Notice of Regular
The Board of Trustees
Granbury ISD
Monday, June 12, 2006
6:00 PM

A Regular of the Board of Trustees of Granbury ISD will be held Monday, June 12, 2006, beginning at 6:00 PM in the Granbury ISD Board Room, 600 West Pearl St., Granbury, TX 76048, W Pearl St, Granbury, TX 76048.

8th day of June, 2006
The subjects to be discussed or considered or upon which any formal action may be taken are as listed below. Items do not have to be taken in the order shown on this meeting notice.

1. Call to order
2. Invocation
3. Pledges - U.S. Flag & Texas Flag
4. Public comments/audience participation
5. Personnel
   a. Consider staff appointments
   b. Deliberation of discharge of contract employee
   c. Consider contract extensions for: Assistant Superintendent, Executive Director of Human Resources, Director of Curriculum & Instruction, Director of Special Education, Director of Athletics, Oak Woods Intermediate Principal and Granbury High School Head Football Coach
6. Superintendent's Report - Goals 1, 2, 3, 6, 7
   a. Review student drug testing policy 3
   b. Update on Project Graduation
7. Consider demographic analysis and enrollment projections 4
8. Board members special reports
9. Consider Consent Agenda Items - Goals 2, 3, 5
   a. Minutes of the May 22, 2006 regular board meeting 5
   b. Budget amendments 8
   c. Student Insurance CSP 2006-09 10
   d. Alcohol & Drug Testing Plan Administration CSP 2005-20 (renewal) 12
10. Consider Food Service Equipment Purchases 14
11. Consider stadium grass replacement 15
12. Policy Update 77, affecting (LOCAL) policies 16
    a. BBD (LOCAL) - Board Members Training and Orientation; CPC (LOCAL) - Office Management Records Management; DAB (LOCAL) Employment Objectives, Objective Criteria for Personnel Decisions; DBA (LOCA) - Employment Requirements and Restrictions Credentials and Records; DBD (LOCAL) - Employment Requirements and Restrictions Conflict of Interest; DFE (LOCAL) - Termination of Contract Resignation; EEH (LOCAL) - Instructional Arrangements Homebound Instruction; EFAA (LOCAL) - Instructional Materials Selection and Adoption Textbook Selection and Adoption; FFA (LOCAL) - Student Welfare Wellness and Health Services
13. Consider 2006-2007 student handbook 210
14. Consider revision of board policy BE (LOCAL) 211
15. Consider 2006-2007 board meeting schedule
16. Consider college proposal
17. Consider architect report for use of facility at 205 East Pearl 215
18. Consider nomination of GISD board member to fill vacancy on the TASB Board of Directors in TASB Region 11, Position A. 237
19. Adjourn

If, during the course of the meeting, discussion of any item on the agenda should be held in a closed meeting, the Board will conduct a closed meeting in accordance with the Texas Open Meetings Act, Government Code, Chapter 551, Subchapters D and E. Before any closed meeting is convened, the presiding officer will publicly identify the section or sections of the Act authorizing the closed meeting. All final votes, actions, or decisions will be taken in open meeting.

On this notice was faxed or mailed to the news media who have previously requested such notice, posted on the GISD web page at www.granburyisd.org, and an original was posted on an outside door at 3:00 p.m. at the School District Administration Building at 217 N. Jones St., Granbury, Texas.

_____

Superintendent or Designee (For the Board of Trustees)

OFFICE OF SUPERINTENDENT

For:	**Board of Trustees**
Date:	**June 12, 2006**
Action:	**Information**

SUMMARY:

GISD Athletic Director, Dwight Butler, chaired a committee to review the current student drug testing program. The committee consisted of the following individuals:

Marsha Grissom, Granbury HS Principal
Lynn Pool – Crossland Ninth Grade Center Principal
Bobby Mabery – Acton MS Principal
Jimmy Dawson – Granbury MS Principal
Leta Andrews – Granbury HS
Mark Wright – Granbury HS

RECOMMENDATION:

The committee recommends the revised guidelines be considered for legal review.

Respectfully submitted,

William Harris

William Harris
Superintendent

Staff Person Responsible: Dwight Butler

600 West Pearl • Granbury, Texas 76048 • Phone (817) 408-4007 • Fax (817) 408-4014
william_harris@granbury.k12.tx.us
www.granbury.k12.tx.us

GRANBURY INDEPENDENT SCHOOL DISTRICT

INTEROFFICE MEMO

FINANCE AND BUSINESS AFFAIRS

To: Board of Trustees
Date: June 12, 2006
For: Approval

TO: Mr. William Harris, Superintendent

FROM: Sharay Boynton
DATE: June 2, 2006
RE: Demographer Report

SUMMARY:

The Board voted to engage Harner & Associates to prepare an updated demographic report for Granbury ISD. Dr. Harner and his staff have been working over the last several months gathering the required data and performing analysis of this data.

The report created by Harner & Associates will be attached for the Board's review. Dr. Harner will be here to present their findings during the Board meeting.

Respectfully submitted,

Sharay S. Boynton
Executive Director of Finance

Staff Person Responsible: Sharay S. Boynton

Date Submitted: June 2, 2006

GRANBURY ISD
BOARD OF TRUSTEES
OFFICIAL REGULAR MEETING
MINUTES
May 22, 2006

The Board of Trustees of the Granbury Independent School District convened in an official **REGULAR** meeting on Monday, May 22, 2006 at 6:00 p.m. in the Board Room of the Administration Building, 600 West Pearl St., Granbury, Texas

Presiding Officer..... Barbara Herrington

Board Members Present

Bowen Brawner
Jerry Campbell
Brian Condit
Charlie Cloud (arrived at 6:15 p.m.)
Gene Ellis
Doug Funk

School Officials Present

William Harris, Superintendent
Jan Van Dorn, Assistant Superintendent
Sharay Boynton, Executive Director of Finance
Troy Green, Executive Director of Human Resources
Ton Potappel, Director of Technology
Judy Duncan, Recording Secretary

Others Present

School Employees
Media
Community Members

Meeting Called to Order

President, Barbara Herrington, called the meeting to order at 6:05 p.m. and noted that a quorum of board members was present, the meeting was dully called and that notice of the meeting was posted in accordance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

President Barbara Herrington read a petition from Susan Mitchell May requesting a recount of the May 13, 2006 election. Herrington stated that the election results for Place 4 would be canvassed but Place 3 would not be canvassed because of the petition for a recount.

Canvass May 13, 2006 Place 4 Election Results

Kevin Myers received 1414 votes and Brian Condit received 1122 votes. Kevin Myers was declared the winner of the May 13, 2006 board of trustee election for place 4. A motion was made by Doug Funk and seconded by Jerry Campbell to approve the canvassing results of the election. **MOTION CARRIED** Yes 5 – Noe 0 Charlie Cloud was not present and Brian Condit did not vote.

Oath of Office

Kevin Myers took the oath of office and was seated at the board table.

Convened in Closed Session

The Board of Trustees convened in closed session at 6:19 p.m. under the Texas Open Meetings Act, Chapter 551.072 and Chapter 551.074.

Reconvened

The board reconvened in open session at 7:00 p.m.

Invocation & Pledge

Gene Ellis led in the invocation and Macy Holy & Courtney Cardwell, Crossland Intermediate School students, led in the pledge to the U.S. Flag and the Texas Flag.

Public Comments

Paul Adre, Jonathan Estrada and Ciprians Rivera addressed the board regarding students not being allowed to graduate or participate in the graduation ceremony if they did not pass the TAKS test.

Micky Shearon and Sally Oubre addressed the board regarding the requirement to canvass place 3 of the board election and to allow the oath of office to be given.

Recognitions

Granbury High School accounting team members Sung Kim, Phil Lightfoot, Mindy Galloway and Eric Hutchison were recognized. Crossland Intermediate Future Problem Solving student Christina Gutierrez was recognized for advancing to the State competition of Future Problem Solving.

Personnel

A motion was made by Jerry Campbell and seconded by Charlie Cloud to approve the staff appointments as presented. **MOTION CARRIED** Yes 7 – Noe – 0. Kerry Carlton, 2nd Grade, Acton Elementary; Judy Hargrove, Counselor, Acton Elementary School; Betty Carey, 4th Grade ELA/SS, Oak Woods; Miki Martin, 5th Grade ELA/SS, Oak Woods; Laura Meek, 4th Grade, Oak Woods; Mary Cutlip, 8th Grade Math, Acton MS; Kristie Berryman, 7th Grade English/LA, Granbury MS; Nolan Todd Gibson, 8th Grade Math/Coach, Granbury MS; Deborah Pina, Special Ed Transition; Granbury MS; Charles Carmichael, World Geography, Crossland 9th Grade Center; Dene' Carter, Biology, Crossland 9th Grade Center, Raquel Fuentes, Wolrd Geography, Crossland 9th Grade Center; Steve Ward, Health Teacher/Head Golf, Crossland 9th Grade Center; Roger Arbabi, Science Teacher, Granbury HS; Jacqueline Bradshaw, English Teacher, Granbury HS; Casey Pacheco, Swim Coach/ISS Teacher, Granbury HS; Steven Smith, Head Varsity Boys Basketball Coach/Math Teacher, Granbury HS.

Superintendent's Report

The board received a copy of Update 77 and a copy of the 2006-07 student handbook for their review. These items will be considered at the June 12, 2006 board meeting.

Assistant Superintendent Jan Van Dorn presented the board with the 2006 preliminary 2006 TAKS report.

Superintendent Harris announced a board workshop to be held on June 5, 2006 at 5:00 p.m. A representative from TASB will be present at this workshop to review salary schedules.

Superintendent Harris updated the board on school finance issues in regard to the legislative session.

Board Member's Special Reports - None

Policy FMH (LOCAL)

A motion was made by Bowen Brawner and seconded by Doug Funk to amend the local policy and to strike all words that pertain to state requirements. **MOTION FAILED** Yes 3 – Noe 4 - Bowen Brawner, Doug Funk and Barbara Herrington voted in favor

External Auditor Proposals

A motion was made by Charlie Cloud and seconded by Gene Ellis to approve Snow, Garrett and Company as the auditing firm for GISD. **MOTION CARRIED** Yes 6 – Noe 1 - Bowen Brawner voted against

Consent Agenda

A motion was made by Charlie Cloud and seconded by Jerry Campbell to approve the consent agenda as presented. **MOTION CARRIED** Yes 7 – Noe 0

Gene Ellis requested that item 15, canvass election results, be moved up on the agenda. Barbara Herrington stated that this item would not move it up on the agenda.

Trimester Algebra Program

A motion was made by Gene Ellis and seconded by Charlie Cloud to approve the Trimester Algebra program as presented. **MOTION CARRIED** Yes 7 – Noe 0

Agile Mind Contracted Services

A motion was made by Jerry Campbell and seconded by Charlie Cloud to approve the Agile Mind Contracted Services as presented. **MOTION CARRIED** Yes 7 – Noe 0

Change in Board Operating Procedures

This item was tabled

Canvass May 13, 2006 Board of Trustee Election

Micky Shearon received 1288 votes and Susan Mitchell May received 1277 votes. Micky Shearon was declared the winner of the May 13, 2006 Board of Trustee election. A motion was made by Charlie Cloud and a second was made by Jerry Campbell to accept the results of the canvassed election. **MOTION CARRIED.** Yes 7 – Noe 0

Elect Board Officers

A nomination was received for Jerry Campbell for President. No other nominations, Jerry Campbell was elected President. **MOTION CARRIED** Yes 6 – Noe -0 – Abstained 1 – Jerry Campbell abstained.

Doug Funk nominated Bowen Brawner for Vice President, Bowen Brawner nominated Kevin Myers for Vice President and Gene Ellis nominated Charlie Cloud for Vice President. Bowen Brawner received 2 votes, Kevin Myers received 3 votes and Charlie Cloud received 2 votes. Kevin Myers was elected Vice President.

A nomination was received for Gene Ellis for secretary. No other nominations, Gene Ellis was elected Secretary. **MOTION CARRIED** Yes 6 – Noe 0 – Abstained 1 - Gene Ellis abstained

Adjournment

There being no further business, the meeting was adjourned at 8:59 p.m.

Jerry Campbell, Board President

Gene Ellis, Board Secretary

GRANBURY INDEPENDENT SCHOOL DISTRICT

INTEROFFICE MEMO

FINANCE AND BUSINESS AFFAIRS

To: Board of Trustees
Date: June 12, 2006
For: Approval

TO: Mr. William Harris, Superintendent

FROM: Sharay Boynton, Finance Director
DATE: June 1, 2006
RE: Budget Amendments

SUMMARY:

Attached are budget amendments that are for Board approval.

RECOMMENDATION:

I recommend the Board approve the amendments.

Respectfully submitted,

Sharay S. Boynton
Executive Director of Finance

Staff Person Responsible: Emmett Whitefield
Date Submitted: June 1, 2006

BUDGET AMENDMENTS RECOGNIZING DONATED & MISCELLANEOUS REVENUES

Fund 199, Ms. Marsha Grissom, Originator
This Amendment recognizes funds in the amount of $3,763 allocated to function 23. These funds are generated within the Campus Fund and will be used for additional supplies.

Fund 199, Mr. Bobby Mabery, Originator
This Amendment recognizes funds in the amount of $86 allocated to function 12. These funds are generated from lost book fines and will be used to purchase additional library books and media.

Fund 199, Mr. Jimmy Dawson, Originator
This Amendment recognizes funds in the amount of $503 allocated to function 36. These funds are donated by the GMS Choir Activity Fund to assist with the cost of State Choir travel.

Fund 199, Ms. Nancy Alana, Originator
This Amendment recognizes funds in the amount of $145 allocated to function 12. These funds are generated from lost book fines and will be used to purchase additional library books and media.

Fund 199, Ms. Nancy Alana, Originator
This Amendment recognizes funds in the amount of $316 allocated to function 11. These funds are generated in the Campus Fund and will be used to purchase additional reading supplies.

Fund 199, Ms. Rebecca Johnson, Originator
This Amendment recognizes donated funds in the amount of $1,000 allocated to function 11. These funds are generated from a donation for Teacher of the Year and will be used for additional supplies.

Fund 199, Ms. Carolyn Horton, Originator
This Amendment recognizes funds in the amount of $90 allocated to function 12. These funds are generated lost book fines and will be used to purchase additional library books and media.

Fund 199, Mr. Larry Gehrke, Originator
This Amendment recognizes funds in the amount of $2,500 allocated to function 51. These funds are generated from a TAPS 2006 Risk Management Grant and will be used to purchase additional safety equipment.

Fund 181, Mr. Dwight Butler, Originator
This Amendment recognizes funds in the amount of $3,000 allocated to function 61and $441 allocated to function 52. These funds are generated from playoff games and are used to fund officials and workers for those games.

GRANBURY INDEPENDENT SCHOOL DISTRICT

INTEROFFICE MEMO

FINANCE AND BUSINESS AFFAIRS

To: Board of Trustees
Date: June 12, 2006
For: Approval

TO: Mr. William Harris, Superintendent **FROM**: Sharay Boynton, Exec Director of Finance
DATE: June 1, 2006
RE: Student Insurance Proposal 2006-09

SUMMARY:

The District purchases secondary insurance coverage for students injured while participating in extracurricular UIL activities. The current policy will expire on July 31, 2006. Request for proposals were let in April 2006 and proposals were received on May 5, 2006. The proposal included an option to renew for two additional one-year terms if agreed to by both parties. The 2006-07 school year will be the initial year of coverage.

A summation of the process and outcome as well as a copy of the tabulation is attached for your review.

Mr. Mark Gilbert, Athletic Trainer and Mr. Dwight Butler, Athletic Director, have reviewed the proposals and the following is their recommendation.

RECOMMENDATION:

It is recommended that the Board purchase the Plan II-B offered by Baker Agency for the period of August 1, 2006 to July 31, 2007.

Respectfully submitted,

Sharay S. Boynton
Executive Director of Finance

Staff Person Responsible: Debbie Johnson
Mr. Dwight Butler

Date Submitted: June 1, 2006

BID FOR BOARD APPROVAL

Board Meeting Date: June 12, 2006 **Bid Number:** 2006-09

1. **Item, material or service (specific or classification):** Student Insurance

2. **Brief description:** The district provides a supplementary medical policy for participants in UIL activities. Voluntary coverage will be offered at a per student rate.

3. **Period of time bid covers:** 8/1/06 through 7/31/07

4. **Person and title responsible for the expenditure:**

   Dwight Butler – Athletic Director
   Mark Gilbert – Athletic Trainer

5. **Number of bids sent to vendors:** 14

6. **Number of bids received from vendors:** 4

7. **Listing of recommended vendors and total prices:** Recommendation for award is to the Baker Agency at a total premium of $37,200 broken down as follows:

   $32,000 for sport/non-sport UIL coverage
   2,800 for high school catastrophic coverage
   1,200 per junior high for catastrophic coverage

8. **Explanation of other than low recommendations:** Mr. Mark Gilbert, GHS Athletic Trainer, felt the surgery benefit, the assistant surgeon benefit and the catastrophic coverage were better with the Baker Agency. He has worked with the Baker Agency for the past three years and the service has been outstanding.

9. **Last bid date (bid of comparable nature within last 5 years):** 5/16/03

10. **Percentage increase or decrease from last bid**: Cost remained the same.

11. **Budget information:** Insurance premiums are paid from gate receipts from sporting events.
    Gate receipts are projected to be $78,000.

Sharay S. Boynton
Executive Director of Finance

GRANBURY INDEPENDENT SCHOOL DISTRICT

INTEROFFICE MEMO

FINANCE AND BUSINESS AFFAIRS

To: Board of Trustees
Date: June 12, 2006
For: Approval

TO: Mr. William Harris, Superintendent	**FROM**: Sharay Boynton **DATE**: June 1, 2006 **RE**: Drug and Alcohol Testing Administration CSP 2005-29 - Renewal

SUMMARY:

A request for proposal was let for alcohol and drug testing services and administration for DOT tests for district bus drivers and student drug tests for students involved in competitive extracurricular program for the 2005-2006 school year. The award period is for the 2005-2006 school year with the option to renew for two additional one-year terms if agreed to by all parties. The current contract will expire on August 31, 2006. This will be the first of two one-year renewal terms.

A summation of the process and outcome as well as a copy of the tabulation is attached for your review.

Mr. Dwight Butler, Athletic Director, and Mr. Terry Slemmons, Transportation Director, were contacted regarding the services and they recommended that the contract be renewed. The vendor was contacted and they have agreed to extend the contract with no changes.

The proposed expenditure for 2006-07 for these services is $34,200.

The following is the recommendation of Mr. Butler and Mr. Slemmons.

RECOMMENDATION:

It is recommended that the Board extend the award to purchase student testing and administration services as well as the DOT testing and administration to Compliance Consortium for the period of September 1, 2006 to August 31, 2007.

Respectfully submitted,

Sharay S. Boynton
Executive Director of Finance

Staff Person Responsible: Ms. Debbie Johnson
Mr. Dwight Butler
Mr. Terry Slemmons

Date Submitted: June 1, 2006

BID FOR BOARD APPROVAL

Board Meeting Date: August 15, 2005 **Bid Number:** 2005-29

1. **Item, material or service (specific or classification):** Drug and Alcohol Testing Administration

2. **Brief description:** A request for proposal was let for alcohol and drug testing services and administration for DOT tests for district bus drivers and student drug tests for students involved in competitive extracurricular programs.

3. **Period of time bid covers:** 09/01/05 through 08/31/2006 with the option to renew for two additional one-year terms

4. **Person and title responsible for the expenditure:**

   Randy Leach – Facilities Director and Interim Athletic Director
   Terry Slemmons – Transportation Director

5. **Number of bids sent to vendors:** 12

6. **Number of bids received from vendors:** 2

7. **Listing of recommended vendors and total prices:** Randy Leach, Interim Athletic Director, has recommended award of the student testing to Compliance Consortium Corporation at an approximate expenditure of $12,000 based on the current year expense. Terry Slemmons, Transportation Director, has recommended award to Compliance Consortium Corporation for the DOT testing at an approximate expenditure of $3,800 based on the current year expense.

8. **Explanation of other than low recommendations:** N/A

9. **Last bid date (bid of comparable nature within last 5 years):** 07/07/2002

10. **Percentage increase or decrease from last bid**:

    DOT testing – decrease of 5%
    Student testing – increase of 8.82%

11. **Budget information:** Expenditures for drug testing will be from the following budget codes and proposed budgets.

199.34.6219.00.800.6.99.0.00	$15,000.
199.52.6219.00.042.6.99.0.00	1,200.
199.52.6219.00.041.6.99.0.00	1,000.
199.52.6219.00.001.6.99.F.00	17,500.

Sharay S. Boynton
Executive Director of Finance

GRANBURY INDEPENDENT SCHOOL DISTRICT

INTEROFFICE MEMO

FINANCE AND BUSINESS AFFAIRS

To: Board of Trustees
Date: June 12, 2006
For: Approval

TO: Mr. William Harris, Superintendent	**FROM**: Sharay Boynton **DATE**: June 2, 2006 **RE**: Food Service Equipment Purchases – Buy Board Vendors

SUMMARY:

Board Policy CH(LOCAL) requires board approval on purchases in excess of $25,000. The policy states "The Board delegates to the Superintendent or designee the authority to determine the method of purchasing, in accordance with CH(LEGAL), and to make budgeted purchases. However, any purchase that costs or aggregates to a cost of $25,000 or more shall require Board approval before a transaction may take place".

The Food Service Department has planned to purchase replacement equipment for the food service program on several campuses. This equipment can be purchased from Buy Board Vendors. The total cost is projected to be approximately $52,100. The approved food service budget will cover the cost of the equipment.

The attached spreadsheet contains details related to the food service purchases submitted by the food service department.

The following recommendation is that of Mr. Laine Meek, Food Service Director.

RECOMMENDATION:

It is recommended that the purchases on the spreadsheet be made from the Buy Board vendor deemed in the best interest of the District.

Respectfully submitted,

Sharay S. Boynton
Executive Director of Finance

Staff Person Responsible: Sharay Boynton
Laine Meek

Date Submitted: June 2, 2006

From: BUTLER, DWIGHT
Sent: Tuesday, June 06, 2006 9:22 AM
To: GEHRKE, LARRY
Cc: HARRIS, WILLIAM; LEACH, RANDY
Subject:

Larry,

I am writing you to voice my concern over the state of the football/soccer field(Pirate), the track filed at the high school, and the field at GMS. Your crews do a great job of maintaining the fields but I do believe they have lived out their usefulness. It looks like we are loosing pirate stadiums' turf after the rye has died. the track field has become a safety issue and must be addressed. The middle of the field at GMS receives so much traffic that it is also being lost. I do not pretend to know your job but after listening to Donald and Randy Price fromTri-Tex Grass I feel we must address the field situation immediately or we may not have any fields by August. I appreciate everything you guys do for our fields but I am now convinced that if we do not act now and have everything in place by July 1 we will be in dire straits come August.

Your continued attention to this issue will be greatly appreciated by coach and athlete alike.

Dwight Butler, Athletic Director

Granbury ISD

817-408-4080 - phone

817-408-4014 - fax

OFFICE OF SUPERINTENDENT

For:	**Board of Trustees**
Date:	**June 12, 2006**
Action:	**Approval**

SUMMARY:

Update 77 was presented to you at the May 22, 2006 board meeting for your review. Review of the LEGAL policies and adoption of the LOCAL policies, with any recommended changes, must take place at an open board meeting.

The LOCAL policies to be considered are: BBD, CPC, DAB, DBA, DBD, DFE, EEH,EFAA, and FFA. (see attached list).

RECOMMENDATION:

I recommend that the Board add, revise, or delete (LOCAL) policies as recommended by TASB Policy Service and according to the Instruction Sheet for TASB Localized Policy Manual Update 77.

Respectfully submitted,

William Harris

William Harris
Superintendent

Update 77
LOCAL Policies

BBD (LOCAL) – Board Member Training and Orientation

CPC (LOCAL) – Office Management Records Management

DAB (LOCAL) – Employment Objectives, Objective Criteria for Personnel Decisions

DBA (LOCAL) – Employment Requirements and Restrictions Credentials and Records

DBD (LOCAL) – Employment Requirements and Restrictions Conflict of Interest

DFE (LOCAL) – Termination of Contract Resignation

EEH (LOCAL) – Instructional Arrangements, Homebound Instruction

EFFA (LOCAL) – Instructional Materials Selection and Adoption Textbook Selection and Adoption

FFA (LOCAL) – Student Welfare, Wellness and Health Services

Texas Association
of School Boards

Localized Policy Manual

Update 77

Granbury ISD

Your Localized Update 77 represents the second of two updates arising from the 79th regular legislative session as well as recent TEA rule changes. Key issues include conflict of interest, records management, DAEP teacher certification, local hearings rules, homebound instruction, and the optional flexible year program. The Update also reflects the Individuals with Disabilities Education Improvement Act (IDEA 2004), various state laws and regulations pertaining to "wellness," and the federal "wellness policy" requirement (addressed further in a ***Starting Points*** policy development tool kit released, via MyTASB, on November 15).

Please bear in mind that the (LEGAL) policies reflect the ever-changing legal context for governance and management of the district. They should NOT be adopted but, rather, should inform local decision making. The (LOCAL) policy recommendations in this update will need close attention by both the administration and the board to ensure that they reflect the practices of the district and the intentions of the board. Board action is needed to adopt, revise, or repeal (LOCAL) policy.

To better focus board attention and expedite its review, your Localized Update 77 packet contains:

- ***Vantage Points—A Board Member's Guide to Update 77***, copies of which may be found in the separately wrapped package accompanying this packet. ***Vantage Points*** offers a highly summarized overview of the update and is intended to provide local officials a first glance at the scope of the update—as a prelude to studying the detailed Explanatory Notes and policy text within the packet. **Please distribute *Vantage Points* to your board members** at the earliest possible opportunity, preferably with their review copies of this update.

- Your Localized Update, which includes:

  INSTRUCTIONS . . . providing specific, policy-by-policy directions on how this update, if accepted as prepared, should be incorporated into your Localized Policy Manuals.

  EXPLANATORY NOTES . . . summarizing changes in the policies in each code and how those changes affect your policy manual. Please note that, where appropriate, the Explanatory Notes ask you to **verify that a particular policy continues to reflect your current practice and to advise us of changes needed** so that our records and your manual accurately track the district's actual practice.

Update 77 materials can be identified by the DATE ISSUED—11/29/2005—located in the lower left corner of each page. If you have any questions concerning this Update, please call your Policy Consultant/Analyst, Kaye Teaff, at 800-580-7529 or 512-467-0222.

Regarding board action on Update 77 . . .

- Board action on Localized Update 77 must occur within a properly posted, open meeting of the board and may be addressed on the agenda posting as "Policy Update 77, affecting (LOCAL) policies (see attached list)." Using the Instruction Sheet as a guide, create and attach to the posting a list of the (LOCAL) policy codes **and the titles/subtitles of those policies**. BoardBook compilers should use "Policy Update 77, affecting (LOCAL) policies" as the agenda item and, as agenda sub-items, the code and name of each of the (LOCAL) policies affected by the update.

- An appropriate motion for board action on Localized Update 77 is as follows:

  "I move that the board add, revise, or delete (LOCAL) policies as recommended by TASB Policy Service and according to the Instruction Sheet for TASB Localized Policy Manual Update 77 [with the following changes:]"

- The board's action on Localized Update 77 must be reflected in board minutes. The Instruction Sheet—annotated to reflect any changes made by the board—and the Explanatory Notes for the update should be filed with the board minutes where they make up the authoritative historical record of your district's manual. Also include in the historical record a copy of the replaced or rescinded (LOCAL) policies.

- **Notify your Policy Consultant/Analyst of any changes made by the board so that Policy Service records—forming the basis for these and subsequent updating recommendations—exactly mirror your manual.**

Regarding manual maintenance and administrative regulations . . .

- The update should be incorporated into each of the district's Localized Policy Manuals as soon as practicable. If the district uses *Policy On Line*, please notify us of the board's action on Update 77 so this action may be reflected in your district's Localized Policy Manual as it appears on TASB's Web server. *Policy On Line* staff may be reached by phone (800–580–7529 or 512–467–0222), fax (512–467–3618; see the pink form enclosed), e-mail (pol-support@tasb.org), or Internet feedback form (http://www.tasb.org/policy/pol/private/polfdbk.html).

- Administrative procedures and documents—including formal (REGULATIONS), handbooks, and guides—that may be affected by Update 77 policy changes should be inspected and revised as needed. If the district routinely submits (REGULATIONS) to Policy Service for processing or desires that the updated (REGULATION) be included in the district's *Policy On Line* manual, please submit these changes to your Policy Consultant/Analyst at your earliest convenience.

PLEASE NOTE: This Localized Update 77 packet and the Update 77 ***Vantage Points*** may not be considered as legal advice and are not intended as a substitute for the advice of the board's own legal counsel.

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Instruction Sheet

TASB Localized Policy Manual Update 77

District Granbury ISD

Code		Action To Be Taken	Note
B	(LEGAL)	Replace table of contents	Revised table of contents
BBD	(LEGAL)	Replace policy	Revised policy
BBD	(LOCAL)	ADD policy	See explanatory note
BBFA	(LEGAL)	Replace policy	Revised policy
BBFA	(EXHIBIT)	Replace exhibit	Revised exhibit
BBFB	(LEGAL)	ADD policy	See explanatory note
BDAF	(LEGAL)	Replace policy	Revised policy
BDF	(LEGAL)	Replace policy	Revised policy
CHE	(LEGAL)	ADD policy	See explanatory note
CNA	(LEGAL)	Replace policy	Revised policy
CNB	(LEGAL)	Replace policy	Revised policy
CPC	(LOCAL)	Replace policy	Revised policy
CRD	(LEGAL)	Replace policy	Revised policy
DAB	(LOCAL)	Replace policy	Revised policy
DBA	(LEGAL)	Replace policy	Revised policy
DBA	(LOCAL)	Replace policy	Revised policy
DBD	(LEGAL)	Replace policy	Revised policy
DBD	(LOCAL)	Replace policy	Revised policy
DBD	(EXHIBIT)	ADD exhibit	See explanatory note
DFD	(LEGAL)	Replace policy	Revised policy
DFE	(LOCAL)	Replace policy	Revised policy
DGBA	(LEGAL)	Replace policy	Revised policy
DIA	(LEGAL)	Replace policy	Revised policy
E	(LEGAL)	Replace table of contents	Revised table of contents
EEH	(LOCAL)	ADD policy	See explanatory note
EFAA	(LOCAL)	Replace policy	Revised policy
EHAA	(LEGAL)	Replace policy	Revised policy
EHBA	(LEGAL)	Replace policy	Revised policy
EHBAA	(LEGAL)	Replace policy	Revised policy
EHBAB	(LEGAL)	Replace policy	Revised policy
EHBAC	(LEGAL)	Replace policy	Revised policy

Instruction Sheet

TASB Localized Policy Manual Update 77

Code		Action To Be Taken	Note
EHBAD	(LEGAL)	Replace policy	Revised policy
EHBAE	(LEGAL)	ADD policy	See explanatory note
EHBC	(LEGAL)	Replace policy	Revised policy
EI	(LEGAL)	Replace policy	Revised policy
EKB	(LEGAL)	Replace policy	Revised policy
EL	(LEGAL)	Replace policy	Revised policy
F	(LEGAL)	Replace table of contents	Revised table of contents
FFA	(LEGAL)	Replace policy	Revised policy
FFA	(LOCAL)	DELETE policy	See explanatory note
FNAB	(LEGAL)	Replace policy	Revised policy
FNCF	(LEGAL)	Replace policy	Revised policy
FNG	(LEGAL)	Replace policy	Revised policy
FO	(LEGAL)	No policy enclosed	See explanatory note
FODA	(LEGAL)	Replace policy	Revised policy
FOF	(LEGAL)	Replace policy	Revised policy
GF	(LEGAL)	Replace policy	Revised policy

Explanatory Notes

TASB Localized Policy Manual Update 77

District: Granbury ISD

B (LEGAL) LOCAL DISTRICT GOVERNANCE

BBFA (ETHICS: CONFLICT OF INTEREST) has been split into two codes:

- BBFA: CONFLICT OF INTEREST DISCLOSURES
- BBFB: PROHIBITED PRACTICES

BBD (LEGAL) BOARD MEMBERS
TRAINING AND ORIENTATION

As reflected at SPECIFIC OPEN MEETINGS TRAINING and SPECIFIC OPEN RECORDS TRAINING on page 3, SB 286 from the 79th regular session now requires board members and certain other elected or appointed public officials to complete training on Government Code Chapters 551 and 552, commonly referred to as the Texas Open Meetings Act and the Texas Public Information Act. The attorney general is charged with the responsibility of ensuring that training is made available. The Office of the Attorney General will both provide this training and approve alternative providers. Board members must complete the required training within 90 days of taking the oath of office; however, those who took the oath of office prior to January 1, 2006, have until January 1, 2007, to complete the training.

Under terms of the legislation, these courses will accrue board member training credit as well. The attorney general's office is currently developing video training that will fulfill these requirements; the video training is expected to be released in December 2005. Further information on the requirement and the attorney general's response to various questions regarding the training may be found at http://www.oag.state.tx.us/agency/sb286info.shtml.

Please note: Board members may delegate to a public information coordinator the SB 286–required open records training; however, the open meetings training is not delegable.

BBD (LOCAL) BOARD MEMBERS
TRAINING AND ORIENTATION

SB 286, described above, also introduces into statute the term "public information coordinator." Because the responsibilities of the public information coordinator are administrative in nature and usually fall within the purview of the superintendent, either directly or by delegation, we have developed language identifying the superintendent as the coordinator. The statement goes on to delegate, as permitted by the statute, the Government Code 552 training requirement that would otherwise reside with individual board members.

BBFA (LEGAL) ETHICS
CONFLICT OF INTEREST DISCLOSURES

This policy has been revised structurally as well as substantively.

The increasing complexity of Texas's conflict of interest laws applicable to school districts has prompted the subdivision of this CONFLICT OF INTEREST policy into two separate codes:

- BBFA, focusing more narrowly on required disclosures
- BBFB, addressing specific prohibited practices

BBFA also reflects new provisions of HB 914 from the 79th regular session. That legislation expands the Local Government Code as follows:

- Under CONFLICTS DISCLOSURE STATEMENT, on page 3, are various circumstances that would require a local government officer to file with the district's records officer (generally the superintendent) on the form published by the Texas Ethics Commission a new "conflicts disclosure statement" required by the Local Government Code. This is separate and apart from the "substantial interest" affidavit required by Local Government Code Chapter 171 and the "interest in property" affidavit required by Government Code 553.003 (see page 4). Use of this disclosure statement is required as of January 1, 2006.
- A DEFINITION OF LOCAL GOVERNMENT OFFICER, encompassing the superintendent, also appears on page 3.
- At DEFINITION OF RECORDS ADMINISTRATOR is a list of persons who may perform that function: "the director, superintendent, or other person responsible for maintaining the records of the district." A cross-reference to CPC, where records management is addressed, has been added.
- INTERNET POSTING REQUIREMENT recites the obligation of the district to provide Internet access to the newly required conflicts disclosure statements and to vendor disclosure questionnaires that have been filed with the records administrator of the district.

BBFA (EXHIBIT) ETHICS
CONFLICT OF INTEREST DISCLOSURES

Both exhibits have been revised for clarity:

- Exhibit A

  AFFIDAVIT DISCLOSING SUBSTANTIAL INTEREST IN A BUSINESS ENTITY OR REAL PROPERTY

  "Local public officials" are required to file (with "the official board recordkeeper") such an affidavit under Local Government Code 171.002.

- Exhibit B

  AFFIDAVIT DISCLOSING INTEREST IN PROPERTY

  Government Code 553.002–.003 requires "public servants" to file (with the county clerk) such an affidavit.

Please note: We have added to the cover page a text note referring board members and the superintendent—who are required to file ("with the records administrator" of the district) the conflicts disclosure statement required by Local Government Code 176.003–.004—to the new form promulgated by the Texas Ethics Commission, published on the commission's Web site at http://www.ethics.state.tx.us.

BBFB (LEGAL) ETHICS
PROHIBITED PRACTICES

This policy presents material previously found in BBFA(LEGAL) dealing with specific violations of laws pertaining to ethics. These prohibitions were unaffected by the 79th regular session or other changes in the legal context.

BDAF (LEGAL) OFFICERS AND OFFICIALS
SELECTION AND DUTIES OF CHIEF TAX OFFICIALS

HB 898 from the 79th regular session and effective September 1, 2005, affects the tax assessor's duties. At item 2 under ASSESSOR, the text now reflects that the assessor shall "prepare and mail a tax bill to each person **and** [emphasis added] authorized agent, in whose name property is listed on the tax roll." Previously the tax assessor could send the bill to either party.

BDF (LEGAL) BOARD INTERNAL ORGANIZATION
CITIZEN ADVISORY COMMITTEES

SB 42, from the 79th regular session and effective for the 2006–07 school year, expanded the health-related information that the district was previously required to make available for public inspection and newly requires the district to publish this information in the student handbook and on the district's Web site.

