Regular Meeting Agenda
Thursday, November 5, 2020
LEO Conference Center
300 S. West Dr.
Leander, TX 78641
6:15 PM

Due to health and safety concerns related to the COVID-19 coronavirus and Boardroom capacity limits, seating for guests will be limited to 15. Doors will open at 5:30 PM and guests will be admitted on a first-come, first-served basis. Everyone will be required to complete and pass a health screening before entering the building, and a face covering over the nose and mouth is required.

Members of the public may access this meeting via live stream at https://youtu.be/6UXeS0BxZ1I. Please note, this link will not be active until approximately 5 minutes before the scheduled meeting time.

Citizens wishing to address the Board of Trustees may do so in-person at the meeting location noted on the agenda. In order to address the Board, individuals must sign up between 4:30 and 6:00 PM on the day of the meeting. Individuals are encouraged to sign up online at https://bit.ly/3mqTiBQ ; however, hardcopy sign up forms will be available between 5:30 and 6:00 PM at the meeting location. Due to capacity limits, individuals signed up to speak, who do not have seating in the Boardroom, will be allowed to line up in the hallway and will be admitted to the Boardroom when it is their turn to speak.

The notice for this meeting was posted in compliance with the Texas Open Meeting Act on October 30, 2020 at 4:00 PM.

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. Unless removed from the consent agenda, items identified within the consent agenda will be acted on at one time.

1. **CALL TO ORDER AND DECLARATION OF QUORUM**
2. **OPENING CEREMONY**
   - A. Pledge of Allegiance
   - B. Moment of Silence
3. **COMMUNICATIONS / ANNOUNCEMENTS**
   - A. Superintendent Remarks
   - B. Board Member Remarks
4. **CITIZEN COMMENTS**

(See the notes at the top of the agenda for instructions on how to sign up and details regarding speaking.)

5. **CONSENT AGENDA**
   - A. Consider Approval of Annual Investment Report 3
6. **SUPERINTENDENT'S REPORT**
7. **ACTION ITEMS**
   - A. STUDENT EXPERIENCE
     - 1. Consider Approval of House Bill 3: Proficiency Plans and Goals 38
   - B. GOVERNANCE
     - 1. Consider Approval of Policies DIA and FMF as Part of the Texas Association of School Boards (TASB) Update 115 59
8. **REPORTS AND DISCUSSION ITEMS**
   - A. STUDENT EXPERIENCE
     - 1. District and Campus Improvement Plans Report 339

2. Innovative Courses Proposal 436
3. Special Programs and Services Update 440
4. Class Size Waivers 452
5. Call for High School Language Arts Literature Comprehensive Review Process 460
B. GOVERNANCE
1. Legislative Update 468
2. Travis County Appraisal District (TCAD) Board of Directors Election 469
3. Resolution Nominating an Individual to the Williamson Central Appraisal District (WCAD) Board of Directors 485
C. OPERATIONS
1. New Position Recommendations 492
2. Amended Compensation Plan and Payment of a Personal Protective Equipment Stipend 493
3. Fleet Management Lease Purchase Option 497
4. General Construction Update 516
9. **CLOSED SESSION**
A. Texas Government Code 551.071: consultation with attorney regarding, pending or contemplated litigation, and/or attorney client privileged matter
B. Texas Government Code 551.074: deliberation regarding resignations, terminations, employment, reassignments, duties, and evaluation of personnel and public officers
C. Texas Government Code 551.0821: deliberation regarding matters whereby personally identifiable information regarding one or more students will be disclosed
10. **ACTION PURSUANT TO CLOSED SESSION**
A. Consider Approval of Administrator Contracts
B. Consider Approval of Teacher Contracts
11. **ADJOURNMENT**

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 or Texas Government Code section 418.183(f). 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. [*See* BEC(LEGAL)]

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, November 5, 2020

Agenda Item:	Consider Approval of Annual Investment Report
Purpose (this meeting):	☐ Discussion Item/Report Only ☒ Action Requested
Administrator Responsible:	Elaine Cogburn
Attachments:	Annual Investment Report Resolution Adopting Investment Policy and Strategy Resolution Approving List of Authorized Providers of Training, and Resolution Approving List of Authorized Brokers/Dealers

Background Information:

The Public Funds Investment Act (PFIA) Chapter 2256, of the Texas Government Code, requires the Board of Trustees take action on three investment related issues annually.

Section 2256.005 requires an annual review of the district's investment policy and investment strategy. This review is in addition to the required quarterly reporting of transactions for all funds, which is provided to the Board on a more frequent, monthly basis. A copy of the District's investment policy CDA Legal and CDA Local are provided within the attachments. *No changes are being made to the investment policy at this time. Policy may be changed in the future based on TASB updates or the internal Board policy review project ongoing.*

Section 2256.008 requires the Board approve an independent source, or sources, authorized to provide investment training to district investment officers. The administration is seeking a retroactive approval of the approved providers to September 1, 2020. The CFO participated in five hours of free investment officer training offered by Hilltop Securities in conjunction with the University of North Texas. However, it was later discovered that Hilltop Securities was not an approved provider at the time but UNT is an approved provider. The CFO is required to obtain 10 hours of PFIA training within the first 12 months of employment. *Several additional providers have been added to the list of approved providers in order to access more training opportunities.*

Section 2256.025 requires the Board annually review, revise, and adopt a list of qualified brokers authorized to engage in investment transactions with the District. *There are no changes to the list of qualified brokers/dealers. If additional brokers/dealers are requested in the future, approval by the Board will be sought at that time.*

Administrative Recommendation:

The administration recommends that the Board approve the resolutions for review of investment policy and strategy, the approved broker/dealer list, and ratify, as of September 1, 2020, the approved training providers, as presented.

Sample Motion:

I move that the Board of Trustees approve the resolutions for review of investment policy and strategy, the approved broker/dealer list, and ratify, as of September 1, 2020, the approved training providers, as presented.

LEANDER ISD
LEADING TO A BRIGHT FUTURE

INVESTMENT REPORT
FOR THE PERIOD SEPTEMBER 1, 2019 THROUGH JUNE 30, 2020

Investment Type	Acquistion Date	Broker/Dealer	CUSIP	Sec Type	Par	Coupon	Maturity	Total Days Held	Purch Yield	Beginning Book 9/1/2019	Ending Book 06/30/20	Beginning Market 09/01/19	Additions & Changes to Market Value	Ending Market 06/30/20
Individually Acquired Securities:														
General Operating Fund														
General Operating	1/16/2020	Wells Fargo	64971QWH2	New York City NY Transitional	$ 5,000,000	2.360%	8/1/2020	166	1.700%	$ -	$ 5,002,792	$ -	$ 5,007,950	$ 5,007,950
General Operating	3/16/2020	Wells Fargo	882724PY7	Texas St - Trans	$ 5,000,000	4.000%	8/27/2020	106	1.350%	$ -	$ 5,020,405	$ -	$ 5,029,300	$ 5,029,300
				Subtotal - Municipal Bonds	**$ 10,000,000**					**$ -**	**$ 10,023,196**	**$ -**	**$ 10,037,250**	**$ 10,037,250**
General Operating	2/14/2019	FTN Financial	89233HW91	Toyota Motor Credit Corp	$ -	0.000%	9/9/2019	8	2.570%	$ 9,994,371	-	$ 9,997,000	$ (9,997,000)	$ -
General Operating	12/21/2018	FTN Financial	19422GWG5	Collateralized CP CO LLC	$ -	0.000%	9/16/2019	15	2.964%	$ 24,969,679	-	$ 24,987,500	$ (24,987,500)	$ -
General Operating	2/14/2019	Wells Fargo	31849MXB2	First Abu Dhabi	$ -	0.000%	10/11/2019	40	2.723%	$ 12,463,624	-	$ 12,470,750	$ (12,470,750)	$ -
General Operating	2/14/2019	FTN Financial	63873KXF9	Natixis NY Branch	$ -	0.000%	10/15/2019	44	2.711%	$ 12,459,331	-	$ 12,486,250	$ (12,486,250)	$ -
General Operating	2/14/2019	FTN Financial	05971SXF4	Banco Santander SA/NY	$ -	0.000%	10/15/2019	44	2.720%	$ 9,967,354	-	$ 9,988,000	$ (9,988,000)	$ -
General Operating	3/13/2019	Mutual Securities	45581CY41	Ind & Comm BK China/NY	$ -	0.000%	11/4/2019	64	2.720%	$ 7,463,713	-	$ 7,471,538	$ (7,471,538)	$ -
General Operating	4/26/2019	Mutual Securities	45581CY58	Ind & Comm BK China/NY	$ -	0.000%	11/5/2019	65	2.678%	$ 9,952,085	-	$ 9,961,475	$ (9,961,475)	$ -
General Operating	4/26/2019	Mutual Securities	16891NY50	China Cons Bank Corp NY	$ -	0.000%	11/5/2019	65	2.709%	$ 9,951,541	-	$ 9,961,475	$ (9,961,475)	$ -
General Operating	11/7/2019	Mutual Securities	63873JF47	Natixis NY Branch	$ -	0.000%	6/4/2020	210	1.850%	$ -	-	$ -	$ -	$ -
General Operating	1/10/2020	Mutual Securities	80285PF80	Santander UK PLC	$ -	0.000%	6/8/2020	150	1.793%	$ -	-	$ -	$ -	$ -
General Operating	3/27/2020	Wells Fargo	16085GFG8	Carolinas Health	$ -	0.000%	6/16/2020	81	2.443%	$ -	-	$ -	$ -	$ -
General Operating	12/20/2019	Wells Fargo	63873JFH8	Natixis NY Branch	$ -	0.000%	6/17/2020	180	1.877%	$ -	-	$ -	$ -	$ -
General Operating	1/16/2020	Wells Fargo	13639CGD1	Canadian Natl Railway	$ 5,000,000	0.000%	7/13/2020	166	1.714%	$ -	4,996,913	$ -	$ 4,999,750	$ 4,999,750
General Operating	1/10/2020	Mutual Securities	53943RGD5	Lloyds Bank PLC	$ 10,000,000	0.000%	7/13/2020	172	1.776%	$ -	9,993,610	$ -	$ 9,999,560	$ 9,999,560
General Operating	3/27/2020	Wells Fargo	30229AGG8	Exxon Mobil Corp	$ 3,000,000	0.000%	7/16/2020	95	2.043%	$ -	2,997,463	$ -	$ 2,999,850	$ 2,999,850
General Operating	1/30/2020	Wells Fargo	07274LH67	Bayerische Landesbk Giro	$ 10,000,000	0.000%	8/6/2020	152	1.614%	$ -	9,983,468	$ -	$ 9,997,900	$ 9,997,900
General Operating	2/12/2020	Mutual Securities	5006E0HB5	Korea Dev BK NY	$ 10,000,000	0.000%	8/11/2020	139	1.643%	$ -	9,980,878	$ -	$ 9,998,000	$ 9,998,000
General Operating	2/6/2020	Mutual Securities	2254EAJ87	Credit Suisse New York	$ 10,000,000	0.000%	9/8/2020	145	1.687%	$ -	9,967,223	$ -	$ 9,996,500	$ 9,996,500
General Operating	1/13/2020	Mutual Securities	80285PK68	Santander UK PLC	$ 10,000,000	0.000%	10/6/2020	169	1.845%	$ -	9,950,269	$ -	$ 9,994,800	$ 9,994,800
General Operating	2/11/2020	FHN Financial	07274LK71	Bayerische Landesbk Giro	$ 10,000,000	0.000%	10/7/2020	140	1.641%	$ -	9,955,445	$ -	$ 9,990,300	$ 9,990,300
General Operating	1/10/2020	Wells Fargo	56108JKF7	Malayan Banking BHD/NY	$ 10,000,000	0.000%	10/15/2020	172	1.846%	$ -	9,946,024	$ -	$ 9,989,600	$ 9,989,600
General Operating	5/20/2020	FHN Financial	5006E0LG9	Korea Development BK NY	$ 5,000,000	0.000%	11/16/2020	41	0.313%	$ -	4,993,957	$ -	$ 4,994,300	$ 4,994,300
General Operating	6/25/2020	Wells Fargo	53948AQC8	Lloyds Bank Corp NY	$ 5,000,000	0.000%	3/12/2021	5	0.401%	$ -	4,985,888	$ -	$ 4,986,550	$ 4,986,550
				Subtotal-Commercial Paper	**$ 88,000,000**					**$ 97,221,697**	**$ 87,751,138**	**$ 97,323,988**	**$ (9,376,878)**	**$ 87,947,110**
General Operating	9/24/2019	Raymond James	313383HU8	Federal Home Loan Bank	$ -	1.750%	6/12/2020	262	1.809%	$ -	$ -	$ -	$ -	$ -
General Operating	9/24/2019	Raymond James	3135G0D75	Fannie Mae	$ -	1.500%	6/22/2020	272	1.810%	$ -	$ -	$ -	$ -	$ -
General Operating	1/14/2020	Raymond James	9128282J8	US Treasury	$ 5,000,000	1.500%	7/15/2020	168	1.531%	$ -	$ 4,999,936	$ -	$ 5,002,344	$ 5,002,344
General Operating	1/14/2020	Raymond James	9128282Q2	US Treasury	$ 5,000,000	1.500%	8/15/2020	168	1.553%	$ -	$ 4,999,668	$ -	$ 5,007,813	$ 5,007,813
General Operating	1/14/2020	Raymond James	912828L65	US Treasury	$ 5,000,000	1.375%	9/30/2020	168	1.529%	$ -	$ 4,998,057	$ -	$ 5,014,844	$ 5,014,844
General Operating	1/14/2020	Raymond James	912828L99	US Treasury	$ 5,000,000	1.375%	10/31/2020	168	1.573%	$ -	$ 4,996,686	$ -	$ 5,020,313	$ 5,020,313
				Subtotal - Agencies	**$ 20,000,000**					**$ -**	**$ 19,994,348**	**$ -**	**$ 20,045,313**	**$ 20,045,313**
				Total General Operating	**$ 118,000,000**					**$ 97,221,697**	**$ 117,768,682**	**$ 97,323,988**	**$ 20,705,686**	**$ 118,029,673**
Debt Service Fund														
Debt Service	7/31/2019	Wells Fargo	040654VB8	Arizona St Transprtn	$ 10,000,000	2.179%	7/1/2020	304	2.120%	$ -	$ 10,000,000	$ -	$ 10,000,000	$ 10,000,000
Debt Service	8/28/2019	Wells Fargo	34074GDH4	Florida St. Hurricane Catastrophe Fund	$ 12,000,000	2.995%	7/1/2020	304	1.900%	$ -	$ 12,000,000	$ -	$ 12,000,000	$ 12,000,000
				Subtotal - Municipal Bonds	**$ 22,000,000**					**$ -**	**$ 22,000,000**	**$ -**	**$ 22,000,000**	**$ 22,000,000**
Debt Service	4/26/2019	Mutual Securities	27873JAM7	Ebury Finance LLC	$ -		1/21/2020	142	2.610%	$ 9,898,647	$ -	$ 9,918,400	$ (9,918,400)	$ -
Debt Service	3/27/2020	Wells Fargo	50000DF19	Koch Industries Inc.	$ -	0.000%	6/1/2020	66	2.138%	$ -	-	$ -	$ -	$ -
Debt Service	3/27/2020	Wells Fargo	16085GFG8	Carolinas Health	$ -	0.000%	6/16/2020	81	2.443%	$ -	-	$ -	$ -	$ -
Debt Service	1/16/2020	Wells Fargo	13639CGD1	Canadian Natl Railway	$ 5,000,000	0.000%	7/13/2020	166	1.714%	$ -	4,996,913	$ -	$ 4,999,750	$ 4,999,750
Debt Service	3/27/2020	Wells Fargo	30229AGM5	Exxon Mobil Corp	$ 4,000,000	0.000%	7/21/2020	95	2.043%	$ -	3,995,489	$ -	$ 3,999,640	$ 3,999,640
Debt Service	1/24/2020	Raymond James	2254EAGP2	Credit Suisse New York	$ 5,000,000	0.000%	7/23/2020	158	1.755%	$ -	4,994,411	$ -	$ 4,999,000	$ 4,999,000
				Subtotal-Commercial Paper	**$ 14,000,000**					**$ 9,898,647**	**$ 13,986,813**	**$ 9,918,400**	**$ 4,079,990**	**$ 13,998,390**
Debt Service	1/14/2020	Raymond James	9128282J8	US Treasury	$ 10,000,000	1.500%	7/15/2020	168	1.531%	$ -	$ 9,999,871	$ -	$ 10,004,688	$ 10,004,688
				Subtotal - Agencies	**$ 10,000,000**					**$ -**	**$ 9,999,871**	**$ -**	**$ 10,004,688**	**$ 10,004,688**
				Total Debt Service	**$ 46,000,000**					**$ 9,898,647**	**$ 45,986,684**	**$ 9,918,400**	**$ 36,084,678**	**$ 46,003,078**
				Total Individually Acquired Securities:	**$ 164,000,000**					**$ 107,120,344**	**$ 163,755,367**	**$ 107,242,388**	**$ 56,790,364**	**$ 164,032,751**
				Accrued Interest:	**$ 676,148**					**$ 109,524**	**$ 676,148**	**$ 109,524**	**$ 566,624**	**$ 676,148**

