threat of violence or poses a risk of harm to self or others and the level of risk.
3. Implementing appropriate intervention and monitoring strategies, if the team determines an individual poses a threat of harm to self or others. These strategies may include referral of a student for a mental health assessment and escalation procedures as appropriate.

For a student or other individual the team determines poses a serious risk of violence to self or others, the team shall immediately report to the Superintendent, who shall immediately attempt to contact the student's parent or guardian. Additionally, the Superintendent shall coordinate with law enforcement authorities as necessary and take other appropriate action in accordance with the District's multihazard emergency operations plan.

For a student the team identifies as at risk of suicide, the team shall follow the District's suicide prevention program.

For a student the team identifies as having a substance abuse issue, the team shall follow the District's substance abuse program.

For a student whose conduct may constitute a violation of the District's Student Code of Conduct, the team shall make a referral to the campus behavior coordinator or other appropriate administrator to consider disciplinary action.

As appropriate, the team may refer a student:

1. To a local mental health authority or health-care provider for evaluation or treatment; or
2. For a full individualized and initial evaluation for special education services.

The team shall not provide any mental health-care services, except as permitted by law.

Guidance to School Community

The team shall provide guidance to students and District employees on recognizing harmful, threatening, or violent behavior that may pose a threat to another person, the campus, or the community and methods to report such behavior to the team, including through anonymous reporting.

Reports

The team shall provide reports to the Texas Education Agency as required by law.

Comprehensive System

The Superintendent shall develop and maintain a comprehensive system of student records and reports dealing with all facets of the school program operation and shall ensure through reasonable procedures that records are accessed by authorized persons only, as allowed by this policy. These data and records shall be stored in a safe and secure manner and shall be conveniently retrievable for use by authorized school officials.

Cumulative Record

A cumulative record shall be maintained for each student from entrance into District schools until withdrawal or graduation from the District.

This record shall move with the student from school to school and be maintained at the school where currently enrolled until graduation or withdrawal. Records for nonenrolled students shall be retained for the period of time required by law. No permanent records may be destroyed without explicit permission from the Superintendent. [See CPC]

Custodian of Records

The ~~principal~~principal is custodian of all records for currently enrolled students. ~~The Superintendent~~The Superintendent is the custodian of records for students who have withdrawn or graduated. The student handbook made available to all students and parents shall contain a listing of the addresses of District schools, as well as the Superintendent's business address.

Types of Education Records

The record custodian shall be responsible for the education records of the District. These records may include:

1. Admissions data, personal and family data, including certification of date of birth.
2. Standardized test data, including intelligence, aptitude, interest, personality, and social adjustment ratings.
3. All achievement records, as determined by tests, recorded grades, and teacher evaluations.
4. All documentation regarding a student's testing history and any accelerated instruction he or she has received, including any ~~documentation of discussion or action by an~~ accelerated ~~learning committee convened~~education plan developed for the student.
5. Health services record, including:
    a. The results of any tuberculin tests required by the District.
    b. The findings of screening or health appraisal programs the District conducts or provides. [See FFAA]

c. Immunization records. [See FFAB]

6. Attendance records.
7. Student questionnaires.
8. Records of teacher, school counselor, or administrative conferences with the student or pertaining to the student.
9. Verified reports of serious or recurrent behavior patterns.
10. Copies of correspondence with parents and others concerned with the student.
11. Records transferred from other districts in which the student was enrolled.
12. Records pertaining to participation in extracurricular activities.
13. Information relating to student participation in special programs.
14. Records of fees assessed and paid.
15. Records pertaining to student and parent complaints.
16. Other records that may contribute to an understanding of the student.

Access by Parents

The District shall make a student's records available to the student's parents, as permitted by law. The records custodian or designee shall use reasonable procedures to verify the requester's identity before disclosing student records containing personally identifiable information.

Records may be reviewed in person during regular school hours without charge upon written request to the records custodian. For in-person viewing, the records custodian or designee shall be available to explain the record and to answer questions. The confidential nature of the student's records shall be maintained at all times, and records to be viewed shall be restricted to use only in the Superintendent's, principal's, or school counselor's office, or other restricted area designated by the records custodian. The original copy of the record or any document contained in the cumulative record shall not be removed from the school.

Copies of records are available at a per copy cost, payable in advance. Copies of records must be requested in writing. Parents may be denied copies of records if they fail to follow proper procedures or pay the copying charge. If the student qualifies for free or reduced-price lunches and the parents are unable to view

the records during regular school hours, upon written request of a parent, one copy of the record shall be provided at no charge.

A parent may continue to have access to his or her child's records under specific circumstances after the student has attained 18 years of age or is attending an institution of postsecondary education. [See FL(LEGAL)]

Access by School Officials

A school official shall be allowed access to student records if he or she has a legitimate educational interest in the records.

For the purposes of this policy, "school officials" shall include:

1. An employee, Board member, or agent of the District, including an attorney, a consultant, a contractor, a volunteer, a school resource officer, and any outside service provider used by the District to perform institutional services.
2. An employee of a cooperative of which the District is a member or of a facility with which the District contracts for placement of students with disabilities.
3. A contractor retained by a cooperative of which the District is a member or by a facility with which the District contracts for placement of students with disabilities.
4. A parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.
5. A person appointed to serve on a team to support the District's safe and supportive school program.