Districts must now adopt and publish policies ensuring that elementary, middle, and junior high school students engage in at least 30 minutes per school day (or 135 minutes per school week) of physical activity. Previous requirements include reporting the number of times during the preceding year that the school health advisory council has met, adopting district policies restricting student access to vending machines, and prescribing penalties for use of tobacco products by students and others on school campuses or at school-related activities.

The post-legislative supplement to the ***TASB Model Student Handbook*** provides further guidance on fulfilling this requirement.

CHE (LEGAL) PURCHASING AND ACQUISITION
VENDOR RELATIONS

This new policy recites key HB 914 provisions regarding potential conflicts of interest between district officials and vendors. While policies BBFA and DBD speak to conflicts of interest involving officers and employees, respectively, CHE has been created to address newly required vendor disclosures. A vendor has seven business days (from the date it enters into contract discussions or negotiations with the district or submits an application, bid, or RFP response, etc.) to file with the district's records administrator the information on the questionnaire promulgated by the Texas Ethics Commission.

The legislation also allows the vendor to file the questionnaire electronically. District obligations include maintaining and making public a list of district officials who are subject to the filing requirement and publishing filed statements on the district's Web site.

CNA (LEGAL) TRANSPORTATION MANAGEMENT
STUDENT TRANSPORTATION

At WIRELESS COMMUNICATION DEVICES, on page 4, may be found the SB 1257 ban on a bus driver using a cell phone or like device while driving when minors are on the bus. Exceptions are allowed for emergency communication or when the bus is not in motion.

CNB (LEGAL) TRANSPORTATION MANAGEMENT
DISTRICT VEHICLES

On August 10, 2005, the federal highways reauthorization bill passed into law, and it has major implications for school district purchasing or leasing of 15-passenger vans.

Grandly styled the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" or "SAFETEA," the law newly prohibits a district from purchasing or leasing a new 15-passenger van to be used primarily for the transportation of students to or from school or school-related events **unless** the van fulfills federal standards for school buses and multi-functional school activity buses. This requirement is found at NEW VAN PURCHASES OR LEASES and applies to purchases or leases initiated after August 10, 2005. The law does not apply to the purchase of used vehicles in the resale market.

Although not recited here, the law includes civil penalties for violations: a maximum of $10,000 per vehicle (accumulating to a maximum of $15 million for a series of violations by a single district).

CPC (LOCAL) OFFICE MANAGEMENT
RECORDS MANAGEMENT

Legislative action, beginning in 1989 and continuing through the last regular session, has expanded the vocabulary of records management to include four roles:

- Records Management Officer (a Local Government Code provision from the 1989 legislative session)
- Records Administrator (added to the Local Government Code by HB 914 in the 2005 legislative session)
- Officer for Public Information (a Government Code provision arising from the 1993 legislative session)
- Public Information Coordinator (added to the Government Code by SB 286 in the 2005 legislative session)

Each is essentially an administrative function under the supervision of the superintendent. We have developed this listing to assist users of the manual in connecting the "dots" to their statutory context. While the requirement to inform the Texas State Library of the name of the district's records management officer remains in effect, the need to address it in local policy was tied to the initial implementation of the 1989 legislation. Therefore, we have deleted it from this text.

These four statutory titles may present some confusion if the district has used these or similar titles—such as "Public Information Officer"—for administrative positions whose functions do not encompass those associated with these titles by the above statutes. As a practical matter, we suggest that the district retitle otherwise "name-alike" administrative positions.

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

An Insurance Code stipulation that districts not participating in TRS Active Care provide employees a "plan disclosure statement" has been deleted. TASB attorneys have determined that this provision does not apply to school districts meeting the "substantive coverage requirement" specified by the Insurance Code and mandated by Education Code 22.004(b), recited at GROUP HEALTH BENEFITS on page 1.

DAB (LOCAL) EMPLOYMENT OBJECTIVES
OBJECTIVE CRITERIA FOR PERSONNEL DECISIONS

Recently, in pursuing a complaint against a district, the U.S. Department of Justice objected to "suitability for the position" previously listed in this policy because, in the view of the department, it was subjective and could be misapplied to result in a discriminatory action prohibited by federal law (based on gender, age, etc.). Consequently, we have deleted this item entirely. In addition, item 5, previously "evaluations," has been broadened to read "appraisals and other performance evaluations."

These six criteria are intended to comport with Civil Order 5281, which has required since 1971 that each district have a list of objective criteria, not related to race or ethnicity, by which it will make decisions regarding employee assignment, demotion, reassignment, or dismissal and by which it will judge applicants. The full text of the order may be found at http://www.tea.state.tx.us/eeo/5281.html.

DBA (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CREDENTIALS AND RECORDS

For a more complete representation of the legal context within which districts must operate, we have added at PROFESSIONAL PERSONNEL CREDENTIALS a long-standing Education Code requirement for valid certification before an educator can be compensated for work done.

DBA (LOCAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CREDENTIALS AND RECORDS

Guidance offered by TEA's Division of NCLB Program Coordination suggests that the home campus teacher of a student assigned to a disciplinary alternative education program (DAEP) can be considered the "teacher

of record" for purposes of determining if the student is being instructed by a "highly qualified" teacher under the NCLBA. For this to hold true, however, (LOCAL) policy must provide for the following:

- The home campus teacher assigns and evaluates all student coursework;
- The student will receive substantially the same coursework and be subject to the same grading standards as other students on the home campus who are enrolled in the course;
- The home campus teacher has final authority to assign a grade for completed coursework and the final grade for the course;
- The home campus teacher is available on a regular basis to the student and to the DAEP teacher for face-to-face consultation; and
- The DAEP teacher meets all applicable SBEC certification requirements.

The enclosed (LOCAL) policy has been revised to reflect these TEA-defined criteria. If these conditions are met and if the home campus teacher meets NCLB requirements as "highly qualified," parental notification is not required.

We have retained, at UPDATING CREDENTIALS, an existing policy provision previously applicable only to professional employees but now extended to all employees. This broadened language would, of course, include paraprofessionals required to maintain NCLB "highly qualified" status. We have deleted a previous statement addressing the timeline for teachers employed on emergency permits; this is more appropriately addressed in the employee's contract. TASB's Model Employee Contracts, published by TASB Human Resource Services, address this requirement in the "Certification Addendum" for educator contracts. The model contracts are available to HR Services subscribers via MyTASB at https://www.tasb.org/docs–mytasb/gov_svcs/human_rsc_svcs/memlib/memlibfiles/c_models.pdf.cfm.

Other changes are as follows:

- A new CONTRACT PERSONNEL section charges the superintendent with ensuring that a contract employee holds valid credentials before a contract is issued.
- We have deleted a RECORDS statement referencing maintenance of records "in accordance with law and local administrative requirements." Maintenance and retention of personnel records should be addressed within the district's records management plan, as required by the Local Government Code. [See CPC]

DBD (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CONFLICT OF INTEREST

This policy has been revised structurally as well as substantively to clarify the conflict-of-interest standards applicable to employees and to incorporate the enactment of HB 914 from the 79th regular session. Of note:

- Presented first in the policy are specific violations of Penal Code and Education Code provisions pertaining to ethics. These prohibitions were unaffected by the 79th regular session.
- On page 3 appears the long-standing Texas Constitutional prohibition against a person's holding more than one civil office of emolument, subject to noted exceptions.
- Also on page 3 appears provisions of Local Government Code 176.005—added by HB 914—that allow the board to extend to all or certain employees a CONFLICTS DISCLOSURE STATEMENT and to take disciplinary action against an employee who violates the requirement. As noted at BBFA(LEGAL), board members and superintendents are required to file such disclosures. At CHE(LEGAL), vendors are required to file questionnaires explaining their relationships with district officials. These disclosure requirements take effect on January 1, 2006.

DBD (LOCAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CONFLICT OF INTEREST

Your current policy describes two kinds of conflict-of-interest disclosures:

- A broad, locally imposed standard that requires employees to disclose to their supervisors any potential conflict of interest with the proper discharge of responsibility or with the best interest of the district.
- A more narrowly defined "substantial interest" standard that obligates certain employees with such an interest—as defined by law—in real property or a business entity to file with the superintendent, the board president, or a designee an affidavit. This mirrors the Local Government Code requirement long in place for local public officials and applicable to board members.

HB 914 complicates this picture by introducing an additional disclosure—applicable to the superintendent and the board but which the board might require of other employees as well. As described at BBFA(LEGAL) and DBD(LEGAL), this new standard mandates filing with the district's records administrator a conflicts disclosure statement (on a form developed by the Texas Ethics Commission) if a vendor with whom the district is doing business or considering doing business:

- has an employment relationship—or other business relationship—with the district employee or a member of his or her family;
- has provided the district employee or family member taxable income; or
- has provided the district employee or family member one or more gifts—apart from food, lodging, transportation, or entertainment—having a 12-month aggregate value of more than $250.

This new disclosure standard prompts our revision of the SPECIFIC DISCLOSURES provision to clarify that your existing policy imposes the broad GENERAL STANDARD and the "substantial interest" standard that requires an affidavit of disclosure . . . but **not** the HB 914 standard that requires a conflicts disclosure statement [as described in BBFA and DBD(LEGAL)].

If your district desires to extend the HB 914 standard to employees other than the superintendent, it may do so for specific employees or for all employees. Please contact your Policy Consultant/Analyst for appropriate policy language.

For clarity, we have added a section pertaining to the AFFIDAVIT DISCLOSING INTEREST IN PROPERTY. According to Government Code 553.002, district "officers" and board candidates are subject to this requirement.

DBD (EXHIBIT) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
CONFLICT OF INTEREST

We recommend the addition of these conflict of interest affidavits to your localized policy manual so that they are readily accessible to employees who are obligated by DBD(LOCAL) to file such affidavits.

- Exhibit A

  AFFIDAVIT DISCLOSING SUBSTANTIAL INTEREST IN A BUSINESS ENTITY OR REAL PROPERTY

  Your district's DBD(LOCAL) extends to certain employees the Local Government Code 171.002 requirement that "local public officials" file such a disclosure statement. The completed form should be timely filed with the superintendent, board president, or designee. [The form for board member use is at BBFA(EXHIBIT).]

- Exhibit B

  AFFIDAVIT DISCLOSING INTEREST IN PROPERTY

  Government Code 553.002–.003 requires "public servants" to timely file—with the county clerk(s)—such a disclosure. This form is specifically for the superintendent's use. [The form for board member use is at BBFA(EXHIBIT).]

On the cover page to these exhibits, we have appended a note referring employees required to file the "conflicts disclosure statement" to the Texas Ethics Commission's Web site: http://www.ethics.state.tx.us. As explained at DBD(LEGAL), Local Government Code 176.003–.004 requires the superintendent and board members to file such disclosures and permits the board, by local policy, to extend this particular requirement to other employees as well.

DFD (LEGAL) TERMINATION OF CONTRACT
HEARINGS BEFORE HEARING EXAMINER

At RECORD OF PROCEEDINGS, on page 4, appears an excerpt from TEA rules adopted in July 2004 and addressing what constitutes a "record" for a Chapter 21 appeal before an independent hearing examiner (IHE), a subcommittee of the board, or the board.

The record upon which the commissioner of education shall decide an appeal must include:

- transcripts of local proceedings
- all evidence admitted
- all offers of proof
- all written pleadings, motions, and intermediate rulings
- a description of matters officially noticed
- the recommendation of the IHE, if applicable
- the transcript of the oral argument before the board or board subcommittee
- the decision rendered by the board or board subcommittee
- the board or board subcommittee's written reasons for changing the IHE's recommendation, if applicable

These rules replaced previous hearing rules, adopted in 1993, when hearings were *de novo*. The rules were updated in July 2004 to reflect the fact that appeals are now conducted on the basis of a review of the substantial evidence as presented by the record.

DFE (LOCAL) TERMINATION OF CONTRACT
RESIGNATION

We have extensively revised this policy to clarify who has authority to accept resignations and in what circumstances.

At AT–WILL EMPLOYEES we have added text clarifying that the superintendent or designee has authority to accept such resignations at any time.

At CONTRACT EMPLOYEES, new text establishes that:

- Before the school year starts, the superintendent or designee may accept a contract employee's resignation, but if the resignation is submitted after the penalty-free resignation date established by Education Code 21.105(a) and 21.210(a), the acceptance is contingent on finding a suitable replacement.
- After the school year starts, the superintendent or designee may accept the resignation or refer it to the board to pursue SBEC sanctions. If the superintendent accepts the resignation, the board loses the option to pursue sanctions. If the board wishes to require all mid-year resignations to be brought before the board, please contact your Policy Consultant/Analyst.
- Effective at the end of the school year, the superintendent or designee is authorized to accept the resignation.

- The resignation of a contract employee may not be withdrawn without the consent of the board.

DGBA (LEGAL) PERSONNEL–MANAGEMENT RELATIONS
EMPLOYEE COMPLAINTS/GRIEVANCES

RECORD OF PROCEEDINGS, on page 3, has been amended to include an excerpt from TEA rules adopted in July 2004 and addressing what constitutes a "record" for appeals brought under Education Code 7.057.

The record upon which the commissioner of education decides an appeal must include:

- acceptable tape recordings or transcripts of the local hearing
- all evidence admitted
- all offers of proof
- all written pleadings, motions, and intermediate rulings
- a description of matters officially noticed
- the recommendation of the independent hearing examiner, if applicable
- the tape or transcript of the oral argument before the board
- the decision rendered by the board

These rules replaced previous hearing rules, adopted in 1993, when hearings were *de novo*. The rules were updated in July 2004 to reflect the fact that appeals are now conducted on the basis of a review of the substantial evidence as presented by the record.

DIA (LEGAL) EMPLOYEE WELFARE
FREEDOM FROM HARASSMENT

The section HARASSMENT OF EMPLOYEES newly includes two standards of current law. The first is drawn from federal regulations and states, "Harassment on the basis of a protected characteristic is a violation of the federal anti-discrimination laws"; the second is drawn from case law and states, "Harassment violates Title VII if it is sufficiently severe and pervasive to alter the conditions of employment."

E (LEGAL) INSTRUCTION

We have revised the E Section table of contents as follows:

- EEH—a new policy code for HOMEBOUND INSTRUCTION.
- EHBAD—redesignated to address SPECIAL EDUCATION: TRANSITION SERVICES.
- EHBAE—a new policy code for SPECIAL EDUCATION: PROCEDURAL REQUIREMENTS (previously addressed at EHBAD).

EEH (LOCAL) INSTRUCTIONAL ARRANGEMENTS
HOMEBOUND INSTRUCTION

TEA's 2005–2006 Student Attendance Accounting Handbook states that to qualify for funding for homebound instruction, "the school district must have a policy and procedures approved by the local school board for implementation of general education homebound instruction." Further information about homebound instruction requirements may be found on pages 26–34 of the handbook, which is available at http://www.tea.state.tx.us/peims/handbook/0506hand.doc.

We have drafted the enclosed language to fulfill that policy requirement.

EFAA (LOCAL) INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION
TEXTBOOK SELECTION AND ADOPTION

This policy—required by the Texas Administrative Code [19 TAC 66.104(a)]—has been lightly edited to remove an unnecessarily limiting provision regarding the number of professional staff members serving on the local textbook review/selection committee and to remove the redundant April 1 deadline. This deadline (for the district to transmit to TEA a listing of instructional materials selected for use in the district) is prescribed by 19 TAC 66.104(g) and is recited in EFAA(LEGAL).

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

Under ENRICHMENT CURRICULUM, on page 1, item 2b has been adjusted to reflect the language of SB 42 from the 79th regular session: the health component of the enrichment curriculum has been restated to include "emphasis on the importance of proper nutrition and exercise."

At STEROID NOTICE AND EDUCATION, on page 4, provisions of Education Code 38.008 (enacted in 1995) and Education Code 38.0081(b) (from the 79th regular legislative session) are added to this policy. The former provision requires posting of notices in gyms and classes where secondary physical education is conducted; the specific language of the notice is found at FNCF(EXHIBIT) in localized policy manuals. The latter provision is the result of HB 3563, which ordered the State Board of Education to identify grade levels where students participating in extracurricular activities are to be provided TEA-developed information regarding steroid use and health risks.

Please note: The State Board has not yet specified which grade levels are implicated. TEA and the Texas Department of State Health Services have developed the required information, available at http://www.tea.state.tx.us/taa/comm042605.pdf; in the transmittal letter for the information, Commissioner of Education Shirley Neeley and Commissioner of Health Eduardo Sanchez encouraged districts to share this information with students, parents, and staff.

Not reflected in EHAA(LEGAL) is a further HB 3563 requirement: the University Interscholastic League is ordered to adopt rules prohibiting a student from participating in an athletic competition sponsored or sanctioned by the League unless the student agrees not to use steroids and the parent acknowledges in writing the statements that are found in the FNCF(EXHIBIT).

UIL is also required to:

- develop an education program—before September 1, 2005—for students participating in UIL athletic activities and for their parents and coaches regarding the health effects of steroid use.
- make the program available to districts.
- work with public or private entities to study the effectiveness of the program.

During the 2005–06 school year, UIL must measure the extent of illegal steroid use by high school students and the number of districts that test high school students for illegal steroids. UIL is further charged with the responsibility of developing a plan for testing students engaged in UIL athletic activities for illegal steroids.

Finally, UIL must file a written report with the Legislature—not later than December 1, 2006—regarding the use survey, the effectiveness study of educational programs, and the testing plan. The bill directly states that, if the Legislature is not satisfied that the educational program has significantly reduced student use of illegal steroids, it may require UIL to implement the testing plan (and authorizes UIL to raise membership fees to pay for the testing).

EHBA (LEGAL) SPECIAL PROGRAMS
SPECIAL EDUCATION

On December 3, 2004, President Bush signed into law the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004). These changes became effective July 1, 2005, with compliance staged or dependent on state action and final regulations still in progress. Key provisions of the new federal legislation are as follows:

- Teacher qualifications [addressed at DBD(LEGAL) in Update 75]
  - A special education teacher who teaches any of the core academic subjects—English, reading, language arts, mathematics, science, foreign language, civics and government, economics, arts, history, or geography—at the elementary level is "highly qualified" if he or she has special education certification in addition to meeting the general requirements for being "highly qualified."
  - Additional requirements apply to special education teachers who teach "alternative achievement standards" or who teach two or more core academic subjects exclusively to special education students. New special education teachers must be "highly qualified" in at least one of the following core academic subjects when hired—math, language arts, or science—and will be permitted two years to become "highly qualified" in any other core academic subjects taught.
- Due process [addressed at EHBAE in this update]
  - Complainants must now give notice of all issues prior to a hearing or the complainant risks not having the issues addressed during the hearing.
  - Parents must bring complaints to the district's attention and attempt resolution before a due process hearing is conducted. A meeting to attempt to resolve the complaint must occur with the complainant within 15 days before a due process hearing.
  - State-funded mediation by a qualified and impartial mediator is permitted.
  - Due process decisions are now to be based on provisions of FAPE (Free Appropriate Public Education), not procedure.
  - A two-year statute of limitations is imposed for complaints.
- Individualized education programs (IEPs) and paperwork reduction [addressed at EHBAB in this update]
  - Fifteen (as yet unnamed) states will pilot a demonstration program identifying ways to reduce paperwork and other administrative duties (including the option to develop multi-year IEPs up to three years).
  - Any IEP team member may be excused from attending a team meeting if agreed upon by both the parent and a district official.
  - Changes to an IEP after the annual IEP meeting may be made without reconvening the team, provided the parent and district official agree and develop a written document to amend or modify the IEP.
- Student discipline [addressed at FOF in this update]
  - A district may now, on a case-by-case basis, determine if the student should be removed from class for misconduct and placed in an alternative setting, pending the manifestation determination.
  - During an appeal, a student may remain in the alternative placement pending an expedited hearing. The burden of proof no longer rests solely with the district.

These significant changes prompted TASB attorneys to re-evaluate the scope and level of detail of the (LEGAL) policies in the EHBA series—where programmatic aspects are presented—and at FOF—where dis-

cipline of students with disabilities is addressed. The result of that initiative is a substantial redevelopment of each of these policies.

EHBA(LEGAL) remains the gateway policy and addresses the rights of students with disabilities to a Free Appropriate Public Education. The controlling concept of this policy is to provide an overview of the essential foundations of special education: nondiscrimination, provision of special education, least restrictive environment, and the concept of and entitlement to a Free Appropriate Public Education. While much material previously at this policy has been recoded elsewhere in the EHBA series, PLACEMENT OPTIONS, found on page 2, is newly included from state regulations last revised in September 2000.

Please note: The U.S. Department of Education is currently reviewing new and old statute, regulations, and policy letters as well as public input, to identify areas of IDEA 2004 that need to be addressed by new regulations. Until those regulations are enacted, regulations implementing IDEA 1997 remain in force (to the extent that they are consistent with IDEA 2004). Further information on IDEA 2004 is available at http://www.ed.gov/policy/speced/guid/idea/idea2004.html.

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

EHBAA(LEGAL) has been reorganized to present a more logical flow of information, and additional provisions have been incorporated from federal statute and regulations where appropriate. In addition, the language has been refined to more closely track statute, and detail unnecessary for local governance and management purposes has been deleted.

Of note:

- At CHILD FIND, “children who are wards of the state” has been added from the law.
- The section regarding PRIVATE SCHOOL STUDENTS is also new statutory text.
- Changes in the federal law are reflected in the second and third paragraphs at INITIAL EVALUATION, on page 2.
- New statutory language has also been incorporated at CONSENT FOR INITIAL EVALUATION (page 2), DETERMINATION (on page 3), and REEVALUATIONS (on page 4).
- Provisions at PRESCRIPTION MEDICATION, on page 5, were enacted by the IDEA reauthorization.

EHBAB (LEGAL) SPECIAL EDUCATION
INDIVIDUALIZED EDUCATION PROGRAM (IEP) AND ARDS

As with EHBAA(LEGAL), this policy has been reorganized and redeveloped for readability, appropriate level of detail, inclusion of new statutory material, and consistency with statutory language.

Key changes include:

- The multi-page initial section, titled ADMISSION, REVIEW, AND DISMISSAL COMMITTEE, has been extensively revised to include from State Board rules provisions relating to the structure, responsibilities, and processes of the ARD committee.
- TRANSFER STUDENTS, on page 4, incorporates new statutory text that supersedes commissioner’s rules last revised in 2003.
- At INDIVIDUALIZED EDUCATION PROGRAM is a prescription for the written statement that is drawn from current law and the IDEA reauthorization.

EHBAC (LEGAL) SPECIAL EDUCATION
STUDENTS IN NONDISTRICT PLACEMENT

Redevelopment continues with EHBAC(LEGAL): the policy has been revamped to clarify its focus around “related services” (transporation, assistive technology devices, and extended school year services) and nondistrict placement (private schools, dual enrollment, charter schools, residential facilities, etc.).

Key changes include:

- The federal law's definition of ASSISTIVE TECHNOLOGY DEVICES now specifically excludes surgically implanted medical devices.
- DUAL ENROLLMENT specifications, beginning on page 3, were to expire on June 30, 2004. Commissioner's rules, effective on June 7, 2004, deleted the expiration language and extended the provisions to students who were not yet eligible to attend kindergarten in a public school.

EHBAD (LEGAL) SPECIAL EDUCATION
TRANSITION SERVICES

The scope—and title—of EHBAD has been revamped to address transition services.

Key changes regarding such services include the following:

- At TRANSITION SERVICES DEFINED is the revised definition found within IDEA 2004.
- At GRADUATION is new statutory language specifying that a district is not required to conduct an evaluation conference before terminating the service eligibility of a graduating student or of a student who ages out of eligibility.

  Also in this section is a new statutory requirement that the district provide a student whose eligibility has expired a summary of the student's "academic achievement and functional performance" and recommendations on how the student may be assisted in meeting his or her postsecondary goals.

EHBAE (LEGAL) SPECIAL EDUCATION
PROCEDURAL REQUIREMENTS

The redirection of policy code EHBAD prompts the creation of a new code—EHBAE—to address special education procedural requirements (previously found at EHBAD).

As with other codes in this series, the provisions of the policy have been redeveloped for clarity, to more closely track statutory language, for appropriate level of detail, and to include new statutory provisions.

Of note:

- At CONTENTS OF NOTICE, on page 2, a new item 5—requiring an opportunity to present and resolve complaints—has been added from IDEA 2004.
- At TIME LIMIT, on page 3, commissioner's rules regarding timely hearing requests have been added.

EHBC (LEGAL) SPECIAL PROGRAMS
COMPENSATORY/ACCELERATED SERVICES

TEA's recently adopted rules implementing the optional flexible year program—styled by TEA as "OFYP"—have been excerpted beginning on page 7. Effective October 18, 2005, the rules address four key aspects:

- Eligibility: the student did not or is not likely to pass a state assessment and/or is not eligible for promotion to the next grade level.
- Program criteria:
  - The instructional days during the regular school year for ineligible students may not drop below 170 days.
  - Eligible students must be provided at least 180 days of instruction.

  - No more than five days of instruction may be waived for staff development or teacher preparation.
  - District transportation as well as free and reduced-price meals—if provided during the regular year—must also be provided during the OFYP.
  - The district may require educational support personnel to provide necessary services.
  - Educators on 10-month contracts must fulfill the minimum days of service required by the Education Code.
- Approval process:
  - The district must submit to TEA a letter describing the proposed modification to the instructional calendar (approved by the board) and the OFYP to be provided.
  - TEA approval of any modification to the instructional calendar is limited to one year but extensions may be granted upon reapplication.
  - The commissioner may require, as a condition of approval, a district to document the success of its approach.
- Funding: the calculation of ADA is modified to reflect the actual number of instructional days within the approved calendar. The divisor for students on a reduced calendar may not be less than 170 days; for eligible students served through OFYP, not less than 180 days.

The text of the rules may be found at http://www.tea.state.tx.us/rules/commissioner/adopted/0905/61–1017n–ltradopt.html.

EI (LEGAL) ACADEMIC ACHIEVEMENT

Changes, nonlegislative in nature, are as follows:

- ACADEMIC ACHIEVEMENT RECORD: a new second paragraph, drawn from State Board of Education rule, has been added to address transfer of the record. The rule, adopted in 1996 and last revised in 2001, provides that copies of the record must be made available to transferees and may also be provided to the receiving district. The rule further instructs districts to “respond promptly to all requests for student records from receiving districts.”
- EARLY HIGH SCHOOL GRADUATION SCHOLARSHIP PROGRAM: Education Code 28.025(g), previously recited under this heading, expired on January 1, 2004. In its place appears a parallel provision, found in the Higher Education Section of the Education Code. This provision contains no expiration date.

EKB (LEGAL) TESTING PROGRAMS
STATE ASSESSMENT

The policy has undergone some restructuring and text changes for clarification.

Substantive changes are as follows:

- At SPECIAL EDUCATION STUDENTS, on page 3, the implementation during the 2004–05 school year of an alternative assessment for grades 9–10 is reflected. The transitional language has been deleted.
- EXIT–LEVEL TEST: STUDENTS FROM OTHER STATES, on page 9, tracks HB 25 from the 79th legislative session. Effective May 27, 2005, the legislation requires the commissioner to adopt a norm-referenced, exit-level test for students who enroll in a Texas public school after January 1 of their senior year. This testing requirement applies to first-time enrollees as well as students who have been out of a Texas public school for four or more years.

EL (LEGAL) CHARTER CAMPUS OR PROGRAM

TEACHER RETIREMENT SYSTEM, on page 4, has been revised to reflect SB 1691 from the 79th regular session. Effective September 1, 2005, the legislation clarified that a district employee's TRS eligibility is unaffected by the fact that the employee works within a district charter campus or program.

F (LEGAL) STUDENTS

We have extended the scope of FFA to include not only policies specific to health services and requirements but also to encompass "wellness." (See the explanatory note at FFA, below.)

Note as well that we have created a new policy code—FLA—to accommodate policies pertaining to confidentiality of student health information.

FFA (LEGAL) STUDENT WELFARE
WELLNESS AND HEALTH SERVICES

The new federal "wellness policy" mandate has been added to this policy. The mandate, contained within Public Law 108–265 signed into law on June 30, 2004, requires each school district participating in a meal program under the National School Lunch Act or Child Nutrition Act to establish a "local wellness policy" prior to the beginning of the 2006–07 school year.

This policy must:

- express goals for nutrition education, physical activity, and other school-based activities designed to promote student wellness
- include local nutrition guidelines to promote student health and reduce childhood obesity
- ensure that guidelines for reimbursable school meals are no less restrictive than USDA regulations and guidance
- plan for measuring implementation of the policy—including designation of at least one person at each school responsible for ensuring fulfillment of the policy

The legislation further requires that development of the policy be broad-based, involving not only the board but parents, students, school food service personnel, school administrators, and the public. More information on the federal requirement may be found at USDA's "Team Nutrition" site: http://www.fns.usda.gov/TN/healthy-schools.html. As the site shows, there are a wide range of resources from which districts may draw when implementing a local wellness program.

In Texas, the growing body of state law and regulation—from the Texas Public School Nutrition Policy promulgated by the Texas Commissioner of Agriculture to the various health and wellness requirements found elsewhere within this update—form a policy context that is more specific than in many other states. The particular challenge for Texas districts is weaving these statutory and regulatory threads into programs and activities that promote student health generally.

To assist districts with that task, Policy Service recently published a ***Starting Points*** policy development toolkit on the subject. Available via MyTASB to superintendents and policy administrators, the ***Starting Points*** can be found at https://www.tasb.org/docs–mytasb/gov_svcs/policy_svc/wellness_sp/index.shtml.cfm.

FFA (LOCAL) STUDENT WELFARE
WELLNESS AND HEALTH SERVICES

The new federal "wellness policy" (described above) renders your current (LOCAL) policy no longer adequate and we therefore recommend its deletion. The mandated wellness policy must explicitly encompass nutrition

education, physical activity, and school-based activities designed to promote student wellness. We recommend that you establish the collaborative framework required by federal law and use the new ***Starting Points*** policy development tool kit to recreate a (LOCAL) policy at this code.

FNAB (LEGAL) STUDENT EXPRESSION
USE OF SCHOOL FACILITIES FOR NONSCHOOL PURPOSES

To assist districts in addressing the requirements of the Equal Access Act, TASB attorneys have added from federal statute three definitions under LIMITED OPEN FORUM IN SECONDARY SCHOOLS: "secondary school," "meeting," and, on page 2, "sponsorship."

The 1984 Equal Access Act provides that a public secondary school establishes a "limited open forum" whenever it grants a noncurriculum-related student group access to meet on school premises during noninstructional time. In doing so, the school limits its ability to deny access to student groups based solely on their viewpoint or the content of their speech. The absence or presence of a limited open forum has been central to legal challenges brought against an increasing number of school districts.

The choice of whether or not to permit a limited open forum and the implications of that choice for distribution of nonschool literature by students and for nonschool use of school facilities by students are complex. To assist districts in developing or refining FNAA(LOCAL) and FNAB(LOCAL) policies that tease out these knots, Policy Service has issued a ***Starting Points*** policy development tool kit. Available via MyTASB to superintendents and policy administrators, the ***Starting Points*** can be found at http://www.tasb.org/docs–mytasb/gov_svcs/policy_svc/amendment_sp/overview.shtml.cfm.

FNCF (LEGAL) STUDENT CONDUCT
ALCOHOL AND DRUG USE

Recitations of Education Code 37.006 and 37.007—specifying disciplinary consequences for possession or use of alcohol, marijuana or a "controlled substance," or a dangerous drug—have been deleted. These provisions are found at FOC (PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM) and FOD (EXPULSION).

In its place are direct statements regarding the alcohol and drug criminal offenses:

- At CRIMINAL OFFENSE, language from Education Code 37.122 has been added, defining as a Class C misdemeanor possession or use of an intoxicating beverage on school grounds or at an athletic event involving a school.
- At DRUG–FREE ZONES appears text from Health and Safety Code 481.134 enhancing the criminal penalties for a person who knowingly or intentionally possesses a controlled substance on a school bus or within 1,000 feet of a district property.

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

As at DGBA(LEGAL), RECORD OF PROCEEDINGS, on page 4, has been amended to include an excerpt from TEA rules adopted in July 2004 and addressing what constitutes a "record" for appeals brought under Education Code 7.057.

The record upon which the commissioner of education decides an appeal must include:

- acceptable tape recordings or transcripts of the local hearing
- all evidence admitted
- all offers of proof

- all written pleadings, motions, and intermediate rulings
- a description of matters officially noticed
- the recommendation of the independent hearing examiner, if applicable
- a tape or transcript of the oral argument before the board
- the decision rendered by the board

These rules replaced previous hearing rules, adopted in 1993, when hearings were *de novo*. The rules were updated in July 2004 to reflect the fact that appeals are now conducted on the basis of a review of the substantial evidence as presented by the record.

FO (LEGAL) STUDENT DISCIPLINE

On November 7, 2005, Attorney General Greg Abbott ruled that HB 383—a Family Code amendment from the 79th regular session—did NOT impair the ability of a professional employee of a school district to administer corporal punishment.

The ruling (published at http://www.oag.state.tx.us/opinions/ga/ga0374.pdf) responds to a July 27 request from Commissioner of Education Shirley Neeley after the passage of HB 383 that stated, in part:

> "Only the following persons may use corporal punishment for the reasonable discipline of a child:
>
> - the parent or grandparent of the child;
> - a stepparent of the child who has the duty of control and reasonable discipline of the child; and
> - an individual who is a guardian of the child and who has the duty of control and reasonable discipline of the child."

The commissioner queried whether the legislation applied to corporal punishment administered within a school setting and went on to inquire whether corporal punishment may be administered without parental consent. The attorney general concluded that the new law:

> "does not prohibit the use of corporal punishment by school districts. Therefore a professional school district employee may utilize corporal punishment to the extent permitted by other state law and school district policies. Additionally, a school district may adopt a policy authorizing corporal punishment without the permission of persons [listed in the cited passage]."

The attorney general's analysis is consistent with that of TASB attorneys this summer: the intent of the language was to clearly empower grandparents, stepparents, and guardians to use corporal punishment without fear of a *de facto* claim of child abuse. Moreover, the legislature left intact existing authority permitting districts to administer corporal punishment. Believing that sufficient legal authority existed for school personnel to administer corporal punishment, TASB Legal Services did not include the HB 383 provisions in FO(LEGAL) policy at Update 76, the first of the post-legislative updates, nor is it included at Update 77.

FODA (LEGAL) EXPULSION
JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

At FEES, on page 4, has been added a provision from HB 1687 prohibiting a juvenile justice alternative education program from charging fees "except as otherwise provided by law." This legislation, from the 79th regular session, became effective June 18, 2005.

FOF (LEGAL) STUDENT DISCIPLINE
STUDENTS WITH DISABILITIES

As indicated in notes accompanying the EHBA series policies in this update, the incorporation of changes arising from the IDEA reauthorization and recent commissioner's rules prompted TASB attorneys to closely

reevaluate policies pertaining to disabled students. This policy, pertaining to the discipline of students with disabilities, was similarly redeveloped and incorporates legislative changes as well.

Changes of note:

- On page 1, SPECIAL EDUCATION STUDENTS now includes language from HB 283 from the 79th regular session. Effective June 18, 2005, the legislation requires the Student Code of Conduct to withhold discipline of a special education student for "bullying, harassment, or making hit lists" until the ARD committee has reviewed the conduct.
- At INTERIM ALTERNATIVE EDUCATIONAL SETTING, on page 4, is a new statutory provision that permits a district to remove a student to an interim alternative placement (such as a DAEP) for up to 45 days if the student has inflicted serious bodily injury upon another person on school premises or at a school function under the jurisdiction of the state or a district, regardless of whether the conduct was a manifestation of the student's disability. A definition of SERIOUS BODILY INJURY, on page 5, has been added from the federal law as well.
- PLACEMENT DURING APPEALS, on page 6, has been revised to reflect the fact that a district may now require a student to remain in a DAEP pending an appeal, but the district must arrange an expedited hearing.

GF (LEGAL) PUBLIC COMPLAINTS

As with DGBA(LEGAL) and FNG(LEGAL), RECORD OF PROCEEDINGS has been amended to include an excerpt from TEA rules adopted in July 2004 and addressing what constitutes a "record" for appeals brought under Education Code 7.057.

The record upon which the commissioner of education decides an appeal must include:

- acceptable tape recordings or transcripts of the local hearing
- all evidence admitted
- all offers of proof
- all written pleadings, motions, and intermediate rulings
- a description of matters officially noticed
- the recommendation of the independent hearing examiner, if applicable
- a tape or transcript of the oral argument before the board
- the decision rendered by the board

These rules replaced previous hearing rules, adopted in 1993, when hearings were *de novo*. The rules were updated in July 2004 to reflect the fact that appeals are now conducted on the basis of a review of the substantial evidence as presented by the record.