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INVESTMENT REPORT
FOR THE PERIOD SEPTEMBER 1, 2019 THROUGH JUNE 30, 2020

Investment Type	Acquistion Date	Broker/Dealer	CUSIP	Sec Type	Par	Coupon	Maturity	Total Days Held	Purch Yield	Beginning Book 9/1/2019	Ending Book 06/30/20	Beginning Market 09/01/19	Additions & Changes to Market Value	Ending Market 06/30/20
Pooled Investments:									**Yearly Average**					
LOGIC														
General Oper.		*LOGIC*		Pool	$ 22,977,775		7/1/2020	1	1.544%	$ 62,485,068	$ 22,977,775	$ 62,485,068	$ (39,507,294)	$ 22,977,775
Cap Proj. '05-06		*LOGIC*		Pool	$ 29,668		7/1/2020	1	1.544%	$ 29,290	$ 29,668	$ 29,290	$ 379	$ 29,668
Cap Proj. '06-07		*LOGIC*		Pool	$ 5,243		7/1/2020	1	1.544%	$ 64,787	$ 5,243	$ 64,787	$ (59,544)	$ 5,243
Cap Proj. '07-08-630		*LOGIC*		Pool	$ 540		7/1/2020	1	1.544%	$ 533	$ 540	$ 533	$ 7	$ 540
Cap Proj. '07-08-631		*LOGIC*		Pool	$ 707,817		7/1/2020	1	1.544%	$ 1,172,143	$ 707,817	$ 1,172,143	$ (464,325)	$ 707,817
Cap Proj. '08-09-632		*LOGIC*		Pool	$ 2,034,960		7/1/2020	1	1.544%	$ 2,008,974	$ 2,034,960	$ 2,008,974	$ 25,986	$ 2,034,960
Cap Proj. '09-10-633		*LOGIC*		Pool	$ 737,278		7/1/2020	1	1.544%	$ 831,903	$ 737,278	$ 831,903	$ (94,625)	$ 737,278
Cap Proj. 638		*LOGIC*		Pool	$ 2,282		7/1/2020	1	1.544%	$ 1,558,739	$ 2,282	$ 1,558,739	$ (1,556,457)	$ 2,282
Cap Proj. 640		*LOGIC*		Pool	$ 5,493,786		7/1/2020	1	1.544%	$ 29,677,089	$ 5,493,786	$ 29,677,089	$ (24,183,303)	$ 5,493,786
Debt Service		*LOGIC*		Pool	$ 18,752,889		7/1/2020	1	1.544%	$ 586,379	$ 18,752,889	$ 586,379	$ 18,166,510	$ 18,752,889
Workers Comp.		*LOGIC*		Pool	$ 3,382,817		7/1/2020	1	1.544%	$ 2,940,108	$ 3,382,817	$ 2,940,108	$ 442,709	$ 3,382,817
Health Insurance		*LOGIC*		Pool	$ 8,023,468		7/1/2020	1	1.544%	$ 5,423,703	$ 8,023,468	$ 5,423,703	$ 2,599,765	$ 8,023,468
Child Nutrition		*LOGIC*		Pool	$ 1,800,762		7/1/2020	1	1.544%	$ 1,840,419	$ 1,800,762	$ 1,840,419	$ (39,656)	$ 1,800,762
Total LOGIC					**$ 63,949,286**					**$ 108,619,134**	**$ 63,949,286**	**$ 108,619,134**	**$ (44,669,848)**	**$ 63,949,286**
TexPool														
General Oper.		*TexPool*		Pool	$ 5,006,437		7/1/2020	1	1.250%	$ 579	$ 5,006,437	$ 579	$ 5,005,858	$ 5,006,437
Debt Service		*TexPool*		Pool	$ 20,091,044		7/1/2020	1	1.250%	$ 66,939	$ 20,091,044	$ 66,939	$ 20,024,105	$ 20,091,044
Cap Proj. '05-06		*TexPool*		Pool	$ 2,966		7/1/2020	1	1.250%	$ 2,935	$ 2,966	$ 2,935	$ 31	$ 2,966
Cap Proj. '06-07		*TexPool*		Pool	$ 6,143		7/1/2020	1	1.250%	$ 6,079	$ 6,143	$ 6,079	$ 64	$ 6,143
Total TexPool					**$ 25,106,590**					**$ 76,533**	**$ 25,106,590**	**$ 76,533**	**$ 25,030,057**	**$ 25,106,590**
TexStar														
General Oper.		*TexStar*		Pool	$ 12,960		7/1/2020	1	1.210%	$ 747	$ 12,960	$ 747	$ 12,213	$ 12,960
Debt Service		*TexStar*		Pool	$ 10,011,039		7/1/2020	1	1.210%	$ -	$ 10,011,039	$ -	$ 10,011,039	$ 10,011,039
Cap Proj. '05-06		*TexStar*		Pool	$ 2,327		7/1/2020	1	1.210%	$ 2,304	$ 2,327	$ 2,304	$ 23	$ 2,327
Cap Proj. '06-07		*TexStar*		Pool	$ 1,408		7/1/2020	1	1.210%	$ 1,394	$ 1,408	$ 1,394	$ 14	$ 1,408
Total TexStar					**$ 10,027,734**					**$ 4,444**	**$ 10,027,734**	**$ 4,444**	**$ 10,023,290**	**$ 10,027,734**
Texas Class														
General Oper.		*Texas Class*		Pool	$ 5,014,126		7/1/2020	1	1.566%	$ 459	$ 5,014,126	$ 459	$ 5,013,666	$ 5,014,126
Cap Proj. '05-06		*Texas Class*		Pool	$ 10,116,081		7/1/2020	1	1.566%	$ 1,130	$ 10,116,081	$ 1,130	$ 10,114,951	$ 10,116,081
Total Texas Class					**$ 15,130,207**					**$ 1,589**	**$ 15,130,207**	**$ 1,589**	**$ 15,128,617**	**$ 15,130,207**
Texas TERM														
General Operating		*TexasDAILY*		Pool	$ 10,239,826		7/1/2020	1	1.332%	$ 2,177,422	$ 10,239,826	$ 2,177,422	$ 8,062,404	$ 10,239,826
General Operating	1/30/2020	*Texas Term*		Fixed Rate-Term	$ 10,000,000		7/28/2020	152	1.600%	$ -	$ 10,000,000	$ -	$ 10,000,000	$ 10,000,000
General Operating	3/12/2020	*Texas Term*		Fixed Rate-Term	$ 10,000,000		9/14/2020	110	0.940%	$ -	$ 10,000,000	$ -	$ 10,000,000	$ 10,000,000
General Operating	3/3/2020	*Texas Term*		Fixed Rate-Term	$ 5,000,000		9/30/2020	119	0.970%	$ -	$ 5,000,000	$ -	$ 5,000,000	$ 5,000,000
General Operating	3/3/2020	*Texas Term*		Fixed Rate-Term	$ 5,000,000		11/27/2020	119	0.940%	$ -	$ 5,000,000	$ -	$ 5,000,000	$ 5,000,000
General Operating	3/3/2020	*Texas Term*		Fixed Rate-Term	$ 5,000,000		12/31/2020	119	0.900%	$ -	$ 5,000,000	$ -	$ 5,000,000	$ 5,000,000
General Operating	3/3/2020	*Texas Term*		Fixed Rate-Term	$ 5,000,000		1/29/2021	119	0.890%	$ -	$ 5,000,000	$ -	$ 5,000,000	$ 5,000,000
Debt Service		*TexasDAILY*		Pool	$ 3,106,338		7/1/2020	1	1.332%	$ 86,512	$ 3,106,338	$ 86,512	$ 3,019,826	$ 3,106,338
Debt Service	1/30/2020	*Texas Term*		Fixed Rate-Term	$ 10,000,000		7/28/2020	152	1.600%	$ -	$ 10,000,000	$ -	$ 10,000,000	$ 10,000,000
Capital Proj 634		*TexasDAILY*		Pool	$ 10,079,200		7/1/2020	1	1.332%	$ 10,311,544	$ 10,079,200	$ 10,311,544	$ (232,343)	$ 10,079,200
Capital Proj 634	2/6/2019	*Texas Term*		Fixed Rate-Term	$ -		9/4/2019	3	2.660%	$ 1,000,000	$ -	$ 1,000,000	$ (1,000,000)	$ -
Capital Proj 634	8/7/2019	*Texas Term*		Fixed Rate-Term	$ -		10/7/2019	36	2.090%	$ 3,000,000	$ -	$ 3,000,000	$ (3,000,000)	$ -
Capital Proj 638		*Texas DAILY*		Pool	$ 4,953,674		7/1/2020	1	1.332%	$ 5,918,338	$ 4,953,674	$ 5,918,338	$ (964,664)	$ 4,953,674
Capital Proj 638	5/16/2019	*Texas Term*		Fixed Rate-Term	$ -		9/9/2019	8	2.480%	$ 2,000,000	$ -	$ 2,000,000	$ (2,000,000)	$ -
Capital Proj 638	6/11/2019	*Texas Term*		Fixed Rate-Term	$ -		9/18/2019	17	2.300%	$ 2,000,000	$ -	$ 2,000,000	$ (2,000,000)	$ -
Capital Proj 638	10/11/2018	*Texas CD program*		First Mid-Illinois Bank & Trust, IL	$ -		10/11/2019	40	2.950%	$ 242,000	$ -	$ 242,000	$ (242,000)	$ -
Capital Proj 638	10/11/2018	*Texas CD program*		Cfg Community Bank, Lutherville, MD	$ -		10/11/2019	40	2.850%	$ 243,000	$ -	$ 243,000	$ (243,000)	$ -
Capital Proj 638	10/11/2018	*Texas CD program*		Pacific Western Bank, Los Angeles, CA	$ -		10/11/2019	40	2.800%	$ 243,000	$ -	$ 243,000	$ (243,000)	$ -
Capital Proj 638	10/11/2018	*Texas CD program*		Preferred Bank, Los Angeles, CA	$ -		10/11/2019	40	2.750%	$ 243,000	$ -	$ 243,000	$ (243,000)	$ -
Capital Proj 638	10/11/2018	*Texas CD program*		Granite Community Bank, MN	$ -		10/11/2019	40	2.750%	$ 243,000	$ -	$ 243,000	$ (243,000)	$ -
Capital Proj 638	10/11/2018	*Texas CD program*		Native American Bank, Denver, CO	$ -		10/11/2019	40	2.750%	$ 243,000	$ -	$ 243,000	$ (243,000)	$ -