All contractors provided with student records shall follow the same rules as employees concerning privacy of the records and shall return the records upon completion of the assignment.

A school official has a "legitimate educational interest" in a student's records when he or she is:

1. Working with the student;
2. Considering disciplinary or academic actions, the student's case, or an individualized education program for a student with disabilities;
3. Compiling statistical data;
4. Reviewing an education record to fulfill the official's professional responsibility; or
5. Investigating or evaluating programs.

Transcripts and Transfers of Records

The District may request transcripts from previously attended schools for students transferring into District schools; however, the ultimate responsibility for obtaining transcripts from sending schools rests with the parent or student, if 18 or older.

For purposes of a student's enrollment or transfer, the District shall promptly forward in accordance with the timeline provided in law education records upon request to officials of other schools or school systems in which the student intends to enroll or enrolls. [See FD(LEGAL), Required Documentation] The District may return an education record to the school identified as the source of the record.

Records Responsibility for Students in Special Education

The ~~special education director~~special education director shall be responsible for ensuring the confidentiality of any personally identifiable information in records of students in special education.

A current listing of names and positions of persons who have access to records of students in special education is maintained at ~~the District special education office~~the District special education office.

Procedure to Amend Records

Within 15 District business days of the record custodian's receipt of a request to amend records, the District shall notify the parents in writing of its decision on the request and, if the request is denied, of their right to a hearing. If a hearing is requested, it shall be held within ~~ten~~10 District business days after the request is received.

Parents shall be notified in advance of the date, time, and place of the hearing. An administrator who is not responsible for the contested records and who does not have a direct interest in the outcome of the hearing shall conduct the hearing. The parents shall be given a full and fair opportunity to present evidence and, at their own expense, may be assisted or represented at the hearing.

The parents shall be notified of the decision in writing within ~~ten~~10 District business days of the hearing. The decision shall be based solely on the evidence presented at the hearing and shall include a summary of the evidence and reasons for the decision. If the decision is to deny the request, the parents shall be informed that they have 30 District business days within which to exercise their right to place in the record a statement commenting on the contested information and/or stating any reason for disagreeing with the District's decision.

Directory Information

Directory information for District students has been classified into two separate categories:

1. Items for use only for school-sponsored purposes; and

2. Items for all other purposes.

School-Sponsored Purposes	For the following school-sponsored purposes~~—all District publications and announcements—~~ — all District publications and announcements — directory information shall include ~~student name; address; telephone listing; electronic mail address; photograph; date and place of birth; degrees, honors, and awards received; dates of attendance; grade level; most recent school previously attended; enrollment status; participation in officially recognized activities and sports; and weight and height of members of athletic teams~~student name; address; telephone listing; electronic mail address; photograph; date and place of birth; degrees, honors, and awards received; dates of attendance; grade level; most recent school previously attended; enrollment status; participation in officially recognized activities and sports; and weight and height of members of athletic teams.
All Other Purposes	For all other purposes, directory information shall include ~~student name; address; telephone listing; degrees, honors, and awards received; grade level; and participation in officially recognized activities and sports~~student name; address; telephone listing; degrees, honors, and awards received; grade level; and participation in officially recognized activities and sports.

Leave Administration

The Superintendent shall develop administrative regulations addressing employee leaves and absences to implement the provisions of this policy.

Definitions

The term “immediate family” is defined as:

Immediate Family

1. Spouse.
2. Son or daughter, including a biological, adopted, or foster child, a son- or daughter-in-law, a stepchild, a legal ward, or a child for whom the employee stands *in loco parentis*.
3. Parent, stepparent, parent-in-law, or other individual who stands *in loco parentis* to the employee.
4. Sibling, stepsibling, and sibling-in-law.
5. Grandparent and grandchild.
6. Any person residing in the employee’s household at the time of illness or death.

For purposes of the Family and Medical Leave Act (FMLA), the definitions of spouse, parent, son or daughter, and next of kin are found in DECA(LEGAL).

Family Emergency

The term “family emergency” shall be limited to disasters and life-threatening situations involving the employee or a member of the employee’s immediate family.

Leave Day

A “leave day” for purposes of earning, using, or recording leave shall mean the number of hours per day equivalent to the employee’s usual assignment, whether full-time or part-time.

School Year

A “school year” for purposes of earning, using, or recording leave shall mean the term of the employee’s annual employment as set by the District for the employee’s usual assignment, whether full-time or part-time.

Catastrophic Illness or Injury

A catastrophic illness or injury is a severe condition or combination of conditions affecting the mental or physical health of the employee or a member of the employee’s immediate family that requires the services of a licensed practitioner for a prolonged period of time and that forces the employee to exhaust all leave time earned by that employee and to lose compensation from the District. Such conditions typically require prolonged hospitalization or recovery or are expected to result in disability or death. Conditions relating to pregnancy or childbirth shall be considered catastrophic if they meet the requirements of this paragraph.

Note: For District contribution to employee insurance during leave, see CRD(LOCAL).

Availability

The District shall make state personal leave and local leave for the current year available for use at the beginning of the school year.

State Leave Proration

If an employee separates from employment with the District before his or her last duty day of the school year or begins employment after the first duty day of the school year, state personal leave shall be prorated based on the actual time employed.