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 B: LOCAL GOVERNANCE

BA	BOARD LEGAL STATUS
BAA	Powers and Duties
BB	BOARD MEMBERS
BBA	Eligibility/Qualifications
BBB	Elections
BBBA	Reporting Campaign Funds
BBC	Vacancies and Removal From Office
BBD	Training and Orientation
BBE	Authority
BBF	Ethics
BBFA	Conflict of Interest Disclosures
BBFB	Prohibited Practices
BBG	Compensation and Expenses
BBH	Conventions, Conferences, and Workshops
BC	BOARD MEMBERSHIPS
BD	BOARD INTERNAL ORGANIZATION
BDA	Officers and Officials
BDAA	Duties and Requirements of Board Officers
BDAE	Duties and Requirements of Depository
BDAF	Selection and Duties of Chief Tax Officials
BDB	Internal Committees
BDD	Attorney
BDE	Consultants
BDF	Citizen Advisory Committees
BE	BOARD MEETINGS
BEC	Closed Meetings
BED	Public Participation
BEE	News Coverage
BEF	Staff Participation
BF	BOARD POLICIES
BG	BOARD SELF-EVALUATION
BI	ADMINISTRATIVE GOALS AND OBJECTIVES

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 B: LOCAL GOVERNANCE

BJ	SUPERINTENDENT
BJA	Qualifications and Duties
BJB	Recruitment and Appointment
BJC	Contract
BJCA	Travel
BJCB	Professional Development
BJCC	Consulting
BJCD	Evaluation
BJCE	Dismissal
BJCF	Nonrenewal
BJCG	Retirement or Resignation
BK	ADMINISTRATIVE ORGANIZATION
BKA	Organization Charts
BKB	Line and Staff Relations
BM	ADMINISTRATIVE COUNCILS, CABINETS, AND COMMITTEES
BP	ADMINISTRATIVE REGULATIONS
BQ	PLANNING AND DECISION-MAKING PROCESS
BQA	District-Level
BQB	Campus-Level
BR	REPORTS

REQUIRED TRAINING

Each Trustee must complete any training required by the State Board of Education. *Education Code 11.159*

Continuing education for Board members includes orientation sessions, an annual team building session with the Board and the Superintendent, and specified hours of continuing education based on identified needs.

LOCAL ORIENTATION

All Board members shall receive a local District orientation and an orientation to the Texas Education Code.

NEW MEMBERS

New Board members shall participate in a local orientation session within 60 days before or after their election or appointment. The purpose of this orientation is to familiarize new Board members with local Board policies and procedures and District goals and priorities.

All newly elected Board members shall receive the orientation to the Texas Education Code within the first year of service. The orientation shall be delivered by regional education services centers and shall be three hours in length.

SITTING MEMBERS

All sitting Board members shall receive a basic orientation to the Texas Education Code and relevant legal obligations. The orientation will have special but not exclusive emphasis on statutory provisions related to Texas school district governance. The orientation shall be delivered by regional education services centers and shall be three hours in length. Topics shall include, but not be limited to, Texas Education Code, Chapter 26 (Parental Rights and Responsibilities), and Texas Education Code, Section 28.004 (Local School Health Education Advisory Council and Health Education Instruction). [See BDF, EHAA, and FNG]

LEGISLATIVE UPDATES

After each session of the Texas Legislature, each Board member shall receive an updated session from a regional education service center or any registered provider to the basic orientation to the Texas Education Code. The update session shall be of sufficient length to familiarize Board members with major changes in the Education Code and other relevant legal developments related to school governance. A Board member who has attended a basic orientation session given by a service center that incorporates the most recent legislative changes is not required to attend an additional legislative update.

TEAM BUILDING

The entire Board, including all Board members, shall annually participate with the Superintendent in a team building session facilitated by the regional education service center or any registered provider. The team building session shall be of a length deemed appropriate by the Board, but generally at least three hours. 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 assessment of needs shall be based on the framework for governance leadership and shall be used to plan continuing education activities for the governance leadership team for the upcoming year.

CONTINUING EDUCATION

In addition to the orientation and team building training, all Board members shall receive additional continuing education on an annual basis, in fulfillment of assessed needs and based on the framework for governance leadership. [See BBD(EXHIBIT)] The continuing education sessions may be provided by the regional education service centers or other registered providers.

To the extent possible, the entire Board shall participate in continuing education programs together.

FIRST YEAR

In their first year of service, Board members shall receive at least ten hours of continuing education in fulfillment of assessed needs. Board members may fulfill up to five of the required ten hours of continuing education 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.

SUBSEQUENT YEARS

Following the first year of service, Board members shall receive at least five hours of continuing education annually in fulfillment of assessed needs. Board members may fulfill the five hours of continuing education 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.

PRESIDENTS

The Board President shall receive continuing education related to leadership duties of the Board President as some portion of the annual requirement.

LOCAL TRAINING

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

19 TAC 61.1

SPECIFIC OPEN MEETINGS TRAINING

Within 90 days of taking the oath of office, each Board member shall complete a course of training regarding the responsibilities of the Board and its members under Chapter 551 of the Texas Government Code. The office of the attorney general may provide the training and may also approve other acceptable sources of training.

Board members sworn in before January 1, 2006, must complete the training required by Government Code 551.005 before January 1, 2007.

Gov't Code 551.005

SPECIFIC OPEN RECORDS TRAINING

Within 90 days of taking the oath of office or assuming duties as a public official, each Board member and public information coordinator shall complete a course of training regarding the responsibilities of the District and District officers and employees under Chapter 552 of the Texas Government Code. The office of the attorney general may provide the training and may also approve other acceptable sources of training.

A Board member may designate a public information coordinator to satisfy the training requirements of Government Code 552.012 for the Board member if the public information coordinator is primarily responsible for administering the responsibilities of the Board member or District under Government Code Chapter 552.

Board members and public information coordinators who have been sworn in or assumed duties before January 1, 2006, must complete the training required by Government Code 552.012 before January 1, 2007.

Gov't Code 552.012

ANNUAL COMPLIANCE ANNOUNCEMENT

Annually, at the meeting at which the call for election of Board members is normally scheduled, the 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 the required continuing education. The President shall cause the minutes to reflect the information and shall make this information available to the local media.

TRAINING DURING MEETINGS

No continuing education shall take place during a Board meeting unless that meeting is called for the delivery of Board training. Continuing education may take place prior to or after a legally called Board meeting in accordance with the Government Code.

19 TAC 61.1

CONVENTIONS AND WORKSHOPS

Board members may attend regional, state, or national conventions or workshops without such gatherings being construed as “meetings” under the Open Meetings Act. However, no formal action shall be taken at such conventions or workshops concerning District business, and any discussion of public business shall be merely incidental to the convention or workshop. *Gov’t Code 551.001(4)*

COMMENDATION

Annually, the State Board shall commend those Board-Superintendent teams that receive at least eight hours of the continuing education in the local orientation and team-building sessions as an entire Board-Superintendent team. *19 TAC 61.1*

PUBLIC INFORMATION COORDINATOR

The Superintendent shall fulfill the responsibilities of the public information coordinator and shall receive, on behalf of Board members, the training specified by Government Code 552.012.

SUBSTANTIAL INTEREST AFFIDAVIT AND ABSTENTION

If a local public official or a person related to a local public official in the first degree by either affinity or consanguinity has a substantial interest in a business entity or in real property, the local public official, before a vote or decision on any matter involving the business entity or the real property, shall file an affidavit with the official Board recordkeeper stating the nature and extent of the interest and shall abstain from further participation in the matter if:

1. In the case of a substantial interest in a business entity, the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or

2. In the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

Local Gov't Code 171.004

CONTRACTS PERMITTED

The Board may contract with a business entity in which a Trustee has a substantial interest if the Trustee follows the disclosure and abstention procedure set out above. *Atty. Gen. Op. JM–424 (1986)*

DEFINITION OF SUBSTANTIAL INTEREST

A person has a substantial interest in a business entity if any of the following is the case:

1. The person owns at least:

   a. Ten percent of the voting stock or shares of the business entity, or

   b. Either ten percent or $15,000 of the fair market value of the business entity.

2. Funds received by the person from the business entity exceed ten percent of the person's gross income for the previous year.

A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of $2,500 or more.

The local public official is considered to have a substantial interest if a person related in the first degree by either affinity or consanguinity to the local public official, as determined under Government Code, Chapter 573, Subchapter B [see DBE], has a substantial interest as defined above.

Local Gov't Code 171.002

DEFINITION OF LOCAL PUBLIC OFFICIAL

"Local public official" shall mean a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), central appraisal district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature. *Local Gov't Code 171.001(1)*

DEFINITION OF BUSINESS ENTITY

"Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law. *Local Gov't Code 171.001(2)*

MAJORITY CONFLICT

If a Trustee is required to file and does file an affidavit, that Trustee shall not be required to abstain from further participation in the matter or matters requiring such an affidavit if a majority of the trustees are likewise required to file and do file affidavits of similar interests on the same official action. *Local Gov't Code 171.004*

SEPARATE VOTE ON BUDGET

The Board shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a Trustee has a substantial interest. The affected Trustee shall not participate in that separate vote, but may vote on a final budget if he or she filed the affidavit and the matter in which he or she is concerned has been resolved. *Local Gov't Code 171.005*

VIOLATIONS

Except as provided above, the local public official shall not knowingly:

1. Participate in a vote or decision on a matter involving a business entity or real property in which the local public official has a substantial interest if it is reasonably foreseeable that an action on the matter will have a special economic effect on the business entity or value of the property that is distinguishable from the effect on the public.

2. Act as surety for a business entity that has a contract, work, or business with the District.

3. Act as surety on any official bond required of an officer of the District.

Local Gov't Code 171.003

If a Trustee has a substantial interest in a bank with which the District is considering entering into a loan or other transaction besides a depository contract, then the Trustee must comply with the affidavit and abstention requirements. *Atty. Gen. Op. JM–1082 (1989); Local Gov't Code 171.004*

VOIDABLE ACTIONS

The finding by a court of a violation of Local Government Code Chapter 171 does not render an action of the Board voidable un-

less the measure that was the subject of an action involving a conflict of interest would not have passed without the vote of the person who violated the chapter. *Local Gov't Code 171.006*

CONFLICTS DISCLOSURE STATEMENT

A local government officer shall file the required conflicts disclosure statement, as adopted by the Texas Ethics Commission, with respect to an applicable vendor if the vendor has contracted with the District or the District is considering doing business with the vendor; and the vendor has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income; or has given to the local government officer or a family member of the officer one or more gifts, other than gifts of food, lodging, transportation, or entertainment accepted as a guest, that have an aggregate value of more than $250 in the 12-month period preceding the date the officer becomes aware that such a contract has been executed or the local governmental entity is considering doing business with the vendor.

A local government officer shall file the conflicts disclosure statement with the records administrator of the District not later than 5:00 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement.

VIOLATIONS

A local government officer commits a Class C misdemeanor if the officer knowingly violates this law. It is a defense to prosecution that the local government officer filed the required conflicts disclosure statement not later than the seventh business day after receiving notice of the violation.

Local Gov't Code 176.003–.004

DEFINITION OF LOCAL GOVERNMENT OFFICER

"Local government officer" means a member of the governing body of a local governmental entity; or a director, Superintendent, administrator, president, or other person designated as the executive officer of the local governmental entity. *Local Gov't Code 176.001(4)*

DEFINITION OF RECORDS ADMINISTRATOR

"Records administrator" means the director, Superintendent, or other person responsible for maintaining the records of the District. *Local Gov't Code 176.001(5)* [See CPC]

INTERNET POSTING REQUIREMENT

The District shall provide access on the District's Internet Web site to the required conflicts disclosure statements and questionnaires filed with the records administrator. *Local Gov't Code 176.009*

AFFIDAVIT DISCLOSING INTEREST IN PROPERTY

If a public servant has a legal or equitable interest in any property that is to be acquired with public funds, and has actual notice of the acquisition or intended acquisition of the property, the public servant shall file an affidavit as follows:

1. The affidavit shall be filed with the county clerk(s) of the county or counties in which the property is located and of the county in which the public servant resides within ten days before the date on which the property is to be acquired by purchase or condemnation.

2. The affidavit must:

   a. State the name of the public servant and the public office title or job designation held or sought.

   b. Fully describe the property.

   c. Fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest and the date the interest was acquired.

   d. Include a verification of the truth of the information in the affidavit. [See BBFA(EXHIBIT)]

   e. Include an acknowledgment of the same type required for recording a deed in the deed records of a county.

Gov't Code 553.002, 553.003

VIOLATIONS

A public servant who fails to file the affidavit when required is presumed to have the intent to commit an offense. An offense under this section is a Class A misdemeanor. *Gov't Code 553.003*

DEFINITION OF PUBLIC SERVANT — GOVERNMENT CODE

"Public servant" shall mean a person who is elected, appointed, employed, or designated, even if not yet qualified for or having assumed the duties of office, as:

1. A candidate for nomination or election to public office, or

2. An officer of government.

Gov't Code 553.001

TRUSTEE FINANCIAL STATEMENT

The Board by resolution adopted by majority vote may require each member of the Board to file the financial statement required of state officers under Subchapter B, Chapter 572, Government Code, with the Board and the Texas Ethics Commission.

Not later than the 15th day after the date the Board adopts this resolution, the Board shall deliver a certified copy of the resolution to

the Texas Ethics Commission. A resolution applies beginning on January 1 of the second year following the year in which the resolution is adopted. A member of a board that has adopted a resolution is not required to include, in a financial disclosure statement, financial activity occurring before January 1 of the year following the year in which the resolution is adopted.

The Commissioner by order shall require the members of the Board to file the financial statement required of state officers under Subchapter B, Chapter 572, Government Code, in the same manner as the members of the Board that have adopted a resolution if the Commissioner determines that:

1. A Board member has failed to comply with filing and recusal requirements applicable to the member under Chapter 171, Local Government Code;

2. The District financial accounting practices are not adequate to safeguard state and District funds; or

3. The District has not met a standard set by the Commissioner in the financial accountability rating system.

The Commissioner may require the filing of financial statements covering not more than three fiscal years and beginning on January 1 of the second year following the date of the Commissioner's order. A member of a board subject to an order issued by the Commissioner is not required to include, in a financial disclosure statement, financial activity occurring before January 1 of the year following the year in which the order is issued. The Commissioner may renew the requirement if the Commissioner determines that a condition described above continues to exist.

VIOLATIONS

A Trustee serving in a school district that has adopted a resolution or that is subject to an order issued by the Commissioner commits an offense if the Trustee fails to file the statement required by the resolution or order.

An offense under this section is a Class B misdemeanor.

Education Code 11.064

Note: See also CBB for requirements when federal funds are involved.

See the following pages for forms that may be used for compliance with disclosure requirements.

Exhibit A: Affidavit Disclosing Substantial Interest in a Business Entity or Real Property, as defined in Local Government Code 171.002 — 2 pages

Exhibit B: Affidavit Disclosing Interest in Property, under Government Code Chapter 553, Subchapter A — 2 pages

ADDITIONAL DISCLOSURE: The conflicts disclosure statement required of members of the Board and the Superintendent by Local Government Code 176.003–.004 is available on the Texas Ethics Commission Web site at http://www.ethics.state.tx.us. See DBD(LOCAL) to determine if the Board has extended this filing requirement to other employees.

EXHIBIT A

AFFIDAVIT DISCLOSING SUBSTANTIAL INTEREST
IN A BUSINESS ENTITY OR REAL PROPERTY

STATE OF TEXAS
COUNTY OF Hood

I, _____ *(name)*, as a local public official of Granbury ISD, make this affidavit and hereby on oath state the following: I, or a person(s) related to me in the first degree, have a substantial interest in:

[ ] a business entity, as those terms are defined in Local Government Code Sections 171.001–171.002, that would experience a special economic effect distinguishable from its effect on the public by a vote or decision of the Board.

or

[ ] real property for which it is reasonably foreseeable that the Board's action or my action will have a special economic effect on the value of the property distinguishable from its effect on the public by a vote or decision of the Board.

The business entity or real property is *(name/address of business or description of property)*: _____.

_____ *("I" or name of relative and relationship)* (have)(has) a substantial interest in this business entity or real property as follows: *(check all that apply)*

[ ] Ownership of ten percent or more of the voting stock or shares of the business entity.

[ ] Ownership of ten percent or more of the fair market value of the business entity.

[ ] Ownership of $15,000 or more of the fair market value of the business entity.

[ ] Funds received from the business entity exceed ten percent of _____ *(my, her, his)* gross income for the previous year.

[ ] Real property is involved and _____ *(I, she, he)* (have)(has) an equitable or legal ownership with a fair market value of at least $2,500.

The statements contained herein are based on my personal knowledge and are true and correct.

Upon the filing of this affidavit with the Board's Secretary, I affirm that I shall abstain from participation in any decision involving this business entity or real property, unless permitted according to Local Government Code 171.004(c).

Signed this _____ day of _____ *(month)*, _____ *(year)*.

Signature of official _____

Title _____

ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF Hood

Sworn to and subscribed before me on this _____ day of _____ *(month)*, _____ *(year)*.

_____, Notary Public in and for the State of Texas

EXHIBIT B

AFFIDAVIT DISCLOSING INTEREST IN PROPERTY

STATE OF TEXAS
COUNTY OF Hood

I, _____ *(name of affiant), (check one of the following)*

_____ as an officer of, or

_____ as a Board candidate for,

Granbury ISD make this affidavit and hereby on oath state the following:

I have a legal or equitable interest in property to be acquired with public funds, either by purchase or condemnation.

The property is fully described as follows:

_____.

The nature, type, and amount of interest, including percentage of ownership, I have in the property is:

_____.

I acquired my interest in the property on _____ *(date)*.

I swear that the information in this affidavit is personally known by me to be correct and contains the information required by Section 553.002, Government Code.

Signed this _____ day of _____ *(month)*, _____ *(year)*.

Signature of affiant _____

Office or public title _____

ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF Hood

BEFORE ME, _____ *(here insert the name and character of the officer administering the oath)* on this day personally appeared _____ *(affiant)* known to me (or proved to me on the oath of _____ or through _____ *[description of identity card or other document]*) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____ *(month)*, _____ *(year)*.

_____, Notary Public in and for the State of Texas

NOTE: *This affidavit must be filed with the county clerk(s) of the county or counties in which the property is located and of the county in which the public servant resides within ten days before the date on which the property is to be acquired by purchase or condemnation.*

RESTRICTIONS ON PUBLIC SERVANTS — PENAL CODE

"Public servant" shall mean a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if the person has not yet qualified for office or assumed his or her duties:

1. An officer, employee, or agent of government; or
2. a candidate for nomination or election to public office.

Penal Code 1.07(a)(41)(A), (E)

Prohibited activities are covered by, but are not limited to, the following:

BRIBERY

1. A public servant shall not intentionally or knowingly offer, confer, agree to confer on another, solicit, accept, or agree to accept a benefit:
   a. As consideration for the public servant's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant.
   b. As consideration for a violation of a duty imposed on the public servant by law.
   c. That is a political contribution as defined by Title 15 of the Election Code or an expenditure made and reported as a lobbying expense in accordance with Government Code, Chapter 305, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion, if such exercise of official discretion would not have been taken or withheld but for the benefit.

   "Benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

   Penal Code 36.01(3), 36.02

ILLEGAL GIFTS

2. A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions shall not solicit, accept, or agree to accept any benefit from a person the public servant knows is interested in or likely to become interested in any such transactions of the District, unless a statutory exception applies. *Penal Code 1.07(41)(A), (E), 36.08(d), 36.10*

   A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under this section

may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax exempt charitable organization formed for educational, religious, or scientific purposes. *Penal Code 36.08(i)*

HONORARIA AND EXPENSES

3. A public servant commits a class A misdemeanor offense if he or she solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for his or her official position or duties. However, a public servant is not prohibited from accepting transportation and lodging expenses or meals in connection with a conference or similar event in which he or she renders services, such as addressing an audience or engaging in a seminar, to the extent those services are more than merely perfunctory. *Penal Code 36.07*

ABUSE OF OFFICE

4. A public servant shall not, with intent to obtain a benefit or with intent to harm or defraud another, intentionally or knowingly violate a law relating to the office or misuse District property, services, personnel, or any other thing of value, belonging to the District, that has come into his or her custody by virtue of his or her office or employment. *Penal Code 39.02(a)*

"Law relating to the office" means a law that specifically applies to a person acting in the capacity of a public servant and that directly or indirectly imposes a duty on the public servant or governs the conduct of the public servant. *Penal Code 39.01(1)*

"Misuse" means to deal with property contrary to:

a. An agreement under which the public servant holds the property;

b. A contract of employment or oath of office of a public servant;

c. A law, including provisions of the General Appropriations Act specifically relating to government property, that prescribes the manner of custody or disposition of the property; or

d. A limited purpose for which the property is delivered or received.

Penal Code 39.01(2)

NEPOTISM

5. Except as provided by law, 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:

a. The person is related to the public official by blood (consanguinity) within the third degree or by marriage (affinity) within the second degree [see below]; or

b. 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, 573.041; Atty. Gen. Op. JC–0184 (2000)

DEFINITION OF PUBLIC OFFICIAL

"Public official" shall mean:

c. An officer of this state or of a district, county, municipality, precinct, school district, or other political subdivision of this state; or

d. An officer or member of a board of this state or of a district, county, municipality, school district, or other political subdivision of this state.

Gov't Code 573.001(3)

The nepotism law governs the hiring of an individual, whether the individual is hired as an employee or an independent contractor. *Atty. Gen. Op. DM–76 (1992)*

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 individual if the official knows the individual is ineligible. *Gov't Code 573.083*

A Trustee of a board that has delegated to the Superintendent final authority for personnel selection is not subject to the nepotism provisions to the extent of such delegation. *Atty. Gen. Op. GA–123 (2003)*

Nevertheless, a Trustee may remain the relevant public official for nepotism purposes concerning some employment decisions, such as renewal. *Atty. Gen. Op. GA–177 (2004)*

FORMER TRUSTEE EMPLOYMENT

6. A Trustee of the District may not accept employment with the District until the first anniversary of the date the Trustee's membership on the Board ends. *Education Code 11.063*

INCOMPATIBILITY OF OFFICE

7. One person may not occupy two legally incompatible offices. Offices are legally incompatible when the faithful and independent exercise of one would necessarily interfere with the faithful and independent exercise of the other. A person may not serve in one branch of government while exercising any

powers properly attached to either of the other branches of government. *Texas Constitution, Art. II, Sec. 1; State v. Martin, 51 S.W.2d 815 (Tex. Civ. App. 1932); Thomas v. Abernathy County Line ISD, 290 S.W. 15 (Tex. Comm. App. 1927); Turner v. Trinity ISD, 700 S.W.2d 1 (Tex. Ct. App. 1983); Atty. Gen. Op. JM–634 (1987)*

DEPOSITORY CONFLICT

8. A Trustee who is a stockholder, officer, director, or employee of a bank that has bid to become a depository for the District shall not vote on the awarding of a depository contract to said bank. *Education Code 45.204*

TEXTBOOK VIOLATIONS – COMMISSIONS

9. A Trustee commits a class B misdemeanor offense if the Trustee receives any commission or rebate on any textbooks used in the schools with which the Trustee is associated. *Education Code 31.152(a)*

TEXTBOOK VIOLATIONS – CONFLICT

10. A Trustee commits a class B misdemeanor offense if the Trustee accepts a gift, favor, or service that:

    a. Is given to the person or the person's school;

    b. Might reasonably tend to influence a Trustee in the selection of a textbook; and

    c. Could not be lawfully purchased with funds from the state textbook fund.

    "Gift, favor, or service" does not include staff development, in-service, or teacher training; or instructional materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.

    Education Code 31.152(b)–(d)

TEXTBOOK VIOLATIONS – PURCHASE AND DISTRIBUTION

11. A Trustee commits a Class C misdemeanor offense if the Trustee knowingly violates any law providing for the purchase or distribution of free textbooks for the public schools. *Education Code 31.153*

APPRAISAL FUNCTION

Appraisal of taxable property in the District shall be conducted by the countywide appraisal district(s). *Tax Code 6.01(b)*

REGISTRATION REQUIREMENTS

In accordance with the Property Taxation Professional Certification Act, the following District tax officials shall be registered with the Board of Tax Professional Examiners:

1. Tax assessor-collector.
2. Tax collector.
3. Chief administrator, as designated by the Board, of a District's assessment and/or collecting functions.
4. All persons engaged in appraisals of real or personal property for ad valorem tax purposes.
5. Other persons, as required by the chief administrator, who perform assessment or collection functions for a District.

Occupations Code 1151.151

SELECTION OF ASSESSOR AND COLLECTOR

The Board may, for a tax assessor or collector:

1. Require the county to assess and collect taxes for the school district. *Tax Code 6.22(c)*
2. Contract with another taxing unit or the countywide appraisal district(s) to assess and/or collect. *Tax Code 6.24(a)*
3. Employ a person to assess or collect taxes. *Education Code 45.231*

DUTIES

The assessor and collector shall assess, collect, or assess and collect taxes as applicable. *Tax Code 6.23(b)*

ASSESSOR

The assessor or designated officer or employee shall calculate the effective tax rate and the rollback tax rate and submit these rates to the Board. *Tax Code 26.04(c), (e)*

The assessor shall:

1. Calculate the tax on each property by applying the adopted rates to the appraised value. *Tax Code 26.09*
2. Prepare and mail a tax bill to each person, and authorized agent, in whose name property is listed on the tax roll. *Tax Code 31.01(a)*
3. Perform other legal duties. *Tax Code 6.23, 26.15*

COLLECTOR

The collector shall:

1. Certify to the Board an estimate of the collection rate for the current year, the amount of debt taxes, if applicable, and other required information. *Tax Code 26.04(b)*

2. At the request of any person, issue a certificate showing the amount of delinquent taxes, penalties, and interest due the District on a property according to the District's current tax records. If the collector collects taxes for more than one taxing unit, the certificate must show the amount of delinquent taxes, penalties, and interest due to each of those taxing units. *Tax Code 31.08(a)*

3. At the request of a property owner, or his or her agent, issue a receipt showing the amount of taxes imposed by the District in the year(s) for which information is requested and the amount of taxes paid. *Tax Code 31.075*

4. Prepare and submit to the Board each month a written report made under oath accounting for all taxes collected for the District during the preceding month. *Tax Code 31.10(a)*

5. Prepare and submit to the Board by the 60th day following the last day of the fiscal year an annual report made under oath accounting for all taxes collected or delinquent on property taxed by the District during the preceding 12-month period. *Tax Code 31.10(b)*

6. At least monthly, deposit in the District's depository(ies) all taxes collected for the District. If taxes are collected by the collector or officer of another taxing unit or the appraisal district, deposits shall be made daily, unless the Board, by official action, provides that deposits may be made less often than daily. *Tax Code 31.10(c), (d)*

7. Refund overpayments or erroneous payments of taxes as provided by law. *Tax Code 31.11*

8. Refund duplicate payments of taxes as provided by law and inform the District's auditor monthly of refunds made during the preceding month. *Tax Code 31.111*

9. Prepare a current and cumulative delinquent tax roll each year. *Tax Code 33.03*

10. At least once each year deliver a delinquent tax notice to each person whose name appears on the delinquent tax rolls, unless the person's address is undetermined or a tax bill was not mailed because the collector did not send a tax bill for an amount less than $15. *Tax Code 31.01(f), 33.04*

11. Perform other legal duties. *Tax Code 6.23, 33.21–33.25*

COLLECTOR'S BOND

A tax collector who is a District employee shall give bond conditioned on the faithful performance of duties. The bond shall be

made payable to and be approved by the Board in an amount determined by the Board.

If the District's taxes are collected by the collector of another taxing unit, by an officer or employee of another taxing unit or of an appraisal district, or by any other person, the Board may require the person to give bond conditioned on the faithful performance of duties. The bond shall be payable to, approved by, and paid for by the Board in an amount determined by the Board.

The District shall pay the premium for the required bond from its general fund or as provided by intergovernmental contract.

Tax Code 6.29

LIMIT ON CONTRACTING

The District may not enter into a contract relating to the performance of an activity governed by Title 1 of the Tax Code (i.e., the Property Tax Code) with a member of the board of directors of the appraisal district or districts in which the District participates or with a business entity in which a member of the appraisal board has a substantial interest.

An individual has a substantial interest in a business entity if the combined ownership of the individual and the individual's spouse is at least ten percent of the voting stock or share of the business entity or the individual or the individual's spouse is a partner, limited partner, or officer of the business entity. "Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or other entity recognized by law.

Tax Code 6.036(c), (d)

SCHOOL HEALTH ADVISORY COUNCIL

The Board shall establish a local school health advisory council to assist the District in ensuring that local community values and health issues are reflected in the District's health education instruction. The Board shall appoint members to the council, a majority of which must be parents of students enrolled in the District and who are not employed by the District. The Board may also appoint one or more public school teachers, public school administrators, District students, health-care professionals, members of the business community, law enforcement representatives, senior citizens, clergy, representatives of nonprofit health organizations, or representatives of another group. [See EHAA]

STATEMENT FOR PUBLIC INSPECTION

The District shall publish in the student handbook and post on the District's Internet Web site, if the District has an Internet Web site, a statement of:

1. District policies adopted to ensure that elementary school, middle school, and junior high school students engage in at least 30 minutes per school day or 135 minutes per school week of physical activity;

2. The number of times during the preceding year the council has met;

3. District policies to ensure compliance with applicable vending machine and food service guidelines for restricting student access to vending machines; and

4. District policies and procedures that prescribe penalties for the use of tobacco products by students and others on school campuses or at school-sponsored or school-related activities.

CHANGES IN CURRICULUM

The District must consider the recommendations of the local school health advisory council before changing the District's health education curriculum or instruction.

Education Code 28.004

REQUIRED VENDOR DISCLOSURE

The Texas Ethics Commission shall adopt a conflict of interest questionnaire that requires disclosure of a vendor's affiliations or business relationships that might cause a conflict of interest with the District.

A vendor to the District shall file any required conflict of interest questionnaire with the appropriate records administrator not later than the seventh business day after the date that the vendor:

1. Begins contract discussions or negotiations with the District; or

2. Submits to the District an application, response to a request for proposals or bids, correspondence, or another writing related to a potential agreement with the District.

Local Gov't Code 176.006

ELECTRONIC FILING

The required questionnaire, including signature requirements, may be filed electronically in a form approved by the Commission. *Local Gov't Code 176.008*

LIST OF LOCAL GOVERNMENT OFFICERS

The records administrator for each district shall maintain a list of local government officers of the entity and shall make that list available to the public and any person who may be required to file a conflict of interest questionnaire. *Local Gov't Code 176.007* [See BBFA]

INTERNET POSTING

The District shall provide access on the District's Internet Web site to the required conflict of interest statements and questionnaires filed with the records administrator. *Local Gov't Code 176.009*

DEFINITIONS

For purposes of this policy:

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

Education Code 34.003; Trans. Code 541.201

AUTHORITY

The District may establish and operate an economical public school transportation system in the District. For that part of the system that the District operates directly, it shall employ bus drivers certified by the Department of Public Safety. *Education Code 34.007*

TRANSPORTATION FUNDING FOR ELIGIBLE STUDENTS

If the District operates a transportation system, the District is entitled to a state transportation allotment. The allotted funds are based on the cost of providing transportation services to students who live two or more miles from the school they attend. The Commissioner of Education cannot reduce the allotment because the District provides transportation for an eligible student to and from a child-care facility instead of the student's residence, if the transportation is provided within the approved routes of the District for the school the student attends. *Education Code 42.155*

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

HAZARDOUS CONDITIONS

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

TRANSPORTING STUDENTS TO SCHOOL

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

DESIGNATION OF CHILD–CARE FACILITY OR GRANDPARENT'S RESIDENCE

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

"Child-care facility" means a facility licensed, certified, or registered by the Department of Family and Protective Services to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers. *Human Resources Code 42.002(3)*

TRANSPORTATION TO A HIGHER PERFORMING SCHOOL

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

1. Has been identified for school improvement;

2. Has failed to make adequate yearly progress by the end of the first full school year after identification for school improvement;

3. Has had corrective action implemented by the District for failure to make adequate yearly progress by the end of the second full school year after identification for school improvement; or

4. Has failed to make adequate yearly progress after one full school year of corrective action.

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

TRANSPORTATION OF HOMELESS STUDENTS

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

1. If the homeless child lives in the district in which the school of origin is located, the district of origin will provide the child's transportation to and from the school of origin.

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

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

SCHOOL ACTIVITIES

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

1. Only school buses or motor buses may be used to transport 15 or more students; and

2. Passenger cars or passenger vans may be used to transport fewer than 15 students.

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

The operator of a passenger car or passenger van used to transport students to school or to a school activity shall ensure that the number of passengers does not exceed the designed capacity of

the vehicle and that each passenger is secured by a safety belt. *Education Code 34.003(c)*

WIRELESS COMMUNICATION DEVICES

A person may not use a wireless communication device while operating a passenger bus with a minor passenger on the bus except in case of emergency or if the passenger bus is not in motion. *Trans. Code 545.425*

ACCELERATED INSTRUCTION PROGRAMS

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

STANDEES

The District may not require or allow a child to stand on a moving bus or passenger van. *Education Code 34.004*

DISRUPTION OF TRANSPORTATION

Any person who intentionally disrupts, prevents, or interferes with the lawful transportation of students to and from school or activities sponsored by a school on a vehicle owned and/or operated by the District shall be guilty of a misdemeanor. *Education Code 37.126*

If the illegal act is conducted through use or exhibition of a firearm, the person shall be guilty of a felony. *Education Code 37.125*

TRANSPORTATION COMPANY OR SYSTEM

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

1. Requires its school bus drivers to have the qualifications required by and be certified in accordance with standards established by the Department of Public Safety;

2. Transports 15 or more students only in school buses or mass transit authority buses that meet or exceed safety standards for school buses established under Education Code 34.002;

3. Conducts all the following education programs with Board approval:

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

   b. A program to educate drivers of the buses to be used under the contract of the special needs and problems of public school students riding on the buses; and

   c. A program to educate public school students on bus riding safety and any special considerations arising from the use of the authority's or company's buses.

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

Education Code 34.008

CRIMINAL HISTORY RECORD

If the District contracts with a person for transportation services, the District shall obtain criminal history record information from any law enforcement or criminal justice agency relating to a person employed by the person as a bus driver or a person the person intends to employ as a bus driver. A person who contracts with the District to provide transportation services shall submit to the District the name and other identification data required to obtain the criminal history record information of such persons. If the District obtains information that such a person has been convicted of a felony or a misdemeanor involving moral turpitude, the District shall inform the chief personnel officer of the person with whom the District has contracted, and the person may not employ that person to drive a bus on which students are transported without the permission of the Board. *Education Code 22.084 (a), (b)*

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

COMMERCIAL TRANSPORTATION COMPANY

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

CAREER AND TECHNOLOGY PROGRAM

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

AUTHORIZATION TO PURCHASE OR LEASE VEHICLES

The District may purchase school motor vehicles through the Texas Building and Procurement Commission (BPC) or through competitive bidding. *Education Code 34.001(a)* [See CH]

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

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

PAYMENT

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

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

SAFETY STANDARDS

The District shall meet or exceed the safety standards for school buses established by the Department of Public Safety, with the advice of the BPC and TEA. If the District fails or refuses to meet these standards, it shall be ineligible to receive its transportation allotment until the first anniversary of the date the District begins compliance. *Education Code 34.002; Trans. Code 547.102; 37 TAC 14.51, 14.52*

NEW VAN PURCHASES OR LEASES

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

MAINTENANCE

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

CONTRACTS FOR USE, ACQUISITION, OR LEASE OF SCHOOL BUS

The Board may contract with any person for use, acquisition, lease, or lease with option or options to purchase school buses, if the Board determines such a contract to be economically advantageous to the District. Such a contract may have any lawful term of not less than two or more than ten years. Competitive bidding requirements apply to each contract for the purchase or lease of a

school bus, including a lease with an option to purchase, when the contract is valued at $20,000 or more. A school bus that is leased or leased with an option to purchase must meet or exceed safety standards set out in Education Code 34.002. *Education Code 34.009, 44.031(l)* [See CH]

REGISTRATION

District-owned vehicles used exclusively for the District are exempt from the state registration fee; however, they shall be registered in accordance with general statutes relating to motor vehicle registration. *Trans. Code 502.202*

IDENTIFICATION

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

SALE OF BUSES

If the District so requests, the BPC shall dispose of a school bus, but the District is not required to dispose of a bus through the BPC. *Education Code 34.006*

SCHOOL BUS ADVERTISING

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

ADVERTISING RULES

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

'ADVERTISEMENT'

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

MATERIAL AND LOCATION

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

NOTICES

ANNUAL NOTICE

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

NOTICE OF ACCIDENTS

The District shall also provide DPS written notification of any accident directly or indirectly involving a school bus operated by or for the District that bears advertising or another paid announcement. *37 TAC 14.67(a)(2)*

Notice must be received not more than five days from the date of the accident and shall include the following:

1. The name and address of the owner of the school bus;
2. The name and driver's license number of the school bus operator;
3. The date of the accident;
4. The city or county where the accident occurred; and
5. The investigating police agency.