LEANDER ISD
LEADING TO A BRIGHT FUTURE

INVESTMENT REPORT
FOR THE PERIOD SEPTEMBER 1, 2019 THROUGH JUNE 30, 2020

Investment Type	Acquistion Date	Broker/Dealer	CUSIP	Sec Type	Par	Coupon	Maturity	Total Days Held	Purch Yield	Beginning Book 9/1/2019	Ending Book 06/30/20	Beginning Market 09/01/19	Additions & Changes to Market Value	Ending Market 06/30/20
Capital Proj 638	10/11/2018	*Texas CD program*		Farmers & Merchants Union Bank, WI	$ -		10/11/2019	40	2.750%	$ 243,000	$ -	$ 243,000	$ (243,000)	$ -
Capital Proj 638	10/11/2018	*Texas CD program*		Capital Community Bank, Provo, UT	$ -		10/11/2019	40	2.750%	$ 243,000	$ -	$ 243,000	$ (243,000)	$ -
Capital Proj 639		*Texas DAILY*		Pool	$ 1,666		7/1/2020	1	1.332%	$ 51,278	$ 1,666	$ 51,278	$ (51,278)	$ 1,666
Capital Proj 640		*Texas DAILY*		Pool	$ 16,250,468		7/1/2020	1	1.332%	$ 36,750,318	$ 16,250,468	$ 36,750,318	$ (36,750,318)	$ 16,250,468
Capital Proj 640	2/20/2020	*Texas CD Program*		Bankunited, Miami Lakes, FL	$ 244,000		3/26/2021	131	1.980%	$ -	$ 244,000	$ -	$ 244,000	$ 244,000
					$ 94,875,172					**$ 65,238,411**	**$ 94,875,172**	**$ 65,238,411**	**$ 13,384,627**	**$ 94,875,172**
LoneStar														
General Operating		*Lonestar*		Pool	$ 5,155,911		7/1/2020	1	1.539%	$ 65,312	$ 5,155,911	$ 65,312	$ 5,090,599	$ 5,155,911
Debt Service		*Lonestar*		Pool	$ 20,136,693		7/1/2020	1	1.539%	$ 80,305	$ 20,136,693	$ 80,305	$ 20,056,388	$ 20,136,693
Cap Proj. '06-07		*Lonestar*		Pool	$ 100,741		7/1/2020	1	1.539%	$ 99,460	$ 100,741	$ 99,460	$ 1,281	$ 100,741
Cap Proj. '07-08-630		*Lonestar*		Pool	$ 2,734		7/1/2020	1	1.539%	$ 2,699	$ 2,734	$ 2,699	$ 35	$ 2,734
Cap Proj. '07-08-631		*Lonestar*		Pool	$ 397,230		7/1/2020	1	1.539%	$ 392,179	$ 397,230	$ 392,179	$ 5,050	$ 397,230
Cap Proj. 633		*Lonestar*		Pool	$ 19,461		7/1/2020	1	1.539%	$ 19,213	$ 19,461	$ 19,213	$ 247	$ 19,461
Cap Proj. 634		*Lonestar*		Pool	$ 974,706		7/1/2020	1	1.539%	$ 2,061,772	$ 974,706	$ 2,061,772	$ (1,087,066)	$ 974,706
Cap Proj. 635		*Lonestar*		Pool	$ 196		7/1/2020	1	1.539%	$ 193	$ 196	$ 193	$ 3	$ 196
Cap Proj. 636		*Lonestar*		Pool	$ 151,416		7/1/2020	1	1.539%	$ 149,491	$ 151,416	$ 149,491	$ 1,925	$ 151,416
Cap Proj. 637		*Lonestar*		Pool	$ 838,827		7/1/2020	1	1.539%	$ 828,163	$ 838,827	$ 828,163	$ 10,665	$ 838,827
Total LoneStar					**$ 27,777,915**				**1.539%**	**$ 3,698,788**	**$ 27,777,915**	**$ 3,698,788**	**$ 24,079,127**	**$ 27,777,915**
Total Pools					**$ 236,866,903**					**$ 177,638,899**	**$ 236,866,903**	**$ 177,638,899**	**$ 42,975,870**	**$ 236,866,903**
GRAND TOTAL					**$ 401,543,050**					**$ 284,868,767**	**$ 401,298,417**	**$ 284,990,811**	**$ 100,332,857**	**$ 401,575,801**

This report is in compliance with the strategies as approved in Board policy and relevant provisions of the Public Funds Investment Act (Texas Gov't Code 2256).

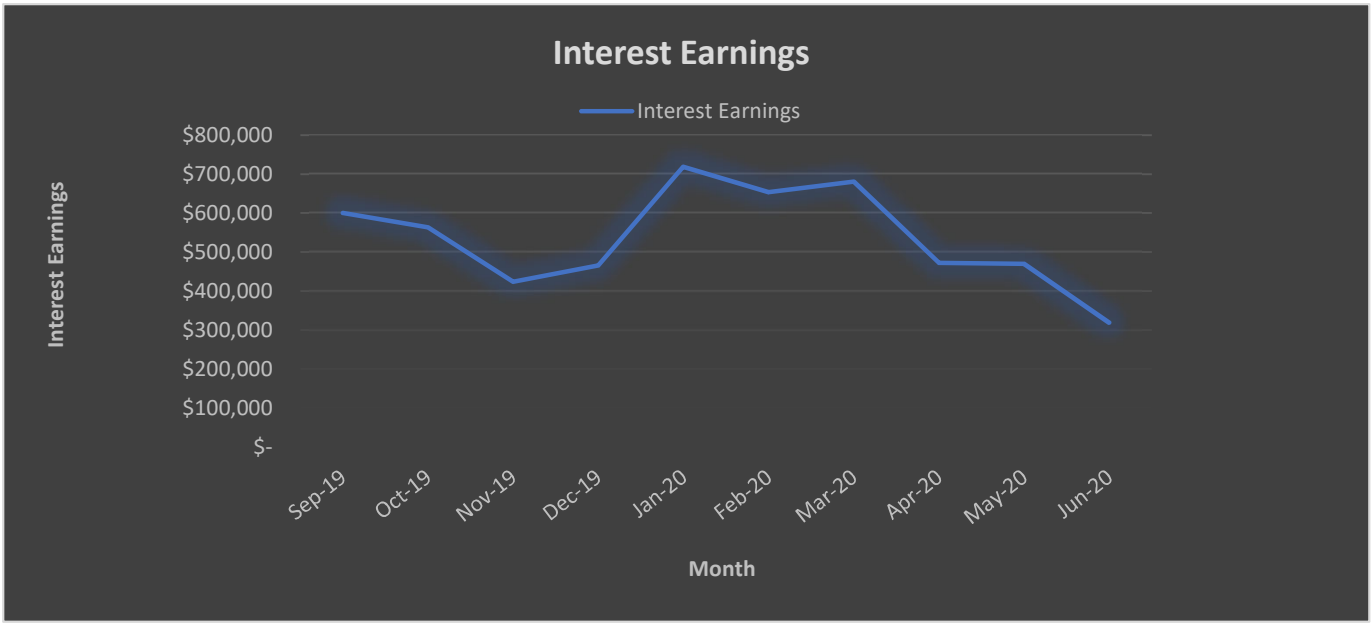
Investment Officer

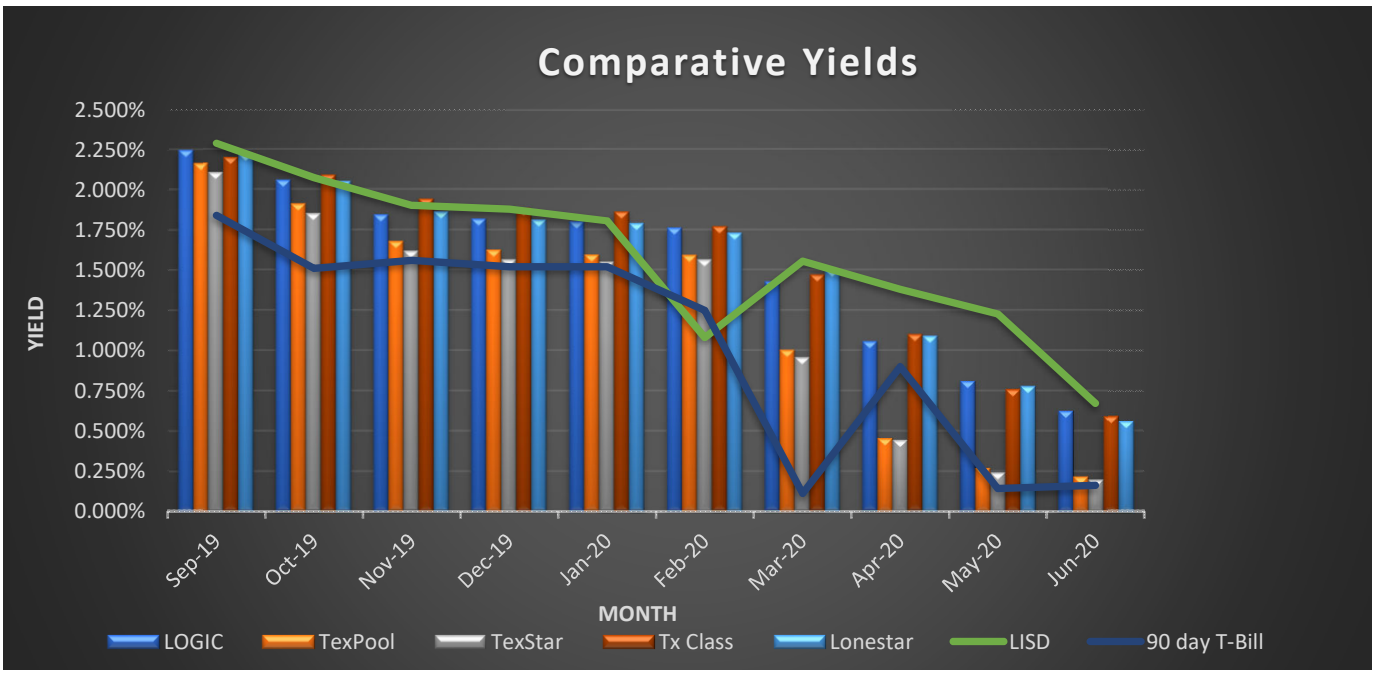
Investment Officer

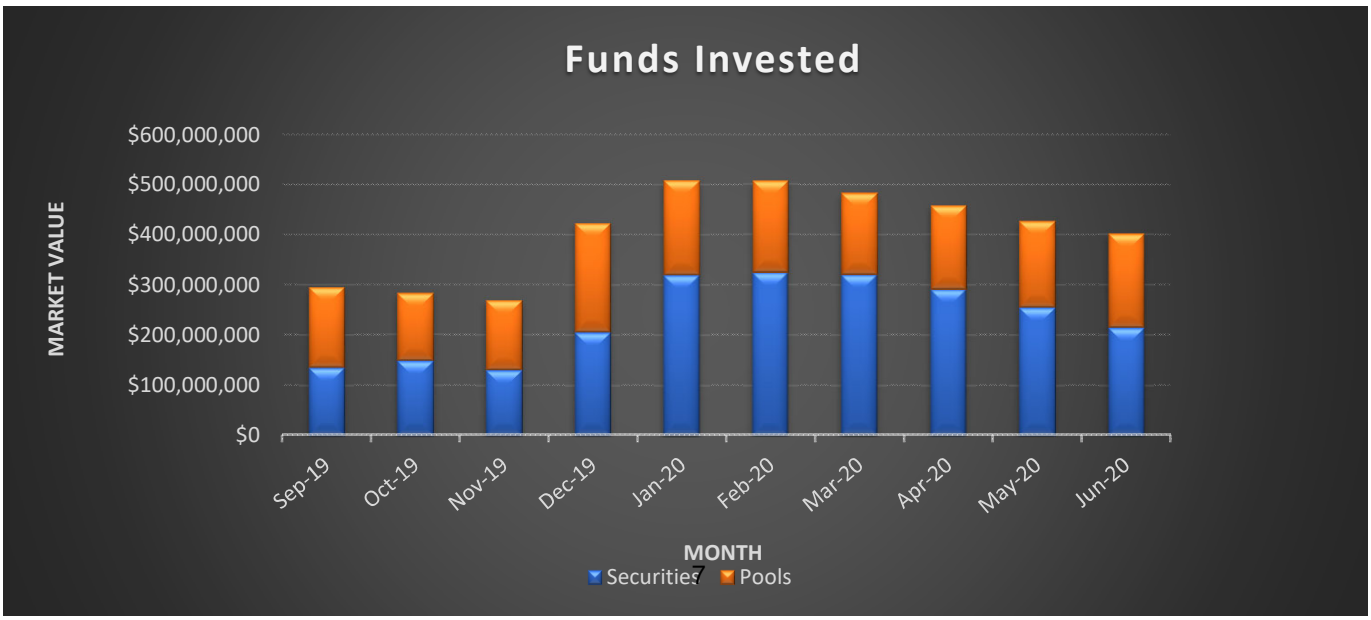
Investment Officer

Investment Officer

Investment Officer


Interest Earnings
Interest Earnings
$800,000
$700,000
$600,000
$500,000
$400,000
$300,000
$200,000
$100,000
$-
Interest Earnings
Sep-19
Oct-19
Nov-19
Dec-19
Jan-20
Feb-20
Mar-20
Apr-20
May-20
Jun-20
Month