If an employee separates from employment before the last duty day of the school year, the employee's final paycheck shall be reduced for state personal leave the employee used beyond his or her pro rata entitlement for the school year.

Medical Certification

An employee shall submit medical certification of the need for leave if:

1. The employee is absent more than ~~three~~ **five** consecutive workdays because of personal illness or illness in the immediate family;
2. The District requires medical certification due to a questionable pattern of absences or when deemed necessary by the supervisor or Superintendent; or
3. The employee requests FMLA leave for the employee's serious health condition; a serious health condition of the employee's spouse, parent, or child; or for military caregiver leave.

In each case, medical certification shall be made by a health-care provider as defined by the FMLA. [See DECA(LEGAL)]

State Personal Leave

The Board requires employees to differentiate the manner in which state personal leave is used.

Nondiscretionary Use

Nondiscretionary use of leave shall be for the same reasons and in the same manner as state sick leave accumulated before May 30, 1995. [See DEC(LEGAL)]

Nondiscretionary use includes leave related to the birth or placement of a child and taken within the first year after the child's birth, adoption, or foster placement.

Discretionary Use

Discretionary use of leave is at the individual employee's discretion, subject to limitations set out below.

Request for Leave

In deciding whether to approve or deny a request for discretionary use of state personal leave, the supervisor shall not seek or consider the reasons for which an employee requests to use leave. The supervisor shall, however, consider the duration of the requested absence in conjunction with the effect of the employee's absence on the educational program and District operations, as well as the availability of substitutes.

Discretionary use of state personal leave shall not exceed ~~three~~ **five** consecutive workdays.

Local Leave

Each employee shall earn five paid local leave days per school year in accordance with administrative regulations.

Local leave shall accumulate without limit.

Local leave shall be used according to the terms and conditions of state sick leave accumulated before the 1995–96 school year, except that an employee may contribute local leave to a sick leave bank. [See DEC(LEGAL)]

Longevity Leave

The District shall award paid longevity leave to eligible full-time employees in positions requiring 12 months of service (at least 226 days) who have ten or more consecutive years of service with the District based on the actual hire date. An eligible employee shall earn five leave days each year that the employee remains eligible. Days shall be awarded on July 1 of each year after eligibility.

Longevity leave is noncumulative and shall be used in accordance with administrative regulations. **Use of longevity leave must have the prior approval of the employee's immediate supervisor.**

~~*Scheduling Restriction*~~

~~Instructional and campus personnel shall not use longevity leave for discretionary purposes during the instructional school year. Discretionary use of longevity leave shall be approved by the employee's immediate supervisor.~~

Sick Leave Bank

The District shall establish a sick leave bank that employees may join through contribution of local leave.

Leave contributed to the bank shall be solely for the use of participating employees. An employee who is a member of the bank may request leave from the bank if the employee or a member of the employee's immediate family experiences a catastrophic illness or injury and the employee has exhausted all paid leave and any applicable compensatory time.

The Superintendent shall develop regulations for the operation of the sick leave bank that address the following:

1. Membership in the sick leave bank, including the number of days an employee must contribute to become a member;
2. Procedures to request leave from the sick leave bank;
3. The maximum number of days per school year a member employee may receive from the sick leave bank;
4. The committee or administrator authorized to consider requests for leave from the sick leave bank and criteria for granting requests; and
5. Other procedures deemed necessary for the operation of the sick leave bank.

Appeal — An employee may appeal a decision regarding the sick leave bank in accordance with DGBA(LOCAL), beginning with the Superintendent or appropriate administrator.

Family and Medical Leave — FMLA leave shall run concurrently with applicable paid leave and compensatory time, as applicable.

Note: See DECA(LEGAL) for provisions addressing FMLA.

Twelve-Month Period — For purposes of an employee's entitlement to FMLA leave, the 12-month period shall be measured backward from the date an employee uses FMLA leave.

Combined Leave for Spouses — When both spouses are employed by the District, the District shall limit FMLA leave for the birth, adoption, or placement of a child, or to care for a parent with a serious health condition, to a combined total of 12 weeks. The District shall limit military caregiver leave to a combined total of 26 weeks.

Intermittent or Reduced Schedule Leave — The District shall not permit use of intermittent or reduced schedule FMLA leave for the care of a newborn child or for the adoption or placement of a child with the employee.

Certification of Leave — When an employee requests leave, the employee shall provide certification, in accordance with FMLA regulations, of the need for leave.

Fitness-for-Duty Certification — In accordance with administrative regulations, when an employee takes FMLA leave due to the employee's own serious health condition, the employee shall provide, before resuming work, a fitness-for-duty certification.

Leave at the End of Semester — When a teacher takes leave near the end of the semester, the District may require the teacher to continue leave until the end of the semester.

Temporary Disability Leave

Any full-time employee shall be eligible for temporary disability leave. [See DBB(LOCAL) for temporary disability leave placement and DEC(LEGAL) for return to active duty.]

An employee's notification of need for extended absence due to the employee's own medical condition shall be forwarded to the Superintendent as a request for temporary disability leave.

Positions Requiring Certification

Any full-time employee whose position requires educator certification by the State Board for Educator Certification or by the District shall be eligible for up to 180 calendar days of temporary disability leave or until all paid leave and vacation days, if any, have been exhausted, whichever is greater.