37 TAC 14.67(c)

DELIVERY OF NOTICE

Notices to DPS may be delivered by facsimile, electronic mail, or mailed to the School Bus Transportation Safety Unit, Texas Department of Public Safety, Box 4087, Austin, TX 78773–0252. *37 TAC 14.67(d)*

NONSCHOOL USE

The Board may contract with nonschool organizations for use of school buses. *Education Code 34.010(a)*

The Board may provide services for the maintenance and operation of buses used by nonschool organizations in accordance with the contracts for such use. *Education Code 34.010*

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

- Records Management Officer, as prescribed by Local Government Code 203.023
- Records Administrator, as prescribed by Local Government Code 176.001 and 176.007 [See BBFA and CHE]
- Officer for Public Information, as prescribed by Government Code 552.201–.204 [See GBAA]
- Public Information Coordinator, as prescribed by Government Code 552.012 [See BBD]

GROUP HEALTH BENEFITS

The District shall participate in the uniform group coverage program established under Insurance Code 1579, as provided by Subchapter D of that chapter. The cost of the coverage shall be paid by the state, the District, and the employees as provided by Insurance Code 1579. *Education Code 22.004(a), (c)*

Districts that do not participate in the uniform group coverage program shall make available to their employees group health coverage that meets the substantive coverage requirements of Chapter 1251, Subchapter A, Chapter 1364, and Subchapter A, Chapter 1366, Insurance Code and any other law applicable to group health insurance policies issued in Texas and that is comparable to the basic health coverage provided under Insurance Code Chapter 1551. The cost of the coverage shall be shared by the employees and the District using the contributions by the state described by Insurance Code Subchapter F, Chapter 1579, or by Insurance Code Chapter 1580. *Education Code 22.004(b), (c)*

SELF–FUNDED HEALTH CARE PLAN

Except as otherwise provided above, the Board may establish a self-funded health care plan for District employees and their dependents. In implementing the plan, the Board shall establish a fund to pay all or part of plan-authorized costs for health care incurred by program participants. The fund consists of money contributed by the District and money deducted from the employee's salary for coverage, upon the employee's written authorization. *Education Code 22.005*

OPTIONAL COVERAGES

Districts participating in the uniform group coverage program may enter contracts to provide optional insurance coverages for District employees. *Education Code 22.004(j)*

UNIFORM GROUP COVERAGE PROGRAM

The Teacher Retirement System of Texas (TRS) shall implement and administer the uniform group coverage program described by the Texas School Employees Uniform Group Health Coverage Act. TRS shall establish plans of group coverages for employees participating in the program and their dependents. *Insurance Code 1579.051, 1579.101*

EMPLOYEE ELIGIBILITY

Participation in the program is limited to employees of participating districts who are full-time employees and to part-time employees who are participating members in TRS. Such an employee who applies for coverage during an open enrollment period prescribed by TRS is automatically covered by the catastrophic care coverage plan unless the employee:

1. Specifically waives coverage;
2. Selects a higher tier coverage plan; or
3. Is expelled from the program.

A participating employee may select coverage in any coverage plan offered by TRS. The employee is not required to continue participation in the coverage plan initially selected and may select a higher or lower tier coverage plan as provided by TRS rule. If the combined state and District contributions exceed the cost of a coverage plan selected by the employee, the employee may use the excess contributions to obtain coverage under a higher tier coverage plan, or to pay all or part of the cost of coverage for the employee's dependents. A married couple, both of whom are eligible for coverage under the program, may pool the amount of contributions to which the couple are entitled under the program to obtain coverage for themselves and dependent coverage.

A part-time employee who is not a participating member in the Teacher Retirement System of Texas is eligible to participate in the program only if the employee pays all of the premiums and other costs associated with the health coverage plan selected by the employee.

Insurance Code 1579, Subch. E

STATE CONTRIBUTION

The state shall provide for each covered employee the amount of $900 each state fiscal year or a greater amount as provided by the General Appropriations Act. The state contribution shall be distributed through the school finance formulas under Education Code Chapters 41 and 42 and used by districts as provided by Education Code 42.2514 and 42.260. *Insurance Code 1579, Subch. F*

DISTRICT CONTRIBUTION

'MAINTENANCE OF EFFORT'

If the District, for the 2000–01 school year, paid amounts for employees' health coverage, the District shall, for each fiscal year, continue to use to provide health coverage an amount for each participating employee at least equal to the amount computed as follows: the District shall divide the amount the District paid during the 2000–01 school year for the prior group health coverage plan by the total number of full-time employees in the 2000–01 school year and multiply the result by the number of full-time employees in the fiscal year for which the computation is made. If, for the 2000–01 school year, the District provided group health coverage to its employees through a self-funded insurance plan, the amount the District paid during that school year for the plan includes only the amount of regular contributions made by the District.

'MINIMUM EFFORT'

In addition, the District shall, for each fiscal year, use to provide health coverage an amount equal to the number of participating employees multiplied by $1,800. The District may be entitled to additional state assistance to meet this required minimum effort.

EXCESS FUNDS

If the amount the District is required to use to provide health coverage to maintain its 2000–01 contributions exceeds the amount nec-

essary for the District to spend $1,800 per participating employee, the District may use the excess only to provide employee compensation at a rate greater than the rate of compensation that the District paid an employee in the 2000–01 school year, benefits, or both.

Insurance Code 1581, Subch. B

EMPLOYEE CONTRIBUTION

An employee covered by the program shall pay that portion of the cost of coverage selected by the employee that exceeds the amount of the state contribution and the District's contribution. The employee may pay the employee's contribution from the employee supplement.

The District may pay any portion of what otherwise would be the employee share of premiums and other costs associated with the coverage selected by the employee.

Insurance Code 1579.253

COMPENSATION SUPPLEMENT

Subject to the availability of funds, each month TEA shall deliver to each district an amount, as determined by TEA, equal to the product of the number of District employees, multiplied by the amount specified in the General Appropriations Act, divided by 12. *Education Code 22.103*

All such funds received by the District are held in trust for the benefit of the employees on whose behalf the District received the funds. *Education Code 22.104*

Each month, the District must distribute the funds to its employees. To receive the monthly distribution, an individual must meet the definition of "employee." *Education Code 22.107*

"Employee" means an active, contributing member of TRS who:

1. Is employed by the District;

2. Is not a retiree eligible for coverage under Insurance Code Chapter 1575 (retiree group health benefits);

3. Is not eligible for coverage by a group insurance plan under Insurance Code Chapter 1551 (state employee health insurance) or Chapter 1601 (state university employee health insurance); and

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

Education Code 22.101(2)

An employee may use the monthly distribution for any employee benefit, including depositing the amount of the distribution into a cafeteria plan, if the employee is enrolled in a cafeteria plan, or using the amount of the distribution for health-care premiums through a premium conversion plan. The employee may take the amount of the distribution as supplemental compensation. *Education Code 22.108*

An amount distributed to an employee under this provision must be in addition to the rate of compensation that:

1. The District paid the employee in the preceding school year; or

2. The District would have paid the employee in the preceding school year if the employee had been employed by the District in the same capacity in the preceding school year.

Education Code 22.109

A determination by TEA regarding the compensation supplement is final and may not be appealed. *Education Code 22.106*

TRS CONTRIBUTIONS FOR NEW HIRES

During each fiscal year, the District shall pay an amount equal to the state contribution rate, as established by the General Appropriations Act for the fiscal year, applied to the aggregate compensation of new members of the retirement system, during their first 90 days of employment.

“New member” means a person first employed on or after September 1, 2005, including a former member who withdrew retirement contributions under Government Code 822.003 and is reemployed on or after September 1, 2005.

On a monthly basis, the District shall:

1. Certify to TRS the total amount of salary paid during the first 90 days of employment of a new member and the total amount of employer payments under this section for the payroll periods; and

2. Retain information, as determined by TRS, sufficient to allow administration of this section, including information for each employee showing the applicable salary as well as aggregate compensation for the first 90 days of employment for new employees.

A person who was hired before September 1, 2005, and was subject to a 90-day waiting period for membership in the retirement system becomes eligible to participate in the retirement system as

a member starting September 1, 2005. For the purpose of this section, the member shall be treated as a new member for the remainder of the waiting period.

The District must remit the amount required under this section to TRS at the same time the District remits the member's contribution. In computing the amount required to be remitted, the District shall include compensation paid to an employee for the entire pay period that contains the 90th calendar day of new employment.

Gov't Code 825.4041

TRS CONTRIBUTIONS FOR REHIRED RETIREES

During each payroll period for which a retiree is reported, the District shall contribute to the retirement system for each retiree reported an amount based on the retiree's salary equal to the sum of:

TRS FUND CONTRIBUTIONS

1. The current contribution amount that would be contributed by the retiree if the retiree were an active, contributing member; and
2. The current contribution amount authorized by the General Appropriations Act that the state would contribute for that retiree if the retiree were an active, contributing member.

HEALTH INSURANCE CONTRIBUTIONS

Each payroll period and for each rehired retiree who is enrolled in TRS Care (retiree group health insurance), the District shall contribute to the TRS Care trust fund any difference between the amount the retiree is required to pay for the retiree and any enrolled dependents to participate in the group program and the full cost of the retiree's and enrolled dependents' participation in the group program, as determined by TRS. If more than one employer reports the retiree to TRS during a month, the amount of the required payment shall be prorated among employers.

EXCEPTION

The District is not required to contribute these amounts for a retiree who was reported under retirement system rules in effect for the report month of January 2005 by:

1. The reporting employer; or
2. Another employer, if both employers are school districts that formed a consolidated school district on or before September 1, 2005.

Gov't Code 825.4092; Insurance Code 1575.204

EMPLOYEE ELECTION

CAFETERIA PLAN

If an active employee is covered by a cafeteria plan of the District, the employee supplement shall be deposited in the cafeteria plan, and the employee may elect among the options provided by the plan. A cafeteria plan receiving employee supplement funds may include a medical savings account option and must include, at a minimum, the following options:

1. A health care reimbursement account;

2. A benefit or coverage other than that provided under the uniform group coverage program, or any employee coverage or dependent coverage available under the uniform group coverage program but not otherwise fully funded by the state or the District contributions, any of which must be a "qualified benefit" under Section 125, Internal Revenue Code of 1986, and its subsequent amendments;

3. An option for the employee to receive the employee supplement as supplemental compensation [See DEA]; or

4. An option to divide the employee supplement among two or more of the other options provided under the cafeteria plan.

Each state fiscal year, the District shall prepare and distribute to each active employee a written explanation in English and Spanish, as appropriate, of the options the employee may elect under this policy and an election form. The explanation must be based on the model explanation prepared by TRS and must reflect all available health coverage options available to the employee. The explanation must be distributed to an employee before the later of July 1 of the preceding state fiscal year, or the fifth day after the date the employee is hired. An election must be made before the later of August 1 of the preceding state fiscal year, or the 31st day after the date the employee is hired.

NO CAFETERIA PLAN

If an active employee is not covered by a cafeteria plan of the District, the employee supplement shall be paid to the active employee as supplemental compensation as described at DEA.

Insurance Code 1580 Subch. B, C

COMPARABILITY COMPLIANCE REPORT

The District shall report its compliance with Education Code 22.004 to TRS not later than March 1 of each even-numbered year. For districts that do not participate in the uniform group coverage program, the report must be based on the District group health coverage plan in effect during the current plan year and must include:

1. Appropriate documentation of:

   a. The District's contract for group health coverage, or

   b. A Board resolution authorizing a self-insurance plan.

2. The schedule of benefits.

3. The premium rate sheet, including the amount paid by the District and the employee.

4. The number of employees covered by each health coverage plan offered by the District.

5. Any other information considered appropriate by the executive director of TRS.

Education Code 22.004(d); 34 TAC 41.91(d)

CONTINUATION DURING MILITARY LEAVE

An employee who is absent from a position of employment by reason of service in the uniformed services may elect to continue coverage under a health plan. The maximum period of coverage of such a person and the person's dependents shall be the lesser of:

1. The 18-month period beginning on the date on which the person's absence begins; or

2. The day after the date on which the person fails to apply for or return to a position of employment. [See DEC]

38 U.S.C. 4317

CONTINUATION DURING FMLA LEAVE

During any period of leave under the Family and Medical Leave Act (FMLA), the District shall allow the employee to maintain coverage under any group health plan for the duration of the leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of the leave. The District may recover any premiums it paid for maintaining coverage during a period of unpaid FMLA leave if the employee fails to return from leave after the FMLA leave has expired and the failure to return is for a reason other than the continuation, recurrence, or onset of a serious health condition that entitles the employee to FMLA leave or other circumstances beyond the employee's control. *29 U.S.C. 2614(c); 29 CFR 825.209, 825.210, 825.213* [See also DEC]

CONTINUATION COVERAGE UNDER COBRA

In accordance with the Consolidated Omnibus Budget Reconciliation Act (COBRA), the District shall offer continuation coverage under any group health insurance plan established after July 1, 1986, to the following qualified beneficiaries for the stated period of time:

1. To the employee for 18 months after a termination (other than for gross misconduct) or reduction in hours. An employee providing notice of being disabled under Title II or XVI of the Social Security Act before the end of the initial 18 months of coverage shall be offered up to 29 months of continuation coverage.

2. To dependents of the covered employee for 36 months after the employee becomes eligible for Medicare benefits.

3. To dependents of the covered employee for 36 months after the employee's death or the divorce or legal separation of the employee from a spouse.

4. To a dependent child for 36 months after the child ceases to be a dependent under the terms of the plan.

42 U.S.C. 300bb–1, 300bb–2, 300bb–3

PREMIUM

The District may require premium payments not to exceed 102 percent of the usual cost of the plan for continuation coverage. Individuals entitled to 29 months of continuation coverage may be required to pay premiums not to exceed 150 percent of the usual cost for any month after the 18th month. The qualified beneficiary may choose to pay the premiums in monthly installments. In no event may payment be required before the day that is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage. *42 U.S.C. 300bb–2(3)*

NOTICE

The District shall notify its group health plan administrator within 30 days of an employee's death, termination or reduction of hours, or becoming eligible for Medicare payments.

The qualified beneficiary is responsible for notifying the plan administrator of a divorce or legal separation from a spouse or of a dependent child's ceasing to be a dependent. A qualified beneficiary who is determined to have been disabled at the time of termination is responsible for notifying the plan administrator of that determination within 60 days of the determination and within 30 days after a subsequent determination that he is no longer disabled.

42 U.S.C. 300bb–6

TERMINATION OF COVERAGE

Coverage of qualified beneficiaries shall end on the earliest of the following dates:

1. The required period of coverage expires.

2. The District ceases to provide any group health plan to any employee.

3. Coverage ceases for failure to pay the premium.

4. The qualified beneficiary becomes covered under any other group plan.

5. The qualified beneficiary becomes entitled to Medicare benefits.

42 U.S.C. 300bb–2(2)

Note: See also DEB for continuation benefits that are available to survivors of District peace officers under certain conditions.

Notwithstanding any other law, group health benefit coverage provided by or offered through the District to District employees under any law other than the uniform group coverage program is subject to the requirements of Sections 1501.102–1501.105, Insurance Code, which limit exclusion for preexisting conditions. This requirement applies to all group health benefit coverage provided by or offered through the District to District employees, including a standard health benefit plan issued under the Insurance Code and health and accident coverage provided through a risk pool established under Chapter 172, Local Government Code. *Education Code 22.004(m)*

HEALTH INSURANCE PORTABILITY

A group health plan may impose a preexisting condition exclusion only if:

1. The exclusion relates to a condition (whether physical or mental), regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the six-month period ending on the enrollment date;
2. The exclusion extends for a period of not more than 12 months (or 18 months in the case of a late enrollee) after the enrollment date; and
3. The period of any such preexisting condition exclusion is reduced by the aggregate of the periods of creditable coverage (if any) applicable to the participant or beneficiary as of the enrollment date.

42 U.S.C. 300gg(a)(1); 45 CFR 146.111(a)

CERTIFICATION

A group health plan shall provide certification:

1. At the time an individual ceases to be covered under the plan or otherwise becomes covered under a COBRA continuation provision. This certification may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision;
2. In the case of an individual covered under COBRA, at the time the individual's COBRA coverage ceases; and
3. On the request on behalf of an individual made not later than 24 months after the date of cessation of coverage.

The certification is a written certification of:

1. The period of creditable coverage of the individual under such plan and the coverage (if any) under such COBRA continuation provision, and

2. The waiting period (if any) (and affiliation period, if applicable) imposed with respect to the individual for any coverage under such plan.

   To the extent that medical care under a plan consists of group health insurance coverage, the plan is deemed to have satisfied the certification requirements if any issuer offering the coverage provides for certification.

   [See CRD(EXHIBIT) for required contents of the certification.]

42 U.S.C. 300gg(e); 45 CFR 146.115

ELECTION TO BE EXCLUDED

The plan sponsor of a nonfederal governmental group health plan may elect to be exempted from the following provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA):

1. Limitations on preexisting condition exclusion periods;

2. Special enrollment periods for individuals;

3. Prohibitions against discriminating against individual participants and beneficiaries based on health status;

4. Standards relating to benefits for mothers and newborns;

5. Parity in the application of certain limits to mental health benefits.

FORM AND MANNER OF ELECTION

Such an election must be in writing and state the name of the plan and the name and address of the plan administrator. The election document must either state that the plan does not include health insurance coverage, or identify which portion of the plan is not funded through insurance. The election must be made in conformity with all the plan sponsor's rules, including any public hearing, if required. The election document must be signed, and must certify that the person signing the election document, including if applicable a third party plan administrator, is legally authorized to do so by the plan sponsor.

TIMING OF ELECTION

The election must be received by the Health Care Financing Administration by the day preceding the beginning date of the plan year. The election applies for a single specified plan year.

An election may be extended through subsequent elections.

CONTENTS OF NOTICE

If this election is made, the plan shall provide for notice to enrollees, on an annual basis and at the time of enrollment under the plan. The notice shall be provided to each participant individually. The notice shall contain the information at CRD(EXHIBIT).

42 U.S.C. 300gg–21; 45 CFR 146.180

SMALL EMPLOYER MARKET ELECTION

The District may elect to participate in the small employer market without regard to the number of eligible employees in the District. If the District makes this election, it will be treated as a small employer for the purposes of Article 1501 of the Texas Insurance Code. A district that is participating in the uniform group coverage program under Insurance Code 3.50–7 may not participate in the small employer market for health insurance coverage and may not renew a health insurance contract obtained in accordance with Article 1501 after the date on which the program of coverages provided under Insurance Code 3.50–7 is implemented. This provision does not affect a contract for the provision of optional coverages. *Insurance Code 1501.009*

EMPLOYEE ELECTION

A District employee who is eligible for coverage under a large or small employer health benefit plan providing coverage to the District's employees and who is the spouse of another District employee covered under the plan may elect whether to be treated under the plan as an employee or as the dependent of the other employee. *Insurance Code 1501.0095*

PRIVACY OF HEALTH INFORMATION

To the extent the District is a covered entity under the Administrative Simplification provisions of HIPAA, the District must maintain the privacy of protected health information in accordance with the Privacy Rule, 45 CFR Part 164. *42 U.S.C. 1320d et seq.*

'COVERED ENTITY' DEFINED

The District is a "covered entity" under the Privacy Rule to the extent it is:

1. A health plan;
2. A health-care clearinghouse; or
3. A health-care provider who transmits any health information in electronic form in connection with a transaction covered by the Privacy Rule.

45 CFR 160.103

'PROTECTED HEALTH INFORMATION' DEFINED

"Protected health information" means individually identifiable health information that is transmitted or maintained in any form or medium, including electronic media and oral communications.

"Protected health information" excludes individually identifiable health information in:

1. Education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended.

2. Medical treatment records, as described at 20 U.S.C. 1232g(a)(4)(B)(iv), on a student who is at least 18 years of age.

3. Employment records held by a covered entity in its role as employer.

20 U.S.C. 1232g, 45 CFR 160.102, 164.501 [See FL]

SPONSORS OF GROUP HEALTH PLANS

Before a group health plan may disclose protected health information to a district that is a plan sponsor, the group health plan must ensure that the plan documents restrict uses and disclosures of such information by the District consistent with the requirements of the Privacy Rule. *45 CFR 164.504(f)*

The group health plan may disclose the following information to a district that is a plan sponsor without amending the plan documents:

1. Summary health information, consistent with the requirements of the Privacy Rule; and

2. Enrollment and disenrollment information relating to an individual participating in the plan.

45 CFR 164.504(f)

'PLAN SPONSOR' DEFINED

The term "plan sponsor" includes employers who establish or maintain employee benefit plans, alone or jointly with one or more employers. *29 U.S.C. 1002(16)(B)*

SELF–FUNDED PLANS

A district that is a sponsor of a self-funded group health plan is a covered entity under the Privacy Rule. *45 CFR 160.103*

EMPLOYMENT OBJECTIVES: DAB
OBJECTIVE CRITERIA FOR PERSONNEL DECISIONS (LOCAL)

The Board establishes the following objective criteria for decisions regarding the hiring, dismissal, reassignment, promotion, and demotion of District personnel. These criteria are not rank-ordered and may be considered in whole or in part in making such decisions.

1. Academic or technical preparation, supported by transcripts.
2. Proper certification for grade level, subject, or assignment, including emergency permits and endorsements for specific subjects, programs, or positions.
3. Experience.
4. Recommendations and references.
5. Appraisals and other performance evaluations.
6. The needs of the District.

PROFESSIONAL PERSONNEL CREDENTIALS

A person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, or counselor by the District unless the person holds an appropriate certificate or permit. A person who desires to teach in a public school shall present the person's certificate for filing with the District before the person's contract with the Board is binding. *Education Code 21.003(a), 21.053(a)*

An educator who does not hold a valid certificate may not be paid for teaching or work done before the effective date of issuance of a valid certificate. *Education Code 21.053(b)*

A person may not be employed by the District as an audiologist, occupational therapist, physical therapist, physician, nurse, school psychologist, associate school psychologist, social worker, or speech language pathologist unless the person is licensed by the state agency that licenses that profession. A person may perform specific services within those professions for the District only if the person holds the appropriate credentials from the appropriate state agency. *Education Code 21.003(b)*

ADDITIONAL CERTIFICATION

The State Board for Educator Certification (SBEC) shall provide for a certified educator to qualify for additional certification to teach at a grade level or in a subject area not covered by the educator's certificate upon satisfactory completion of an examination or other assessment of the educator's qualification. *Education Code 21.056; 19 TAC 230.437*

MASTER TEACHER GRANT PROGRAMS

The District may apply to the Commissioner of Education for grants to be used to pay stipends to certified master reading teachers, master mathematics teachers, master technology teachers, and master science teachers.

TEACHER ELIGIBILITY

The Commissioner shall reduce payments to the District proportionately to the extent a teacher does not meet the requirements for a master teacher for the entire school year.

If a teacher qualifies as a master reading or mathematics teacher for a partial month, the District's written policy will determine how the District counts the partial month, for example, as no month served or as an entire month served. Only whole months shall be entered on the application by the District on the teacher's behalf.

19 TAC 101.1011(g), 102.1013(g), 102.1015(g)

DESIGNATION OF TEACHER

A district that employs more certified master teachers than the number of grants available shall select the certified master teacher(s) to whom to pay the stipends based on a policy adopted by the Board, except that the District shall pay a stipend for two additional consecutive school years to a teacher:

1. The District has selected for and paid a stipend for a school year who remains eligible for a certified master teacher stipend; and

2. For whom the District receives a grant under this section for those years.

The District's decision is final and may not be appealed.

The District may not apportion among teachers a stipend paid for with a grant the District receives under this program. The District may use local money to pay additional stipends in amounts determined by the District.

Education Code 21.410(g), 21.411(g), 21.412(g), 21.413(g); 19 TAC 101.1015(h), 102.1011(h), 102.1013(h)

REDUCTION OF STIPEND

If state funds are appropriated but are insufficient to fully fund a master reading teacher, master mathematics teacher, or master science teacher grant, the Commissioner shall reduce the grant paid to each district and the District shall reduce the stipend the District pays to each teacher under the grant program proportionately so that each selected teacher receives the same amount of money. If funds are insufficient to fully fund a master technology teacher grant, the Commissioner shall determine the method of distributing the funds.

A stipend a teacher receives under this program is not considered in determining whether the District is paying the teacher the minimum monthly salary.

The District must pay state stipends to certified master reading, science, and mathematics teachers no later than 30 days after receipt of the grant by the District.

Education Code 21.410–.413; 19 TAC 102.1011, 102.1013, 102.1015

TEACHERS IN CORE ACADEMIC SUBJECTS

As part of the state plan described at 20 U.S.C. 6311, TEA shall develop a plan to ensure that all teachers teaching in core academic subjects within the state are highly qualified not later than the end of the 2005–06 school year.

'CORE ACADEMIC SUBJECTS' DEFINED

The term "core academic subjects" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

TEACHERS IN TITLE I PROGRAMS

Beginning with the first day of school of 2002–03, each district receiving assistance under Title I, Part A of the ESEA (20 U.S.C. 6301 *et seq*.) shall ensure that all teachers hired after that day and

teaching in a program supported with such federal funds are highly qualified.

'HIGHLY QUALIFIED'

The term "highly qualified":

GENERAL CERTIFICATION REQUIREMENT

1. When used with respect to any public elementary school or secondary school teacher, means the teacher:
   a. Has obtained full state certification as a teacher (including alternative certification); and
   b. Has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis.

SUBJECT COMPETENCY

NEW ELEMENTARY TEACHER

2. When used with respect to an elementary school teacher who is new to the profession, means the teacher:
   a. Holds at least a bachelor's degree; and
   b. Has demonstrated, by passing a rigorous state test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum.

NEW MIDDLE OR SECONDARY TEACHER

3. When used with respect to a middle or secondary school teacher who is new to the profession, means the teacher:
   a. Holds at least a bachelor's degree; and
   b. Has demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by:
      (1) Passing a rigorous state academic subject test in each of the academic subjects in which the teacher teaches; or
      (2) Successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing.

EXISTING TEACHER

4. When used with respect to an elementary, middle, or secondary school teacher who is not new to the profession, means the teacher holds at least a bachelor's degree and:
   a. Has met the applicable standard as detailed above for new teachers; or
   b. Demonstrates competence in all academic subjects in which the teacher teaches based on a high objective uniform state standard of evaluation.

No Child Left Behind Act of 2001, 20 U.S.C. 6319(a)(1), 7801(23)

HIGHLY QUALIFIED SPECIAL EDUCATION TEACHERS

Effective July 1, 2005, the term "highly qualified," when used with respect to a special education teacher, means the teacher meets the above requirements, as applicable, and:

GENERAL REQUIREMENTS

1. Has obtained full state certification as a special education teacher (including alternative certification);

2. Has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

3. Holds at least a bachelor's degree.

Special education teachers who teach alternative achievement standards or who teach two or more core academic subjects exclusively to children with disabilities must also demonstrate subject matter competence as set forth below.

TEACHING ALTERNATIVE ACHIEVEMENT STANDARDS

1. New and existing special education teachers who teach core academic subjects exclusively to children who are assessed against alternate achievement standards may:

   a. Meet the applicable requirements for any new or existing elementary, middle, or secondary teacher; or

   b. In the case of instruction above the elementary level, demonstrate subject matter knowledge appropriate to the level of instruction being provided, as determined by the state, needed to effectively teach to those standards.

TEACHING TWO OR MORE CORE ACADEMIC SUBJECTS

2. A special education teacher who teaches two or more core academic subjects exclusively to children with disabilities may either:

   a. Meet the applicable requirements for any new or existing elementary, middle, or secondary school teacher;

   b. In the case of an existing teacher, demonstrate competence in all core academic subjects in which the teacher teaches in the same manner as is required for any other existing elementary, middle, or secondary school teacher. This may include a single, high objective uniform state standard of evaluation covering multiple subjects; or

   c. In the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, the teacher may demonstrate competence in the other core academic subjects in which the teacher teaches in the same man-

ner as is required for an existing elementary, middle, or secondary school teacher. This may include a single, high objective uniform state standard of evaluation covering multiple subjects. The teacher must demonstrate competence under this section not later than two years after the date of employment.

20 U.S.C. 1401(10)

NOTICE TO PARENTS: QUALIFICATIONS

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

1. Whether the teacher has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.

2. Whether the teacher is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived.

3. The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree.

4. Whether the child is provided services by paraprofessionals and, if so, their qualifications.

ADDITIONAL INFORMATION

A school that receives such federal funds shall also provide to each individual parent:

1. Information on the level of achievement of the parent's child in each of the state academic assessments; and

2. Timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who is not highly qualified.

No Child Left Behind Act of 2001, 20 U.S.C. 6311(h)(6)

CPR AND FIRST AID CERTIFICATION

A District employee who serves as head director of a school marching band, head coach, or chief sponsor of an extracurricular athletic activity (including cheerleading) that is sponsored or sanctioned by the District or UIL must maintain and submit to the District proof of current certification in first aid and cardiopulmonary

resuscitation issued by the American Red Cross, the American Heart Association, or another organization that provides equivalent training and certification. The District shall adopt procedures for administering this requirement, including procedures for the time and manner in which proof of current certification must be submitted. *Education Code 33.086*

SCHOOL DISTRICT TEACHING PERMIT

A person who does not hold a teaching certificate may be issued a school district teaching permit. The District may issue a school district teaching permit to and may employ a person who holds a baccalaureate degree. A baccalaureate degree is not required for persons who will teach only career and technology education.

STATEMENT TO COMMISSIONER

After employing a person under a school district permit, the District shall promptly send a written statement to the Commissioner. This statement must identify the person, the person's qualifications as a teacher, and the subject or class the person will teach. The person may teach the subject or class pending action by the Commissioner. Not later than the 30th day after the Commissioner receives the District's statement, the Commissioner may inform the District that the person is not qualified to teach. The person may not teach if the Commissioner finds that the person is not qualified.

If the Commissioner fails to act before the 30th day after receiving the statement, the District may issue the school district teaching permit and the person may teach the subject or class identified in the statement sent to the Commissioner.

DURATION OF PERMIT

A person holding a school district teaching permit may teach the subject or class identified to the Commissioner for as long as the teacher remains in the District or until the District revokes the permit for cause. A person authorized to teach under a school district teaching permit issued by a particular district may not teach in another school district unless that other district complies with the permit-issuing provisions.

Education Code 21.055

Note: The assignment of a teacher to teach a class for which he or she is not properly certified triggers parent notification requirements in accordance with state and federal laws. See DK.

REVOCATION OF CERTIFICATE FOR CERTAIN OFFENSES AGAINST CHILDREN

Not later than the fifth day after receiving notice from a court under Code of Criminal Procedure Article 42.018 that a person who holds a certificate issued under Education Code Chapter 21, Subchapter B, has been convicted, SBEC must revoke the person's certificate

and provide written notice of the revocation and its basis to the person and to any school district or open-enrollment charter school employing the person at the time.

The revocation and notice requirement applies only if the victim of the offense is under 18 years of age, and only to a conviction of a felony under Penal Code Title 5 or an offense for which the person must register as a sex offender.

Education Code 21.058 [See also DK and DF]

FAILURE OF CERTIFICATION

An employee's probationary, term, or continuing contract under Education Code Chapter 21 is void if the employee:

1. Does not hold a certificate or permit issued by SBEC; or
2. Fails to fulfill the requirements necessary to extend the employee's temporary or emergency certificate or permit.

This provision does not apply to a certified teacher assigned to teach a subject for which the teacher is not certified.

Education Code 21.0031(a), (e) [See DF]

PARAPROFESSIONAL EMPLOYEES

CREDENTIALS

Educational aides shall be certified according to standards established by the State Board for Educator Certification. *19 TAC 230.551*

TITLE I PROGRAM REQUIREMENTS

Each district receiving assistance under Title I, Part A of the ESEA (20 U.S.C. 6301 *et seq*.) shall ensure that all paraprofessionals working in a program supported with those funds shall:

DUTIES

1. Be assigned only duties consistent with 20 U.S.C. 6319(g).

HIGH SCHOOL DIPLOMA

2. Regardless of the paraprofessionals' hiring date, have earned a secondary school diploma or its recognized equivalent.

HIGHER EDUCATION OR COMPETENCY TEST

3. If hired after January 8, 2002, have one of the following credentials:
   a. Completed at least 2 years of study at an institution of higher education;
   b. Obtained an associate's (or higher) degree; or
   c. Met a rigorous standard of quality and can demonstrate, through a formal state or local academic assessment:
      (1) Knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or
      (2) Knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate.

Receipt of a high school diploma is not sufficient to satisfy the formal academic assessment requirement.

FULL COMPLIANCE DATE

All paraprofessionals hired before January 8, 2002 and working in a program supported with Title I, Part A funds shall satisfy the HIGHER EDUCATION OR COMPETENCY TEST requirement not later than January 8, 2006.

EXCEPTIONS

The HIGHER EDUCATION OR COMPETENCY TEST requirements above shall not apply to a paraprofessional:

1. Who is proficient in English and a language other than English and who provides services primarily to enhance the participation of children in programs under Title I, Part A by acting as a translator; or
2. Whose duties consist solely of conducting parental involvement activities.

No Child Left Behind Act of 2001, 20 U.S.C. 6319

SCHOOL BUS DRIVERS CREDENTIALS

A school bus driver must:

1. Be at least 18 years old.
2. Hold an appropriate class of driver's license for the vehicle being operated.
3. Pass an annual physical exam and otherwise meet medical and physical requirements established by the Department of Public Safety (DPS). [See DBB]
4. Have a driving record that is acceptable according to minimum standards adopted by the DPS. A check of the person's driving record shall be made with DPS annually.
5. Pass a pre-employment driver's license check with the DPS, and maintain a driving record acceptable according to the standards prescribed by the State Board and the DPS. [See ANNUAL EVALUATION, below]
6. Have an acceptable criminal history record. [See DC] If the District obtains information that a person has been convicted of a felony or misdemeanor involving moral turpitude, it may not employ the person to drive a school bus on which students are transported unless the employment is approved by the Board or the Board's designee.
7. Possess a valid certificate stating that the driver is enrolled in, or has completed, a driver training course in school bus safety education approved by the DPS.

Trans. Code 521.022; 37 TAC 14.11, 14.12, 14.14

ANNUAL EVALUATION

The District shall evaluate the driver's license record of each school bus driver at least annually to determine if the driver is still eligible to drive a school bus. *Trans. Code 521.022(d); 37 TAC 14.14*

EMPLOYEE ACCESS

All information contained in the personnel file of an employee shall be made available to that employee or the designated representative as public information is made available under the Public Information Chapter of the Government Code. *Gov't Code 552.102(a)*

SPECIAL RIGHT

An employee or an employee's designated representative has a special right of access, beyond the right of the general public, to records and copies of records held by the District that contain information relating to the person that is protected from public disclosure by laws intended to protect the employee's privacy interests. The District shall not deny to the employee or his or her representative access to information about the employee on the grounds that the information is considered confidential by privacy principles, but may assert as grounds for denial of access other provisions of the Public Information Chapter of the Government Code or other laws that are not intended to protect the employee's privacy interests. *Gov't Code 552.023*

If the officer for records determines that information in the employee's records is exempt from disclosure under provisions of the Public Information Chapter of the Government Code or other laws that are not intended to protect the employee's privacy interests, he or she shall submit a written request for a decision to the attorney general before disclosing the information. If a decision is not requested, the information shall be released not later than the tenth day after the request for information is received. *Gov't Code 552.307*

PUBLIC ACCESS

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

MASTER TEACHER STIPENDS

At the end of the school year, a master teacher shall be paid the stipend for any month in which the teacher performed the prescribed duties for more than ten days. [See DBA(LEGAL)]

If the number of master teachers exceeds the grants allocated, the District shall first fund the stipends for master teachers in their second or third year in the master program, as required by law. The District shall distribute the remaining funds among newly assigned master teachers based on:

LOCAL CRITERIA

1. Length of time teaching in the subject area.
2. Seniority in the District, as measured from the employee's most recent date of hire.

PARENT NOTIFICATION

The District shall notify parents of students in classrooms in which the regular teacher is not "highly qualified," as required by law.

Notification shall not be required, however, when:

1. The home campus teacher of a secondary school student assigned to a DAEP is considered the teacher-of-record; and
2. The home campus teacher:
   a. Is highly qualified,
   b. Assigns and evaluates the student's coursework,
   c. Provides substantially the same coursework and uses the same grading standards as in the regular classroom,
   d. Has final authority on the coursework grades and the final grade for the course, and
   e. Is regularly available for face to face consultation with the student and the DAEP teacher; and
3. The DAEP teacher meets all applicable SBEC certification requirements.

UPDATING CREDENTIALS

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

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

CONTRACT PERSONNEL

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

RESTRICTION ON PUBLIC SERVANTS — PENAL CODE

"Public servant," for purposes of the following Penal Code provisions, includes a person elected, selected, appointed, employed, or otherwise designated as an officer, employee, or agent of government, even if the person has not yet qualified for office or assumed his or her duties. *Penal Code 1.07(a)(41)(A), (E)*

BRIBERY

1. A public servant shall not intentionally or knowingly offer, confer, agree to confer on another, solicit, accept, or agree to accept a benefit:

   a. As consideration for the public servant's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant.

   b. As consideration for a violation of a duty imposed on the public servant by law.

   c. That is a political contribution as defined by Title 15 of the Election Code or an expenditure made and reported as a lobbying expense in accordance with Government Code, Chapter 305, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion, if such exercise of official discretion would not have been taken or withheld but for the benefit.