Comparative Yields
2.500%
2.250%
2.000%
1.750%
1.500%
1.250%
1.000%
0.750%
0.500%
0.250%
0.000%
YIELD
Sep-19
Oct-19
Nov-19
Dec-19
Jan-20
Feb-20
Mar-20
Apr-20
May-20
Jun-20
MONTH
LOGIC
TexPool
TexStar
Tx Class
Lonestar
LISD
90 day T-Bill


Funds Invested
$600,000,000
$500,000,000
$400,000,000
$300,000,000
$200,000,000
$100,000,000
$0
MARKET VALUE
Sep-19
Oct-19
Nov-19
Dec-19
Jan-20
Feb-20
Mar-20
Apr-20
May-20
Jun-20
MONTH
Securities
Pools



ANNUAL INVESTMENT REPORT

For the period ended June 30, 2020

October 22, 2020

"Unaudited-Internal Use Only"

EXECUTIVE SUMMARY

The District's Investment Policy requires an annual review by the Board of the investment program and activity. This review is in addition to the mandated quarterly reporting (which at LISD is provided to the Board in addition to a monthly report).

This report is a review of the investment activities for ten-month fiscal year, September 1, 2019 through June 30, 2020. The following report summarizes investment products used, the market value of the investments, and the yield of those investments.

Retrospective

The investing environment for public funds, between September 2019 and June 2020, saw unprecedented circumstances as the U.S. experienced one of the sharpest economic downturns as a result of the coronavirus global pandemic. Pre-pandemic, the U.S. economy was generally in a strong position with unemployment at a 50-year low, inflation below the 2% target, a strong labor market, and expectations that expansion would continue. However, February 2020 marked the end of the longest recorded U.S. expansion, 128 months, which began in June 2009. Federal Reserve Chairman Powell stated, "the COVID-19 recession was unusual in that it was not triggered by a buildup of financial or economic imbalances. Instead, the pandemic shock was essentially a case of a natural disaster hitting a healthy economy." The last time the Fed cut rates to near zero was during the 2008 financial crisis and rates remained at that level until 2015. This year's interest earnings on the District's portfolio was in direct contrast with the 2018-19 fiscal year, where the District saw strong investment interest returns of approximately $10 million, as a result of the Fed's increased confidence in the health of the U.S. economy that spurred interest rate hikes between 2017 and 2019. As of the most recent FOMC meeting, Federal Reserve officials expect to leave interest rates near zero, through at least 2023, to bring the economy back to full strength after the pandemic-induced recession

Thinking that all readers of this report are likely aware of the interest return on savings and investments and the reasons for this investing environment, the report will focus on the actions taken to protect the principal of the District's investments.

The District had an average annual earnings rate of 1.59%, down from the 2018-2019 rate of 2.51%, which still outperformed benchmark standards, including the TexPool average rate of 1.25% and the 90-day T-Bill average of 1.05%. The District had realized and unrealized interest income in all funds totaling $5,367,333 for the 10-month fiscal year, September 2019 through June 2020, which was well below the $10,255,020 of interest earnings reported during 2018-2019.

General and Debt Service Funds
Maintaining sufficient liquidity and matching maturity dates to meet debt obligations provides the District with safety of principal, and diversification plus yields greater than offered by the local government investment pools.

Using December and January tax receipts to cover the next year's debt service obligations provides some increase in yields over the pools. As always, only high credit quality securities are used for operating funds and debt service.

Construction Funds
Estimated cash flow spend-down schedules govern the utilization and investment of the Capital Improvement Project funds. Estimated spend-down schedules can be volatile, but are updated frequently for accuracy. Investments are made in accordance with the spend-down schedule.

Policy Review and Recommendations
We are requesting the Board of Trustees adopt the investment policy, investment strategies, the list of authorized providers of training, and the list of authorized broker/dealers of the District. Please note that LISD issued a Request for Qualifications (RFQ) for broker-dealer services, and the list presented for consideration matches the award recommendation.

LEANDER INDEPENDENT SCHOOL DISTRICT
ANNUAL INVESTMENT REPORT

For the period:
September 1, 2019 - June 30, 2020

Portfolio Summary Management Report

This annual report is in full compliance with the investment policy and strategy established for Leander Independent School District and the Public Funds Investment Act (Chapter 2256, Government Code)

Beginning Book Value	$ 306,981,381
Beginning Market Value	307,113,711
Weighted Average Maturity at the Beginning Date	40 days
Ending Book Value	$ 401,298,417
Ending Market Value	401,575,801
Weighted Average Maturity at the Ending Date	34 days
Change in Market Value	$ 94,462,090
Investment Earnings for the Period	$ 5,367,333
Weighted Average Maturity for the Period	54 days
Average Yield for Period	1.59%
Average Yield for 90 Day Treasury Bill for Period	1.05%

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Investment Officer

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Investment Officer

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Investment Officer

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Investment Officer

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Investment Officer

RESOLUTION ADOPTING
INVESTMENT POLICY AND INVESTMENT STRATEGY

WHEREAS, the Public Funds Investment Act codified in the Texas Government Code Chapter 2256 governs local government investment; and

WHEREAS, the Public Fund Investment Act (Section 2256.005a), as amended, requires the District to adopt an investment policy and investment strategies by rule, order, ordinance or resolution governing the investment of funds under its control; and

WHEREAS, the Public Fund Investment Act (Section 2256.005e), requires the governing body to review and adopt that investment policy and investment strategies by rule, order, ordinance or resolution not less than annually, recording any changes made thereto; and

WHEREAS, the District's Board of Trustees has reviewed the Investment Policy and decided to make no changes as the policy was reviewed and approved on October 22nd, 2020; and

WHEREAS, the District Board of Trustees has reviewed the Investment Strategies contained within the Investment Policy and decided to make no changes as the investment policy was reviewed and approved on October 22nd, 2020.

NOW, THEREFORE, BE IT RESOLVED, the District has complied with the requirements of the Public Funds Investment Act and the District's Investment Policy and adopts the Investment Policy and Investment Strategy, with no changes, as the Investment Policy and Strategy of the District.

PASSED, ADOPTED AND APPROVED by the Leander ISD Board of Trustees, this the 22nd day of October 2020.

APPROVED:

_____
Board President

ATTEST:

_____
Board Secretary

RESOLUTION APPROVING LIST OF AUTHORIZED PROVIDERS OF INVESTMENT TRAINING

WHEREAS, the Public Funds Investment Act (Texas Government Code Chapter 2256) directs the investment of public funds in Texas; and

WHEREAS, the Public Funds Investment Act (2256.008(a)) requires that the District investment officers receive training from independent sources; and

WHEREAS, the Public Funds Investment Act (2256.008(a)) requires the Board to approve and adopt a list of independent sources authorized to provide training for the investment officers of the District.

NOW, THEREFORE, BE IT RESOLVED that the following independent sources are approved to provide investment training for the investment officers of the District:

ASBO International
BOK Financial Securities, Inc.
ESC Region 13
GFOA
GFOAT
Hilltop Securities/TexStar/LOGIC
Patterson & Associates
PFM
Public Trust Advisors, LLC/TexasClass
TASA
TASB/Lonestar (Texas State University)
TASBO
TexPool
TSCPA
TML
University of North Texas
University of Texas

PASSED, ADOPTED AND APPROVED by Leander Independent School District Board of Trustees this the 22nd day of October 2020.

APPROVED:

_____
Board President

ATTEST:

_____
Board Secretary

RESOLUTION APPROVING LIST OF AUTHORIZED BROKERS/DEALERS

WHEREAS, the Public Funds Investment Act (Texas Government Code Chapter 2256) directs the investment of public funds in Texas; and

WHEREAS, the Public Funds Investment Act (2256.005(k)) requires that the District provide its Investment Policy to any firm offering to engage in an investment transaction with the District and the firm is to certify to a review of the District's Investment Policy; and

WHEREAS, the Public Funds Investment Act (2256.025) requires the Board to approve and adopt a list of qualified brokers authorized to do business with the District; and

WHEREAS, the Leander Independent School District has provided the Investment Policy to, and received certification from, the firms identified below.

NOW, THEREFORE, BE IT RESOLVED that the following brokers/dealers are approved for transactions with the District:

FTN Financial (acquired Coastal Securities)
Mutual Securities
Raymond James
Wells Fargo

PASSED, ADOPTED AND APPROVED by Leander Independent School District Board of Trustees this the 22nd day of October 2020.

APPROVED:

_____
Board President

ATTEST:

_____
Board Secretary

Table of Contents

Definitions 2
Bond Proceeds 2
Investment Pool 2
Pooled Fund Group 2
Separately Invested Asset 2
Pledged Revenue 2
Repurchase Agreement 2
Hedging 2
Corporate Bond 3
Written Policies 3
Annual Review 4
Annual Audit 4
Investment Strategies 4
Investment Officer 4
Investment Training 5
Standard of Care 6
Selection of Broker 8
Bond Proceeds 8
Authorized Investments 8
Obligations of Governmental Entities 8
Certificates of Deposit and Share Certificates 10
Repurchase Agreements 11
Securities Lending Program 12
Banker's Acceptances 13
Commercial Paper 13
Mutual Funds 13
Guaranteed Investment Contracts 14
Investment Pools 15
Corporate Bonds 16
Hedging Transactions 16
Prohibited Investments 17
Loss of Required Rating 17
Sellers of Investments 18
Business Organization 18
Donations 18
Electronic Funds Transfer 19

All investments made by a district shall comply with the Public Funds Investment Act (Texas Government Code Chapter 2256, Subchapter A) and all federal, state, and local statutes, rules, or regulations. *Gov't Code 2256.026*

Definitions

Bond Proceeds — "Bond proceeds" means the proceeds from the sale of bonds, notes, and other obligations issued by a district, and reserves and funds maintained by a district for debt service purposes.

Investment Pool — "Investment pool" means an entity created under the Texas Government Code to invest public funds jointly on behalf of the entities that participate in the pool and whose investment objectives in order of priority are preservation and safety of principal, liquidity, and yield.

Pooled Fund Group — "Pooled fund group" means an internally created fund of a district in which one or more institutional accounts of a district are invested.

Separately Invested Asset — "Separately invested asset" means an account or fund of a district that is not invested in a pooled fund group.

Gov't Code 2256.002(1), (6), (9), (12)

Pledged Revenue — "Pledged revenue" means money pledged to the payment of or as security for:

1. Bonds or other indebtedness issued by a district;
2. Obligations under a lease, installment sale, or other agreement of a district; or
3. Certificates of participation in a debt or obligation described by item 1 or 2.

Gov't Code 2256.0208(a)

Repurchase Agreement — "Repurchase agreement" means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations, described by Government Code 2256.009(a)(1) (obligations of governmental entities) or 2256.013 (commercial paper) or if applicable, 2256.0204 (corporate bonds), at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement. *Gov't Code 2256.011(b)*

Hedging — "Hedging" means acting to protect against economic loss due to price fluctuation of a commodity or related investment by entering

into an offsetting position or using a financial agreement or producer price agreement in a correlated security, index, or other commodity.

Eligible Entity "Eligible entity" means a political subdivision that has:

1. A principal amount of at least $250 million in outstanding long-term indebtedness, long-term indebtedness proposed to be issued, or a combination of outstanding long-term indebtedness and long-term indebtedness proposed to be issued; and
2. Outstanding long-term indebtedness that is rated in one of the four highest rating categories for long-term debt instruments by a nationally recognized rating agency for municipal securities, without regard to the effect of any credit agreement or other form of credit enhancement entered into in connection with the obligation.

Eligible Project "Eligible project" has the meaning assigned by Government Code 1371.001 (issuance of obligations for certain public improvements).