Full-Time Positions Not Requiring Certification

Any full-time professional or paraprofessional employee whose position does not require certification shall be eligible for up to 180 calendar days of temporary disability leave or until all paid leave and vacation days, if any, have been exhausted, whichever is greater.

The District shall make an effort to place a full-time professional or paraprofessional employee returning to active duty after a leave of absence for temporary disability in an assignment at the school or work location where the full-time employee formerly worked, subject to the availability of the same or a similar position. In any event, the full-time employee shall be placed on active duty no later than the beginning of the next school year; however, the assignment may not be in the same or a similar position, unless otherwise required by FMLA.

Auxiliary Positions

An auxiliary employee shall be eligible for up to 60 work days of temporary disability leave per 12-month period or until all paid leave and vacation days, if any, have been exhausted, whichever is greater. The 12-month period shall be measured backward from the date the employee is granted temporary disability leave.

An auxiliary employee returning to active duty after a leave of absence for temporary disability shall be assigned to his or her former position, subject to the availability of the position. In the event the former position is no longer available, the employee shall be as-signed to the first available comparable or similar position. If a comparable or similar position does not become available within six weeks from the employee's request to return to active duty, the District shall have no further obligation to return the employee to duty, and the employee's employment shall be terminated, unless otherwise required by FMLA.

Failure to Return

If an employee is unable or unwilling to return to work at the conclusion of his or her temporary disability leave, and after exhausting all other available paid and unpaid leave, the District shall provide the employee written notice that he or she no longer has leave available for use and shall automatically pursue termination regardless of the reason for the absence [see DF series]. The employee's eligibility for reasonable accommodations, as required by the Americans with Disabilities Act [see DAA(LEGAL)], shall be considered before termination. If terminated, the employee may apply for reemployment with the District.

Relation to Other Leave

The District shall require the employee to use temporary disability leave and paid leave, including any compensatory time, concurrently with FMLA leave.

Workers' Compensation

Note: Workers' compensation is not a form of leave. The workers' compensation law does not require the continuation of the District's contribution to health insurance.

An absence due to a work-related injury or illness shall be designated as FMLA leave, temporary disability leave, and/or assault leave, as applicable.

Paid Leave Offset

The District shall permit the option for paid leave offset in conjunction with workers' compensation income benefits. [See CRE]

Court Appearances

Absences due to compliance with a valid subpoena or for jury duty shall be fully compensated by the District and shall not be deducted from the employee's pay or leave balance.

However, absences for court appearances related to an employee's personal business shall be deducted from the employee's leave balance or taken as leave without pay.

Payment for Accumulated Leave Upon Separation

The following leave provisions shall apply to local leave accumulated beginning with the 1988–89 school year and ending on June 30, 1992.

An employee who separates from employment with the District shall be eligible for payment for accumulated local leave if the employee's separation from employment is voluntary, i.e., the employee is retiring or resigning and is not being discharged or nonrenewed.

A professional employee shall receive payment for each day of accumulated local leave at the rate of $70 per day.

A paraprofessional or other employee shall receive payment for each day of accumulated local leave at the rate of 50 percent of their current rate of pay, not to exceed $30 per day.

If the employee is reemployed with the District, days for which the employee received payment shall not be available to that employee.

The rate established by the Board shall be in effect until the Board adopts a new rate. Any changes to the rate shall apply beginning with the school year following the adoption of the rate change.



Board Policy Update 122

942

FEBRUARY 5, 2024

BRYAN ISD

CHILDREN FIRST. ALWAYS.

Policy Review Process



Policy Update Packet

Board Policy Update covers LEGAL required updates along with recommended (LOCAL) policy revisions to address updates to the Texas Administrative Code.



Subcommittees by Policy Area

District staff work with subcommittees to review policies aligned to their areas of responsibility and oversight.



Legal Policy Updates

Legal policy is reviewed for any changes that may impact district procedures or practices as well as any local policy impact.



Local Policy Updates

If a local policy also needs to be adjusted, then a committee is formed and proposes policy language reflected of the new statute.

Section A. Basic District Functions

Policy	Legal Policy	Local Policy
AF: INNOVATION DISTRICTS	• New and amended Administrative Code rules, effective June 20, 2023, revise the process and timeline for renewing an innovation plan. • Essentially providing a 6-month grade period following the expiration to allow for the continuous designation if renewed during that timeframe.	• No impact on local policy.
AIB: ACCOUNTABILITY – PERFORMANCE REPORTING	• Provisions regarding remote instruction expired on September 1, 2023, and have been removed from this legal policy.	• No impact on local policy.

Note: This summary provides a high-level overview of select policy updates. Please see the full policy update for complete details.

Section B. Local Governance

Policy	Legal Policy	Local Policy
BBBC: ELECTIONS – CAMPAIGN FINANCE	• HB 2626 requires all districts, regardless of size, to post campaign finance reports filed with the district on the district website not later than the 10th business day after receipt. • Certain address information may be removed before posting, and the reports must remain accessible on the website for five years.	• No impact on local policy.
BBI: BOARD MEMBERS – TECHNOLOGY RESOURCES AND ELECTRONIC COMMUNICATIONS	• The Note at the beginning of this policy has been updated to include a reference to CQC(LEGAL), where provisions from SB 1893 regarding prohibited applications on district-owned devices have been added. • Prohibits the use of TikTok or any successor application or service.	• No impact on local policy.