   "Benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

Penal Code 36.01(3), 36.02

ILLEGAL GIFTS

2. A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions shall not solicit, accept, or agree to accept any benefit from a person the public servant knows is interested in or likely to become interested in any such transactions of the District, unless a statutory exception applies. *Penal Code 36.08(d), 36.10.* [hc notes: changes in plain text are to conform to BBFA(H). 11–4–05]

   A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under this section may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax exempt charitable organization formed for educational, religious, or scientific purposes. *Penal Code 36.08(i)*

HONORARIA AND EXPENSES

3. A public servant commits a Class A misdemeanor offense if the public servant solicits, accepts, or agrees to accept an

honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties. However, a public servant is not prohibited from accepting transportation and lodging expenses or meals in connection with a conference or similar event in which the public servant renders services, such as addressing an audience or engaging in a seminar, to the extent those services are more than merely perfunctory. *Penal Code 36.07*

ABUSE OF PUBLIC EMPLOYMENT

4. A public servant shall not, with intent to obtain a benefit or with intent to harm or defraud another, intentionally or knowingly violate a law relating to the public servant's office or employment, or misuse District property, services, personnel, or any other thing of value, that has come into his or her custody or possession by virtue of his or her office or employment. *Penal Code 39.02(a)*

"Law relating to the public servant's office or employment" means a law that specifically applies to a person acting in the capacity of a public servant and that directly or indirectly imposes a duty on the public servant or governs the conduct of the public servant. *Penal Code 39.01(1)*

"Misuse" means to deal with property contrary to:

a. An agreement under which the public servant holds the property;

b. A contract of employment or oath of office of a public servant;

c. A law, including provisions of the General Appropriations Act specifically relating to government property, that prescribes the manner of custody or disposition of the property; or

d. A limited purpose for which the property is delivered or received.

Penal Code 39.01(2)

TEXTBOOK VIOLATIONS – COMMISSIONS

An administrator or teacher commits a class B misdemeanor offense if the administrator or teacher receives any commission or rebate on any textbooks used in the schools with which the administrator or teacher is associated. *Education Code 31.152(a)*

TEXTBOOK VIOLATIONS – CONFLICT

An administrator or teacher commits a class B misdemeanor offense if the administrator or teacher 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 a textbook; and
3. Could not be lawfully purchased with funds from the state textbook fund.

"Gift, favor, or service" does not include staff development, in-service, or teacher training; or instructional materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.

Education Code 31.152(b)–(d)

TEXTBOOK VIOLATIONS – PURCHASE AND DISTRIBUTION

A person commits a Class C misdemeanor offense if the person knowingly violates any law providing for the purchase or distribution of free textbooks for the public schools. *Education Code 31.153*

CONFLICT DISCLOSURE STATEMENT

The District may extend the requirements of Local Government Code 176.003 and 176.004 [see BBFA] to all or a group of employees of the District. The District may reprimand, suspend, or terminate the employment of an employee who fails to comply with such requirements.

An employee commits a Class C misdemeanor if the employee knowingly violates the requirements. It is a defense to prosecution, however, that the employee filed the disclosure statement not later than the seventh business day after the person received notice of the violation.

Local Gov't Code 176.005

HOLDING CIVIL OFFICE

No person shall hold or exercise at the same time more than one civil office of emolument, except for offices listed in the constitutional provision, unless otherwise specifically provided. *Tex. Const., Art. XVI, Sec. 40(a); State v. Pirtle, 887 S.W.2d 291 (Tex. Ct. Crim. App. 1994); Atty. Gen. Op. DM–212 (1993)*

Individuals who receive all or part of their compensation either directly or indirectly from funds of the state of Texas and who are not state officers shall not be barred from serving as members of the governing bodies of school districts (other than those in which they are employed), cities, towns, or other local governmental districts. Such individuals may not receive a salary for serving as members of such governing bodies. *Tex. Const., Art. XVI, Sec. 40(b); Atty. Gen. Op. DM–55 (1991)*

Note: See also CBB for requirements when federal funds are involved.

DISCLOSURE — GENERAL STANDARD

An employee shall disclose to his or her immediate supervisor a personal financial interest, a business interest, or any other obligation or relationship that in any way creates a potential conflict of interest with the proper discharge of assigned duties and responsibilities or that creates a potential conflict of interest with the best interest of the District.

SPECIFIC DISCLOSURES

SUBSTANTIAL INTEREST AFFIDAVIT

The Superintendent and any other employee who is in a position to affect a financial decision involving any business entity or real property in which the employee has a substantial interest, as defined by Local Government Code 171.002, shall be required to file an affidavit disclosing the nature of the interest. [See BBFA] The affidavit shall be filed with the Superintendent, Board President, or a designee prior to the award of a contract or authorization of payment by the District.

AFFIDAVIT DISCLOSING INTEREST IN PROPERTY

The Superintendent shall be required to file an affidavit disclosing interest in property in accordance with Government Code 553.002. [See BBFA]

CONFLICTS DISCLOSURE STATEMENT

No employee other than the Superintendent shall be required to file the conflicts disclosure statement, as promulgated by the Texas Ethics Commission and as specified by Local Government Code 176.003–.004. [See BBFA]

GIFTS

An employee shall not accept or solicit any gift, favor, service, or other benefit that could reasonably be construed to influence the employee's discharge of assigned duties and responsibilities. [See CAA]

ENDORSEMENTS

An employee shall not recommend, endorse, or require students to purchase any product, material, or service in which the employee has a financial interest or that is sold by a company that employs or retains the District employee during nonschool hours. No employee shall require students to purchase a specific brand of school supplies if other brands are equal and suitable for the intended instructional purpose.

SALES

An employee shall not use his or her position with the District to attempt to sell products or services.

See the following pages for forms to be used by employees for disclosing potential conflicts of interest:

Exhibit A: Affidavit Disclosing Substantial Interest in a Business Entity or in Real Property, as defined in Local Government Code 171.002 — 2 pages

Exhibit B: Affidavit Disclosing Interest in Property, under Government Code Chapter 553, Subchapter A — 2 pages

ADDITIONAL DISCLOSURE: The Superintendent and any other employees identified by Board policy as being required to file the conflicts disclosure statement, in accordance with Local Government Code 176.003–.004, may access that form on the Texas Ethics Commission Web site at http://www.ethics.state.tx.us.

EXHIBIT A

AFFIDAVIT DISCLOSING SUBSTANTIAL INTEREST
IN A BUSINESS ENTITY OR IN REAL PROPERTY

STATE OF TEXAS
COUNTY OF Hood

I, _____*(name)*, as an employee of Granbury ISD, make this affidavit and hereby on oath state the following: I have a substantial interest in:

[ ] a business entity, as those terms are defined in Local Government Code Sections 171.001–171.002, that would experience a special economic effect distinguishable from its effect on the public by an action of the Board or the District. [See BBFA]

or

[ ] real property for which it is reasonably foreseeable that an action of the Board or District will have a special economic effect on the value of the property distinguishable from its effect on the public.

The business entity or real property is *(name/address of business or description of property)*:
_____.

I _____ have a substantial interest in this business entity or real property as follows: *(check all that apply)*

[ ] Ownership of ten percent or more of the voting stock or shares of the business entity.

[ ] Ownership of ten percent or more of the fair market value of the business entity.

[ ] Ownership of $15,000 or more of the fair market value of the business entity.

[ ] Funds received from the business entity exceed ten percent of my gross income for the previous year.

[ ] Real property is involved and I have an equitable or legal ownership with a fair market value of at least $2,500.

The statements contained herein are based on my personal knowledge and are true and correct.

Signed this _____ day of _____ *(month)*, _____ *(year)*.

Signature of employee _____

Title _____

ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF Hood

Sworn to and subscribed before me on this _____ day of _____ *(month)*, _____ *(year)*.

_____, Notary Public in and for the State of Texas

NOTE: *This affidavit should be filed with the Superintendent, Board President, or a designee before the Board takes action concerning the business entity or real property.*

EXHIBIT B

AFFIDAVIT DISCLOSING INTEREST IN PROPERTY

STATE OF TEXAS
COUNTY OF Hood

I, _____ *(name)*, as Superintendent of Granbury ISD, make this affidavit and hereby on oath state the following:

I have a legal or equitable interest in property to be acquired with public funds, either by purchase or condemnation.

The property is described as follows:

_____.

The nature, type, and amount of interest, including but not limited to percentage of ownership, I have in the property is:

_____.

The interest was acquired on _____ *(date)*.

I swear that the information in this affidavit is personally known by me to be correct and contains the information required by Section 553.002, Government Code.

Signed this _____ day of _____ *(month)*, _____ *(year)*.

Signature of Superintendent _____

ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF Hood

BEFORE ME, _____ *(here insert the name and character of the officer administering the oath)* on this day personally appeared _____ *(affiant)* known to me (or proved to me on the oath of _____ or through _____ *[description of identity card or other document]*) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____ *(month)*, _____ *(year)*.

_____, Notary Public in and for the State of Texas

NOTE: *This affidavit should be filed with the county clerk(s) within ten days before the date on which the property is to be acquired, as provided by Government Code 553.002.*

APPLICABILITY

This hearing process applies only if an employee requests a hearing after receiving notice of a proposed decision to:

1. Terminate a continuing contract at any time;
2. Terminate a probationary or term contract before the end of the contract period; or
3. Suspend without pay.

It does not apply to a decision to:

1. Terminate a probationary contract at the end of the contract term; or
2. Not renew a term contract, unless the Board has adopted this process for nonrenewals.

Education Code 21.251

REQUEST FOR HEARING

Not later than the 15th day after the date the employee receives notice of one of the proposed contract actions listed above, the employee must file a written request with the Commissioner for a hearing before a hearing examiner. The employee must provide the District with a copy of the request and must provide the Commissioner with a copy of the notice. The parties may agree in writing to extend by not more than ten days the deadline for requesting a hearing. *Education Code 21.253*

ASSIGNMENT OF HEARING EXAMINER BY AGREEMENT

The parties may agree to select a hearing examiner from the list maintained by the Commissioner or a person who is not certified to serve as a hearing examiner, provided that person is licensed to practice law in Texas. If the parties agree on a hearing examiner the parties shall, before the date the Commissioner is permitted to assign a hearing examiner, notify the Commissioner in writing of the agreement, including the name of the hearing examiner selected.

BY APPOINTMENT

If the parties do not select a hearing examiner by agreement, the Commissioner shall assign the hearing examiner not earlier than the sixth business day and not later than the tenth business day after the date on which the Commissioner receives the request for a hearing. When a hearing examiner has been assigned, the Commissioner shall notify the parties immediately.

REJECTION

The parties may agree to reject a hearing examiner for any reason and either party is entitled to reject an assigned hearing examiner for cause. A rejection must be in writing and filed with the Commissioner not later than the third day after the date of notification of the hearing examiner's assignment. If the parties agree to reject

the hearing examiner or if the Commissioner determines that one party has good cause for the rejection, the Commissioner shall assign another hearing examiner.

FINALITY OF DECISION

After the employee receives notice of the proposed contract action, the parties may agree in writing that the hearing examiner's decision be final and nonappealable on all or some issues.

Education Code 21.254

POWERS OF HEARING EXAMINER

The hearing examiner may issue subpoenas, administer oaths, rule on motions and the admissibility of evidence, maintain decorum, schedule and recess the proceedings, allow the parties to take depositions or use other means of discovery, and make any other orders as provided by Commissioner rule.

CONDUCT OF HEARING

The hearing and any depositions must be held within the geographical boundaries of the District or at the regional education service center that serves the District.

Education Code 21.255

SCHEDULE RESTRICTION

A hearing before a hearing examiner may not be held on a Saturday, Sunday, or a state or federal holiday, unless all parties agree. *Education Code 21.257(c)*

PRIVATE

A hearing before a hearing examiner shall be private unless the employee makes a written request for a public hearing.

EXCEPTION

If necessary to maintain decorum, the hearing examiner may close a hearing that an employee has requested be public.

PROTECTION OF WITNESSES

To protect the privacy of a witness who is a child, the hearing examiner may close the hearing to receive the testimony or order that the testimony be presented by procedures in Article 38.071, Code of Criminal Procedure.

EMPLOYEE RIGHTS

At the hearing, the employee has the right to:

1. Be represented by a representative of the employee's choice;
2. Hear the evidence on which the charges are based;
3. Cross-examine each adverse witness; and
4. Present evidence.

The hearing is not subject to the Administrative Procedure Act.

The hearing shall be conducted in the same manner as a trial without a jury in state district court. A certified shorthand reporter shall record the hearing.

EVIDENCE

The Texas Rules of Civil Evidence shall apply at the hearing. An evaluation or appraisal of the teacher is presumed to be admissible at the hearing. The hearing examiner's findings of fact and conclusions of law shall be presumed to be based only on admissible evidence.

BURDEN OF PROOF

The District has the burden of proof by a preponderance of the evidence at the hearing.

Education Code 21.256

COSTS

The District shall bear the cost of the services of the hearing examiner and certified shorthand reporter and the production of any original hearing transcript. Each party shall bear its costs of discovery, if any, and its attorney's fees. *Education Code 21.255(e)*

RECOMMENDATION

Not later than the 60th day after the date on which the Commissioner receives a request for a hearing before a hearing examiner, the hearing examiner shall complete the hearing and make a written recommendation. The recommendation must include findings of fact and conclusions of law. The recommendation may include a proposal for granting relief, including reinstatement, back pay, or employment benefits. The proposal for relief may not include attorney's fees or other costs associated with the hearing or appeals from the hearing. The hearing examiner shall send a copy of the recommendation to each party, the Board President, and the Commissioner.

WAIVER OF DEADLINE

The parties may agree in writing to extend by not more than 45 days the right to a recommendation by the date specified above.

Education Code 21.257

CONSIDERATION

The Board or a designated subcommittee shall consider the hearing examiner's record and recommendation at the first Board meeting for which notice can be posted in compliance with the open meetings laws. The meeting must be held not later than the 20th day after the date that the Board President receives the hearing examiner's recommendation and record.

ORAL ARGUMENT AND RECORDING

At the meeting, the Board or subcommittee shall allow each party to present an oral argument to the Board or subcommittee. The Board may, by written policy, limit the amount of time for oral argument, provided equal time is allotted each party. A certified shorthand reporter shall record any such oral argument.

LEGAL ADVICE

The Board or subcommittee may obtain advice from an attorney who has not been involved in the proceedings.

Education Code 21.258, 21.260

DECISION

Not later than the tenth day after the date on which the meeting to consider the hearing examiner's recommendation is held, the Board or subcommittee shall announce its decision, which must include findings of fact and conclusions of law, and may include a grant of relief.

The Board or subcommittee may adopt, reject, or change the hearing examiner's conclusions of law or proposal for granting relief. The Board may reject or change a finding of fact made by the hearing examiner:

1. Only after reviewing the record of the proceedings; and
2. Only if the finding of fact is not supported by substantial evidence.

The Board or subcommittee shall state in writing the reason for and legal basis for a change or rejection.

RECORDING

A certified shorthand reporter shall record the announcement of the decision. The District shall bear the cost of the reporter's services.

Education Code 21.259, 21.260

RECORD OF PROCEEDINGS

The Commissioner shall consider the appeal solely on the basis of the local record and may not consider any additional evidence or issue. *Education Code 21.301(c)*

The record of the proceedings before the independent hearing examiner shall include:

1. The transcripts of proceedings at the local level;
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 recommendation of the independent hearing examiner;
7. The transcript of the oral argument before the Board or Board subcommittee;
8. The decision of the Board or Board subcommittee; and
9. If applicable, the Board or Board subcommittee's written reasons for changing the recommendation of the independent hearing examiner.

19 TAC 157.1072(e)

TERMINATION OF CONTRACT: RESIGNATION

DFE (LOCAL)

GENERAL REQUIREMENTS	All resignations shall be submitted in writing to the Superintendent. The employee shall give reasonable notice and shall include in the letter a statement of the reasons for resigning. A prepaid certified or registered letter of resignation shall be considered submitted upon mailing.
AT–WILL EMPLOYEES	The Superintendent or designee shall be authorized to accept the resignation of an at-will employee at any time.
CONTRACT EMPLOYEES	
BEFORE THE START OF THE SCHOOL YEAR	The Superintendent or designee shall be authorized to accept the resignation of a contract employee submitted and effective before the start of the school year. If the resignation is submitted after the penalty-free resignation date established by law, acceptance is contingent on finding a suitable replacement.
DURING THE SCHOOL YEAR	For a resignation that is effective during the school year after the contract employee has begun duty, the Superintendent or designee shall either accept the resignation or submit the matter to the Board in order to pursue sanctions allowed by law.
AT THE END OF THE SCHOOL YEAR	The Superintendent or designee shall be authorized to accept a contract employee's resignation if submitted during the school year and effective at the end of the school year.
WITHDRAWAL OF RESIGNATION	Once submitted and accepted, the resignation of a contract employee may not be withdrawn without consent of the Board.

UNITED STATES CONSTITUTION

The 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*

The Board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when the 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)* [See DG]

TEXAS CONSTITUTION

Employees 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 the Board negotiate or even respond to complaints. However, the Board must stop, look, and listen and must consider the petition, address, or remonstrance. *Professional Association of College Educators v. El Paso County Community [College] District, 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 fifteen 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 CFR 104.7(b), 104.11*

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 CFR 35.107, 35.140*

TITLE IX

A district that receives federal financial assistance, directly or indirectly, shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX of the Education Amendments of 1972. *34 CFR 106.8(b); North Haven Board of Education v. Bell, 456 U.S. 512 (1982)*

GRIEVANCES CONCERNING WAGES, HOURS, CONDITIONS OF WORK

The prohibition against collective bargaining and strikes [see DGA] does not impair the right of employees to present grievances concerning their wages, hours of employment, or conditions of work, either individually or through a representative that does not claim the right to strike. *Gov't Code 617.005*

The term "conditions of work" should be construed broadly to include any area of wages, hours or conditions of employment, and any other matter that is appropriate for communications from employees to employer concerning an aspect of their relationship. *Atty. Gen. Op. JM-177 (1984); Corpus Christi Fed. of Teachers v. Corpus Christi ISD, 572 S.W.2d 663 (Tex. 1978)*

GROUP GRIEVANCES

The statute protects grievances presented individually or individual grievances presented collectively. *Lubbock Prof'l Firefighters v. City of Lubbock, 742 S.W.2d 413 (Tex. App.—Amarillo, writ ref'd n.r.e. 1987)*

REPRESENTATIVE

The District cannot deny an employee's representative, including an attorney, the right to represent the employee at any stage of the grievance procedure, so long as the employee designates the representative and the representative does not claim the right to strike. *Lubbock Prof'l Firefighters v. City of Lubbock, 742 S.W.2d 413 (Tex. App.—Amarillo, writ ref'd n.r.e. 1987); Sayre v. Mullins, 681 S.W.2d 25 (Tex. 1984)*

RESPONSE TO GRIEVANCE

The District should meet with employees or their designated representatives at reasonable times and places to hear grievances concerning wages, hours of work, and conditions of work. The right to present grievances is satisfied if employees have access to those in a position of authority to air their grievances. However, that authority is under no legal compulsion to take action to rectify the matter. *Atty. Gen. Op. H-422 (1974); Corpus Christi ISD v. Padilla, 709 S.W.2d 700 (Tex. App.—Corpus Christi, 1986, no writ)*

GRIEVANCES CONCERNING 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 the District's grading policy applicable to the grade, as determined by the Board of the District in which the teacher is employed.

The Board's determination is not subject to appeal.

Education Code 28.0214

OPEN MEETINGS ACT

The Board is not required to conduct an open meeting to hear a complaint or charge against an employee. However, the Board may not conduct a closed meeting if the employee who is the subject of the hearing requests a public hearing. *Gov't Code 551.074* [See BEC]

CLOSED MEETING

The Board may conduct a closed meeting on an employee complaint to the extent required or provided by law. [See BEC]

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. Cr. App. 1991)*

RECORD OF PROCEEDINGS

An appeal of the 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 the District's responsibility to make and preserve the records of the proceedings before the Board. If the 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)

WHISTLEBLOWER COMPLAINTS

Before bringing suit, an employee who seeks relief under Government Code Chapter 554 (whistleblowers) must initiate action under the District's grievance or appeal procedures relating to suspension or termination of employment or adverse personnel action. *Gov't Code 554.005* [See DG]

Note: This policy addresses harassment of District employees. For harassment of students, see FFH. For reporting requirements related to child abuse and neglect, see FFG.

OFFICIAL OPPRESSION

A public official commits a Class A misdemeanor if, while acting in his or her official or employment capacity, the official intentionally subjects another to 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)*

HARASSMENT OF EMPLOYEES

Harassment on the basis of a protected characteristic is a violation of the federal anti-discrimination laws. The 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 CFR 1606.8(a), 1604.11*

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)*

HOSTILE ENVIRONMENT

Verbal or physical conduct based on a person's sex, race, color, religion, or national origin constitutes unlawful harassment when the 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.

Pennsylvania State Police v. Suders, 542 U.S. 129 (2004); Nat'l Railroad Passenger Corp. v. Morgan, 536 U.S. 101 (2002); Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986); 29 CFR 1604.11, 1606.8

QUID PRO QUO

Conduct of a sexual nature also constitutes harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or

2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual.

29 CFR 1604.11(a)

SAME–SEX SEXUAL HARASSMENT

Same-sex sexual harassment constitutes sexual harassment. *Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998)*

HARASSMENT POLICY

The District should take all steps necessary to prevent sexual 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 CFR 1604.11(f)*

CORRECTIVE ACTION

The 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 CFR 1604.11(d), (e), 1606.8(d), (e)*

When no tangible employment action is taken, the 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 Industries, Inc. v. Ellerth, 524 U.S. 742 (1998); Faragher v. City of Boca Raton, 524 U.S. 775, (1998)

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

SECTION E: INSTRUCTION

EA INSTRUCTIONAL GOALS AND OBJECTIVES

EB SCHOOL YEAR

EC SCHOOL DAY

ED ORGANIZATION OF INSTRUCTION

EE INSTRUCTIONAL ARRANGEMENTS
- EEA Grouping for Instruction
- EEB Class Size
- EEC Scheduling for Instruction
- EED Student Schedules
- EEH Homebound Instruction
- EEJ Individualized Learning
  - EEJA Credit by Examination With Prior Instruction
  - EEJB Credit by Examination Without Prior Instruction
  - EEJC Correspondence Courses
- EEL Contracts with Outside Agencies
- EEP Lesson Plans

EF INSTRUCTIONAL RESOURCES
- EFA Instructional Materials Selection and Adoption
  - EFAA Textbook Selection and Adoption
- EFB Library Media Programs
- EFC Community Instructional Resources
- EFD Field Trips
- EFE Copyrighted Material
- EFF Instructional Television

EG CURRICULUM DEVELOPMENT
- EGA Innovative and Magnet Programs

EH CURRICULUM DESIGN
- EHA Basic Instructional Program
  - EHAA Required Instruction (All Levels)
  - EHAB Required Instruction (Elementary)
  - EHAC Required Instruction (Secondary)
  - EHAD Elective Instruction
- EHB Special Programs
  - EHBA Special Education
    - EHBAA Identification, Evaluation, and Eligibility
    - EHBAB Individualized Education Program (IEP) and ARDs
    - EHBAC Students in Non-District Placement
    - EHBAD Transition Services
    - EHBAE Procedural Requirements

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SECTION E: INSTRUCTION

EHBB Gifted and Talented Students
EHBC Compensatory/Accelerated Services
EHBD Federal Title I
EHBE Bilingual Education/ESL
EHBF Career and Technology Education
EHBG Prekindergarten
EHBH Other Special Populations
EHBI Adult and Community Education
EHBJ Dual Language
EHBK Other Instructional Initiatives
EHD Extended Instructional Programs
EHDA Summer School
EHDB Travel Study
EHDC Honors
EHDD College Course Work/Dual Credit
EHDE Distance Learning

EI ACADEMIC ACHIEVEMENT
EIA Grading/Progress Reports to Parents
EIAA Examinations
EIAB Makeup Work
EIB Homework
EIC Class Ranking
EID Honor Rolls
EIE Retention and Promotion
EIF Graduation

EJ ACADEMIC GUIDANCE PROGRAM

EK TESTING PROGRAMS
EKB State Assessment
EKC Reading Assessment
EKD Mathematics Assessment

EL CHARTER CAMPUS OR PROGRAM

EM MISCELLANEOUS INSTRUCTIONAL POLICIES
EMA Academic Freedom
EMB Teaching About Controversial Issues
EMD Ceremonies and Observances
EMG Animals in the School
EMI Study of Religion

GENERAL EDUCATION

A student to be confined for a minimum of four consecutive weeks to a hospital or homebound for medical reasons specifically documented by a physician licensed to practice in the U.S. may be eligible for general education homebound services. The parent's request for services shall be made through the principal in accordance with TEA's Student Attendance Accounting Handbook and administrative procedures.

The principal or designee shall convene a placement committee composed of at least a campus administrator, a teacher of the student, and the parent or guardian of the student to consider the necessity of providing general education homebound instruction to the student. If the committee determines that such instruction is appropriate, the committee shall determine the type and amount of instruction to be provided and, when the student is able to return to the regular educational setting, the length of the transition period based on current medical information.

SPECIAL EDUCATION

For special education students, the ARD committee shall determine the type and amount of instruction to be provided and, when the student is able to return to the regular educational setting, the length of the transition period based on current medical information.

DOCUMENTATION OF SERVICES

The District shall maintain, in accordance with administrative procedures, full documentation about students receiving homebound services.

INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION: TEXTBOOK SELECTION AND ADOPTION

EFAA (LOCAL)

TEXTBOOK SELECTION COMMITTEE

At an appropriate time following adoption of instructional materials by the State Board, the Superintendent shall make recommendations to the Board for appointment of a local textbook selection committee.

Members of the committee shall be professional staff, and the majority shall be classroom teachers.

Should the Board reject any recommendation, the Superintendent shall present another recommendation. The official minutes of the Board meeting at which the appointment is made shall include names of the persons appointed to serve.

The Superintendent or designee shall be a member and serve as chair of the committee. A quorum, consisting of a majority of the committee members, must be present when selections are made.

RECOMMENDATION AND ADOPTION

After examining all instructional materials adopted by the State Board and reflected on the multiple lists, the textbook selection committee shall select materials for use in the District and recommend the selections to the Board for ratification. In the event the Board does not ratify all of the selections, the reasons shall be recorded in Board minutes. The committee shall make other recommendations for selection until the Board has ratified all selections.

The Superintendent or designee shall be responsible for coordinating the time frame for meetings of the committee and meetings of the Board to ensure compliance with state timelines.

PURPOSE

A primary purpose of the public school curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage. The District shall foster the continuation of the tradition of teaching United States and Texas history and the free enterprise system in regular subject matter, in reading courses, and in the adoption of textbooks. *Education Code 28.002(h)*

As a condition of accreditation, the 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)*

The 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*

REQUIRED CURRICULUM

A district that offers kindergarten through grade 12 shall offer the following as a required curriculum:

FOUNDATION CURRICULUM

1. A foundation curriculum that includes:
   a. English Language Arts and reading;
   b. Mathematics;
   c. Science; and
   d. Social studies, consisting of Texas, United States, and world history; government; and geography.

Education Code 28.002(a)(1); 19 TAC 74.1(b)

ENRICHMENT CURRICULUM

2. An enrichment curriculum that includes:
   a. 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;
   b. Health, with emphasis on the importance of proper nutrition and exercise;
   c. Physical education;

d. Fine Arts;

e. Economics, with emphasis on the free enterprise system and its benefits;

f. Career and technology education; and

g. Technology applications.

Education Code 28.002(a)(2); 19 TAC 74.1(c)

The 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 28.004(f); 19 TAC 74.1(b)*

EXTENSION

Until September 1, 2005, the District may apply for an extension to comply with the rules adopted by the State Board of Education implementing the enrichment curriculum. *Education Code 28.002(c–1)*

LOCAL INSTRUCTIONAL PLAN

The District's local instructional plan may draw on state curriculum frameworks and program standards as appropriate. The District is encouraged to exceed minimum requirements of law and State Board rule. *Education Code 28.002(g)*

SCHOOL HEALTH ADVISORY COUNCIL

The Board shall 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. *Education Code 28.004(a)* [See BDF regarding composition of council and FFA regarding federal wellness requirements]

DUTIES

The council's duties include recommending:

1. The number of hours of instruction to be provided in health education;

2. Curriculum appropriate for specific grade levels designed to prevent obesity, cardiovascular disease, and Type II diabetes through coordination of health education, physical education and physical activity, nutrition services, parental involvement, and instruction to prevent the use of tobacco;

3. Appropriate grade levels and methods of instruction for human sexuality instruction; and

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;

b. Counseling and guidance services;

c. A safe and healthy school environment; and

d. School employee wellness.

Education Code 28.004(c)

CONTENT OF HUMAN SEXUALITY INSTRUCTION

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 local school health advisory council. 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)

CONDOMS

The District may not distribute condoms in connection with instruction relating to human sexuality. *Education Code 28.004(f)*

SEPARATE CLASSES

If the District provides human sexuality instruction, it may separate students according to sex for instructional purposes. *Education Code 28.004(g)* [See FBA regarding single-sex classes under Title IX]

NOTICE TO PARENTS

The District shall notify a parent of each student enrolled in the District of the basic content of the District's human sexuality instruction to be provided to the student and of the parent's right to remove the student from any part of that instruction. *Education Code 28.004(i)*

AVAILABILITY OF MATERIALS

The District shall make all curriculum materials used in human sexuality instruction available for reasonable public inspection. *Education Code 28.004(j)* [See EFAA regarding selection of curriculum materials for human sexuality instruction]

STEROID NOTICE AND EDUCATION

The District shall, at appropriate grade levels as determined by the State Board of Education, provide to students involved in extracurricular athletic activities information developed by TEA regarding the use of anabolic steroids and the health risks involved with such use. *Education Code 38.0081(b)*

Each school in the 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 a notice regarding steroids, using the text set forth at Education Code 38.008 [see FNCF(EXHIBIT)]. *Education Code 38.008*

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

NONDISCRIMINATION

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

FREE APPROPRIATE PUBLIC EDUCATION (FAPE)

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

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

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

20 U.S.C. 1401(9); 34 CFR 300.13; 34 CFR 300.121(d)

LEAST RESTRICTIVE ENVIRONMENT

The District shall ensure that, to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, shall be educated with children who are not disabled. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment shall occur only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. *20 U.S.C. 1412(a)(5); 34 CFR 300.550(b)*

DISCIPLINE

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

PLACEMENT OPTIONS

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

1. Mainstream: providing services in a regular classroom;

2. Homebound: providing services at home or hospital bedside;

3. Hospital class: providing services in a classroom, hospital facility, or residential care and treatment facility not operated by the District;

4. Speech therapy: providing speech therapy services in a regular education classroom or other setting;

5. Resource room/services: providing services in a setting other than the regular classroom for less than 50 percent of the regular school day;

6. Self-contained (mild, moderate, or severe) regular campus: providing services to a student who is in a self-contained program for 50 percent or more of the regular school day on a regular school campus;

7. Off home campus: providing services in an interdistrict program, through District personnel at a nondistrict facility, or at a District campus that provides only special education and related services.

8. Nonpublic day school: providing services through a contractual agreement with a nonpublic school for special education;

9. Vocational adjustment class/program: providing services to a student who is placed on a job with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP;

10. Residential care and treatment facility (not District resident): providing services to students who reside in care and treatment facilities and whose parents do not reside within the boundaries of the District;

11. State school for persons with mental retardation: providing services to a student who resides at a state school when the services are provided at the state school location; or

12. Other program options, including contracts with other districts and programs approved by TEA.

19 TAC 89.63(c), (f)

SHARED SERVICES ARRANGEMENTS

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

CHILD FIND

The District shall ensure that all children residing within the District who have disabilities, regardless of the severity of their disabilities, and who are in need of special education and related services are identified, located, and evaluated. This requirement applies to children attending private schools, highly mobile children (including migrant and homeless children), children who are wards of the state, and children who are suspected of being in need of special education but who are advancing from grade to grade.

The District shall have a practical method for determining which children are currently receiving needed special education and related services.

20 U.S.C. 1412(a)(3)(A); 34 CFR 300.125

PRIVATE SCHOOL STUDENTS

The child find process shall be designed to ensure the equitable participation of parentally placed private school children with disabilities and an accurate count of such children. In carrying out this requirement, the District shall undertake activities similar to those undertaken for public school children.

The child find process for children enrolled in private schools shall be completed in a time period comparable to that for other students attending public schools in the District.

CONSULTATION WITH PRIVATE SCHOOL OFFICIALS

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

When timely and meaningful consultation has occurred, the District shall obtain a written affirmation signed by the representatives of participating private schools. If such representatives do not provide such affirmation within a reasonable period of time, the District will forward the documentation to TEA.

20 U.S.C. 1412(a)(10)(A)(ii)–(iv)

PRESCHOOL STUDENTS

The District shall develop a system to notify District residents with children between the ages of three and five who are eligible for enrollment in a special education program of the availability of the program. *Education Code 29.009*

REFERRALS

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

Before referral, students experiencing difficulty in the general classroom should be considered for all support services available

to all students, such as tutorial, remedial, compensatory, and other services. If a student continues to experience difficulty in the general classroom after the provision of interventions, District personnel must refer the student for a full and individual initial evaluation.

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

NOTICE OF RIGHTS

A reasonable time before the District proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student or the provision of a free appropriate education to a student, the District shall provide written notice to the student's parent or guardian. *20 U.S.C. 1415(b)(3); 34 CFR 300.503(a)(i)* [See EHBAE]

INITIAL EVALUATION

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

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

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

CONSENT FOR INITIAL EVALUATION

Before the District conducts an initial assessment, it shall obtain informed, written parental consent for the evaluation.

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

If a parent revokes consent, that revocation is not retroactive (that is, it does not negate an action that has occurred after the consent was given and before the consent was revoked). [See EHBD]

Parental consent shall not be construed as consent for placement.

20 U.S.C. 1414(a)(1)(D), (E); 34 CFR 300.500(b)(1), 300.505, 300.531

WARDS OF THE STATE

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

1. Despite efforts to do so, the District cannot discover the whereabouts of the parent;

2. The rights of the parent have been terminated;

3. The rights of the parent to make educational decisions have been subrogated and an individual appointed by a judge has given consent for an initial evaluation.

20 U.S.C. 1414(a)(1)(D)(iii)

DETERMINATION

The initial evaluation shall consist of procedures to determine whether a child is a child with a disability within 60 days of receiving parental consent for the evaluation, or a shorter time frame if one is established by the state.

This time frame shall not apply if:

1. A child enrolls after the relevant time frame has begun and before the previous district made a determination as to whether the child has a disability, but only if the current district is making sufficient progress to ensure a prompt completion of the evaluation and the parent and District agree to a specific time for completion of the evaluation; or

2. The parent repeatedly fails or refuses to produce the child for the evaluation.

20 U.S.C. 1414(a)(1)(C)(ii); Education Code 29.004

The time required for the District to provide information and seek consent under Education Code 29.0041(b) may not be counted toward the 60 calendar days for completion of an evaluation under Education Code 29.004. If a parent does not give consent under Education Code 29.0041(b) within 20 calendar days after the date the District provided to the parent the information required, the parent's consent is considered denied. *Education Code 29.0041(c)*

DETERMINATION OF 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 is eligible for special education and related services. Lack of instruction in reading or math or limited English proficiency shall not be the determinant factor. *20 U.S.C. 1414(b)(4)–(5); 34 CFR 300.534(a)*

FIRST–TIME REFERRALS

The admission, review, and dismissal (ARD) committee shall make its decisions regarding a student referred for a full and individual initial evaluation within 30 calendar days from the date of the completion of the written evaluation report. If the 30th day falls during the summer and school is not in session, the ARD committee shall have until the first day of classes in the fall to finalize decisions concerning the initial eligibility determination, the IEP, and placement, unless the initial evaluation indicates the student will

need extended school year (ESY) services during that summer. *19 TAC 89.1050(d)*

COPY OF REPORT TO PARENTS

A copy of the evaluation report and the documentation of determination of eligibility must be given to the parent. *20 U.S.C. 1414(b)(4)(B); 34 CFR 300.534(a)(2)*

REEVALUATIONS

The District shall ensure that each child 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.

20 U.S.C. 1414(a)(2), (b), (c); 34 CFR 300.505, 300.536

CHANGE IN ELIGIBILITY

The District shall evaluate a child before determining that the child is no longer a child with a disability. However, an evaluation is not required before the termination of eligibility due to graduation from secondary school with a regular diploma or due to exceeding the age eligibility for a free appropriate public education under state law. *20 U.S.C. 1414(c)(5); 34 CFR 300.534(c)(1)*

INDEPENDENT EVALUATION

The parents have a right to obtain an independent educational evaluation if they disagree with the District's evaluation.

If a parent requests an independent evaluation, the District shall provide the parents with information regarding where one can be obtained. In addition, the District shall either ensure that an evaluation is performed at public expense or initiate a due process hearing to establish that the District's evaluation is appropriate.

AT PUBLIC EXPENSE

If an independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the District uses when it initiates an evaluation.

AT PRIVATE EXPENSE

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

34 CFR 300.502

DEFINITION OF ELIGIBILITY

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

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

2. The student has one or more of the disabilities listed in federal regulations, state law, or both; and

3. The student's disability(ies) prevent the student from being adequately or safely educated in the public schools without the provision of special services.

Education Code 29.003(b); 19 TAC 89.1035; 19 TAC 89.1040

VISUAL AND AUDITORY IMPAIRMENTS

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

PRESCRIPTION MEDICATION

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

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

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

ADMISSION, REVIEW, AND DISMISSAL COMMITTEE

The District shall establish an admission, review, and dismissal (ARD) committee for each eligible student with a disability and for each student for whom a full and individual initial evaluation is conducted. The ARD committee shall be the individualized education program (IEP) team defined at 34 CFR 300.344.