Gov't Code 2256.0207(a)

Corporate Bond "Corporate bond" means a senior secured debt obligation issued by a domestic business entity and rated not lower than "AA-" or the equivalent by a nationally recognized investment rating firm. The term does not include a debt obligation that, on conversion, would result in the holder becoming a stockholder or shareholder in the entity, or any affiliate or subsidiary of the entity, that issued the debt obligation, or is an unsecured debt obligation. *Gov't Code 2256.0204(a)*

Written Policies The board shall adopt by rule, order, ordinance, or resolution, as appropriate, a written investment policy regarding the investment of its funds and funds under its control. The investment policies must primarily emphasize safety of principal and liquidity and must address investment diversification, yield, and maturity and the quality and capability of investment management. The policies must include:

1. A list of the types of authorized investments in which the district's funds may be invested;
2. The maximum allowable stated maturity of any individual investment owned by the district;
3. For pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date of the portfolio;

4. Methods to monitor the market price of investments acquired with public funds;

5. A requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis; and

6. Procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the provisions of Government Code 2256.021 [see Loss of Required Rating, below].

Gov't Code 2256.005(a), (b)

Annual Review

The board shall review its investment policy and investment strategies not less than annually. The board shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies. *Gov't Code 2256.005(e)*

Annual Audit

A district shall perform a compliance audit of management controls on investments and adherence to the district's established investment policies. The compliance audit shall be performed in conjunction with the annual financial audit. *Gov't Code 2256.005(m)*

Investment Strategies

As an integral part of the investment policy, the board shall adopt a separate written investment strategy for each of the funds or group of funds under the board's control. Each investment strategy must describe the investment objectives for the particular fund using the following priorities in order of importance:

1. Understanding of the suitability of the investment to the financial requirements of the district;

2. Preservation and safety of principal;

3. Liquidity;

4. Marketability of the investment if the need arises to liquidate the investment before maturity;

5. Diversification of the investment portfolio; and

6. Yield.

Gov't Code 2256.005(d)

Investment Officer

A district shall designate by rule, order, ordinance, or resolution, as appropriate, one or more officers or employees as investment officer(s) to be responsible for the investment of its funds consistent

with the investment policy adopted by the board. If the board has contracted with another investing entity to invest its funds, the investment officer of the other investing entity is considered to be the investment officer of the contracting board's district. In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs, but the board retains the ultimate responsibility as fiduciaries of the assets of the district. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the district. Authority granted to a person to invest the district's funds is effective until rescinded by the district or until termination of the person's employment by a district, or for an investment management firm, until the expiration of the contract with the district. *Gov't Code 2256.005(f)*

A district or investment officer may use the district's employees or the services of a contractor of the district to aid the investment officer in the execution of the officer's duties under Government Code, Chapter 2256. *Gov't Code 2256.003(c)*

Investment Training

Investment training must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with the Public Funds Investment Act. *Gov't Code 2256.008(c)*

Initial

Within 12 months after taking office or assuming duties, the treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a district shall attend at least one training session from an independent source approved by the board or a designated investment committee advising the investment officer. This initial training must contain at least ten hours of instruction relating to their respective responsibilities under the Public Funds Investment Act. *Gov't Code 2256.008(a)*

Ongoing

The treasurer, or the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a district shall attend an investment training session not less than once in a two-year period that begins on the first day of the district's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than eight hours of instruction relating to investment responsibilities under the Public Funds Investment Act from an independent source approved by the board or by a designated investment committee advising the investment officer. *Gov't Code 2256.008(a-1)*

Exception

The ongoing training requirement does not apply to the treasurer, chief financial officer, or investment officer of a district if:

1. The district does not invest district funds or only deposits those funds in interest-bearing deposit accounts or certificates of deposit as authorized by Government Code 2256.010; and

2. The treasurer, chief financial officer, or investment officer annually submits to the agency a sworn affidavit identifying the applicable criteria under item 1 that apply to the district.

Gov't Code 2256.008(g)

Standard of Care

Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived. Investment of funds shall be governed by the following objectives, in order of priority:

1. Preservation and safety of principal;

2. Liquidity; and

3. Yield.

In determining whether an investment officer has exercised prudence with respect to an investment decision, the following shall be taken into consideration:

1. The investment of all funds, or funds under the district's control, over which the officer had responsibility rather than the prudence of a single investment; and

2. Whether the investment decision was consistent with the district's written investment policy.

Gov't Code 2256.006

Personal Interest

A district investment officer who has a personal business relationship with a business organization offering to engage in an investment transaction with the district shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree by affinity or consanguinity, as determined by Government Code Chapter 573 (nepotism prohibition), to an individual seeking to sell an investment to the investment officer's district shall file a statement disclosing that relationship. A required statement must be filed with the board and with the Texas Ethics Commission. For purposes of this policy, an investment officer has a personal business relationship with a business organization if:

1. The investment officer owns ten percent or more of the voting stock or shares of the business organization or owns $5,000 or more of the fair market value of the business organization;

2. Funds received by the investment officer from the business organization exceed ten percent of the investment officer's gross income for the previous year; or

3. The investment officer has acquired from the business organization during the previous year investments with a book value of $2,500 or more for the personal account of the investment officer.

Gov't Code 2256.005(i)

Quarterly Reports

Not less than quarterly, the investment officer shall prepare and submit to the board a written report of investment transactions for all funds covered by the Public Funds Investment Act for the preceding reporting period. This report shall be presented not less than quarterly to the board and the superintendent within a reasonable time after the end of the period. The report must:

1. Describe in detail the investment position of the district on the date of the report;

2. Be prepared jointly and signed by all district investment officers;

3. Contain a summary statement of each pooled fund group that states the:

   a. Beginning market value for the reporting period;

   b. Ending market value for the period; and

   c. Fully accrued interest for the reporting period;

4. State the book value and market value of each separately invested asset at the end of the reporting period by the type of asset and fund type invested;

5. State the maturity date of each separately invested asset that has a maturity date;

6. State the account or fund or pooled group fund in the district for which each individual investment was acquired; and

7. State the compliance of the investment portfolio of the district as it relates to the investment strategy expressed in the district's investment policy and relevant provisions of the Public Funds Investment Act.

If a district invests in other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, the reports prepared by the investment officers shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the board by that auditor.

Gov't Code 2256.023

Selection of Broker

The board or the designated investment committee shall, at least annually, review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with a district. *Gov't Code 2256.025*

Bond Proceeds

The investment officer of a district may invest bond proceeds or pledged revenue only to the extent permitted by the Public Funds Investment Act, in accordance with:

1. Statutory provisions governing the debt issuance or the agreement, as applicable; and
2. The district's investment policy regarding the debt issuance or the agreement, as applicable.

Gov't Code 2256.0208(b)

Authorized Investments

A board may purchase, sell, and invest its funds and funds under its control in investments described below, in compliance with its adopted investment policies and according to the standard of care set out in this policy. *Gov't Code 2256.003(a)*

In the exercise of these powers, the board may contract with an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or with the State Securities Board to provide for the investment and management of its public funds or other funds under its control. A contract made under this authority may not be for a term longer than two years. A renewal or extension of the contract must be made by the board by order, ordinance, or resolution. *Gov't Code 2256.003(b)*

The board may specify in its investment policy that any authorized investment is not suitable. *Gov't Code 2256.005(j)*

Obligations of Governmental Entities

The following are authorized investments:

1. Obligations, including letters of credit, of the United States or its agencies and instrumentalities, including the Federal Home Loan Banks;

2. Direct obligations of this state or its agencies and instrumentalities;

3. Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;

4. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state, the United States, or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or by the explicit full faith and credit of the United States;

5. Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent;

6. Bonds issued, assumed, or guaranteed by the state of Israel;

7. Interest-bearing banking deposits that are guaranteed or insured by the FDIC or its successor, or the National Credit Union Share Insurance Fund or its successor; and

8. Interest-bearing banking deposits other than those described at item 7 above if:

    a. The funds are invested through a broker with a main office or a branch office in this state that the district selects from a list the board or designated investment committee of the district adopts as required at Selection of Broker above or a depository institution with a main office or a branch office in this state and that the district selects;

    b. The broker or depository institution selected as described above arranges for the deposit of the funds in the banking deposits in one or more federally insured depository institutions, regardless of where located, for the district's account;

    c. The full amount of the principal and accrued interest of the banking deposits is insured by the United States or an instrumentality of the United States; and

    d. The district appoints as the district's custodian of the banking deposits issued for the district's account the de-

pository institution selected as described above, an entity described by Government Code 2257.041(d) (custodian with which to deposit securities), or a clearing broker-dealer registered with the Securities and Exchange Commission and operating under Rule 15c3-3 (17 C.F.R. Section 240.15c3-3).

Gov't Code 2256.009(a)

Unauthorized Obligations

The following investments are not authorized:

1. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;

2. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;

3. Collateralized mortgage obligations that have a stated final maturity date of greater than ten years; and

4. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

Gov't Code 2256.009(b)

Certificates of Deposit and Share Certificates

A certificate of deposit or share certificate is an authorized investment if the certificate is issued by a depository institution that has its main office or a branch office in Texas and is:

1. Guaranteed or insured by the FDIC or its successor or the National Credit Union Share Insurance Fund or its successor;

2. Secured by obligations described at Obligations of Governmental Entities, above, including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage backed securities described at Unauthorized Obligations, above; or

3. Secured in accordance with Government Code Chapter 2257 (Public Funds Collateral Act) or in any other manner and amount provided by law for the deposits of the district.

Gov't Code 2256.010(a)

In addition to the authority to invest funds in certificates of deposit under the previous section, an investment in certificates of deposit made in accordance with the following conditions is an authorized investment:

1. The funds are invested by the district through a broker that has its main office or a branch office in this state and is selected from a list adopted by the district as required at Selection of Broker, above or a depository institution that has its main office or a branch office in this state and that is selected by the district;

2. The broker or depository institution selected by the district arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the district;

3. The full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States; and

4. The district appoints the depository institution selected by the district, an entity described by Government Code 2257.041(d) (custodian with which to deposit securities), or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3) as custodian for the district with respect to the certificates of deposit issued for the account of the district.

Gov't Code 2256.010(b)

The district's investment policies may provide that bids for certificates of deposit be solicited orally, in writing, electronically, or in any combination of those methods. *Gov't Code 2256.005(c)*

Repurchase Agreements

A fully collateralized repurchase agreement is an authorized investment if it:

1. Has a defined termination date;

2. Is secured by a combination of cash and obligations described by Government Code 2256.009(a)(1) (obligations of governmental entities) or 2256.013 (commercial paper) or if applicable, 2256.0204 (corporate bonds);

3. Requires the securities being purchased by the district or cash held by the district to be pledged to the district, held in the district's name, and deposited at the time the investment is made with the district or a third party selected and approved by the district; and

4. Is placed through a primary government securities dealer, as defined by the Federal Reserve or a financial institution doing business in Texas.

The term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered. Money received by a district under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

Government Code 1371.059(c) (validity and incontestability of obligations for certain public improvements) applies to the execution of a repurchase agreement by a district.

Gov't Code 2256.011

Securities Lending Program

A securities lending program is an authorized investment if:

1. The value of securities loaned is not less than 100 percent collateralized, including accrued income;
2. A loan allows for termination at any time;
3. A loan is secured by:
    a. Pledged securities described at Obligations of Governmental Entities, above;
    b. Pledged irrevocable letters of credit issued by a bank that is organized and existing under the laws of the United States or any other state, and continuously rated by at least one nationally recognized investment rating firm at not less than A or its equivalent; or
    c. Cash invested in accordance with Government Code 2256.009 (obligations of governmental entities), 2256.013 (commercial paper), 2256.014 (mutual funds), or 2256.016 (investment pools);
4. The terms of a loan require that the securities being held as collateral be pledged to the district, held in the district's name, and deposited at the time the investment is made with the district or with a third party selected by or approved by the district; and
5. A loan is placed through a primary government securities dealer, as defined by 5 C.F.R. Section 6801.102(f), as that regulation existed on September 1, 2003, or a financial institution doing business in this state.

An agreement to lend securities under a securities lending program must have a term of one year or less.

Gov't Code 2256.0115

Banker's Acceptances

A banker's acceptance is an authorized investment if it:

1. Has a stated maturity of 270 days or fewer from the date of issuance;
2. Will be, in accordance with its terms, liquidated in full at maturity;
3. Is eligible for collateral for borrowing from a Federal Reserve Bank; and
4. Is accepted by a bank organized and existing under the laws of the United States or any state, if the short-term obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than A-1 or P-1 or an equivalent rating by at least on nationally recognized credit rating agency.

Gov't Code 2256.012

Commercial Paper

Commercial paper is an authorized investment if it has a stated maturity of 365 days or fewer from the date of issuance; and is rated not less than A-1 or P-1 or an equivalent rating by at least:

1. Two nationally recognized credit rating agencies; or
2. One nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States law or any state.

Gov't Code 2256.013

Mutual Funds

A no-load money market mutual fund is an authorized investment if the mutual fund:

1. Is registered with and regulated by the Securities and Exchange Commission;
2. Provides the district with a prospectus and other information required by the Securities and Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); and
3. Complies with federal Securities and Exchange Commission Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.).

Gov't Code 2256.014(a)

In addition to the no-load money market mutual fund authorized above, a no-load mutual fund is an authorized investment if it:

1. Is registered with the Securities and Exchange Commission;
2. Has an average weighted maturity of less than two years; and
3. Either has a duration of:
    a. One year or more and is invested exclusively in obligations approved by the Public Funds Investment Act, or
    b. Less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

Gov't Code 2256.014(b)

Limitations

A district is not authorized to:

1. Invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in mutual funds described in Government Code 2256.014(b);
2. Invest any portion of bond proceeds, reserves and funds held for debt service, in mutual funds described in Government Code 2256.014(b); or
3. Invest its funds or funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund described in Government Code 2256.014(a) or (b) in an amount that exceeds ten percent of the total assets of the mutual fund.