Note: This summary provides a high-level overview of select policy updates. Please see the full policy update for complete details.

Section C. Business & Support Services

Policy	Legal Policy	Local Policy
CCA: LOCAL REVENUE SOURCES: BOND ISSUES	• Allows the use of bond proceeds to pay for compliance with school safety and security requirements for school facilities. If TEA finds that the district is not in compliance, the district must use bond proceeds to achieve compliance before using the proceeds for other purposes.	• No impact on local policy.
CKC: SAFETY PROGRAM/RISK MANAGEMENT - EMERGENCY PLANS	• Provide notification to parent/guardian of students at a district facility as soon as possible following a threat or violent activity. • Provide the Department of Public Safety (DPS) and local law enforcement with emergency response maps and an opportunity to conduct a walk-through using the maps.	• No impact on local policy.[946]
CLE: BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT: FLAG DISPLAYS	• HB 2012 allows a classroom teacher to display the national motto in a classroom if the poster or framed copy meets existing requirements.	• No impact on local policy.

Note: This summary provides a high-level overview of select policy updates. Please see the full policy update for complete details.

Section C. Business & Support Services

Policy	Legal Policy	Local Policy
CQB: TECHNOLOGY RESOURCES – CYBERSECURITY	• SB 768 shortens the deadline to notify the attorney general of a system security breach from 60 to 30 days and requires the notice to be submitted electronically.	• No impact on local policy.
CSA: FACILITY STANDARDS – SAFETY AND SECURITY	• New Legal Policy: In addition to moving policies under CS to now CSA, the Commissioner's School Safety Rules for Instructional Facilities were added. • Silent Panic Alert Technology required for all classrooms beginning with the 2025-2026 school year.	• New Local Policy: Formalizes what is already in place regarding building access weekly logs, internal audits, and findings reported to administration and the District Safety and Security Committee.

Note: This summary provides a high-level overview of select policy updates. Please see the full policy update for complete details.

Section D. Personnel

Policy	Legal Policy	Local Policy
DEC: COMPENSATION & BENEFITS – LEAVES & ABSENCES		• Updating local policy to mirror practice regarding use of leave
DBE: EMPLOYMENT REQUIREMENTS AND RESTRICTIONS – NEPOTISM	• Provides an exception to the nepotism prohibition for hiring bus drivers if the board approves the employment.	• Added to DC (Local)
DC: EMPLOYMENT PRACTICES		• Creates a nepotism exception for hiring bus drivers, if the board approves employment.
DP: PERSONNEL POSITIONS	• Includes provisions from SB 763 authorizing a district to employ or accept as a volunteer a chaplain to provide support, services, and programs for students as assigned by the board. • *Requires each school board to take a record vote between 9/1/23 and 3/1/24 on whether to adopt a policy authorizing a campus of the district to employ or accept as a volunteer a chaplain under Education code Chapter 23.* (Resolution)	• Potential impact pending the Board record vote and Resolution.

Note: This summary provides a high-level overview of select policy updates. Please see the full policy update for complete details.

Section E. Instruction

Policy	Legal Policy	Local Policy
EF: INSTRUCTIONAL RESOURCES	• Requires TEA to adopt standards for districts to implement a process for a parent to request a district instructional material review.	• Future policy update following TEA's development of these standards.
EFB: INSTRUCTIONAL RESOURCES – LIBRARY MATERIALS	• HB 900 – Texas State Library and Archives Commission must develop standards for library book ratings by January 1, 2024. • Written parental consent is required before a student may check out library material with a more mature rating. • A district must conduct a biennial review of library contents and post a report not later than January 1 of every odd-numbered year. • Library material vendors may not sell library materials unless they have issued ratings. • Vendors must submit a list to TEA of rated materials sold and in use, and TEA must post the list online.	• No impact on local policy949

Note: This summary provides a high-level overview of select policy updates. Please see the full policy update for complete details.

Section E. Instruction

Policy	Legal Policy	Local Policy
EHBCA: COMPENSATORY SERVICES AND INTENSIVE PROGRAMS – ACCELERATED INSTRUCTION	• Updated provisions required previously by HB4545 Accelerated Instruction for students who did not meet satisfactory performance on STAAR/EOC. • Under HB 1416, modifies the requirements for hours of tutoring and the instructional group size. • Provides parents the option to remove requirements for supplemental instruction. • Requires districts to develop an accelerated education plan for identified students. • Repleals learning committee provisions.	• Updated language to mirror legal policy provisions. • Added Accelerated Education Plan provisions. • Removed Acclerated Learning Committees • District shall make a good faith attempt to provide a Parent Conference at the start and end of the subsequent year after qualifying for accelerated instruction.

Note: This summary provides a high-level overview of select policy updates. Please see the full policy update for complete details.