RESPONSIBILITIES OF ARD COMMITTEE AND IEP TEAM

The responsibilities of the ARD committee and the District include:

1. Evaluation, re-evaluation, and determination of eligibility for special education and related services;
2. Placement of students with disabilities;
3. Development of the student's individualized education program (IEP);
4. Development and implementation of service plans for eligible students in private schools;
5. Compliance with the least restrictive environment standard;
6. Compliance with state requirements for reading diagnosis and state assessments;
7. Development of personal graduation plans;
8. Development of intensive programs of instruction under Education Code 28.0213;
9. Evaluation, placement, and coordination of services for students who are deaf, hard of hearing, blind, or visually impaired; and
10. Determining eligibility for extracurricular activities, under Education Code 33.081.

19 TAC 89.1050(a)

COMMITTEE MEMBERS

The District shall ensure that each IEP team meeting includes all of the following:

1. The parents of a child with a disability;
2. At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
3. At least one special education teacher or, if appropriate, at least one special education provider of the child;
4. A representative* of the District who:

a. Is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities;

b. Is knowledgeable about the general education curriculum; and

c. Is knowledgeable about the availability of resources of the District;

5. An individual who can interpret the instructional implications of evaluation results, who may be a member of the ARD committee (who may be a member of the committee listed in items 1–5);

6. The child, if appropriate; and

7. Other individuals who have knowledge or special expertise regarding the child at the discretion of the District or the parent.

* The District may designate another member of the ARD committee to also serve as a District representative, so long as the criteria in items 4a–c are satisfied.

A 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 meeting.

A 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 and the District consent to the excusal and the member submits, in writing, input into the development of the IEP before the meeting.

20 U.S.C. 1414(d)(1)(B)–(C); 34 CFR 300.344

MEMBERSHIP FOR TRANSITION MEETINGS

If the purpose of the meeting is to consider transition services for a student, the District shall invite:

1. The student. If the student does not attend, the District shall take steps to ensure that the student's preferences and interests are considered.

2. A representative of any other agency that is likely to be responsible for providing or paying for transition services. If such a representative is invited but does not attend, the Dis-

trict shall take other steps to obtain the participation of the other agency in the planning of any transition services.

34 CFR 300.344(b) [See EHBAD]

PARENT INVOLVEMENT

The District shall take steps to ensure that one or both parents of a student with a disability are present at each ARD committee meeting or are afforded an opportunity to participate, including:

1. Notice of the purpose, time, and location of the meeting, who will be in attendance, and that persons with knowledge or special expertise may be invited by either the parent or the District;

2. Scheduling the meeting at a mutually agreed on time and place.

If the purpose of the meeting is to consider transition services, the notice must also indicate this purpose, indicate that the District will invite the student, and identify any other agency that will be invited to send a representative.

34 CFR 300.345(a), (b); 19 TAC 89.1045

ALTERNATIVE MEANS OF MEETING PARTICIPATION

When conducting ARD committee meetings and placement, the parent and the District may agree to use alternative means of meeting participation, such as video conferences and conference calls. *20 U.S.C. 1414(f)*

An ARD meeting may be conducted without a parent in attendance if the 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 CFR 300.345(c)–(d)*

MEETINGS

The District shall initiate and conduct ARD committee meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability. The committee shall review each child's IEP periodically, and, if appropriate, revise the IEP. A meeting must be held for this purpose at least once a year.

A meeting does not include informal or unscheduled conversations involving District personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provisions if those issues are not addressed in the child's IEP. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

20 U.S.C. 1414(d)(4); 34 CFR 300.501(b)(2), 300.343

MEETING AT PARENT'S REQUEST

A parent may request an ARD committee meeting at any mutually agreeable time to address specific concerns about his or her child's special education services. The District must respond to the request by holding the meeting or requesting TEA's assistance through the mediation process. The District shall inform parents of the functions of the ARD committee and the circumstances or types of problems for which requesting an ARD committee meeting would be appropriate. *19 TAC 89.1045(b)*

TRANSFER STUDENTS

If a student transfers districts, and the student had a previous IEP in place, the District will provide the child with a free appropriate public education, including services comparable to those described in the previous IEP, in consultation with the parents, until:

1. In the case of a student who transfers within the state, the District adopts the previous IEP or develops, adopts, and implements a new IEP.
2. In the case of a student who had an IEP in effect in another state, the District conducts an evaluation, if determined necessary by the District, and develops a new IEP, if appropriate.

TRANSFER OF RECORDS

The district in which the child enrolls shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous district.

The previous district shall take reasonable steps to promptly respond to the request from the new district.

20 U.S.C. 1414(d)(2)(C)

INDIVIDUALIZED EDUCATION PROGRAM (IEP)

The District shall develop, review, and revise an IEP for each child with a disability. *20 U.S.C. 1412(a)(4)*

At the beginning of each school year, the District shall have in effect, for each child with a disability in its jurisdiction, an IEP. *20 U.S.C. 1414(d)(2)(A)*

The term "individualized education program" means a written statement for each child with a disability that includes:

1. A statement of the child's present levels of academic achievement and functional performance;
2. A statement of measurable annual goals, including academic and functional goals;
3. A description of how the child's progress toward the annual goals will be measured and when periodic reports on the progress of the child will be provided;

4. A statement of the specific special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child;

5. A statement of the program modifications or supports for school personnel that will be provided for the child;

6. An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in extracurricular and nonacademic activities;

7. The projected dates for initiation of services and modifications and the anticipated frequency, location, and duration of these services and modifications;

8. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state or districtwide assessments;

9. Beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter, a statement of the transition service needs of the student [see EHBAD]; and

10. Beginning not later than one year before the child reaches the age of 17, a statement that the child has been informed of the rights that will transfer to the child upon reaching the age of majority.

20 U.S.C. 1414(d); 34 CFR 300.347(a), (b); 19 TAC 89.1055

TRANSLATION OF IEP INTO NATIVE LANGUAGE

If the parent is unable to speak English and Spanish is the parent's native language, the District shall provide a written or audiotaped copy of the student's IEP translated into Spanish. If the parent's native language is other than Spanish or English, the District shall make a good faith effort to provide a written or audiotaped copy of the student's IEP translated into the parent's native language.
Education Code 29.005(d)

AUTISM / PERVASIVE DEVELOPMENTAL DISORDER

For students with autism/pervasive developmental disorders, information about the following shall be considered and, when needed, shall be addressed in the IEP:

1. Extended educational programming;

2. Daily schedules reflecting minimal unstructured time;

3. In-home training or viable alternatives;

4. Prioritized behavioral objectives;

5. Prevocational and vocational needs of students 12 years of age or older;

6. Parent training; and

7. Suitable staff-to-students ratio.

If the ARD committee determines that the services are not needed in one or more of the items listed in 1–7 above, the IEP shall include a statement reflecting that decision and the basis upon which the determination was made.

19 TAC 89.1055(e)–(f)

VISUAL IMPAIRMENT

If the District provides special education services to students with visual impairments, it shall have written procedures as required in Education Code 30.002(c)(10) (access to resources).
19 TAC 89.1075(b)

COLLABORATIVE PROCESS

All members of the ARD committee shall have the opportunity to participate in a collaborative manner in developing the IEP. Decisions concerning the required elements of the IEP shall be made by agreement of the required members, if possible. The ARD committee may agree to an annual IEP or an IEP of shorter duration.

TEN–DAY RECESS

When agreement about all required elements of the IEP is not achieved, the parent or adult student [see EHBAD for more information on rights of adult students] who disagrees shall be offered a single opportunity to have the committee recess for a period not to exceed ten school days. This recess is not required when:

1. The student's presence on campus represents a danger of physical harm to the student or others;

2. The student has committed an expellable offense; or

3. The student has committed an offense that may lead to placement in a disciplinary alternative education program. [See FOF]

These requirements do not prohibit the members of the ARD committee from recessing an ARD committee meeting for reasons other than failure of the parents and the District to reach agreement about all required elements of an IEP.

During the recess, the committee members shall consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons to enable the committee to reach agreement.

The date, time, and place for continuing the ARD committee meeting shall be determined by agreement before the recess.

FAILURE TO REACH AGREEMENT

If, after the ten-day recess, the ARD committee still cannot reach agreement, the District shall implement the IEP it has determined to be appropriate for the student. A written statement of the basis for the disagreement shall be included in the IEP. The members who disagree shall be offered the opportunity to write their own statements.

When the District implements an IEP with which the parents or adult student disagree, it shall provide prior written notice in compliance with the notice provisions described at EHBAE.

Parents shall have the right to file a complaint, request mediation, or request a due process hearing at any point, when they disagree with ARD committee decisions.

19 TAC 89.1050(h)

MODIFICATION OF EXISTING IEP

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.

To the extent possible, the District shall encourage the consolidation of reevaluation meetings for the child and other ARD meetings for the child.

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. Upon request, a parent shall be provided with a revised copy of the IEP with amendments incorporated.

20 U.S.C. 1414(d)(3)(D)–(F)

RELATED SERVICES

DEFINITION

"Related services" means transportation, and such developmental, corrective, and other supportive services as may be required to assist a child with a disability to benefit from special education.

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

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

20 U.S.C. 1401(26)

TRANSPORTATION

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

ASSISTIVE TECHNOLOGY DEVICES

The term "assistive technology device" (ATD) means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such a device. *20 U.S.C. 1401(1)*

TEA shall annually disseminate standards for a district's transfer of an assistive technology device (ATD) when a student with a disability using the device changes the school of attendance in a district or ceases to attend school in the district that purchased the device, and the student's parents, or the student if the student has the legal capacity to enter into a contract, agrees to the transfer.

A transfer of an ATD shall be in accordance with a transfer agreement which incorporates the standards described in Education Code 30.0015(c) and 19 TAC 89.1056.

Education Code 30.0015; 19 TAC 89.1056

EXTENDED SCHOOL YEAR (ESY) SERVICES

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

The need for ESY services must be determined on an individual student basis by the ARD committee. In determining the need for and in providing ESY services, the District may not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of ESY services.

If the District does not propose ESY services for discussion at the annual review of a student's IEP, the parent may request that the ARD committee discuss ESY services.

34 CFR 300.309(a); 19 TAC 89.1065(1), (5)

SHARED SERVICES ARRANGEMENTS

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

NONDISTRICT PLACEMENT

ADULT PRISONS

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

1. Federal requirements pertaining to participation of students with disabilities in general assessments;

2. Requirements concerning transition planning and transition services, if the children's eligibility will end, because of their age, before they will be released from prison.

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

20 U.S.C. 1414(d)(7); 34 CFR 300.311

PRIVATE SCHOOLS AND FACILITIES

ENROLLED BY STATE OR DISTRICT

The District shall ensure that children with disabilities in private schools and facilities are provided special education and related services, at no cost to their parents, if the children are placed in, or referred to, such schools or facilities by the state or District. *20 U.S.C. 1412(a)(10)(B)(i); 34 CFR 300.401(a); 19 TAC 89.1090*

ENROLLED BY PARENT

If a child with a disability is enrolled in a private school and will receive special education or related services from the District, the District shall initiate and conduct ARD committee meetings to develop, review, and revise a services plan for the child and ensure that a representative of the private school attends that meeting.

PRIVATE SCHOOL PERSONNEL

The District shall give appropriate representatives of private school children with disabilities a genuine opportunity to express their views regarding educational needs of private school children with disabilities. However, the services provided to private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools.

The District shall make the final decisions with respect to eligible private school children.

34 CFR 300.454

REIMBURSEMENT FOR PRIVATE SCHOOL PLACEMENT

If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private school without the consent or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free and appropriate public education available to the child in a timely manner before the enrollment. *20 U.S.C. 1412(a)(10)(B)*

When a student with disabilities who has been placed by his or her parents directly in a private school or facility is referred to the District, the District shall convene an ARD committee meeting to determine whether the District can offer to the student a free appropriate public education. If the District determines that it can, the District is not responsible for providing educational services to that student until the parents enroll the child in the public school full-time or request services under the dual enrollment rule [see DUAL ENROLLMENT, below]. *20 U.S.C. 1412(a), 1413(a); 34 CFR 300.454*

Children with disabilities who are enrolled by their parents in private elementary and secondary schools shall be provided special education and related services in accordance with a services plan that describes the specific special education and related services that the District will provide. Such services may be provided on the premises of private, including parochial, schools to the extent consistent with law. *19 TAC 89.1096(b)–(c); 34 CFR 300.455(b), 300.456(a)*

DUAL ENROLLMENT

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

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

19 TAC 89.1096(c)

CHARTER SCHOOLS

The District shall serve children with disabilities attending District charter schools in the same manner as it serves children with disabilities in its other schools and shall provide federal special education funds to those schools in the same manner as it provides those funds to its other schools. *20 U.S.C. 1413(a)(5); 34 CFR 300.312*

RESIDENTIAL FACILITIES

WITHIN DISTRICT

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

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

19 TAC 89.1001(c); 19 TAC 89.1115

CONTRACTS FOR RESIDENTIAL PLACEMENTS

The District may contract with a public or private facility, institution, or agency inside or outside of Texas for residential placement for students with disabilities. The District may contract only with facilities that are approved by the Commissioner. Contracts for residential placement must be approved by the Commissioner. Residential contracts shall be negotiated on an individual student basis. *Education Code 29.0087(a)*

RESPONSIBILITY

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

The District shall have the following responsibilities when making a residential placement:

1. Before placing a student with a disability in a residential facility, the District shall initiate and conduct a meeting to develop an IEP for the student.

2. The District shall list in each student's IEP the services the District is unable to provide and the facility is able to provide.

3. The District shall make an annual on-site visit to verify that the facility can and will offer the services listed in the individual student's IEP and to ensure that the facility offers the student an appropriate educational program.

4. The District shall document in each student's IEP the appropriateness of the facility. General approval by TEA or a general screening by a regional education service center (RESC) is not sufficient.

5. For each student, the ARD committee shall establish written criteria and estimated time frames for returning the student to the District.

6. For all contract students, the District shall verify in the initial and each subsequent annual ARD review that:

   a. The facility continues to meet minimum standards for health and safety;

   b. Continued contracting is needed and the need is documented in the IEP; and

   c. The facility continues to offer an appropriate program for the student and is the least restrictive environment for the student.

OUT–OF–STATE PLACEMENTS

If the District contracts for out-of-state residential placements, it shall do so in accordance with the rules for in-state residential placement, except that the facility shall be approved by the appropriate agency in the state in which the facility is located rather than by the Texas Commissioner of Education.

IN–STATE TRANSFERS

When a student on a residential contract in one district moves to another district in Texas and the student is to continue on the contract, the district that negotiated the contract shall be responsible for the residential contract for the remainder of the school year.

19 TAC 89.61(a)(4)

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

For each of its students enrolled in the Texas School for the Blind and Visually Impaired or Texas School for the Deaf, the District shall share the cost of the student's education (excluding the summer program). Before considering the student's educational placement for special education services, the District shall provide each parent of a student with visual or auditory impairments the following written information regarding the Texas School for the Deaf or Texas School for the Blind and Visually Impaired:

1. The availability of programs offered.

2. The eligibility and admissions requirements.

3. Student's rights to admission and to appeal admission decisions.

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

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

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 when appropriate, acquisition of daily living skills and functional vocational evaluation.

20 U.S.C. 1401(34); 34 CFR 300.29

INDIVIDUAL TRANSITION PLANNING (ITP)

Beginning when a student turns 14 (or younger, if determined appropriate by the ARD committee), and updated annually, each student's IEP shall include a statement of the transition service needs of the student under the applicable components of the student's IEP that focuses on the student's courses of study.

Beginning when a student turns 16, the IEP shall include a statement of needed transition services, including, if appropriate, a statement of the interagency responsibilities or any needed linkages.

34 CFR 300.347(b)

GRADUATION

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

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

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

The District shall provide the child with a summary of the child's academic achievement and functional performance, which shall

include recommendations on how to assist the child in meeting the child's postsecondary goals.

20 U.S.C. 1414(c)(5); 34 CFR 300.122(a)(3); 19 TAC 89.1070
[See EIF]

The District shall establish and maintain procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education. These procedures shall include:

OPPORTUNITIES FOR PARENTS

1. An opportunity for the parents of a child with a disability to examine all records relating to the child, or participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to the child; and to obtain an independent educational evaluation of the child.

ASSIGNMENT OF SURROGATE PARENT

2. Procedures to protect the rights of the child whenever the parents of the child are not known, the District cannot locate the parents after reasonable efforts to do so, or the child is a ward of the state. These procedures shall include assigning an individual to act as a surrogate for the parents. This individual shall not be an employee of TEA, the District, or any other agency that is involved in the education or care of the child.

PRIOR WRITTEN NOTICE

3. Prior written notice to the parents whenever the District proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child, or the free appropriate public education of the child. [See PRIOR NOTICE AND CONSENT, below]

   The written notice to parents shall be provided at least five school days before the proposed action is taken, unless the parents agree otherwise.

PARENTS' NATIVE LANGUAGE

4. Procedures designed to ensure that the prior written notice is in the native language of the parents, unless it is clearly not feasible to do so. The notice must include the elements set forth at 34 CFR 300.503(b).

MEDIATION

5. An opportunity for mediation.

COMPLAINT PROCEDURES

6. An opportunity for any party to present a complaint with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child. [See COMPLAINT PROCEDURES, below]

NOTICE OF COMPLAINT

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

20 U.S.C. 1415(a)–(b); 19 TAC 89.1015

PROCEDURAL SAFEGUARDS NOTICE

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

1. Upon initial referral or parental request for evaluation;
2. Upon the first occurrence of the filing of a complaint; and
3. Upon request by a parent.

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

CONTENTS OF NOTICE

The procedural safeguards notice shall be written in the native language of the parents (unless it clearly is not feasible to do so) and written in an easily understandable manner. The notice shall include a full explanation of the procedural safeguards relating to:

1. Independent educational evaluation;
2. Prior written notice;
3. Parental consent;
4. Access to educational records;
5. The opportunity to present and resolve complaints, including:
   a. The time period in which to make a complaint,
   b. The opportunity for the agency to resolve the complaint, and
   c. The availability of mediation;
6. The child's placement during pendency of due process proceedings;
7. Procedures for students who are subject to placement in an interim alternative educational setting;
8. Requirements for unilateral placement by parents of children in private schools at public expense;
9. Due process hearings, including requirements for disclosure of evaluation results and recommendations;
10. State-level appeals;
11. Civil actions, including the time period in which to file such actions; and
12. Attorneys' fees.

20 U.S.C. 1415(a)–(b), (d)

PRIOR NOTICE AND CONSENT

Before initially placing a student in the District's special education program, the District shall seek informed consent from the student's parent by:

CONSENT TO SERVICES

1. Giving the child's parent prior written notice, which includes a full explanation of all procedural safeguards and describes evaluation procedures the District proposes to conduct; and

2. Obtaining parental consent for the evaluation.

If the parent refuses to consent to services or fails to respond to a request to provide consent, the District shall not provide special education and related services to the child and the District shall not be considered to be in violation of the requirement to make available a free and appropriate public education to the child. The District is not required to convene an IEP meeting or develop an IEP for the services for which the District requested consent.

20 U.S.C. 1414(a)(1)(D); 34 CFR 300.500(b)(1); 300.505; 300.531

CONSENT TO INITIAL ASSESSMENT

Before the District conducts an initial assessment, it shall obtain parental consent for the evaluation. *20 U.S.C. 1414(a)(1)(D), (E); 34 CFR 300.500(b)(1); 300.505; 300.531*

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

PSYCHOLOGICAL EXAMINATIONS AND TESTS

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

1. The name and type of the examination or test; and

2. An explanation of how the examination or test will be used to develop an appropriate IEP for the child.

Education Code 29.0041

COMPLAINT PROCEDURES

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

TIME LIMIT

Such complaint must set forth an alleged violation that occurred not more than two years before the date the parent or District knew or should have known about the alleged action that forms the basis of the complaint or, if the state has an explicit time limitation for presenting such a complaint, in such time as state law allows.

Under Texas regulations, the parent or District must request a due process hearing within one year of the date the complainant knew or should have known of the alleged action that serves as the basis for the hearing request.

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

EXCEPTION

This timeline shall not apply if the parent was prevented from requesting a hearing due to:

1. A specific misrepresentation by the District that it had resolved the problem forming the basis of the complaint; or

2. The District's withholding of information from the parent that the District was required by the IDEA to provide.

20 U.S.C. 1415(b)(6)–(7)

'STAY PUT'

During the pendency of any proceeding conducted under IDEA part B (regarding the District's obligation to provide FAPE), unless the District and the parent agree otherwise, the student involved in the complaint shall remain in the then-current educational placement. If the student is applying for initial admission to a public school, the student shall, with the consent of the parents, be placed in the public school program until all proceedings have been completed. *20 U.S.C. 1415(j)*

EXCEPTION

When an appeal has been requested by a parent or District the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the student's assignment to the alternative setting, whichever occurs first, unless the parent and District agree otherwise. *20 U.S.C. 1415(k)(3)(B), 1415(k)(7); 34 CFR 300.526* [See FOF]

TRANSFER OF RIGHTS TO ADULT STUDENTS

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

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

34 CFR 300.517; Education Code 29.017(a)–(b); 19 TAC 89.1049(c)

DEFINITION OF AT–RISK STUDENT

"Student at risk of dropping out of school" includes each student who is under 21 years of age and who:

1. If the student is in prekindergarten, kindergarten, or grade 1, 2, or 3, did not perform satisfactorily on a readiness test or assessment instrument administered during the current school year;

2. If the student is in grade 7, 8, 9, 10, 11, or 12, did not maintain an average equivalent to 70 on a scale of 100 in two or more subjects in the foundation curriculum during a semester in the preceding or current school year or is not maintaining such an average in two or more subjects in the foundation curriculum in the current semester;

3. Was not advanced from one grade level to the next for one or more school years;

4. Did not perform satisfactorily on a state assessment instrument and who has not in the previous or current school year subsequently performed on that instrument or another appropriate instrument at a level equal to at least 110 percent of the level of satisfactory performance on that instrument;

5. Is pregnant or is a parent;

6. Has been placed in an alternative education program under Education Code 37.006 during the preceding or current school year;

7. Has been expelled during the preceding or current school year;

8. Is currently on parole, probation, deferred prosecution, or other conditional release;

9. Was previously reported through the Public Education Information Management System (PEIMS) to have dropped out of school;

10. Is a student of limited English proficiency, as defined by Section 29.052;

11. Is in the custody or care of the Department of Protective and Regulatory Services or has, during the current school year, been referred to the department by a school official, officer of the juvenile court, or law enforcement official;

12. Is homeless, as defined by 42 U.S.C. 11302 and its subsequent amendments [see FD]; or

13. Resided in the preceding school year or resides in the current school year in a residential placement facility in the District, including a detention facility, substance abuse treatment facility, emergency shelter, psychiatric hospital, halfway house, or foster group home.

LOCAL ELIGIBILITY CRITERIA

In addition to students described above, a student who satisfies local eligibility criteria adopted by the Board may receive instructional services under this policy. The number of students receiving services under local eligibility criteria during a school year may not exceed ten percent of the number of students described above who received services from the District during the preceding school year.

Education Code 29.081(d), (g)

INTENSIVE PROGRAM OF INSTRUCTION

The District shall offer an intensive program of instruction to a student who does not perform satisfactorily on a state assessment instrument. The program shall be designed to enable the student to perform at the student's grade level at the conclusion of the next regular school term, to the extent practicable, or to attain a standard of annual growth specified by the District and reported by the District to TEA and, if applicable, to carry out the purposes of Education Code 28.0211.

For a student in a special education program under Education Code Subchapter 29(A), who does not perform satisfactorily on a state assessment instrument, the student's admission, review, and dismissal committee shall design the program to enable the student to attain a standard of annual growth on the basis of the student's individualized education program and, if applicable, carry out the purposes of Education Code 28.0211.

The District's determination of the appropriateness of a program for a student is final and does not create a cause of action.

The District shall use funds appropriated by the legislature for an intensive program of instruction to plan and implement intensive instruction and other activities aimed at helping a student satisfy state and local high school graduation requirements. The Commissioner shall distribute funds to districts that implement the program based on the number of students identified by the District who do not perform satisfactorily on a state assessment instrument or are not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade nine, as determined by the District.

Education Code 28.0213

COMPENSATORY, INTENSIVE, AND ACCELERATED INSTRUCTION

The District shall use student performance data from state basic skills assessment instruments and achievement tests to design and implement appropriate compensatory, intensive, or accelerated instructional services for students in the District's schools that enable the students to be performing at grade level at the conclusion of the next regular school term.

The District shall provide accelerated instruction to enrolled students who have not performed satisfactorily on each section of the secondary exit-level assessment instrument or who are at risk of dropping out of school.

EFFECTIVENESS

The district shall evaluate and document the effectiveness of the accelerated instruction in reducing any disparity in performance on state assessment instruments or disparity in the rates of high school completion between students at risk of dropping out of school and all other District students. The evaluation shall include an analysis of the effectiveness of each program described in the campus and District improvement plans for reducing such disparities.

Education Code 29.081(a), (b), (c)

USE OF COMPENSATORY EDUCATION ALLOTMENT

The District shall use its compensatory education allotment to fund supplemental programs and services designed to eliminate any disparity in performance on state assessment instruments or disparity in the rates of high school completion between at-risk students and all other students. Specifically, the District may use the funds, other than an indirect cost allotment established by State Board rule, which may not exceed 15 percent, in providing a compensatory, intensive, or accelerated instruction program or an alternative education program established under Education Code 37.008 or to support a program eligible under Title I of the Elementary and Secondary Education Act of 1965 and its subsequent amendments and implementing regulations, at a campus at which at least 40 percent of the students are educationally disadvantaged. In meeting the costs of providing a compensatory, intensive, or accelerated instruction program, the District's compensatory education allotment shall be used for costs supplementary to the regular education program, such as costs for program and student evaluation, instructional materials and equipment and other supplies required for quality instruction, supplemental staff expenses, salary for teachers of at-risk students, smaller class size, and individualized instruction.

The District may also use allocated funds to fund the District's mentoring services program under Education Code 29.089.

AT RISK OF DROPPING OUT

The District may use its compensatory education allotment for a program specifically designed to serve students at risk of dropping out of school.

EDUCATIONALLY DISADVANTAGED

The number of educationally disadvantaged students is determined:

1. By averaging the best six months' enrollment in the national school lunch program of free or reduced-price lunches for the preceding school year; or
2. In the manner provided by Commissioner of Education rule, if no campus in the District participated in the national school lunch program of free or reduced-price lunches during the preceding school year.

LIMITATION ON DAEP EXPENDITURES

To ensure that a sufficient amount of compensatory education funds are available to supplement instructional programs and services, no more than 18 percent of the funds allotted under this section may be used to fund disciplinary alternative education programs. The Commissioner may waive the limitations upon an annual petition, by the District's Board and site-based decision making committee, presenting the reason for the need to spend supplemental compensatory education funds on disciplinary alternative education programs, provided that the District reports the number of students in each grade level, by demographic subgroup, not making satisfactory progress under the state's assessment system.

Notwithstanding Education Code 42.152(c), funds allocated may be used to fund in proportion to the percentage of students served by the program that meet the criteria in Education Code 29.081(d) or (g):

1. An accelerated reading instruction program under Education Code 28.006(g); or
2. A program for treatment of students who have dyslexia or a related disorder as required by Education Code 38.003.

Education Code 42.152

TUTORIAL SERVICES

The District may provide tutorial services at District schools. If the District provides tutorial services, it shall require a student whose grade in a subject for a reporting period is lower than 70 to attend tutorials.

The District may provide transportation services to accommodate students who are required to attend tutorials and who are eligible for regular transportation.

Education Code 29.084

ACCELERATED READING INSTRUCTION PROGRAM

The District shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to each student in kindergarten, first grade, or second grade who is determined, on the basis of reading instrument results [see EKC], to be at risk for dyslexia or other reading difficulties. The District shall determine the form, content, and timing of that program. The admission, review, and dismissal committee of a student who participates in the District's special education program and who does not perform satisfactorily on a reading instrument shall determine the manner in which the student will participate in an accelerated reading program.

LIMITATION

However, the accelerated reading instruction program may be implemented only if the Commissioner certifies, no later than July 1 of each year, that funds have been appropriated during a school year for administering the accelerated reading instruction program.

Education Code 28.006

READY–TO–READ GRANTS

The Commissioner shall make grants in support of pre-reading instruction. These 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. As a condition to receiving a grant, public or private funds matching the grant must be pledged in a percentage set by the Commissioner. *Education Code 29.157*

AFTER–SCHOOL AND SUMMER INTENSIVE MATHEMATICS AND SCIENCE

The District may provide an intensive after-school program or an intensive program during the period that school is recessed for the summer to provide mathematics and science instruction to:

1. Students who are not performing at grade level in mathematics or science to assist those students in performing at grade level;
2. Students who are not performing successfully in a mathematics course or science course to assist those students in successfully completing the course; or
3. Other students as determined by the District.

Before providing a program, the Board must adopt a policy for:

1. Determining student eligibility for participating in the program that:
   a. Prescribes the grade level or course a student must be enrolled in to be eligible; and
   b. Provides for considering teacher recommendations in determining eligibility;

2. Ensuring that parents of or persons standing in parental relation to eligible students are provided notice of the program;

3. Ensuring that eligible students are encouraged to attend the program;

4. Ensuring that the program is offered at one or more locations in the District that are easily accessible to eligible students; and

5. Measuring student progress on completion of the program.

The Commissioner by rule shall adopt guidelines and procedures related to funding and reporting.

Education Code 29.088, 29.090; 19 TAC 102.1041

OPTIONAL EXTENDED–YEAR PROGRAM

The District may set aside an amount from its compensatory education allotment, or may apply to TEA for funding of an extended-year program, for a period not to exceed 30 instructional days for:

1. Students in kindergarten through grade 11 who are identified as not meeting District standards or policies for promotion on the basis of academic achievement or demonstrated proficiency of the subject matter of the course or grade level; or

2. Students in grade 12 who are identified as likely not to graduate from high school before the beginning of the succeeding school year.

Each district seeking funding for an extended-year program must submit an application to the Commissioner of Education.

If the District provides an extended-year program, it shall adopt a policy designed to lead to immediate reduction and ultimate elimination of student retention.

The District may not enroll more than 16 students in a class provided in an optional extended-year program. Each class must be taught by a teacher who has completed a program that provides training to teach such a class. The training shall provide teachers with the knowledge and skills needed to help students in the program meet challenging state content and student performance standards. Training is to occur prior to the implementation of the program, and additional professional development may be provided throughout the implementation of the program.

DISTRICT REQUIREMENTS

The District must:

1. Incorporate effective instructional strategies into the design of the program to ensure students are provided with the skills

needed to be successful in the following school year. An extended day program must be implemented beyond the regular seven-hour day and may not include tutorials or extended in-school day care services. A tutorial program is not an acceptable instructional design for the program.

2. Include a parent/family awareness component in the extended-year program.

3. Submit to TEA an annual report evaluating the program. The report shall include a complete list of students who participated in the program for at least one day.

4. Maintain documentation of its compliance with the requirements of the optional extended-year provisions of this policy.

An extended-year program may extend the year, the week, or the day. The program shall be conducted beyond the required instructional days which may include intercessions for year-round programs.

The District may use optional extended-year program funds for follow-up activities so long as the optional extended-year program is provided for no less than 30 instructional days. These follow-up activities are restricted to participants of the program. All costs under the optional extended-year program must be necessary and reasonable for carrying out the objectives of the program and for the proper and efficient performance and administration of the program.

The District shall provide transportation to each student who is required to attend a program under this section and who is eligible for regular transportation services. [See policies at EIE and FDC]

Education Code 29.082; 19 TAC 105.1001

OPTIONAL FLEXIBLE YEAR PROGRAM

The District may provide an optional flexible year program (OFYP) for students who did not or are likely not to perform successfully on state assessment instruments or who would not otherwise be promoted to the next grade level.

STUDENT ELIGIBILITY

A student is eligible to participate in the OFYP if the student meets one or more of the following criteria:

1. The student did not or is not likely to achieve a passing score on a state assessment;

2. The student is not eligible for promotion to the next grade.

PROGRAM CRITERIA

The criteria for an OFYP are as follows:

1. The District may reduce the number of instructional days during the regular school year for students who do not meet the eligibility criteria for participation in the program to no fewer than 170 days;

2. The District must provide at least 180 days of instruction to those students who meet the eligibility criteria;

3. The District may request waivers for no more than five days of staff development or teacher preparation in order to provide additional days of instruction;

4. A district that provides transportation services must continue to provide these services during the OFYP;

5. A district that participates in the National School Lunch or Breakfast Programs must continue to provide these services during the OFYP;

6. The District may require educational support personnel to provide service as necessary for an OFYP;

7. Each educator employed under a ten-month contract must provide the minimum days of service required under Education Code 29.0821 [see DC], notwithstanding any reduction in the number of instructional days in the regular school year or in the number of staff development days.

REQUEST FOR APPROVAL

The District must submit a letter to TEA describing the proposed modifications to the instructional calendar. The letter must indicate the date on which the Board approved the modified instructional calendar.

If the District is requesting a waiver of staff development days or teacher preparation days, the letter must indicate that the request was approved by the campus site-based decision-making committee.

Education Code 29.0821; 19 TAC 61.1017

MENTORING SERVICES PROGRAM

The District may provide a mentoring services program to students at risk of dropping out of school. The Board shall obtain the consent of a student's parent or guardian before allowing the student to participate in the program. The Board may arrange for any public or nonprofit community-based organization to come to the District's schools and implement the program.

ACCOUNTABILITY

The Commissioner shall determine accountability standards for a district providing a mentoring services program using funds allocated under Education Code 42.152.

FUNDING

The District may use funds allocated under Education Code 42.152 to fund a mentoring services program.

Education Code 29.089; 42.152(c–1)

BASIC SKILLS PROGRAMS FOR HIGH SCHOOL STUDENTS

The District may apply to the Commissioner for funding of special programs for students in grade 9 who are at risk of not earning sufficient credit or who have not earned sufficient credit to advance to grade 10 and who fail to meet minimum skills levels established by the Commissioner. With the consent of a student's parent or guardian, the District may assign a student to the basic skills program, which may not exceed 210 instructional days. *Education Code 29.086*

DROPOUT RECOVERY EDUCATION PROGRAMS

The District may use a private or public community-based dropout recovery education program to provide alternative education programs for students at risk of dropping out of school. The programs must:

1. Provide not less than four hours of instructional time per day;
2. Employ as faculty and administrators persons with baccalaureate or advanced degrees;
3. Provide at least one instructor for each 28 students;
4. Perform satisfactorily according to performance indicators and accountability standards adopted for alternative education programs by the Commissioner; and
5. Comply with the Education Code and rules adopted thereunder.

Education Code 29.081(e)

AWARD OF CREDIT

The award of credit for a course affirms that a student has satisfactorily met state and local requirements. *19 TAC 74.26(a)*

EARLY AWARD OF CREDIT

The District may offer courses designated for grades 9–12 in earlier grade levels. Credit must be awarded if the student has demonstrated achievement by meeting the standard requirements of the course, including demonstrated proficiency in the subject matter, regardless of the time the student received instruction in the course or the grade level at which proficiency was attained. The academic achievement record shall reflect that students have satisfactorily completed courses at earlier grade levels from grades 9–12 and have been awarded state graduation credits. *19 TAC 74.26(b)*

PARTIAL AWARD

In accordance with the District's local policy, a student who is able to successfully complete only one semester of a two-semester course can be awarded credit proportionately. *19 TAC 74.26(d)*

ATTENDANCE FOR CREDIT

Unless credit is awarded by the attendance committee or regained in accordance with District policy, a student may not be given credit for a class unless the student is in attendance for at least 90 percent of the days the class is offered. *Education Code 25.092* [See FEC]

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

The District shall use the academic achievement record (transcript) form designated by the State Board. This form shall serve as the academic record for each student and shall be maintained permanently by the District. Any credit earned by a student must be recorded on the academic achievement record, regardless of when the credit was earned.

Copies of the record shall be made available to students transferring to another district. The information may be provided to the student or to the district to which the student is transferring, or both. The District shall respond promptly to all requests for student records from receiving districts. [See also FDA and FL]

Education Code 28.025(e); 19 TAC 74.14(b)–(c)

EARLY HIGH SCHOOL GRADUATION SCHOLARSHIP PROGRAM

For purposes of the Early High School Graduation Scholarship Program, a student who does not satisfy the curriculum requirements for a recommended or advanced high school program is considered to have satisfied those requirements if the high school

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

TRANSCRIPT SEALS

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

CERTIFICATE OF COURSEWORK COMPLETION

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

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

STATE ASSESSMENT OF ACADEMIC SKILLS

The statewide assessment program shall be primarily knowledge and skills based to ensure accountability for student achievement that achieves the state goals for public education. The state-adopted criterion-referenced assessment program shall be designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. Assessment instruments shall include assessment of a student's problem-solving ability and complex-thinking skills using a method of assessing those abilities and skills that is demonstrated to be highly reliable.