Gov't Code 2256.014(c)

Guaranteed Investment Contracts

A guaranteed investment contract is an authorized investment for bond proceeds if the guaranteed investment contract:

1. Has a defined termination date;
2. Is secured by obligations described at Obligations of Governmental Entities, above, excluding those obligations described at Unauthorized Obligations, in an amount at least equal to the amount of bond proceeds invested under the contract; and
3. Is pledged to the district and deposited with the district or with a third party selected and approved by the district.

Bond proceeds, other than bond proceeds representing reserves and funds maintained for debt service purposes, may not be invested in a guaranteed investment contract with a term longer than five years from the date of issuance of the bonds.

To be eligible as an authorized investment:

1. The board must specifically authorize guaranteed investment contracts as eligible investments in the order, ordinance, or resolution authorizing the issuance of bonds;
2. The district must receive bids from at least three separate providers with no material financial interest in the bonds from which proceeds were received;
3. The district must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received;
4. The price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested; and
5. The provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

Government Code 1371.059(c) (validity and incontestability of obligations for certain public improvements) applies to the execution of a guaranteed investment contract by a district.

Gov't Code 2256.015

Investment Pools

A district may invest its funds or funds under its control through an eligible investment pool if the board by rule, order, ordinance, or resolution, as appropriate, authorizes the investment in the particular pool. *Gov't Code 2256.016, .019*

To be eligible to receive funds from and invest funds on behalf of a district, an investment pool must furnish to the investment officer or other authorized representative of the district an offering circular or other similar disclosure instrument that contains the information specified in Government Code 2256.016(b). To maintain eligibility, an investment pool must furnish to the investment officer or other authorized representative investment transaction confirmations and a monthly report that contains the information specified in Government Code 2256.016(c). A district by contract may delegate to an investment pool the authority to hold legal title as custodian of investments purchased with its local funds. *Gov't Code 2256.016(b)-(d)*

Corporate Bonds

A district that qualifies as an issuer as defined by Government Code 1371.001 [see CCF], may purchase, sell, and invest its funds and funds under its control in corporate bonds (as defined above) that, at the time of purchase, are rated by a nationally recognized investment rating firm "AA-" or the equivalent and have a stated final maturity that is not later than the third anniversary of the date the corporate bonds were purchased.

A district is not authorized to:

1. Invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds, reserves, and other funds held for the payment of debt service, in corporate bonds; or
2. Invest more than 25 percent of the funds invested in corporate bonds in any one domestic business entity, including subsidiaries and affiliates of the entity.

A district subject to these provisions may purchase, sell, and invest its funds and funds under its control in corporate bonds if the board:

1. Amends its investment policy to authorize corporate bonds as an eligible investment;
2. Adopts procedures to provide for monitoring rating changes in corporate bonds acquired with public funds and liquidating the investment in corporate bonds; and
3. Identifies the funds eligible to be invested in corporate bonds.

The district investment officer, acting on behalf of the district, shall sell corporate bonds in which the district has invested its funds not later than the seventh day after the date a nationally recognized investment rating firm:

1. Issues a release that places the corporate bonds or the domestic business entity that issued the corporate bonds on negative credit watch or the equivalent, if the corporate bonds are rated "AA-" or the equivalent at the time the release is issued; or
2. Changes the rating on the corporate bonds to a rating lower than "AA-" or the equivalent.

Gov't Code 2256.0204

Hedging Transactions

The board of an eligible entity (as defined above) shall establish the entity's policy regarding hedging transactions. An eligible entity may enter into hedging transactions, including hedging contracts,

and related security, credit, and insurance agreements in connection with commodities used by an eligible entity in the entity's general operations, with the acquisition or construction of a capital project, or with an eligible project. A hedging transaction must comply with the regulations of the federal Commodity Futures Trading Commission and the federal Securities and Exchange Commission.

Government Code 1371.059(c) (validity and incontestability of obligations for certain public improvements) applies to the execution by an eligible entity of a hedging contract and any related security, credit, or insurance agreement.

An eligible entity may:

1. Pledge as security for and to the payment of a hedging contract or a security, credit, or insurance agreement any general or special revenues or funds the entity is authorized by law to pledge to the payment of any other obligation.

2. Credit any amount the entity receives under a hedging contract against expenses associated with a commodity purchase.

An eligible entity's cost of or payment under a hedging contract or agreement may be considered an operation and maintenance expense, an acquisition expense, or construction expense of the eligible entity; or a project cost of an eligible project.

Gov't Code 2256.0206

Prohibited Investments

Except as provided by Government Code 2270 (prohibited investments), a district is not required to liquidate investments that were authorized investments at the time of purchase. *Gov't Code 2256.017*

Note: As an "investing entity" under Government Code 2270.0001(7)(A), a district must comply with Chapter 2270, including reporting requirements, regarding prohibited investments in scrutinized companies listed by the comptroller in accordance with Government Code 2270.0201.

Loss of Required Rating

An investment that requires a minimum rating does not qualify as an authorized investment during the period the investment does not have the minimum rating. A district shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating. *Gov't Code 2256.021*

Sellers of Investments

A written copy of the investment policy shall be presented to any business organization (as defined below) offering to engage in an investment transaction with a district. The qualified representative of the business organization offering to engage in an investment transaction with a district shall execute a written instrument in a form acceptable to the district and the business organization substantially to the effect that the business organization has:

1. Received and reviewed the district investment policy; and
2. Acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the district and the organization that are not authorized by the district's investment policy, except to the extent that this authorization:
    a. Is dependent on an analysis of the makeup of the district's entire portfolio;
    b. Requires an interpretation of subjective investment standards; or
    c. Relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

The investment officer of a district may not acquire or otherwise obtain any authorized investment described in the district's investment policy from a business organization that has not delivered to the district the instrument required above.

Gov't Code 2256.005(k)–(l)

Nothing in this section relieves the district of the responsibility for monitoring investments made by the district to determine that they are in compliance with the investment policy.

Business Organization

For purposes of the provisions at Sellers of Investments above, "business organization" means an investment pool or investment management firm under contract with a district to invest or manage the district's investment portfolio that has accepted authority granted by the district under the contract to exercise investment discretion in regard to the district's funds.

Gov't Code 2256.005(k)

Donations

A gift, devise, or bequest made to a district to provide college scholarships for district graduates may be invested by the board as provided in Property Code 117.004 (Uniform Prudent Investor Act),

unless otherwise specifically provided by the terms of the gift, devise, or bequest. *Education Code 45.107*

Investments donated to a district for a particular purpose or under terms of use specified by the donor are not subject to the requirements of the Public Funds Investment Act. *Gov't Code 2256.004(b)*

Electronic Funds Transfer

A district may use electronic means to transfer or invest all funds collected or controlled by the district. *Gov't Code 2256.051*

Investment Authority

The Superintendent or other person designated by Board resolution shall serve as the investment officer of the District and shall invest District funds as directed by the Board and in accordance with the District's written investment policy and generally accepted accounting procedures. All investment transactions except investment pool funds and mutual funds shall be settled on a delivery versus payment basis.

Approved Investment Instruments

From those investments authorized by law and described further in CDA(LEGAL) under Authorized Investments, the Board shall permit investment of District funds, including bond proceeds and pledged revenue to the extent allowed by law, in only the following investment types, consistent with the strategies and maturities defined in this policy:

1. Obligations of, or guaranteed by, governmental entities as permitted by Government Code 2256.009.
2. Certificates of deposit and share certificates as permitted by Government Code 2256.010.
3. Fully collateralized repurchase agreements permitted by Government Code 2256.011. Flexible repurchase agreements used only for bond proceeds may extend beyond one year if matched to the anticipated expenditure schedule for the proceeds.
4. A securities lending program as permitted by Government Code 2256.0115.
5. Banker's acceptances as permitted by Government Code 2256.012.
6. Commercial paper as permitted by Government Code 2256.013.
7. No-load mutual funds, except for bond proceeds, and no-load money market mutual funds, as permitted by Government Code 2256.014.
8. A guaranteed investment contract as an investment vehicle for bond proceeds, provided it meets the criteria and eligibility requirements established by Government Code 2256.015.
9. Public funds investment pools as permitted by Government Code 2256.016.

Safety

The primary goal of the investment program is to ensure safety of principal, to maintain liquidity, and to maximize financial returns within current market conditions in accordance with this policy. In-

vestments shall be made in a manner that ensures the preservation of capital in the overall portfolio, and offsets during a 12-month period any market price losses resulting from interest-rate fluctuations by income received from the balance of the portfolio. No individual investment transaction shall be undertaken that jeopardizes the total capital position of the overall portfolio.

Investment Management

In accordance with Government Code 2256.005(b)(3), the quality and capability of investment management for District funds shall be in accordance with the standard of care, investment training, and other requirements set forth in Government Code Chapter 2256.

Liquidity and Maturity

Any internally created pool fund group of the District shall have a maximum dollar weighted maturity of 180 days. The maximum allowable stated maturity of any other individual investment owned by the District shall not exceed one year from the time of purchase. The Board may specifically authorize a longer maturity for a given investment, within legal limits.

The District's investment portfolio shall have sufficient liquidity to meet anticipated cash flow requirements.

Diversity

The investment portfolio shall be diversified in terms of investment instruments, maturity scheduling, and financial institutions to reduce risk of loss resulting from overconcentration of assets in a specific class of investments, specific maturity, or specific issuer.

Monitoring Market Prices

The investment officer shall monitor the investment portfolio and shall keep the Board informed of significant changes in the market value of the District's investment portfolio. Information sources may include financial/investment publications and electronic media, available software for tracking investments, depository banks, commercial or investment banks, financial advisers, and representatives/advisers of investment pools or money market funds. Monitoring shall be done monthly or more often as economic conditions warrant by using appropriate reports, indices, or benchmarks for the type of investment.

Monitoring Rating Changes

In accordance with Government Code 2256.005(b), the investment officer shall develop a procedure to monitor changes in investment ratings and to liquidate investments that do not maintain satisfactory ratings.

Funds/Strategies

Investments of the following fund categories shall be consistent with this policy and in accordance with the applicable strategy defined below. All strategies described below for the investment of a particular fund should be based on an understanding of the suitability of an investment to the financial requirements of the District

	and consider preservation and safety of principal, liquidity, marketability of an investment if the need arises to liquidate before maturity, diversification of the investment portfolio, and yield.
Operating Funds	Investment strategies for operating funds (including any commingled pools containing operating funds) shall have as their primary objectives preservation and safety of principal, investment liquidity, and maturity sufficient to meet anticipated cash flow requirements.
Custodial Funds	Investment strategies for custodial funds shall have as their primary objectives preservation and safety of principal, investment liquidity, and maturity sufficient to meet anticipated cash flow requirements.
Debt Service Funds	Investment strategies for debt service funds shall have as their primary objective sufficient investment liquidity to timely meet debt service payment obligations in accordance with provisions in the bond documents. Maturities longer than one year are authorized provided legal limits are not exceeded.
Capital Project Funds	Investment strategies for capital project funds shall have as their primary objective sufficient investment liquidity to timely meet capital project obligations. Maturities longer than one year are authorized provided legal limits are not exceeded.
Safekeeping and Custody	The District shall retain clearly marked receipts providing proof of the District's ownership. The District may delegate, however, to an investment pool the authority to hold legal title as custodian of investments purchased with District funds by the investment pool.
Sellers of Investments	Prior to handling investments on behalf of the District, a broker/dealer or a qualified representative of a business organization must submit required written documents in accordance with law. [See Sellers of Investments, CDA(LEGAL)] Representatives of brokers/dealers shall be registered with the Texas State Securities Board and must have membership in the Securities Investor Protection Corporation (SIPC) and be in good standing with the Financial Industry Regulatory Authority (FINRA).
Soliciting Bids for CDs	In order to get the best return on its investments, the District may solicit bids for certificates of deposit in writing, by telephone, or electronically, or by a combination of these methods.
Interest Rate Risk	To reduce exposure to changes in interest rates that could adversely affect the value of investments, the District shall use final and weighted-average-maturity limits and diversification. The District shall monitor interest rate risk using weighted average maturity and specific identification.

Internal Controls

A system of internal controls shall be established and documented in writing and must include specific procedures designating who has authority to withdraw funds. Also, they shall be designed to protect against losses of public funds arising from fraud, employee error, misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by employees and officers of the District. Controls deemed most important shall include:

1. Separation of transaction authority from accounting and recordkeeping and electronic transfer of funds.
2. Avoidance of collusion.
3. Custodial safekeeping.
4. Clear delegation of authority.
5. Written confirmation of telephone transactions.
6. Documentation of dealer questionnaires, quotations and bids, evaluations, transactions, and rationale.
7. Avoidance of bearer-form securities.

These controls shall be reviewed by the District's independent auditing firm.

Annual Review

The Board shall review this investment policy and investment strategies not less than annually and shall document its review in writing, which shall include whether any changes were made to either the investment policy or investment strategies.

Annual Audit

In conjunction with the annual financial audit, the District shall perform a compliance audit of management controls on investments and adherence to the District's established investment policies.