Section F. Students

Policy	Legal Policy	Local Policy
FDA: ADMISSIONS – INTERDISTRICT TRANSFERS	• Requires a transfer student's district of residence to provide the receiving district with the student's disciplinary record and any threat assessment involving the student's behavior	• No impact on local policy.
FEA: ATTENDANCE – COMPULSORY ATTENDANCE	• Allows districts to excuse a student from attending school for career investigation days to visit a professional's workplace during the student's junior and senior years • Note: Higher Education Vistis, Armed Services Enlistment, Election Clerk and Learner or Driver's License absences are already included.	• Provides for up to two days during the student's junior year and up to two days during the student's senior year to visit a professional's workplace for purposes of exploring the student's interest in pursuing a career in that professional's field.
FFAC: WELLNESS AND HEALTH SERVICES – MEDICAL TREATMENT	• Requires a district to adopt a policy regarding maintenance, administration, and disposal of opioid antagonists at each campus that serves students in grades 6 through 12	• Adds langague regarding opiod antagonists

Note: This summary provides a high-level overview of select policy updates. Please see the full policy update for complete details.

Section F. Students

Policy	Legal Policy	Local Policy
FFB: STUDENT WELFARE – CRISIS INTERVENTION	• Requires each campus to establish a procedure for students to report concerning behavior by another student. • Allows employees who report a potential threat to elect to keep their identities confidential. • Requires the team to notify a student's parent regarding the assessment. The team must also notify the parent of its findings and conclusions after the assessment. • Requires that materials and information from a threat assessment be maintained in the student's school record until the student's 24th birthday	• Requires each campus to establish a clear procedure for students to report concerning behavior by another student. • Allows employees who report a potential threat to elect to keep their identities confidential. ○ The district shall maintain a record of the identity of a District employee who elects for the employee's identity to remain confidential.

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Note: This summary provides a high-level overview of select policy updates. Please see the full policy update for complete details.

Section G. Community & Governmental

Policy	Legal Policy	Local Policy
	• Only minor langauge changes.	• No impact on local policy.

Note: This summary provides a high-level overview of select policy updates. Please see the full policy update for complete details.



Board Policy Update 122

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FEBRUARY 5, 2024

BRYAN ISD

CHILDREN FIRST. ALWAYS.

Resolution of the Board to Employ or Accept as Volunteers Chaplains

WHEREAS, Section 23.001 of the Texas Education Code permits the district to employ or accept as a volunteer a chaplain to provide support, services, and programs for students as assigned by the Board;

WHEREAS, Senate Bill 763, passed by the 88th Texas Legislature, requires each school board to take a **record vote** between September 1, 2023, and March 1, 2024, on whether to adopt a policy authorizing a campus of the district to employ or accept as a volunteer a chaplain under Education Code Chapter 23;

NOW, THEREFORE, BE IT RESOLVED that the Board of Trustees of Bryan Independent School District hereby:

> Does not permit a district campus to employ or accept as a volunteer a chaplain to provide chaplain support, services, and programs for students at this time. The district does, however, acknowledge and welcome all members of the community to register to volunteer in schools in accordance with GKG(LOCAL).

Adopted this 19th day of February, 2024, by the Board of Trustees.

Presiding officer's signature: _____

Secretary's signature: _____

2. Update on the Development of the 2024-2025 Academic Calendar

ITEMS FOR DISCUSSION AND OR ACTION / CONSENT AGENDA

1. Consider Approval of the Quarterly Investment Report for the Quarter Ended November 30, 2023 957

February 5, 2024

BRYAN INDEPENDENT SCHOOL DISTRICT
QUARTERLY INVESTMENT REPORT – COMPLIANCE STATEMENT
FOR THE QUARTER ENDING NOVEMBER 30, 2023:

We, the approved Investment Officers of Bryan ISD, hereby certify that the following Investment Report represents the investment position of the District at November 30, 2023 and the activity for the quarter then ended. All investments were purchased in compliance with the Board approved Investment Policy.

Kevin Beesaw
Assistant Superintendent of Business Services

Stefanie Brumfield
Director of Financial Services

Bryan Independent School District
Investment Report for the period September 1, 2023 through November 30, 2023

Investment Type	Fund	9/1/2023 Balance	Additions (Deposits or Investments)	Deletions (Withdrawals or Investments Matured/Called)	11/30/2023 Balance	Yield	Maturity Date	# Days Current Period	Current Earnings	9/1/2023 Market Value	11/30/2023 Market Value
Investment Pools:											
See the attached detail	All	86,464,673	101,388,762	(60,775,680)	127,077,755	5.466%		91	1,632,515	86,464,679	127,077,761
Total Investment Pools		86,464,673	101,388,762	(60,775,680)	127,077,755				1,632,515	86,464,679	127,077,761
Money Market Fund:											
Charles Schwab (formerly TD Ameritrade)-MAPP	Gen'l	32,403	603,515	(4)	635,913	0.010%		91	364	32,403	635,913
Total Money Market Funds		32,403	603,515	(4)	635,913				364	32,403	635,913
Agency, Disc. Notes & Municipals - Held in Frost Safekeeping Account											
	Gen'l	0	0	0	0	0.000%		0	0	0	0
TD Ameritrade-MAPP-Sched Attached	Gen'l	5,510,000	0	(570,000)	4,940,000	Various-See Sched Attached			52,616	5,438,938	4,896,991
Total Muni & Govt Sec		5,510,000	0	(570,000)	4,940,000				52,616	5,438,938	4,896,991
Total Investments		**92,007,076**	**101,992,277**	**(61,345,684)**	**132,653,668**				**1,685,494**	**91,936,020**	**132,610,666**