The state-adopted exit-level assessment instrument shall be designed to be administered to students in grade 11 to assess essential knowledge and skills in mathematics, English language arts, social studies, and science.

Every student receiving instruction in the essential knowledge and skills shall take the appropriate criterion-referenced tests, as required by Education Code 39.023(a), (b), (c), (l), and 39.027(e).

Education Code 39.022, 39.023(a), (c), (f); 19 TAC 101.1, 101.5(a)

To be eligible to receive a high school diploma, a nonexempt student must demonstrate satisfactory performance on the exit-level test. *Education Code 39.025(b); 19 TAC 101.7(a)* [See EIF]

ADMINISTRATION

The District shall follow the test administration procedures established by TEA in the applicable test administration materials. The Superintendent shall be responsible for:

1. Maintaining the integrity of the test administration process; and

2. Ensuring that every test administrator receives at least annual training in these procedures as provided by TEA through the education service centers.

19 TAC 101.27

SCHEDULE

The Commissioner shall specify the schedule for testing. The Superintendent shall be responsible for administering tests. 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*

NOTICE TO PARENTS AND STUDENTS

In order to provide timely and full notification of graduation requirements and of testing requirements for advancement at certain grades, the Superintendent shall be responsible for:

1. Notifying each student and the student's 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 the student's parent or guardian in writing of the testing requirements for graduation;

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;

4. Notifying each student and the student's parent or guardian in writing no later than the beginning of the student's first-grade year or no later than the beginning of the student's kindergarten year, for students attending kindergarten in the District, of the testing requirements for grade advancement as specified in Education Code 28.0211 [see EIE];

5. Notifying each student in grades 1–8 who is new to the District and his or her parent or guardian in writing of the testing requirements for grade advancement; and

6. Notifying each student required to take the grade advancement tests of the dates, times, and locations of testing.

19 TAC 101.13

RETAKES

According to procedures specified in the applicable test administration materials, an eligible student or out-of-school individual who has not met graduation requirements may retest on a schedule determined by the Commissioner. A student who has been denied a diploma because the student failed to meet standards of performance on any sections of the instrument may retake the sections each time the instrument is administered. A student shall not be required to demonstrate performance at a standard higher than the one in effect when the student was first eligible to take the test.
Education Code 39.025(b); 19 TAC 101.7(a)(2), (d)

ALL STUDENTS

All students, except students who are exempted, who are in special education programs, and whose ARD committees determine the assessment instrument would not provide an appropriate measure of achievement [see ALTERNATIVE ASSESSMENT, below], shall be assessed in:

1. Mathematics, annually in grades 3 through 7 without the aid of technology and in grades 8 through 11 with the aid of technology on any assessment instruments that include algebra;

2. Reading, annually in grades 3–9;

3. Writing, including spelling and grammar, in grades 4 and 7;

4. English language arts in grade 10;

5. Social studies in grades 8 and 10; and

6. Science in grades 5, 8, and 10.

Education Code 39.023(a)

SPECIAL EDUCATION STUDENTS

A student receiving special education services enrolled in grades 3–10 and who is receiving instruction in the essential knowledge and skills shall take the assessment of academic skills unless the student's ARD committee determines that it is an inappropriate measure of the student's academic progress as outlined in the student's IEP. If the ARD committee determines that the assessment is an inappropriate measure of the student's academic progress in whole or part, the student shall take the alternative assessment of academic skills in whole or part. Each testing accommodation shall be documented in the student's IEP in accordance with federal law. *19 TAC 101.5(b)*

The ARD committee shall determine the level of performance considered to be satisfactory on the assessment instruments administered to that student in accordance with TEA rules. *Education Code 39.024(a)*

ALTERNATIVE ASSESSMENT

TEA shall develop or adopt appropriate criterion-referenced assessment instruments to be administered to each student in a special education program who receives modified instruction in the essential knowledge and skills identified under Education Code 28.002 for the assessed subject but for whom an assessment instrument, even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee.

The alternative assessment instrument must assess essential knowledge and skills and growth in the subjects of reading, mathematics, and writing and shall be administered on the same schedule as the assessment instruments administered to all other students.

Education Code 39.023(b)

The alternative assessment of academic skills will measure annual growth based on appropriate expectations for each special education student, as determined by the student's ARD committee in accordance with criteria established by the Commissioner. *19 TAC 101.23(b)*

PERMISSIBLE ACCOMMODATIONS

Testing accommodations on the assessments administered 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.

For a student receiving special education services, the ARD committee shall determine the allowable accommodations necessary for the student to take the assessments and shall document them in the student's IEP. Permissible testing accommodations shall be described in the appropriate test administration materials.

19 TAC 101.29

EXEMPTIONS – SPECIAL EDUCATION

A student may be exempted from the administration of:

1. The state assessment instrument or an alternate assessment if the student is eligible for special education and the student's IEP does not include instruction in the essential knowledge and skills at any grade level;

2. Exit-level exams if the student is eligible for special education, and:

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

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

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

A student receiving special education services enrolled in grades 3–10, according to the grade implementation schedule stated at SPECIAL EDUCATION STUDENTS, and who is not receiving any instruction in the essential knowledge and skills, shall be considered exempt. Each exemption shall be documented in the student's IEP in accordance with federal law. Each exempted student shall take an appropriate locally selected assessment, as determined by the student's ARD committee, in accordance with procedures developed by TEA. Student performance results on these alternate assessments must be reported to TEA. *19 TAC 101.5(c)*

LEP STUDENTS IN SPECIAL EDUCATION

Decisions regarding the selection of assessments for LEP students who receive special education services shall be made by the ARD committee, which includes a member of the language proficiency assessment committee (LPAC) to ensure that issues related to the student's language proficiency are duly considered. *19 TAC 1001.1009(a)*

An LEP student who receives special education services may be exempted from the English language proficiency assessments only

if the ARD committee determines that these assessments cannot provide a meaningful measure of the student's annual growth in English language proficiency for reasons associated with the student's disability. *19 TAC 101.1009(c)*

The provisions at LEP STUDENTS AT OTHER GRADES apply to the assessment of academic skills and the state-developed alternative assessment of academic skills. *19 TAC 101.1009(d)*

An LEP student who receives special education services and whose parent or guardian has declined the services required by Education Code Chapter 29, Subchapter B [see EHBE], is not eligible for an exemption on the basis of limited English proficiency. *19 TAC 101.1009(e)*

STUDENTS WITH DYSLEXIA

TEA shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess the ability of and to be administered to each student who is determined to have dyslexia or a related disorder and who is an individual with a disability under 29 U.S.C. 705(20), for whom the assessment instruments, even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the committee established by the Board to determine the placement of students with dyslexia or related disorders. The committee shall determine whether any allowable modification is necessary in administering to a student an assessment instrument required under this provision. *Education Code 39.023(n)*

LIMITED ENGLISH PROFICIENCY (LEP) STUDENTS

In grades 3–12, an LEP student, as defined by Education Code Chapter 29, Subchapter B, shall participate in the assessment of academic skills in accordance with Commissioner's rules at 19 TAC Chapter 101, subchapter AA. In grades 3–6, the LPAC [see EHBE] shall determine whether a nonexempt LEP student whose primary language is Spanish will take the assessment of academic skills in English or in Spanish. The decision as to the language of the assessment shall be based on the assessment that will provide the most appropriate measure of the student's academic progress. *19 TAC 101.5(d)*

ACADEMIC PROGRESS EVALUATION

An LEP student who is exempt from the administration of an assessment instrument who achieves reading proficiency in English as determined by the assessment system shall be administered the appropriate assessment instrument. *Education Code 39.027(e)*

TESTING IN SPANISH

Each LEP student whose primary language is Spanish, other than a student eligible for special education services, may be assessed using assessment instruments in Spanish for up to three years or assessment instruments in English. The LPAC shall determine

which students are to be administered assessment instruments in Spanish. *Education Code 39.023(l), (m)*

ENGLISH LANGUAGE PROFICIENCY TESTS

In kindergarten through grade 12, LEP students shall be administered state-identified English language proficiency assessments annually in listening, speaking, reading, and writing to fulfill the state requirements for the assessment of academic skills and federal requirements under the No Child Left Behind Act. *19 TAC 101.1001*

LANGUAGE PROFICIENCY ASSESSMENT COMMITTEE

The LPAC shall select the appropriate assessment option for each LEP student in accordance with this policy at LEP STUDENTS AT THE EXIT LEVEL and LEP STUDENTS AT OTHER GRADES. Assessment decisions must be made on an individual student basis in accordance with administrative procedures established by TEA. The LPAC must document the reason for the postponement or exemption in the student's permanent record file. The District shall make a reasonable effort to determine a student's previous testing history. *19 TAC 101.1003*

EXEMPTIONS

A student may be exempted from the administration of the state assessment of academic skills:

1. For up to one year if the student is of limited English proficiency and has not demonstrated proficiency in English as determined by the assessment system developed to evaluate academic progress of an LEP student; or

2. For an additional two years if the student received the one year exemption and is a recent unschooled immigrant or is in a grade for which no assessment instrument in the primary language of the student is available.

   "Recent unschooled immigrant" means an immigrant who initially enrolled in a school in the United States not more than 12 months before the date of the administration of an assessment of academic skills and who, as a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum determined by the LPAC. [See EHBE] To the extent authorized by federal law, a child's prior enrollment in a school in the United States shall be determined on the basis of documents and records required for enrollment. [See FD]

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

LEP STUDENTS AT THE EXIT LEVEL

LEP students are not eligible for an exemption from the exit-level assessment of academic skills on the basis of limited English proficiency. However, LEP students who are recent immigrants may postpone one time the initial administration of the exit-level test.

"Recent immigrant" means an immigrant who first enrolls in U.S. schools no more than 12 months before the administration of the test from which the postponement is sought. *19 TAC 101.1005*

LEP STUDENTS AT OTHER GRADES

In grades 3–6, the LPAC shall determine whether an LEP student is administered the assessment of academic skills in English or in Spanish. An LEP student may be administered a Spanish version of the assessment of academic skills for a maximum of three years. If the LEP student is an immigrant, the number of LEP exemptions and administrations of the assessment in Spanish must not exceed three.

IMMIGRANT STUDENTS

Certain immigrant LEP students who have had inadequate schooling outside the U.S. may be eligible for an exemption from the assessment of academic skills during a period not to exceed their first three school years of enrollment in U.S. schools. "Immigrant" is defined as a student who has resided outside the 50 United States for at least two consecutive years.

1. An immigrant LEP student who achieves a rating of advanced high on the state-administered reading proficiency tests in English during the student's first school year of enrollment in U.S. schools is not eligible for an exemption in the second or third school year of enrollment in U.S. schools. An immigrant LEP student who achieves a rating of advanced or advanced high on this assessment during the student's second school year of enrollment in U.S. schools is not eligible for an exemption in the third school year of enrollment in U.S. schools.

2. During the first school year of enrollment in U.S. schools, the immigrant student may be granted an LEP exemption if the LPAC determines that the student has not had the schooling outside the U.S. necessary to provide the foundation of learning that Texas schools require and measure on the assessment, whether the foundation be in knowledge of the English language or specific academic skills and concepts in the subjects assessed.

3. During the second and third school year of enrollment in U.S. schools, the immigrant student whose schooling outside the U.S. was inadequate and for whom a primary language assessment is not available may be granted an LEP exemption if the LPAC determines that the student lacks the academic language proficiency in English necessary for an assessment of academic skills in English to measure the student's academic progress in a valid, reliable manner.

4. During the second and third school year of enrollment in U.S. schools, the immigrant student whose schooling outside the

U.S. was inadequate and for whom a Spanish-version assessment is available is not eligible for an LEP exemption and must take the assessment in either English or Spanish unless:

a. The student is in an English as a second language program that does not call for instruction in Spanish and the LPAC determines that the student lacks the language proficiency in English and the academic instruction and/or literacy in Spanish for the assessment in either English or Spanish to measure the student's academic progress in a valid, reliable manner; or

b. The student is in a bilingual education program and the LPAC has documentation, including signed verification by the parent or guardian whenever possible, that there was an extensive period of time outside the U.S. in which the student did not attend school and that this absence of schooling resulted in such limited academic achievement and/or literacy that assessment in either English or Spanish is inappropriate as a measure for school accountability. The term "extensive period of time outside the U.S.," as used in this paragraph, shall be defined in the test administration materials.

Students exempted under the above provisions shall be administered assessments in subjects and grades required by federal law and regulations as delineated in the test administration materials. Exempt students assessed only for federal accountability purposes shall not be subject to the grade advancement requirements under the Student Success Initiative.

An LEP student whose parent or guardian has declined the services required by Education Code Chapter 29, Subchapter B [see EHBE], is not eligible for an exemption under the above provisions. The student shall take the assessments of academic skills in English and the English Language Proficiency Assessments.

The District may administer the assessment of academic skills in Spanish to a student who is not identified as LEP but who participates in a two-way bilingual program if the LPAC determines the assessment in Spanish to be the most appropriate measure of the student's academic progress. However, the student may not be administered the Spanish-version assessment for longer than three years.

19 TAC 101.1007

EXIT–LEVEL TEST — STUDENTS FROM OTHER STATES

The Commissioner by rule shall adopt one or more alternative, nationally recognized, norm-referenced assessment instruments to administer to a student to qualify for a high school diploma if the student enrolls after January 1 of the school year in which the student is otherwise eligible to graduate:

1. For the first time in a public school in Texas; or
2. After an absence of at least four years from any public school in Texas.

Education Code 39.025(d)

FOREIGN EXCHANGE STUDENTS

A foreign exchange student who has waived in writing his or her intention to receive a Texas high school diploma may be excused from the exit-level assessment requirement. *19 TAC 101.7(a)(3)*

REPORTING RESULTS

TO THE PUBLIC

Overall student performance data, aggregated by ethnicity, sex, grade level, subject area, campus, and District, shall be made available to the public, with appropriate interpretations, at regularly scheduled meetings of the Board, after receipt from TEA. The information shall not contain the names of individual students or teachers. *Education Code 39.030(b)*

TO THE BOARD

The Superintendent shall accurately report all test results with appropriate interpretations to the Board according to the schedule in the applicable test administration materials.

TO PARENTS AND STUDENTS

The District shall notify each of its students and his or her parent or guardian of test results, observing confidentiality requirements stated at CONFIDENTIALITY. All test results shall be included in each student's academic achievement record and shall be furnished for each student transferring to another district or school. [See BQ series, FD, and FL]

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

PARENTAL ACCESS

A parent is entitled to access to a copy of each state assessment instrument administered to the parent's child. This right of access does not apply, however, to those instruments or particular questions that are being field-tested by TEA. *Education Code 26.005, 26.006(a)(2)*

SECURITY

The statewide assessment program is a secure testing program. Procedures for maintaining security shall be specified in the appropriate test administration materials. Secure test materials must be accounted for before, during, and after each test administration. Only authorized personnel may have access to secure test materials. *19 TAC 101.61*

CONFIDENTIALITY

The contents of each test booklet and answer document are confidential in accordance with state and federal law. Individual student

performance results are confidential and may be released only in accordance with the Family Education Rights and Privacy Act of 1974. *Education Code 39.030(b); 19 TAC 101.63* [See FL and GBA]

PENALTIES

Violation of security or confidential integrity of any test shall be prohibited. A person who engages in prohibited conduct may be subject to sanction of credentials.

Procedures for maintaining the security and confidential integrity of a test shall be specified in the appropriate test administration materials. Conduct that violates the security and confidential integrity of a test is defined as any departure from the test administration procedures established by the Commissioner. Conduct of this nature may include the following acts and omissions:

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

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

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

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

The Superintendent and campus principal shall develop procedures to ensure the security and confidential integrity of the tests and shall be responsible for notifying TEA in writing of conduct that violates the security or confidential integrity of a test. Failure to report can subject the person responsible to the applicable penalties specified above.

19 TAC 101.65

DEFINITION

For the purpose of this policy, "parent" is the person who is indicated on the student registration form at the campus. The signature of only one parent of a student is required for a charter created by petition or a cooperative program charter. *Education Code 12.051(1), 12.052(b), 12.053(b)*

POLICY

The District shall adopt a campus charter and program charter policy, which shall specify the:

1. Process for approval of a campus charter or program charter;
2. Statutory requirements with which a campus charter or program charter must comply; and
3. Items that must be included in a charter application.

Education Code 12.058

CREATION BY PETITION

The Board may grant a charter to parents and teachers for a campus or a program on a campus if the Board is presented with a petition signed by:

1. The parents of a majority of the students at that campus; and
2. A majority of the classroom teachers at that campus.

The Board may not arbitrarily deny a charter.

Education Code 12.052

CREATION WITHOUT PETITION

The Board may grant a charter for:

1. A new District campus; or
2. A program that is operated:
   a. By an entity that has entered into a contract with the District under Education Code 11.157 [see EEL] to provide educational services to the District through the campus or program; and
   b. At a facility located in the boundaries of the District.

ENROLLMENT

The District may not assign a student to the charter campus or program unless the student's parent or guardian has voluntarily enrolled the student.

REMOVAL

A student's parent or guardian may, at any time, remove the student from the campus or program and enroll the student at the campus to which the student would ordinarily be assigned.

TEACHER ASSIGNMENT

The District may not assign to the campus or program a teacher who has signed a written statement that the teacher does not agree to that assignment.

Education Code 12.0521

COOPERATIVE CHARTER PROGRAM

The Board may grant a charter to parents and teachers at two or more campuses in the District for a cooperative charter program if the Board is presented with a petition signed by:

1. The parents of a majority of the students at each school; and

2. A majority of the classroom teachers at each school.

Education Code 12.053

STUDENT ELIGIBILITY

Eligibility criteria for admission of students to the charter campus or program must give priority on the basis of geographic and residency considerations. After priority is given on those bases, secondary consideration may be given to a student's age, grade level, or academic credentials, in general or in a specific area, as necessary for the type of program offered.

The campus or program may require an applicant to submit an application not later than a reasonable deadline the campus or program establishes.

Education Code 12.065

EXEMPTION

A campus or program for which a charter is granted is exempt from the instructional and academic rules and policies of the Board from which the campus or program is specifically exempted in the charter and retains the authority to operate under the charter only if students at the campus or in the program perform satisfactorily as provided by the charter. *Education Code 12.054*

CHARTER CONTRACT

A charter shall be in the form and substance of a written contract signed by the Board President and the chief operating officer of the campus or program for which the charter is granted. *Education Code 12.060*

Each charter shall:

1. Satisfy the requirements governing charter campuses and programs;

2. Include all information required to be in the content of the charter consistent with the information provided in the application and any modification the Board requires.

Education Code 12.061

CONTENT OF CHARTER

Each charter granted must:

1. Describe the educational program to be offered, which may be a general or specialized program;

2. Provide that continuation of the charter is contingent on satisfactory student performance on state-required assessment instruments and on compliance with other applicable accountability provisions;

3. Specify any basis, in addition to a basis specified in Education Code Chapter 12, Subchapter C, on which the charter may be placed on probation or revoked;

4. Prohibit discrimination in admission on the basis of national origin, ethnicity, race, religion, or disability;

5. Describe the governing structure of the campus or program;

6. Specify any procedure or requirement, in addition to those under Education Code Chapter 38, that the campus or program will follow to ensure the health and safety of students and employees;

7. Describe the manner in which an annual audit of financial and programmatic operations of the campus or program is to be conducted, including the manner in which the campus or program will provide information necessary for the District in which it is located to participate in PEIMS.

Education Code 12.059

REVISION

A charter created by petition or a cooperative charter program may be revised with Board approval and on a petition signed by a majority of the parents and a majority of the classroom teachers at the campus or in the program, as applicable.

A charter created without a petition may be revised with the approval of the board of trustees that granted the charter. The charter may be revised only before the first day of instruction or after the final day of instruction of a school year.

Education Code 12.062

APPLICABILITY OF LAWS

A charter campus or program is subject to federal and state laws and rules governing public schools, except that the charter campus or program is subject to the Education Code and rules adopted thereunder only to the extent that the code or rule specifically provides. *Education Code 12.055*

EDUCATION CODE

A charter campus or program has the powers granted to schools under the Education Code.

A charter campus or program is subject to:

1. Provisions of the Education Code establishing criminal offenses;

2. Prohibitions, restrictions, or requirements of the Education Code, or a rule adopted under the Education Code, relating to:

   a. PEIMS, to the extent necessary to monitor compliance, as determined by the commissioner;

   b. Criminal history records under Subchapter C, Chapter 22;

   c. High school graduation under Section 28.025;

   d. Special education programs under Subchapter A, Chapter 29;

   e. Bilingual education under Subchapter B, Chapter 29;

   f. Prekindergarten programs under Subchapter E, Chapter 29;

   g. Extracurricular activities under Section 33.081 (i.e., “no pass-no play”);

   h. Health and safety under Chapter 38 (including immunizations, dyslexia and related disorders, child abuse reporting, protective eye devices, tobacco and alcohol use, steroid use, access to medical records, and referrals to outside counselors); and

   i. Public school accountability under Subchapter B, C, D, and G, Chapter 39.

Education Code 12.056

OPEN MEETINGS AND PUBLIC INFORMATION ACTS

With respect to the operation of a campus or program charter, the governing body of the charter campus or program is considered a governmental body for purposes of Government Code Chapters 551 (Open Meetings Act) and 552 (Public Information Act).

TEACHER RETIREMENT SYSTEM

An employee of an independent school district who is employed on a charter campus or program who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system in the same manner and to the same extent as a qualified employee of the independent school district who is employed on a regularly operating campus or in a regularly operating program.

LIABILITY

The charter campus or program, and its employees and volunteers, are immune from liability to the same extent as the District, its employees, and volunteers, respectively.

Education Code 12.057

PLACEMENT ON PROBATION OR REVOCATION

The Board may place on probation or revoke a charter it grants if the Board determines that the campus or program:

1. Committed a material violation of the charter;

2. Failed to satisfy generally accepted accounting standards of fiscal management;

3. Failed to comply with law governing a charter campus or program, another law, or a state agency rule.

The action the Board takes under any item above shall be based on the best interest of campus or program students, the severity of the violation, and any previous violation the campus or program has committed.

Education Code 12.063

PROCEDURE

Each board that grants a charter shall adopt a procedure to be used for placing on probation or revoking a charter it grants.

This procedure must provide an opportunity for a hearing to the campus or program for which the charter is granted and to parents and guardians of students at the campus or in the program. A hearing must be held on the campus or on one of the campuses in the case of a cooperative charter program.

Education Code 12.064

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

SECTION F: STUDENTS

FA STUDENT GOALS AND OBJECTIVES

FB EQUAL EDUCATIONAL OPPORTUNITY

FC SCHOOL ATTENDANCE AREAS

FD ADMISSIONS
- FDA Interdistrict Transfers
  - FDAA Public Education Grants
- FDB Intradistrict Transfers
- FDC Homeless Students
- FDD 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 Individualized Health Plan
- FFB Crisis Intervention
- FFC Student Support Services
- FFD Student Insurance
- FFE Student Assistance Programs/Counseling
  - FFEA Comprehensive Guidance Program
  - FFEB Substance Abuse
- FFF Student Safety
  - FFFA Supervision of Students
  - FFFB Safety Patrols
  - FFFD Bicycle/Automobile Use
  - FFFF Conduct on School Buses
- FFG Child Abuse and Neglect
- FFH Freedom from Harassment

FG STUDENT AWARDS AND SCHOLARSHIPS

FH STUDENT VOLUNTEERS

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

FJ GIFTS AND SOLICITATIONS

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 Telecommunications Devices
FNCF Alcohol and Drug Use
FNCG Weapons
FNCH Assaults
FNCI Disruptions
FND Married Students
FNE Pregnant Students
FNF Interrogations and Searches
FNG Student and Parent Complaints/Grievances

FO STUDENT DISCIPLINE
FOA Removal by Teacher
FOB Out-of-School Suspension
FOC Placement in a Disciplinary Alternative Education Setting
FOCA Disciplinary Alternative Education Program Operations
FOD Expulsion
FODA Juvenile Justice Alternative Education Program
FOE Emergency Placement
FOF Students with Disabilities

FP STUDENT FEES, FINES, AND CHARGES

WELLNESS POLICY

By the first day of school of the 2006–07 school year, each district participating in a program authorized by the Richard B. Russell National School Lunch Act, 42 U.S.C. 1751 et seq., or the Child Nutrition Act, 42 U.S.C. 1771 et seq., shall establish a local school wellness policy for schools in the district. The policy shall, at a minimum:

1. Include goals for nutrition, education, physical activity, and other school-based activities that are designed to promote student wellness in a manner that the District determines is appropriate;

2. Include nutrition guidelines selected by the District for all foods available on each school campus during the school day with the objectives of promoting student health and reducing childhood obesity;

3. Provide an assurance that guidelines for reimbursable school meals shall not be less restrictive that the regulations and guidance issued by the U.S. secretary of agriculture pursuant to the Child Nutrition and National School Lunch Acts;

4. Establish a plan for measuring implementation of the local wellness policy, including designation of one or more persons within the District or at each school, as appropriate, charged with operational responsibility for ensuring that the school meets the local wellness policy; and

5. Involve parents, students, representatives of the school food authority, the Board, administrators, and the public in the development of the school wellness policy.

Child Nutrition and WIC Reauthorization Act of 2004, Pub. L. No. 108–265, sec. 204, 118 Stat. 729 (2004) [See EHAA for state law requirements relating to health education]

CHANGE IN HEALTH SERVICES

Before the District or a school may expand or change the health care services available at a school in the District from those that were available on January 1, 1999, the Board must:

1. Hold a public hearing at which the Board provides an opportunity for public comment and discloses all information on the proposed health care services, including:

   a. All health care services to be provided;

   b. Whether federal law permits or requires any health care service provided to be kept confidential from parents;

   c. Whether a child's medical records will be accessible to the parent;

d. Information concerning grant funds to be used;

e. The titles of persons who will have access to the medical records of a student; and

f. The security measures that will be used to protect the privacy of students' medical records.

2. Approve the expansion or change by a record vote.

Education Code 38.012

EQUAL ACCESS ACT

If a District secondary school receives federal financial assistance and has a limited open forum, as defined below, it shall not deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings. *20 U.S.C. 4071(a)*

LIMITED OPEN FORUM IN SECONDARY SCHOOLS

A District secondary school has a limited open forum for purposes of the Equal Access Act whenever the school grants an offering to or an opportunity for one or more noncurriculum-related student groups to meet on school premises during noninstructional time. *20 U.S.C. 4071(b)*

"Secondary school" means a public school that provides secondary education as determined by state law.

"Meeting" includes those activities of student groups that are permitted under a school's limited open forum and that are not directly related to the school curriculum.

"Noninstructional time" means time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends.

20 U.S.C. 4072

"Noncurriculum-related student group" means any student group that does not directly relate to the body of courses offered by the school. A student group directly relates to the school's curriculum if it meets any of the following criteria:

1. The subject matter of the group is actually taught or will soon be taught in a regularly offered course.
2. The subject matter of the group concerns the body of courses as a whole.
3. Participation in the group is required for a particular course.
4. Participation in the group results in academic credit.

Westside Cmty. Sch. v. Mergens, 496 U.S. 226 (1990)

If a school has a limited open forum, it shall be deemed to offer a fair opportunity for students to conduct meetings within its forum if it uniformly provides that:

1. The meeting is voluntary and student-initiated.
2. There is no sponsorship of the meeting by the school or any government or its agents or employees.

"Sponsorship" includes the act of promoting, leading, and participating in a meeting. The assignment of a teacher, administrator, or other school employee to a meeting for custodial purposes does not constitute sponsorship of the meeting.

3. School employees are present at religious meetings only in a nonparticipatory capacity.

4. The meeting does not materially and substantially interfere with the orderly conduct of educational activities within the school.

5. Nonschool persons shall not direct, conduct, control, or regularly attend activities of student groups.

20 U.S.C. 4071(c)

The establishment of a limited open forum shall not authorize a school or the District to:

1. Influence the form or content of any prayer or other religious activity.

2. Require any person to participate in prayer or other religious activity.

3. Expend public funds beyond the incidental cost of providing the space for student-initiated meetings.

4. Compel any school agent or employee to attend a meeting if the content of the speech at the meeting is contrary to the beliefs of the agent or employee.

5. Sanction meetings that are otherwise unlawful.

6. Limit the rights of groups of students that are not of a specified numerical size.

7. Abridge the constitutional rights of any person.

20 U.S.C. 4071(d)

MAINTAIN ORDER

The establishment of a limited open forum shall not limit the authority of a school, the District, its agents, or its employees to maintain order and discipline on school premises, to protect the well-being of students and faculty, and to assure that attendance of students at meetings is voluntary. *20 U.S.C. 4071(f)*

ALCOHOL

The 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

The Board shall attempt to provide a safe alcohol-free environment to students coming to or going from school.

COOPERATIVE EFFORTS

The 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 the District is located in a municipality with a population of 900,000 or more, the Board may petition the commissioners court of the county in which the District is located or the governing board of an incorporated city or town in which the District is located to adopt a 1,000-foot alcohol-free zone. *Education Code 38.007(b); Alcoholic Beverage Code 101.75, 109.33,109.59*

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

A person commits a criminal offense (enhanced) if the person knowingly or intentionally possesses a controlled substance listed in the Health and Safety Code, chapter 481:

1. In, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school district; or
2. On a school bus.

Health and Safety Code 481.134

ABUSABLE GLUES, PAINTS, OR VOLATILE CHEMICALS

In addition to the above prohibitions, no student shall inhale, ingest, apply, use, or possess an abusable glue, aerosol paint, or substance containing a volatile chemical with intent to inhale, ingest, apply, or use any of these in a manner:

1. Contrary to directions for use, cautions, or warnings appearing on a label of a container of the glue, paint, or substance; and

2. Designed to affect the central nervous system, create or induce a condition of intoxication, hallucination, or elation, or change, distort, or disturb the person's eyesight, thinking process, balance, or coordination.

Health and Safety Code 485.031

MANUFACTURE OR DELIVERY

No student shall intentionally manufacture, deliver, or possess with intent to manufacture or deliver abusable glue, or aerosol paint that does not contain additive material in accordance with rules adopted by the commissioner of health. *Education Code 37.006; Health and Safety Code 485.032*

DELIVERY TO A MINOR

No student who is 18 or older shall intentionally, knowingly, or recklessly deliver abusable glue or aerosol paint to a person who is younger than 18 years old. No student who is 18 or older shall sell or deliver a substance containing a volatile chemical to a person younger than 18. *Education Code 37.006; Health and Safety Code 485.033*

PARAPHERNALIA

No person shall intentionally or knowingly use or possess with intent to use inhalant paraphernalia to inhale, ingest, or otherwise introduce into the body an abusable glue, aerosol paint, or other substance that contains a volatile chemical. *Education Code 37.006; Health and Safety Code 485.034*

PARENT OBJECTION TO DRUG EDUCATION PROGRAM

Upon receipt of written notification from the parents or legal guardians of a student, the District shall withdraw the student from any program or activity funded under the federal Safe and Drug-Free Schools and Communities Act. The District shall make reasonable efforts to inform parents or legal guardians of the content of such programs or activities funded under the Act, other than classroom instruction.

No Child Left Behind Act of 2001, 20 U.S.C. 7163

UNITED STATES CONSTITUTION

The 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]

The Board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when the 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 the Board negotiate or even respond to complaints. However, the Board must stop, look, and listen and must consider the petition, address, or remonstrance. *Professional Association of College Educators v. El Paso County Community [College] District, 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 fifteen 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 CFR 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 CFR 35.107*

TITLE IX

A district that receives federal financial assistance, directly or indirectly, shall 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 CFR 106.8(b)* [See FB]

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, the 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 151.003(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*

COMPLAINT PROCEDURES

The Board shall provide for procedures to consider complaints that a parent's right has been denied. *Education Code 26.001(d)*

The 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). *Education Code 26.011*

PARENTAL RIGHTS

Parental rights listed in Education Code Chapter 26 are:

1. Rights concerning academic programs. *Education Code 26.003* [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. *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 BJCE, 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]

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]

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, the Board shall follow the procedures set forth at Education Code 25.034. *Education Code 25.033(2), 25.034* [See FDB]

CHALLENGE TO EDUCATION RECORDS

The 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 CFR 99.21* [See FL]

DENIAL OF CLASS CREDIT

If a student is denied credit 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 the District unless the person has exhausted the District's remedies for resolving the complaint. *Education Code 22.0514*

"Professional employee of the District" includes:

1. A superintendent, principal, teacher, including a substitute teacher, supervisor, social worker, counselor, nurse, and teacher's aide employed by the District;

2. A teacher employed by a company that contracts with the 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 of Trustees of the District; and

6. Any other person whose employment by the 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 the District's grading policy applicable to the grade, as determined by the Board of the District in which the teacher is employed.

The 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

REQUESTS FOR PUBLIC INFORMATION

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). The 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*

CLOSED MEETING

The Board may conduct a closed meeting on a parent or student complaint to the extent required or provided by law. [See BEC]

RECORD OF PROCEEDINGS

An appeal of the 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 the District's responsibility to make and preserve the records of the proceedings before the Board. If the 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. Cr. App. 1991)*

Note: See EHBAB for provisions concerning students with disabilities; see the FO series for provisions concerning student discipline.

MEETINGS WITH JUVENILE BOARD

The Board or designee shall regularly meet with either:

1. The juvenile board for the county in which the District's central administrative office is located; or
2. The juvenile board's designee.

The meeting shall be called by the President of the Board 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 RESIDENTIAL FACILITIES

If the District provides education services to pre-adjudicated and post-adjudicated students who are confined by court order in a juvenile residential facility operated by a juvenile board, the District is entitled to count those students in the District's average daily attendance.

If a district has a wealth per student greater than the guaranteed wealth level but less than the equalized wealth level, the district in which the student is enrolled on the date a court orders the student to be confined to a juvenile residential facility shall transfer to the district providing education services an amount equal to the difference between:

1. The average Foundation School Program costs per student of the district providing education services; and
2. The sum of the state aid and the money from the available school fund received by the district that is attributable to the student for the portion of the school year for which the district provides education services to the student.

Education Code 37.0061

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 Probation Commission.

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 Texas Juvenile Probation Commission. Further, it is not subject to Education Code 37.011(c), (d), (f), (g), (k) or (m).

Education Code 37.011(a), (k), (m)

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 memorandum of understanding (MOU), immediately attend the educational program from the date of expulsion. *Education Code 37.010(a)*

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, 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 the 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 educational 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 the 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)*

FUNDING FOR JJAEPS

MANDATORY EXPULSIONS

Except as determined by the Commissioner, 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 Texas Juvenile Probation Commission. *Education Code 37.011(h)*

COURT–ASSIGNED STUDENTS

The 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*

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 the District.

Education Code 37.012(a)

ARBITRATION OF DISPUTES

If the 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

the 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)

LOCATION AND STAFFING

A JJAEP may be provided in a facility owned by the District. The 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. *Education Code 37.011(h)*

ACCOUNTABILITY

For purposes of accountability under Education Code Chapter 39, 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)*

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)*

STUDENTS WITH DISABILITIES UNDER SECTION 504

A student with a disability under Section 504 shall not be removed from school for more than ten consecutive school days unless the District first determines that the misbehavior is not a manifestation of the student's disability. That determination may be made by the same group of people who make placement decisions. [See FB] At a minimum, the group shall include persons knowledgeable about the student and the meaning of the evaluation data. The group must have available to it evaluation data that is recent enough to afford an understanding of the student's current behavior.

If it is determined that the misconduct is not caused by the student's disability, the student may be excluded from school in the same manner as similarly situated nondisabled students. [See FO] If it is determined that the misconduct is caused by the student's disability, the District must determine whether the student's current educational placement is appropriate.

34 CFR 104.35; 17 IDELR 609; 16 IDELR 491

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

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

SPECIAL EDUCATION STUDENTS

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

The methods adopted in the Student Code of Conduct [see FO] for preventing and intervening in student discipline problems 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 ARD committee meeting has been held to review the conduct. *Education Code 37.001(b–1)*

DAEP PLACEMENT NOT SOLELY FOR EDUCATIONAL PURPOSES

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

CONTINUATION OF SERVICES

The District is not required to provide services to a student during periods of removal if the student has been removed from his or her current placement for ten school days or less in that school year, if services are not provided to a student without disabilities who has been similarly removed. *34 CFR 300.121(d)(1)*

SUBSEQUENT REMOVALS

After a student has been removed from his or her current placement for more than ten school days in the same school year, during any subsequent days of removal, the District shall provide the services necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals in the student's IEP. This requirement applies if the subsequent removal is not a change in placement (defined below) or the behavior is determined not to be a manifestation of the student's disability.

If the removal is not a change in placement, school personnel, in consultation with the student's special education teacher, determine the extent to which these services are necessary.

If the student is removed because of behavior that is determined not to be a manifestation of the student's disability, the student's IEP team determines the extent to which these services are necessary.

20 U.S.C. 1412(a)(1), 1413(a)(1); 34 CFR 300.121(d)

NOTICE OF PROCEDURAL SAFEGUARDS

Not later than the date on which the decision to take the disciplinary action is made, the District shall notify the student's parents of the decision and of all procedural safeguards [see EHBAE]. *20 U.S.C. 1415(k)(1)(H)*

REMOVALS OF TEN DAYS OR LESS

To the extent removal would apply to students without disabilities, school personnel may remove a student with a disability who violates a code of student conduct from the current placement to an appropriate interim alternative educational setting, another setting, or suspension for not more than ten school days.