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, November 5, 2020

Agenda Item:	Consider Approval of House Bill 3: Proficiency Plans and Goals
Purpose (this meeting):	☐ Discussion Item/Report Only ☒ Action Requested
Action Requested (future meeting):	Thursday, November 5, 2020
Administrator Responsible:	Matt Bentz, Jennifer Collins
Attachments:	House Bill 3 EC: District Literacy Goals House Bill 3 EC: District Math Goals House Bill 3 EC: Campus Math & Literacy Goals House Bill 3 CCMR: District Goals House Bill 3 CCMR: Campus Goals

Background Information:

House Bill 3 requires the Board of Trustees of each school district to adopt and post on the district's website early childhood literacy and mathematics proficiency plans that set incremental annual goals broken down by each student group delineated in State Accountability for the following five school years to reach quantifiable goals for student performance in reading and mathematics at each elementary campus.

House Bill 3 also requires the Board of Trustees to adopt college, career, and military readiness plans that set incremental annual goals broken down by each student group delineated in State Accountability for the following five school years to reach quantifiable goals for measures of student college, career, and military readiness at each high school campus.

The Leander ISD Teaching & Learning Team partnered with elementary and high school principals to finalize district and campus proficiency plans and goals. The final plans and goals are attached. We are seeking approval of these plans and goals to be posted on the district website by the end of January in alignment with House Bill 3 requirements.

Administrative Recommendation:

The administration recommends that the Board approve the House Bill 3 goals as presented.

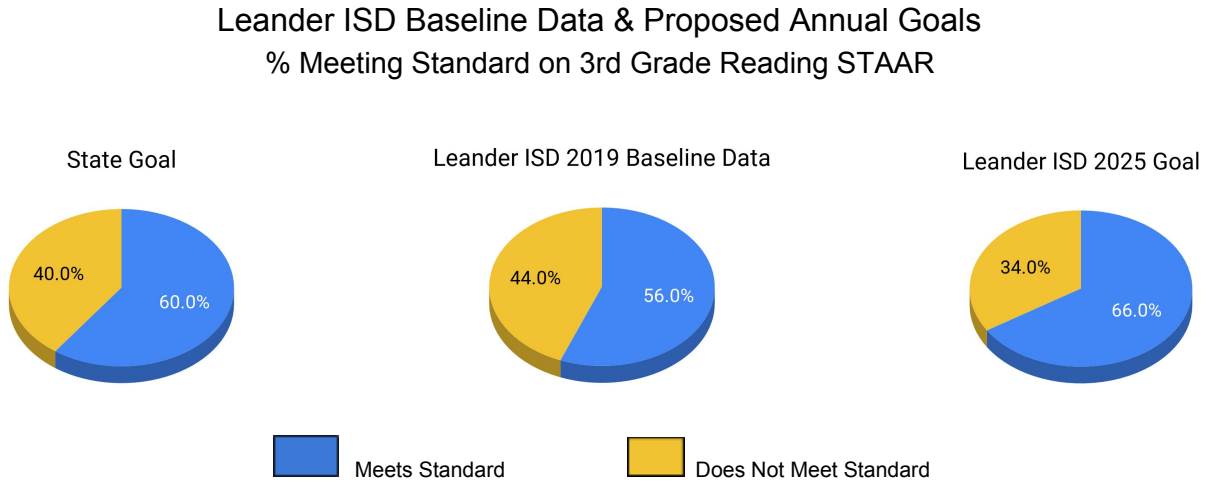
Sample Motion:

I move that the Board approve the House Bill 3 goals as presented.

HOUSE BILL 3 LEGISLATION

Sec.A11.185.AA EARLY CHILDHOOD LITERACY AND MATHEMATICS PROFICIENCY PLANS. (a) The board of trustees of each school district shall adopt and post on the district's Internet website early childhood literacy and mathematics proficiency plans that set specific annual goals for the following five school years to reach quantifiable goals for student performance in reading and mathematics at each campus.

Key Question: To what extent are Leander ISD 3rd grade students proficient in literacy performance?



	All Students	African American	Hispanic	White	Asian	Two or More Races	Special Ed	Eco. Disadv.	EL
2018-19	56%	22%	46%	60%	75%	59%	26%	35%	36%
~~2019-20~~	~~58%~~	~~30%~~	~~49%~~	~~61%~~	~~76%~~	~~60%~~	~~33%~~	~~40%~~	~~41%~~
2020-21	58%	30%	49%	61%	76%	60%	33%	40%	41%
2021-22	60%	37%	52%	62%	77%	61%	40%	45%	46%
2022-23	62%	45%	54%	63%	78%	62%	46%	50%	50%
2023-24	64%	52%	57%	64%	79%	63%	53%	55%	55%
2024-25	66%	60%	60%	65%	80%	64%	60%	60%	60%

Campus 2018-19 Baseline Data

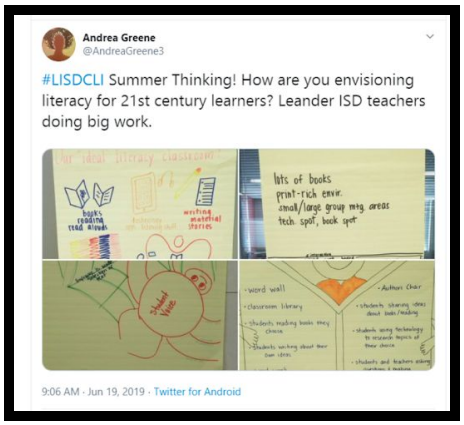
% Meeting Standard on 3rd Grade Reading STAAR, Only groups of 25+ Reported

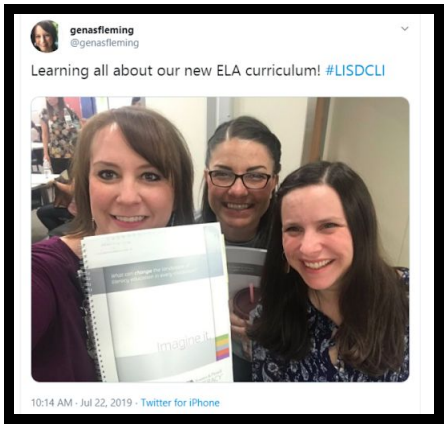
	All Students	African American	Hispanic	White	Asian	Two or More Races	Special Ed	Eco. Disadv.	EL
101 18-19	44%		47%	43%				31%	36%
102 18-19	46%			55%					
103 18-19	56%			51%					
104 18-19	67%			70%					
105 18-19	38%		26%	41%				23%	
106 18-19	34%		25%	44%				29%	
107 18-19	61%		56%	69%					
108 18-19	50%			55%					
109 18-19	31%		40%	16%				32%	
110 18-19	60%			61%					
111 18-19	74%			79%					
112 18-19	34%		28%	41%				29%	25%
113 18-19	66%			66%					
114 18-19	51%		44%	50%				39%	
115 18-19	67%			66%	78%		32%		
116 18-19	53%		44%	59%				39%	
117 18-19	55%			57%					
118 18-19	58%		66%	63%				28%	
119 18-19	43%			49%					
120 18-19	69%			69%	85%				
121 18-19	57%			60%					
122 18-19	65%		60%	68%					
123 18-19	78%			77%					
124 18-19	38%		21%	55%				15%	21%
125 18-19	42%		32%	46%				35%	
126 18-19	74%		64%	74%	85%				
127 18-19	N/A								

Literacy Action Plans

- Curriculum revisions, professional learning, and improving instructional practice
    - Pre-K: In alignment with LISD's 2020-2021 full day Pre-K implementation, the elementary curriculum team is working together with Early Childhood Department leaders and Pre-K teachers to revise the written curriculum. Professional learning and collaboration opportunities will be planned in order to support the teachers and campus leaders as they improve instructional practice. Pre-K teachers will be provided opportunities to focus on RSK data analysis and planning for instructional next steps. Revised documents will be ready for implementation in August of 2020.
    - Kinder-3rd Grade: In alignment with LISD's GANTT from the curriculum management audit, the elementary curriculum team is working together with Dual Language leaders, instructional coaches, and Kindergarten-3rd Grade teachers to revise the written curriculum. Language arts teachers received new curriculum resources in 2019-2020 that align to new TEKS. The elementary curriculum team designed the *Comprehensive Literacy Institute* to deliver two days of professional learning to over 800 LISD staff members focused on implementation of the new TEKS, curriculum, and resources. We offered 8 institutes this summer and 2 during the school year to meet the needs of new hires. Every language arts, ESL, and inclusion resource teacher on every campus received this training. Additional collaboration and support opportunities have been provided over the course of the year as teachers and campus leaders work together to improve instructional practice specific to reading, writing, phonics, spelling, and word study. Professional learning for language arts will continue through the 2020-2021 school year as teachers implement the new curriculum for a second year.
    - House Bill 3 Reading Academies: Pre-K-3rd Grade teachers, principals, reading specialists, and instructional coaches will participate in the state mandated reading academies during the 2021-2022 school year. This 10-14 day professional learning opportunity is standardized across the state of Texas and will strengthen content knowledge of literacy leaders in our system.

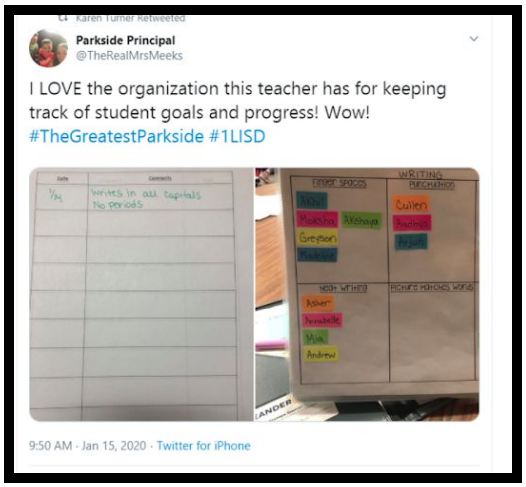






- Focus on data analysis and action planning
    - Elementary curriculum staff meet together with the leaders from special education, the department of intervention, and English learners to collaborate after each district assessment window (ISIP & Curriculum Based Assessments). During these collaborative meetings, leaders identify patterns in district data and identify campuses in need of additional support.

- Elementary curriculum staff provides data to principals and instructional coaches after each reading and writing district assessment window in order to facilitate their data conversations with teachers and teams. Elementary curriculum staff then meets with campus leaders regarding specific areas of concern identified in the data.





- Elementary curriculum leaders work together with Area Superintendents to identify campuses in need of additional instructional support. Targeted campuses receive customized professional learning to meet the needs of their staff. Curriculum leaders partner with teams of teachers during PLC work in order to collaborate on unit and lesson planning. Curriculum leaders also schedule intentional walk through support for principals to discuss current reality of classroom instruction. Additional targeted support is provided to principals, assistant principals, instructional coaches, and teachers through face-to-face meetings and training. These targeted plans are customized in partnership with the area superintendents and principals in order to meet the unique needs of each campus. So far this year, our highest priority campuses have received over 60 days of customized support in addition to the routine support offered to every campus.



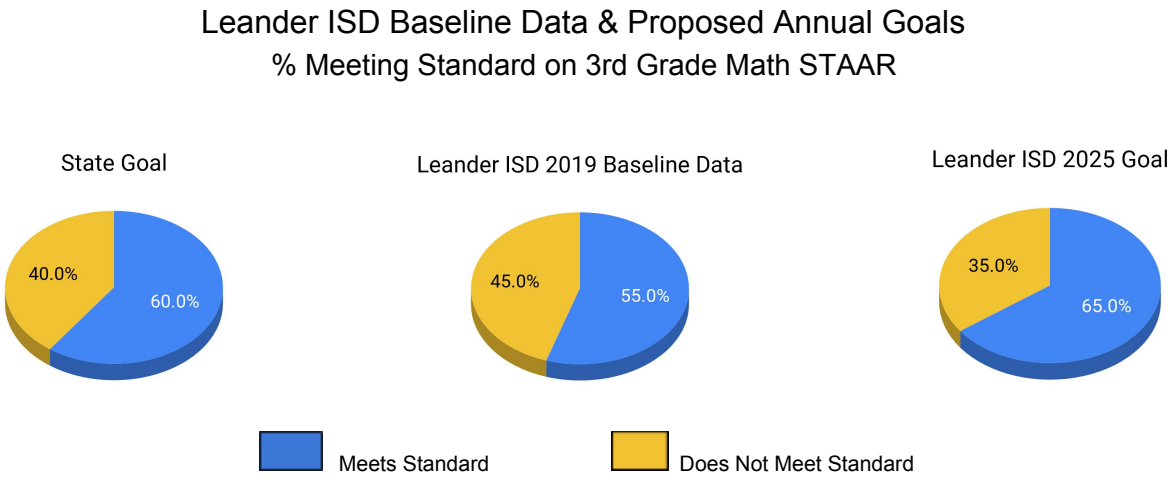




HOUSE BILL 3 LEGISLATION

Sec.A11.185.AA EARLY CHILDHOOD LITERACY AND MATHEMATICS PROFICIENCY PLANS. (a) The board of trustees of each school district shall adopt and post on the district's Internet website early childhood literacy and mathematics proficiency plans that set specific annual goals for the following five school years to reach quantifiable goals for student performance in reading and mathematics at each campus.

Key Question: To what extent are Leander ISD 3rd grade students proficient in mathematics performance?