Summary by Fund

General Fund	42,654,566	41,147,066	(50,723,504)	33,078,127
Debt Service Fund	7,927,407	2,493,792	0	10,421,199
Construction Fund	34,791,471	56,056,595	(8,236,223)	82,611,842
School Nutrition Fund	6,349,055	2,291,496	(2,294,098)	6,346,453
Internal Service Fund	284,578	3,327	(91,859)	196,046
	92,007,076	101,992,277	(61,345,684)	132,653,668

Bryan Independent School District
Investment Report for the period September 1, 2023 through November 30, 2023

Investment Pool	Fund	9/1/2023 Balance	Additions (Deposits or Investments)	Deletions (Withdrawals or Investments Matured/Called)	11/30/2023 Balance	Yield	Maturity Date	# Days Current Period	Current Earnings	9/1/2023 Market Value	11/30/2023 Market Value
TexPool	Gen'l	25,882,633	40,386,995	(50,153,500)	16,116,128	5.533%		91	244,303	25,882,634	16,116,129
	Debt	7,927,398	2,493,792	-	10,421,191	5.533%		91	110,788	7,927,399	10,421,192
	Fd Serv	6,349,052	2,291,496	(2,294,098)	6,346,450	5.533%		91	78,998	6,349,053	6,346,451
	Constr	34,791,466	56,056,595	(8,236,223)	82,611,837	5.533%		91	1,038,541	34,791,467	82,611,838
	W Comp	284,576	3,327	(91,859)	196,044	5.533%		91	3,327	284,577	196,045
TXClass	Gen'l	11,229,426	156,555	-	11,385,981	5.360%		91	156,555	11,229,427	11,385,982
TexStar	Gen'l	122	2	-	124	5.237%		91	2	122	124
Total Investment Pools		**86,464,673**	**101,388,762**	**(60,775,680)**	**127,077,755**				**1,632,515**	**86,464,679**	**127,077,761**

Bryan Independent School District
Investment Report for the period September 1, 2023 through November 30, 2023

Agency, Disc. Notes, Municipals and CD's - Held in Charles Schwab (formerly TD Ameritrade) Acct-TCG Advisors MAPP

Investment Type	Fund	9/1/2023 Balance	Additions (Deposits or Investments)	Deletions (Matured or Called)	11/30/2023 Balance	Yield	Maturity Date	# Days Current Period	Current Earnings	9/1/2023 Market Value	11/30/2023 Market Value
United States Treasury Notes (02/15/22)	Gen'l	550,000	0	0	550,000	0.875%	01/31/24	91	2,154	539,859	545,875
United States Treasury Notes (7/1/22)	Gen'l	570,000	0	(570,000)	0	2.875%	11/30/23	91	4,201	566,393	-
United States Treasury Notes (07/15/22)	Gen'l	570,000	0	0	570,000	2.500%	04/30/24	91	4,227	559,246	563,320
United States Treasury Notes (9/2/22)	Gen'l	620,000	0	0	620,000	3.000%	06/30/24	91	5,415	607,915	611,669
United States Treasury Notes (09/2/22)	Gen'l	620,000	0	0	620,000	3.250%	08/31/24	91	5,402	607,188	610,603
United States Treasury Notes (10/4/22)	Gen'l	525,000	0	0	525,000	2.250%	03/31/24	91	5,440	515,525	519,668
Federal Farm Credit Bond (3/2/23)	Gen'l	730,000	0	0	730,000	4.750%	02/21/25	91	10,059	725,504	726,522
United States Treasury Notes (05/31/25)	Gen'l	560,000	0	0	560,000	4.250%	05/31/25	91	6,117	553,153	554,575
Federal Farm Credit Bond (7/28/25)	Gen'l	765,000	0	0	765,000	4.875%	07/28/25	91	9,600	764,154	764,760
Total Muni & Govt Sec & CD/s-TD Ameritrade-MAPP		5,510,000	0	(570,000)	4,940,000				52,616	5,438,938	4,896,991

ITEMS FOR DISCUSSION AND OR ACTION / REGULAR AGENDA

Business Services

1. Discuss and Consider Approval of Districtwide Security Fencing Project 961

EVALUATION SUMMARY SHEET

Proposal Date/Time: January 11, 2024 @ 2:00 pm

Districtwide Security Fencing

Bryan Independent School District

Bryan ISD CSP # 23-3969

Evaluation Criteria	Weight	Bill's Fence Company	Swift Corporation	Four Seasons Development Company
Purchase Price	**50.00**	50.00	37.23	42.36
Quality of Work	**10.00**	8.87	10.00	9.60
Maintaining Schedule	**10.00**	10.00	10.00	10.00
Warranty Work	**10.00**	9.50	9.75	10.00
Proposed Team	**20.00**	19.00	0.00	10.00
TOTAL	**100.00**	**97.37**	**66.98**	**81.96**
Percentage	**100%**	**97%**	**67%**	**82%**