School personnel may order additional removals of not more than ten consecutive school days in the same school year for separate incidents of misconduct, so long as those removals do not constitute a change in placement (defined below).

20 U.S.C. 1415(k)(1)(B); 34 CFR 300.520(a)

REMOVALS OF MORE THAN TEN DAYS — CHANGE IN PLACEMENT

Any disciplinary action that would constitute a change in placement may be taken only after the student's ARD committee conducts a manifestation determination review (see MANIFESTATION DETERMINATION, below) *Education Code 37.004*

'CHANGE IN PLACEMENT'

A change in placement occurs if a student is:

1. Removed from the student's current educational placement for more than ten consecutive school days; or

2. Subjected to a series of removals that constitute a pattern because they cumulate to more than ten school days in a school year, and because of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

34 CFR 300.519

School personnel may consider any unique circumstances on a case–by–case basis when determining whether to order a change in placement for a student who violates a code of student conduct. *20 U.S.C. 1415(k)(1)(A)*

MANIFESTATION DETERMINATION

Except as set forth below at WEAPONS/DRUG OFFENSES, within ten school days of any decision to change the placement of a student because of a violation of a code of student conduct, the District, parents, and relevant members of the ARD committee shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine whether the conduct in question was:

1. Caused by, or had a direct and substantial relationship to, the student's disability; or

2. The direct result of the District's failure to implement the IEP.

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

20 U.S.C. 1415(k)(1)(E); 34 CFR 300.523(a)–(c)

NOT A MANIFESTATION

If the determination is that the student's behavior was not a manifestation of the student's disability, the disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner and for the same duration in which they would be applied to students without disabilities, except that the District shall still provide services, although they may be provided in an interim alternative educational setting. *20 U.S.C. 1412(a)(1), 1415(k)(1)(C); 34 CFR 300.121(d), 300.524*

BEHAVIORAL INTERVENTION PLAN

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

IF NOT DONE ALREADY, DEVELOP FBA AND BIP

1. Conduct a functional behavioral assessment (FBA) and implement a behavioral intervention plan (BIP) if the District had not conducted an FBA before the manifestation determination and before the behavior that resulted in the change in placement.

IF BIP ALREADY IN PLACE, REVIEW IT

2. If a BIP has already been developed, review the BIP and modify it, as necessary, to address the behavior.

3. Except as provided at WEAPONS/DRUG OFFENSES, below, return the student to the placement from which the student was removed, unless the parent and the District agree to a change in placement as part of the modification of the BIP.

20 U.S.C. 1415(k)(1)(F); 34 CFR 300.520(b)(1)

SUBSEQUENT REMOVALS THAT ARE NOT A CHANGE IN PLACEMENT

If a student with a BIP is subsequently removed and that removal is not a change in placement, the ARD committee shall review the BIP and its implementation to determine if modifications are necessary. If one or more members of the ARD committee believe that modifications are needed, the committee shall meet to modify the plan and its implementation, to the extent the committee determines necessary. *34 CFR 300.520(c)*

INTERIM ALTERNATIVE EDUCATIONAL SETTING

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

WEAPONS / DRUG OFFENSES

1. Carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of a state or a school district; or

2. Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a state or a school district;

3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the state or the District.

20 U.S.C. 1415(k)(1)(G); 34 CFR 300.520(a)(2), (b)

'WEAPON'

In this policy, "weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is

readily capable of, causing death or serious bodily injury, but does not include a pocket knife with a blade of less than two and a half inches in length. *20 U.S.C. 1415(k)(7)(C); 18 U.S.C. 930(g)(2); 34 CFR 300.520(d)(3)*

'CONTROLLED SUBSTANCE'

"Controlled substance" means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812[c]). "Illegal drug" means a controlled substance, but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any authority under the Controlled Substance Act or any other provision of federal law. *20 U.S.C. 1415(k)(7)(A), (B); 34 CFR 300.520(d)(1), (2)*

'SERIOUS BODILY INJURY'

"Serious bodily injury" means bodily injury that involves:

1. A substantial risk of death;
2. Extreme physical pain;
3. Protracted and obvious disfigurement; or
4. Protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

20 U.S.C. 1415(k)(7)(D); 18 U.S.C. 1365(h)(3)

REMOVAL BY A HEARING OFFICER

A hearing officer may order a change in placement of a student to an appropriate interim alternative educational setting for not more than 45 calendar days. *20 U.S.C. 1415(k)(2); 34 CFR 300.521*

CRITERIA FOR ALTERNATIVE SETTING

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

The setting shall be selected so as to enable the student to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the student's current IEP, that will enable the student to meet the goals set out in that IEP. The setting shall also include services and modifications designed to address the behavior that caused the student to be placed in the alternative setting so that the behavior does not recur. *20 U.S.C. 1415(k)(3); 34 CFR 300.522*

PROPOSED CHANGE AFTER INTERIM PLACEMENT

If school personnel propose to change the student's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed placement, the student shall remain in the current placement (the student's placement before the interim alternative educational setting), unless the

District requests an expedited hearing. *20 U.S.C. 1415(k)(7)(B); 34 CFR 300.526(b)*

EXPEDITED HEARING

If school personnel maintain that it is dangerous for a student to be in the current placement (placement before removal to the interim alternative educational setting) during the pendency of the due process proceedings, the District may request an expedited hearing. *20 U.S.C. 1415(k)(7)(C); 34 CFR 300.526(c); 19 TAC 89.1191*

APPEALS

A parent who disagrees with a placement decision or the manifestation determination may request a hearing.

A district that believes that maintaining a current placement of a student is substantially likely to result in injury to the student or others may request a hearing.

20 U.S.C. 1615(k)(3)(A); 34 CFR 300.525; 19 TAC 89.1151

A hearing officer may hear and decide the appeal. *20 U.S.C. 1415(k)(3)(B)*

PLACEMENT DURING APPEALS

When an appeal has been requested by a parent or the District:

1. The student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the student's assignment to the alternative setting, whichever occurs first, unless the parent and District agree otherwise; and

2. The state or District shall arrange for an expedited hearing, which shall occur within 20 school days of the date the hearing is requested and shall result in a determination ten school days after the hearing.

20 U.S.C. 1415(k)(3)(B), 1415(k)(7); 34 CFR 300.526

TRANSFER OF RECORDS

If the District initiates disciplinary procedures applicable to all students, the District shall ensure that the student's special education and disciplinary records are transmitted for consideration by the person or persons making the final determination regarding the disciplinary action. *20 U.S.C. 1415(k)(5)(B); 34 CFR 300.524(b)*

REPORTING CRIMES

Federal law does not prohibit the District from reporting a crime committed by a student with a disability to appropriate authorities. If the District reports a crime, the District shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities. The District may transmit records only to the extent permitted by the Family Educational Rights and Privacy Act (FERPA). *20 U.S.C. 1415(k)(6); 34 CFR 300.529* [See FL]

STUDENTS NOT YET IDENTIFIED

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

DISTRICT KNOWLEDGE

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

1. The parent of the student has expressed concern in writing (or orally if the parent does not know how to write or has a disability that prevents a written statement) to supervisory or administrative personnel of the District or to the teacher of the student that the student is in need of special education and related services;

2. The behavior or performance of the student demonstrates the need for such services;

3. The parent of the student has requested an evaluation of the student for special education and related services; or

4. The student's teacher, or other District personnel, has expressed specific concerns about a pattern of behavior demonstrated by the student directly to the special education director or to other supervisory personnel of the District.

20 U.S.C. 1415(k)(5)(B)

EXCEPTION

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

1. The parent has not allowed an evaluation of the student;

2. The parent has refused services; or

3. The student has been evaluated and it was determined that the student did not have a disability.

20 U.S.C. 1415(k)(5)(C)

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

However, if a request is made for an evaluation during the time period in which the student is subjected to disciplinary measures, the

evaluation shall be conducted in an expedited manner. Pending the results of the evaluation, the student shall remain in the educational placement determined by school authorities.

20 U.S.C. 1415(k)(5)(D); 34 CFR 300.527

BEHAVIOR MANAGEMENT TECHNIQUES

Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities.

CONFINEMENT

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

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

1. The student possesses a weapon; and

2. The confinement is necessary to prevent the student from causing bodily harm to the student or another person.

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

Education Code 37.0021

SECLUSION

A District employee or volunteer or an independent contractor of the District may not place a student in seclusion.

"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 and any rules or procedures adopted under Education Code 37.0021 do not apply to a peace officer, while performing law enforcement duties; juvenile probation, detention, or corrections personnel; or 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.

Education Code 37.0021

RESTRAINT

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

1. Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency.

2. Restraint shall be discontinued at the point at which the emergency no longer exists.

3. Restraint shall be implemented in such a way as to protect the health and safety of the student and others.

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

"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.

"Restraint" does not include the use of:

1. Physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning;

2. Limited physical contact with a student to promote safety (e.g., holding a student's hand), prevent a potentially harmful action (e.g., running into a street), teach a skill, or provide comfort;

3. Limited physical contact or appropriately prescribed adaptive equipment to prevent a student from engaging in ongoing, repetitive self-injurious behaviors; or

4. Seat belts and other safety equipment used to secure students during transportation.

"Emergency" means a situation in which a student's behavior poses a threat of:

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

2. Imminent, serious property destruction.

TRAINING

Training for school employees, volunteers, or independent contractors shall be provided according to the requirements set forth at 19 TAC 89.1053.

DOCUMENTATION

In a case in which restraint is used, school employees, volunteers, or independent contractors shall implement the following documentation requirements:

1. On the day restraint is utilized, the campus administrator or designee must be notified verbally or in writing regarding the use of restraint.

2. On the day restraint is utilized, a good faith effort shall be made to verbally notify the parent(s) regarding the use of restraint.

3. Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent within one school day of the use of restraint.

4. Written documentation regarding the use of restraint must be placed in the student's special education eligibility folder in a timely manner so the information is available to the ARD committee when it considers the impact of the student's behavior on the student's learning and/or the creation or revision of the BIP.

5. Written notification to the parent(s) and documentation to the student's special education eligibility folder shall include the following:

   a. Name of the student;

   b. Name of the staff member(s) administering the restraint;

   c. The date of the restraint and the time the restraint began and ended;

   d. Location of the restraint;

   e. Nature of the restraint;

   f. A description of the activity in which the student was engaged immediately preceding the use of restraint;

   g. The behavior that prompted the restraint;

   h. The efforts made to de-escalate the situation and alternatives to restraint that were attempted; and

   i. Information documenting parent contact and notification.

TIME–OUT

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

1. Physical force or threat of physical force shall not be used to place a student in time-out.

2. Time-out may only be used in conjunction with an array of positive behavior intervention strategies and techniques and

must be included in the student's IEP and/or BIP if it is utilized on a recurrent basis to increase or decrease targeted behavior.

3. Use of time-out shall not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

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

1. That is not locked; and

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

TRAINING

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

DOCUMENTATION

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

19 TAC 89.1053

UNITED STATES CONSTITUTION

The 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*

The Board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when the 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*

RESPONSE TO COMPLAINTS

There is no requirement that the Board negotiate or even respond to complaints. However, the Board must stop, look, and listen and must consider the petition, address, or remonstrance. *Professional Association of College Educators v. El Paso County Community [College] District, 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 fifteen 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. *29 U.S.C. 794; 34 CFR 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 CFR 35.107*

CLOSED MEETING

The Board may conduct a closed meeting on a public complaint to the extent required or provided by law. [See BEC]

RECORD OF PROCEEDINGS

An appeal of the 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 the District's responsibility to make and preserve the records of the proceedings before the Board. If the 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. Cr. App. 1991)*

Note: Public complaints regarding instructional and library materials are addressed at EFA and complaints against peace officers are addressed at CKE.

OFFICE OF CURRICULUM & INSTRUCTION

For:	**Board of Trustees**
Date:	**June 12, 2006**
Action:	**Approval**

To:	Mr. William Harris, Superintendent	**From:**	Jan Van Dorn
		Date:	June 6, 2006
		RE:	Student Handbook

SUMMARY:
The Granbury ISD Student Handbook has been brought back to the Board of Trustees for approval at this meeting. Additional changes need to be brought to your attention. On pages 24-25, changes to grade levels have been made to read "K-5 and 6-8" rather than "K-6 and 7-9." Another change that was made was the addition of a sentence under the Title I Schools paragraph on page 35 that is legal language which relates to NCLB.

RECOMMENDATION:
The Administration recommends approval of the handbook.

Respectfully submitted,

Jan Van Dorn

Jan Van Dorn
Assistant Superintendent

Staff Persons Responsible: Jan Van Dorn
Principals

OFFICE OF SUPERINTENDENT

For:	**Board of Trustees**
Date:	**June 12, 2006**
Action:	**Approval**

SUMMARY:

Each June, the Superintendent and Board President recommends the board meeting calendar for the next year.

RECOMMENDATION:

The Superintendent and Board President recommend the approval of the revised board policy BE (LOCAL) and the attached meeting calendar for July 2006 – June 2007

Respectfully submitted,

William Harris

William Harris
Superintendent

Staff Person Responsible: William Harris

600 West Pearl • Granbury, Texas 76048 • Phone (817) 408-4007 • Fax (817) 408-4014
william_harris@granbury.k12.tx.us
www.granbury.k12.tx.us

MEETING PLACE

Unless otherwise provided in the notice for a meeting, Board meetings shall be held at the District Boardroom.

MEETING TIME

~~Regular meetings of the Board shall be held on the second and fourth Monday of each month at 7:00 p.m.~~ ***Regular meetings of the Board shall be scheduled in June of each year for a year in advance. Regular meetings shall be scheduled to begin with closed session at 6:00 p.m. and regular business to begin at 7:00 p.m.*** When determined necessary and for the convenience of Trustees, the Board President may change the date or time of a regular meeting. The notice for that meeting shall reflect the changed date or time.

SPECIAL OR EMERGENCY MEETINGS

The time and place of special and emergency meetings shall be as set out in the notice for the meeting.

The President of the Board shall call special meetings at the President's discretion or on request by two members of the Board.

The President shall call an emergency meeting when it is determined by the President or two members of the Board that an emergency or urgent public necessity, as defined by law, warrants the meeting.

AGENDA

DEADLINE

The deadline for submitting items for inclusion on the agenda is noon on the Tuesday before regular meetings and noon of the third calendar day before special meetings.

PREPARATION

In consultation with the Board President, the Superintendent shall prepare the agenda for all Board meetings. Any Trustee may request that a subject be included on the agenda for a meeting, and the Superintendent shall include on the preliminary agenda of the meeting all Trustee-requested topics that have been timely submitted.

Before the official agenda is finalized for any meeting, the Superintendent shall consult the Board President to ensure that the agenda and the topics included meet with the President's approval. In reviewing the preliminary agenda, the President shall ensure that any topics the Board or individual Trustees have requested to be addressed

are either on that agenda or scheduled for deliberation at an appropriate time in the near future. The Board President shall not have authority to remove from the agenda a subject requested by a Trustee without that Trustee's specific authorization.

NOTICE TO MEMBERS	Members of the Board shall be given notice of regular and special meetings at least 72 hours prior to the scheduled time of the meeting and at least two hours prior to the time of an emergency meeting.
CLOSED MEETING	Notice of all meetings shall provide for the possibility of a closed meeting during an open meeting, as provided by law. [See BEC] The Board may conduct a closed meeting when the agenda subject is one that may properly be discussed in closed meeting. [See BEC]
ORDER OF BUSINESS	The order of business for regular Board meetings shall be as set out in the agenda accompanying the notice of the meeting. At the meeting, the order in which posted agenda items are taken may be changed by consensus of Board members.
RULES OF ORDER	The Board shall observe the parliamentary procedures as found in *Robert's Rules of Order, Newly Revised,* except as otherwise provided in Board procedural rules or by law. Procedural rules may be suspended at any Board meeting by majority vote of the members present.
VOTING	Voting shall be by voice vote or show of hands, as directed by the President. Any member may abstain from voting, and a member's vote or failure to vote shall be recorded upon that member's request. [See BDAA(LOCAL) for the Board President's voting rights]
MINUTES	Board action shall be carefully recorded by the secretary or clerk; when approved, these minutes shall serve as the legal record of official Board actions. The written minutes of all meetings shall be approved by vote of the Board and signed by the President and the Secretary of the Board. The official minutes of the Board shall be retained on file in the office of the Superintendent and shall be available for examination during regular office hours.
DISCUSSIONS AND LIMITATION	Discussions shall be addressed to the President of the Board and then the entire membership. Discussion shall be directed solely to the business currently under deliberation, and the Board President shall halt discussion that does not apply to the business before the Board. The Board President shall also halt discussion if the Board has agreed to a time limitation for discussion of an item, and that time limit has expired. Aside from these limitations, the President shall not interfere with debate so long as members wish to address themselves to an item

under consideration.

DATE ISSUED: 10/31/2005
LDU-44-05
BE(LOCAL)-X

GRANBURY INDEPENDENT SCHOOL DISTRICT

ADMINISTRATION RELOCATION

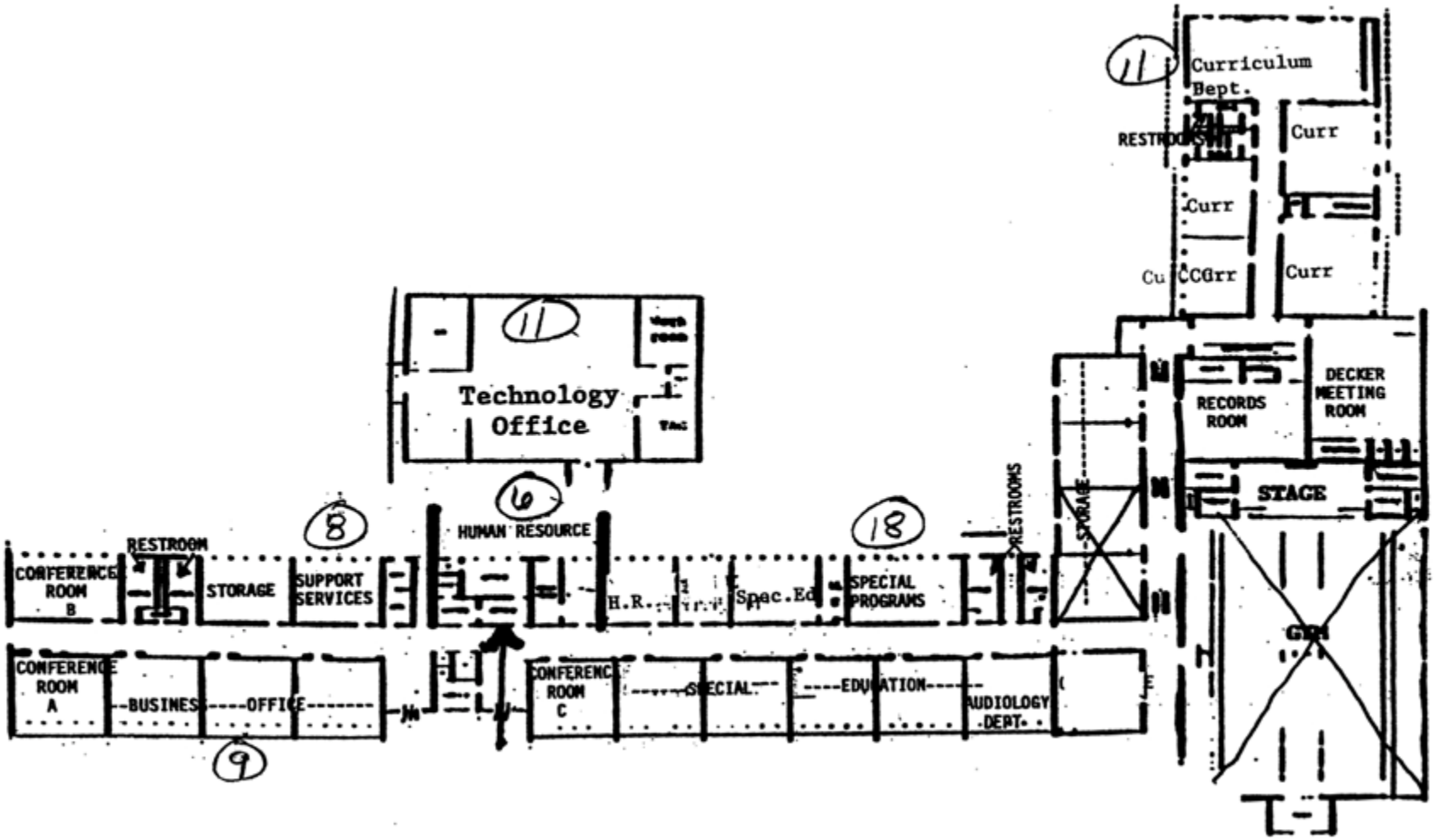
June 26, 2006

VLK ARCHITECTS

Architecture.Planning.Interior Design

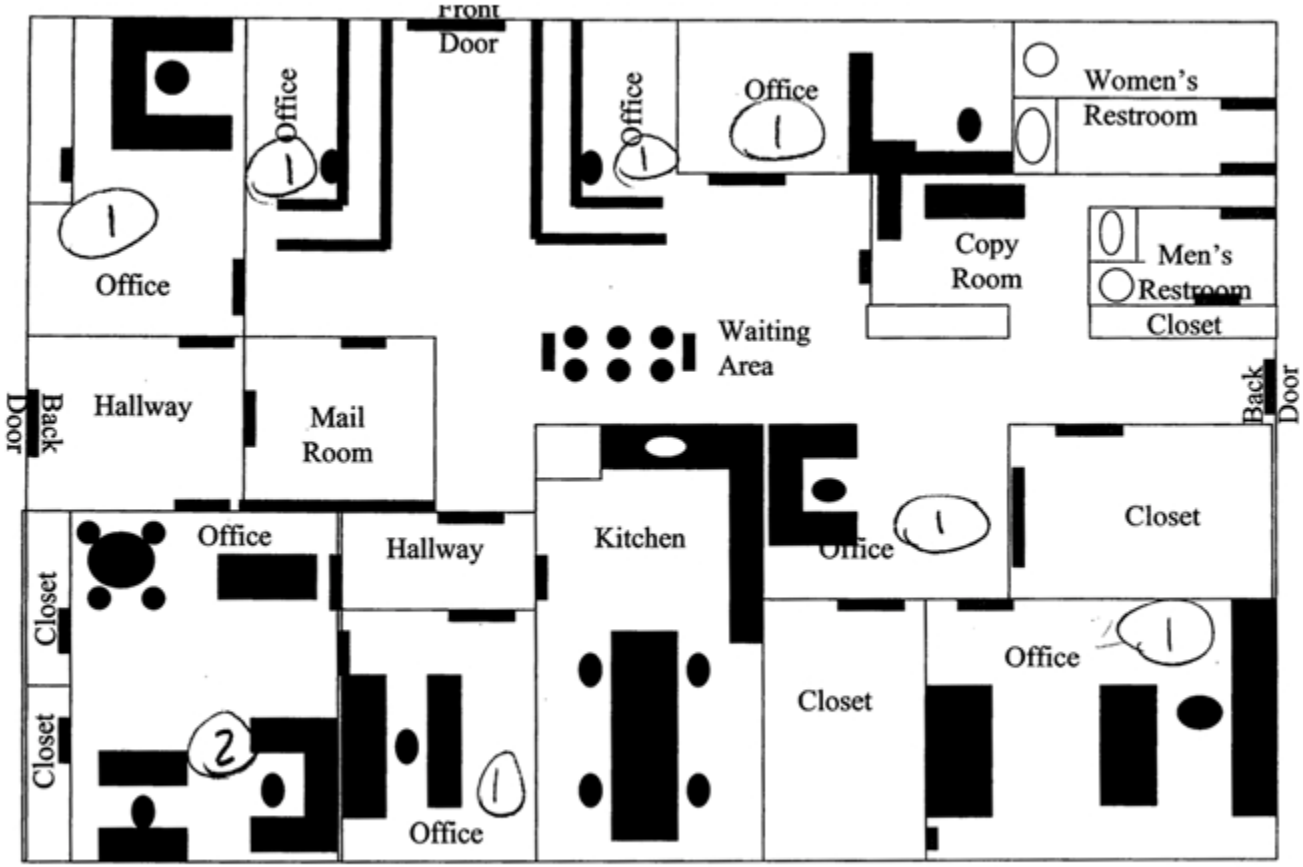
GISD EXISTING ADMINISTRATION ANNEX

600 W Bridge Street



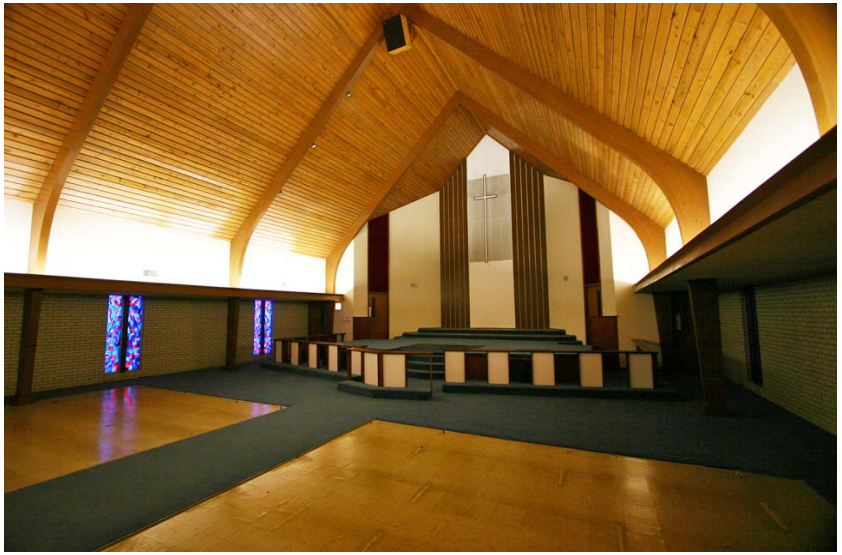
CENTRAL ADMINSTRATION

After summer 2002 construction



EXISTING METHODIST COMPLEX

GISD Administration Relocation



EXISTING METHODIST COMPLEX

GISD Administration Relocation

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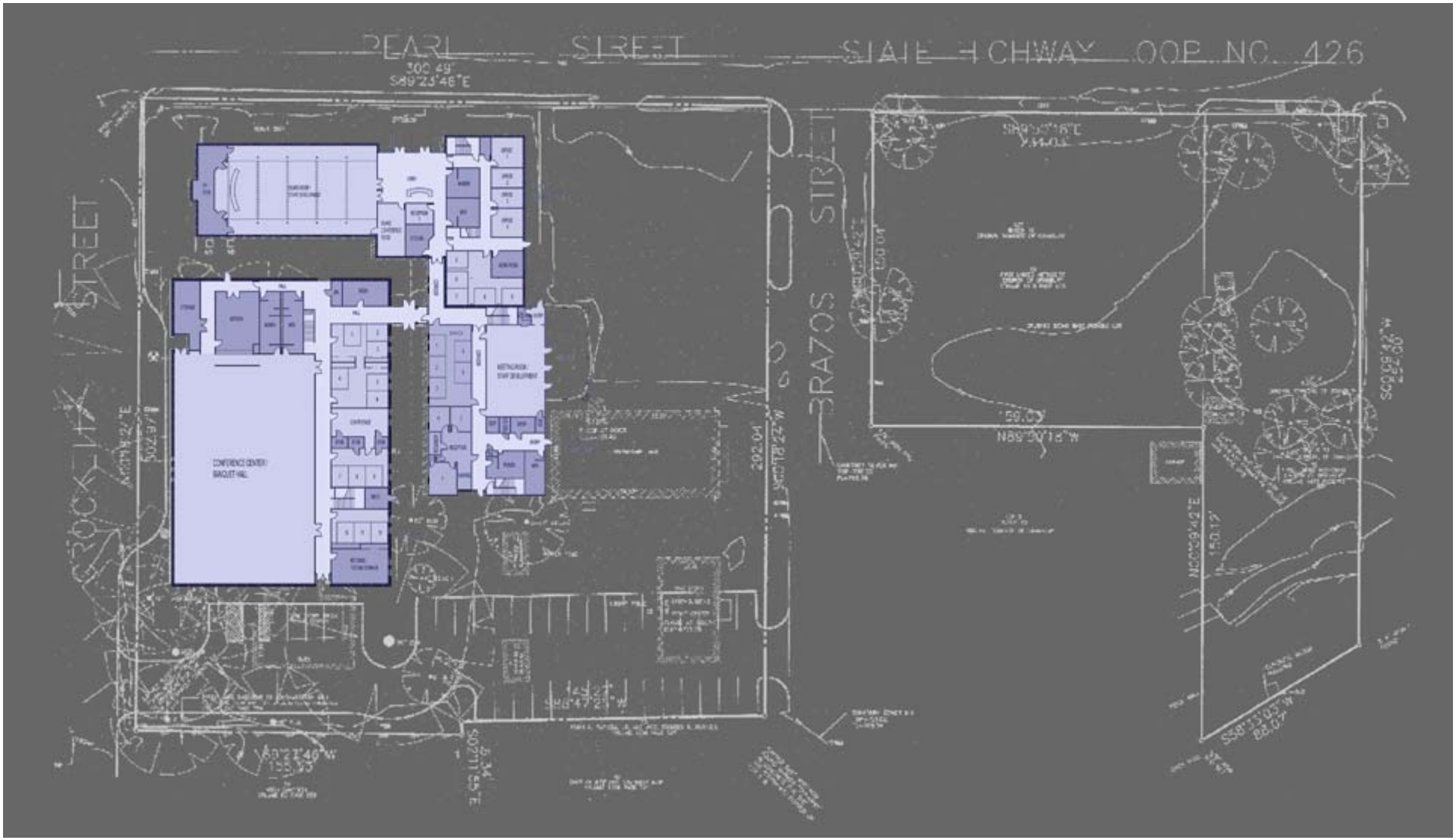
GISD Administration Relocation



EXISTING METHODIST COMPLEX

GISD Administration Relocation

Office Areas | Meeting Areas | Service Areas | Circulation | Future Expansion

EXISTING METHODIST COMPLEX

GISD Administration Relocation

1st FLOOR

Office Areas | Meeting Areas | Service Areas | Circulation | Future Expansion

EXISTING METHODIST COMPLEX

GISD Administration Relocation

1st FLOOR | Office Areas | Meeting Areas | Service Areas | Circulation | Future Expansion

EXISTING METHODIST COMPLEX

GISD Administration Relocation

1st FLOOR

Office Areas | Meeting Areas | Service Areas | Circulation | Future Expansion

EXISTING METHODIST COMPLEX

GISD Administration Relocation

Office Areas | Meeting Areas | Service Areas | Circulation | Future Expansion

EXISTING METHODIST COMPLEX

GISD Administration Relocation

2nd FLOOR | Office Areas | Meeting Areas | Service Areas | Circulation | Future Expansion

EXISTING METHODIST COMPLEX

GISD Administration Relocation

2nd FLOOR | Office Areas | Meeting Areas | Service Areas | Circulation | Future Expansion

EXISTING METHODIST COMPLEX

GISD Administration Relocation

2nd FLOOR | Office Areas | Meeting Areas | Service Areas | Circulation | Future Expansion

EMS ISD ADMINISTRATION BUILDING

Eagle Mountain-Saginaw ISD

EMS ISD ADMINISTRATION BUILDING

Eagle Mountain-Saginaw ISD

HARRIS HILL ADMINISTRATION BUILDING

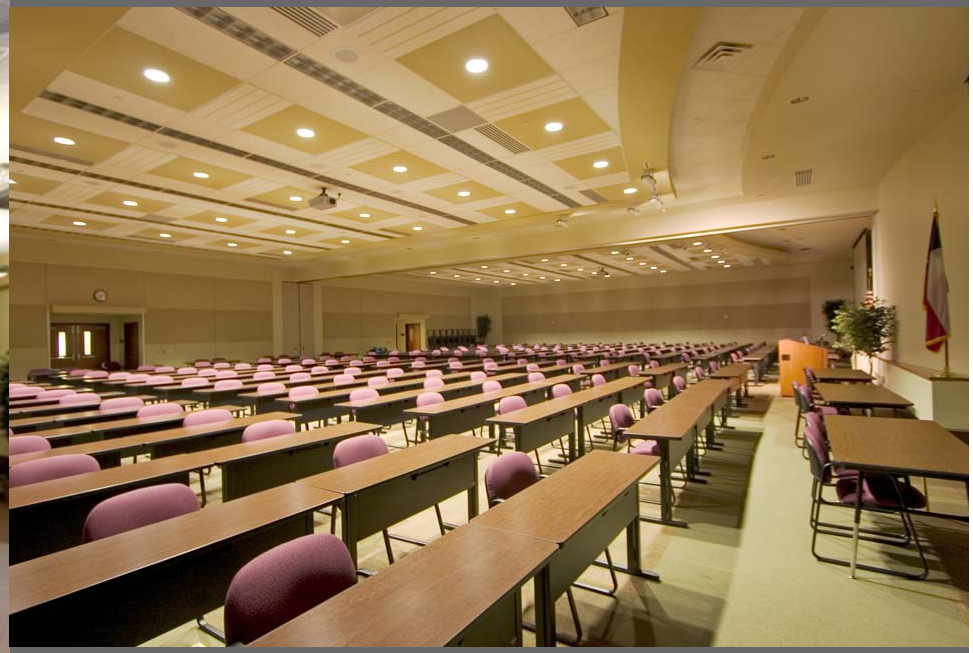
Garland ISD

HARRIS HILL ADMINISTRATION BUILDING

Garland ISD

WEATHERFORD ADMINISTRATION BUILDING

Weatherford ISD



PROFESSIONAL DEVELOPMENT CENTER

Arlington ISD

PROFESSIONAL DEVELOPMENT CENTER

Arlington ISD

Texas Association of School Boards
P.O. Box 400 • Austin, Texas 78767-0400 • 512.467.0222
12007 Research Blvd. • Austin, Texas 78759-2439 • www.tasb.org

Serving Texas Schools Since 1949

TO: Board Presidents and Superintendents, TASB Region 11, Position A
FROM: Robert Sepulveda, TASB Nominations Committee Chair
DATE: May 15, 2006
SUBJECT: TASB Director Vacancy in Region 11, Position A

As a result of the May elections, a vacancy currently exists on the TASB Board of Directors in TASB Region 11, Position A. Your district is invited to submit a nominee for this position of the TASB Board.

The Nominations Committee will meet in Austin sometime between late August and early September of 2006, to interview nominated individuals and prepare a slate of nominees to present to the Delegate Assembly. Candidates will be notified of the time for the interviews. Expenses incurred for the interview will be the responsibility of the local school district.

The TASB Board of Directors is charged with carrying out the policies established by the Delegate Assembly of the Association. The individual Director is expected to attend four meetings of the Board each year with one of the meetings being at the same time as the annual state convention in the fall. In addition, the Director will be asked to serve on a standing committee that will meet on a need basis, normally in conjunction with a Board meeting. The Director should be a capable, experienced school board member who can assist in providing the Association with outstanding leadership. Lodging and transportation expenses incurred by Board members attending regular Spring, Summer, and Winter Board meetings are reimbursed by the Association, along with transportation and one night's lodging expenses incurred attending the convention Board meeting are also reimbursed by the Association.

TO NOMINATE AN INDIVIDUAL FROM YOUR LOCAL SCHOOL BOARD

Each nominated individual's local school board (Active member) must submit the following and it **must be received in the TASB Austin office no later than JUNE 30, 2006:** (a) the Active member's nomination (blue form), (b) the nominated individual's biographical information, (c) a signed letter from the nominated individual confirming an intention to be a candidate and a willingness to serve, if elected, and (d) candidate questionnaire. The enclosed provides additional information regarding this process. Shortly after receipt of nomination forms, TASB will email to the nominated individual and the superintendent confirmation of receipt of the forms. If an acknowledgment is not received, contact Hershawna Turner at TASB. Nominations that do not meet this deadline cannot be accepted.

TO ENDORSE A NOMINATED INDIVIDUAL FROM A BOARD WITHIN YOUR TASB REGION

From July 3 to August 29, Active member school boards may endorse a nominated individual (tan form) from their TASB Region who has complied with the requirements stated in the above paragraph. (If you have nominated one of your local board members, that nomination will be counted as your endorsement as well.) If at least 25 percent and less than a majority of the Active members from the nominated individual's TASB region endorse the same individual, that individual will be included on the official ballot. If a majority of the Active members in a TASB Region endorse the same nominated individual, that individual will be elected to the TASB Board and will take office after the final session of the convention in the year elected [TASB Bylaws Art. VI, Section 1(B)(3)(b)]. On July 3, a list of all candidates running for a position will be posted to the TASB Web Site.
Pursuant to the bylaws, board action to endorse a candidate must be taken after July 3 (unless your district has submitted a nomination for a member of your local board. The nomination will be counted as one of the endorsements). To endorse a nominated individual, complete the enclosed tan form and return to the TASB office. **This form must be received in the TASB Austin office no earlier than JULY 3 or no later than AUGUST 29, 2006** (see enclosed for additional information regarding this process).