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PROPOSAL TABULATION SHEET

Districtwide Security Fencing

Bryan Independent School District

Bryan ISD CSP # 23-3969

Proposal Date/Time: January 11, 2024 @ 2:00 pm

	Bill's Fence Company	Swift Corporation	Four Seasons Development Company
BASE PROPOSAL	**749,473.00**	**965,000.00**	**673,000.00**
Alternate Proposal 1 - Crockett ES - Fence Height (8' in lieu of 6' for all PVC Coated Chain Link)	22,857.00	27,000.00	12,800.00
Alternate Proposal 2 - Fannin ES - Fence Height (8' in lieu of 6' for all PVC Coated Chain Link)	21,600.00	22,000.00	15,400.00
Alternate Proposal 3 - Johnson ES - Fence Height (8' in lieu of 6' for all PVC Coated Chain Link)	35,200.00	34,500.00	13,800.00
Alternate Proposal 4 - Kemp ES - Fence Height (8' in lieu of 6' for all PVC Coated Chain Link)	51,965.00	50,000.00	32,340.00
Alternate Proposal 5 - Rudder HS - Fence Height (8' in lieu of 6' for all PVC Coated Chain Link)	38,880.00	30,000.00	20,800.00
Alternate Proposal 6 - CTE Complex - Fence Height (8' in lieu of 6' for all PVC Coated Chain Link)	38,400.00	30,500.00	25,500.00
Alternate Proposal 7 - Ornamental Fencing at Johnson Elementary School	113,640.00	200,000.00	254,000.00
Alternate Proposal 8 - Ornamental Fencing at Fannin Elementary School	73,450.00	126,500.00	159,600.00
Alternate 9 - Wood Fencing Dumpster Enclosure at Johnson Elementary School	8,800.00	2,000.00	2,000.00
Alternate 10 - Crockett ES – Anti-scale 1" Fabric Fence	18,727.00	22,000.00	24,900.00
Alternate 11 - Fannin ES – Anti-scale 1" Fabric Fence	15,890.00	18,500.00	23,800.00
Alternate 12 - Johnson ES – Anti-scale 1" Fabric Fence	24,970.00	29,500.00	38,300.00
Alternate 13 - Kemp ES – Anti-scale 1" Fabric Fence	36,887.00	42,000.00	54,800.00
Alternate 14 - Rudder HS - Anti-scale 1" Fabric Fence	17,592.00	21,000.00	27,200.00
Alternate 15 - CTE Complex - Anti-scale 1" Fabric Fence	27,240.00	26,000.00	39,000.00
TOTAL - Base + Alternates	**1,045,809.00**	**1,404,500.00**	**1,234,500.00**
Unit Price No. 1 - 8' tall Black PVC-Coated Chain Link Fence:	$33.55	$50.00	$50.00
Deduct	$30.00	$45.00	$40.00
Unit Price No. 2 - 6' tall Ornamental Steel Fencing:	$70.25	$120.00	$140.00
Deduct	$65.25	$110.00	$130.00
Unit Price No. 3 - Single 4'-0" Walk Gate, PVC-Coated Chain Link	$1,150.00	$5,200.00	$1,100.00
Deduct	$900.00	$4,700.00	$400.00
Unit Price No. 4 - Single 4'-0" Walk Gate, Ornamental Steel	$1,900.00	$5,800.00	$3,000.00
Deduct	$1,600.00	$5,200.00	$1,800.00
Unit Price No. 5 - Two Leaf 12'-0" Grounds Access Gate, PVC Coated Chain Link	$2,450.00	$2,700.00	$2,400.00
Deduct	$2,100.00	$2,400.00	$700.00
Unit Price No. 6 - Two Leaf 12'-0" Grounds Access Gate, Ornamental Steel	$3,600.00	$4,500.00	$6,300.00
Deduct	$3,200.00	$4,050.00	$3,800.00
Unit Price No. 7 - Two Leaf 20'-0" Vehicular Gate, PVC Coated Chain Link	$2,900.00	$3,900.00	$3,500.00
Deduct	$2,500.00	$3,500.00	$900.00
Unit Price No. 8 - Single Leaf 16'-0" Vehicular Gate, PVC Coated Chain Link	$2,380.00	$3,150.00	$4,100.00
Deduct	$2,000.00	$2,800.00	$1,600.00
Unit Price No.9: Signage Type S1	$50.00	$50.00	$200.00
Deduct	$40.00	$45.00	$75.00
Unit Price No.10: Signage Type S2	$45.00	$50.00	$200.00
Deduct	$35.00	$45.00	$75.00

2. Consideration and Possible Action on the Construction Manager At-Risk's Request for Release of Retainage on the New Intermediate School No. 3 (Sadberry Intermediate School) Project

Closed Session

1. Discuss Issues Pertaining to Appointment, Employment, Evaluation, Reassignment, Duties, Discipline, or Dismissal of a Public Officer or Employee - Texas Government Code Chapter 551.074
2. Pursuant to Texas Government Code Sections 551.0821, Deliberation Concerning a Public School Student Wherein Personally Identifiable Information will Necessarily be Revealed

Reconvene in Open Session
ADJOURN

In accordance with the Texas Open Meetings Act Subchapters D and E of Chapter 551, Texas Government Code (§551.071 Attorney/Client Consultation, §551.072 Real Estate, §551.073 Contracts for Gifts or Donations, §551.074 Personnel Matters, §551.075 Investments, §551.076 Security Devices, §551.082 Discipline of Student or Employee Complaint, §551.0821 Personally Identifiable Student Information, §551.083 Employee Groups Consultation, §551.084 Exclusion of Hearing Witnesses), the board may enter closed meeting to deliberate any subject authorized by Subchapters listed.