	All Students	African American	Hispanic	White	Asian	Two or More Races	Special Ed	Eco. Disadv.	EL
2018-19	55%	21%	45%	57%	83%	59%	28%	35%	41%
~~2019-20~~	~~57%~~	~~29%~~	~~48%~~	~~58%~~	~~84%~~	~~60%~~	~~34%~~	~~40%~~	~~45%~~
2020-21	57%	29%	48%	58%	84%	60%	34%	40%	45%
2021-22	59%	37%	51%	59%	85%	61%	41%	45%	49%
2022-23	61%	44%	54%	60%	86%	62%	47%	50%	52%
2023-24	63%	52%	57%	61%	87%	63%	54%	55%	56%
2024-25	65%	60%	60%	62%	88%	64%	60%	60%	60%

Campus 2018-19 Baseline Data

% Meeting Standard on 3rd Grade Math STAAR, Only groups of 25+ Reported

	All Students	African American	Hispanic	White	Asian	Two or More Races	Special Ed	Eco. Disadv.	EL
101 18-19	49%		47%	49%				38%	36%
102 18-19	39%			48%					
103 18-19	49%			49%					
104 18-19	59%			60%					
105 18-19	35%		30%	35%				11%	
106 18-19	28%		29%	31%				29%	
107 18-19	56%		44%	59%					
108 18-19	46%			51%					
109 18-19	44%		39%	40%				47%	
110 18-19	70%			74%					
111 18-19	80%			84%					
112 18-19	34%		33%	28%				29%	25%
113 18-19	64%			65%					
114 18-19	43%		33%	43%				31%	
115 18-19	67%			62%	81%		32%		
116 18-19	45%		34%	50%				32%	
117 18-19	61%			57%					
118 18-19	61%		59%	63%				31%	
119 18-19	38%			40%					
120 18-19	73%			70%	94%				
121 18-19	54%			53%					
122 18-19	65%		66%	62%					
123 18-19	84%			78%					
124 18-19	34%		18%	58%				7%	15%
125 18-19	42%		41%	45%				42%	
126 18-19	65%		60%	62%	85%				
127 18-19	N/A								

Mathematics Action Plans

- Curriculum revisions, professional learning, and improving instructional practice
    - Pre-K: In alignment with LISD's 2020-21 full day Pre-K implementation, the elementary curriculum team is working together with Early Childhood Department leaders and Pre-K teachers to revise the written curriculum. Professional learning and collaboration opportunities will be planned in order to support the teachers and campus leaders as they improve instructional practice. Pre-K teachers will be provided opportunities to focus on RSK data analysis and planning for instructional next steps. Revised documents will be ready for implementation in August of 2020.
    - Kinder-3rd Grade: In alignment with LISD's GANTT from the curriculum management audit, the elementary curriculum team is working together with Dual Language leaders, instructional coaches, and Kindergarten-3rd Grade teachers to revise the written curriculum. Revised documents were implemented as follows: Kinder (2020-2021), 1st Grade (2018-2019), 2nd Grade (2019-2020), 3rd Grade (2018-2019). When new curriculum is implemented, professional learning and collaboration opportunities are provided before school starts to every teacher from every campus in order to support improving instructional practice.



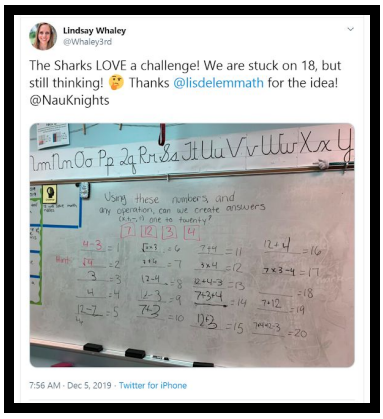


- Focus on data analysis and action planning
    - Elementary curriculum staff meet together with the leaders from special education, the department of intervention, and English learners to collaborate after each district assessment window (Baseline assessments, Imagine Math, Curriculum Based Assessments). During these collaborative meetings, leaders identify patterns in district data and identify campuses in need of additional support.
    - Elementary curriculum staff meet together with classroom teacher representatives from every campus after each district assessment window in order to lead teachers through a data assessment protocol and facilitate discussions on best practices. During these collaborative meetings, teachers deepen their content knowledge, identify patterns in data, and collaborate with other teachers regarding best practices in instruction. Elementary principals, and instructional coaches get to have similar conversations on a smaller scale.





- Elementary curriculum leaders work together with Area Superintendents to identify campuses in need of additional instructional support. Targeted campuses receive customized professional learning to meet the needs of their staff. Curriculum leaders partner with teams of teachers during PLC work in order to collaborate on unit and lesson planning. Curriculum leaders also schedule quarterly classroom walk throughs with principals to observe the current reality of classroom instruction and develop needed support. Additional targeted support is provided to principals, assistant principals, instructional coaches, and teachers through face-to-face meetings and training. These targeted plans are customized in partnership with the area superintendents and principals in order to meet the unique needs of each campus. So far this year, our highest priority campuses have received over 50 days of customized support in addition to the routine support offered to every campus.







HOUSE BILL 3 LEGISLATION
Sec.A11.185.AA EARLY CHILDHOOD LITERACY AND MATHEMATICS PROFICIENCY PLANS. (a) The board of trustees of each school district shall adopt and post on the district's Internet website early childhood literacy and mathematics proficiency plans that set specific annual goals for the following five school years to reach quantifiable goals for student performance in reading and mathematics at each campus.

Whitestone Elementary

Literacy Action Plans

- Curriculum revisions, professional learning, and improving instructional practice
    - House Bill 3 Reading Academies: Pre-K-3rd Grade teachers, principals, reading specialists, and instructional coaches will participate in the state mandated reading academies during the 2021-22 school year. This 10-14 day professional learning opportunity is standardized across the state of Texas and will strengthen content knowledge of literacy leaders in our system.
- Focus on data analysis and action planning
    - Elementary curriculum staff provides data to principals and instructional coaches after each reading and writing district assessment window in order to facilitate their data conversations with teachers and teams. Elementary curriculum staff then meets with campus leaders regarding specific areas of concern identified in the data..

Mathematics Action Plans

- Curriculum revisions, professional learning, and improving instructional practice
- Focus on data analysis and action planning
    - Elementary curriculum staff meet together with classroom teacher representatives from every campus after each district assessment window in order to lead teachers through a data assessment protocol. During these collaborative meetings, teachers get to deepen their content knowledge, identify patterns in data, and collaborate with other teachers regarding best practices in instruction. Elementary principals, and instructional coaches get to have similar conversations on a smaller scale.

Key Question: To what extent are Leander ISD 3rd grade students proficient in literacy performance?

Leander ISD Baseline Data & Proposed Annual Goals
% Meets Grade Level or Better on 3rd Grade Reading STAAR

	All Students	African American	Hispanic	White	Asian	Two or More Races	Special Ed	Eco. Disadv.	EL
2018-19	56%	22%	46%	60%	75%	59%	26%	35%	36%
~~2019-20~~	~~58%~~	~~30%~~	~~49%~~	~~61%~~	~~76%~~	~~60%~~	~~33%~~	~~40%~~	~~41%~~
2020-21	58%	30%	49%	61%	76%	60%	33%	40%	41%
2021-22	60%	37%	52%	62%	77%	61%	40%	45%	46%
2022-23	62%	45%	54%	63%	78%	62%	46%	50%	50%
2023-24	64%	52%	57%	64%	79%	63%	53%	55%	55%
2024-25	66%	60%	60%	65%	80%	64%	60%	60%	60%

Whitestone 2018-19 Baseline Data & Proposed Annual Goals
% Meets Grade Level or Better on 3rd Grade Reading STAAR, Only groups of 25+ Reported

	All Students	African American	Hispanic	White	Asian	Two or More Races	Special Ed	Eco. Disadv.	EL
2018-19	44%		47%	43%				31%	36%
~~2019-20~~	~~47%~~		~~50%~~	~~46%~~				~~37%~~	~~41%~~
2020-21	47%		50%	46%				37%	41%
2021-22	50%		52%	50%				43%	46%
2022-23	54%		55%	53%				48%	50%
2023-24	57%		57%	57%				54%	55%
2024-25	60%		60%	60%				60%	60%

Key Question: To what extent are Leander ISD 3rd grade students proficient in mathematics performance?

Leander ISD Baseline Data & Proposed Annual Goals
% Meets Grade Level or Better on 3rd Grade Math STAAR

	All Students	African American	Hispanic	White	Asian	Two or More Races	Special Ed	Eco. Disadv.	EL
2018-19	55%	21%	45%	57%	83%	59%	28%	35%	41%
~~2019-20~~	~~57%~~	~~29%~~	~~48%~~	~~58%~~	~~84%~~	~~60%~~	~~34%~~	~~40%~~	~~45%~~
2020-21	57%	29%	48%	58%	84%	60%	34%	40%	45%
2021-22	59%	37%	51%	59%	85%	61%	41%	45%	49%
2022-23	61%	44%	54%	60%	86%	62%	47%	50%	52%
2023-24	63%	52%	57%	61%	87%	63%	54%	55%	56%
2024-25	65%	60%	60%	62%	88%	64%	60%	60%	60%

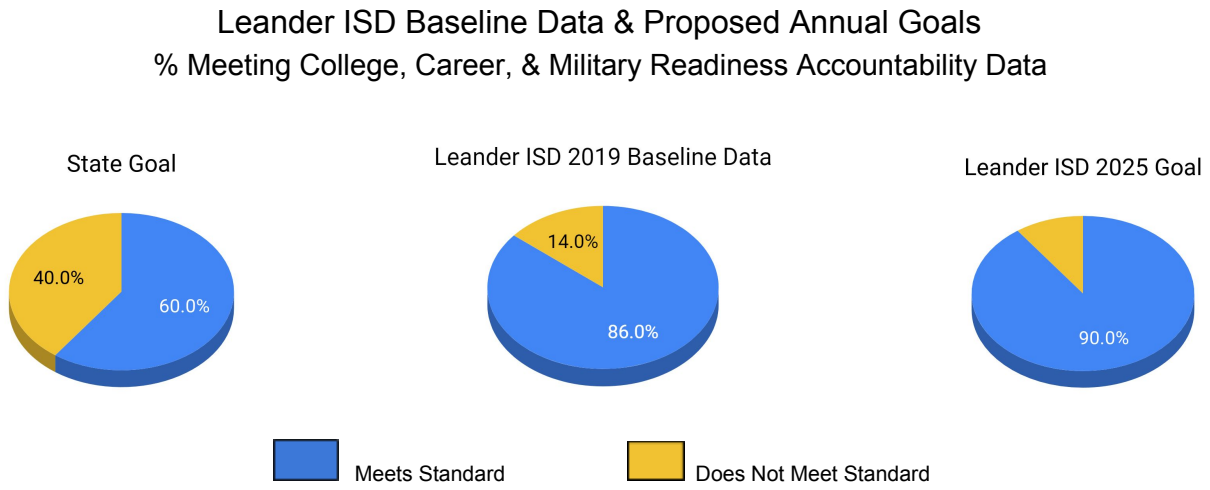
Whitestone 2018-19 Baseline Data & Proposed Annual Goals
% Meets Grade Level or Better on 3rd Grade Math STAAR, Only groups of 25+ Reported

	All Students	African American	Hispanic	White	Asian	Two or More Races	Special Ed	Eco. Disadv.	EL
2018-19	49%		47%	49%				38%	36%
~~2019-20~~	~~51%~~		~~50%~~	~~51%~~				~~42%~~	~~41%~~
2020-21	51%		50%	51%				42%	41%
2021-22	53%		52%	53%				47%	46%
2022-23	56%		55%	56%				51%	50%
2023-24	58%		57%	58%				56%	55%
2024-25	60%		60%	60%				60%	60%

HOUSE BILL 3 LEGISLATION

Sec.A11.186.AA COLLEGE, CAREER, AND MILITARY READINESS PLANS. (a) The board of trustees of each school district shall adopt college, career, and military readiness plans that set specific annual goals for the following five school years to reach quantifiable goals for measures of student college, career, and military readiness at each campus.

Key Question: To what extent are Leander ISD graduates college, career, and military ready?



	All Students	African American	Hispanic	White	Asian	Two or More Races	Special Ed	Eco. Disadv.	EL
2018-19	86%	69%	76%	90%	95%	87%	92%	73%	55%
~~2019-20~~	~~87%~~	~~70%~~	~~77%~~	~~91%~~	~~95%~~	~~88%~~	~~93%~~	~~74%~~	~~56%~~
2020-21	87%	70%	77%	91%	95%	88%	93%	74%	56%
2021-22	88%	71%	78%	92%	95%	89%	93%	75%	57%
2022-23	88%	72%	79%	93%	95%	90%	94%	76%	58%
2023-24	89%	73%	80%	94%	95%	91%	94%	77%	59%
2024-25	90%	74%	81%	95%	95%	92%	95%	78%	60%

Campus 2018-19 Baseline Data

% Meeting College, Career, & Military Readiness Accountability Data, Only groups of 25+ Reported

	All Students	African American	Hispanic	White	Asian	Two or More Races	Special Ed	Eco. Disadv.	EL
001 18-19	79%	69%	71%	84%	84%	80%	93%	71%	57%
002 18-19	91%	80%	83%	94%	98%	85%	97%	75%	
003 18-19	87%	65%	82%	91%	91%	87%	86%	74%	56%
004 18-19	84%	81%	76%	86%	100%	94%	98%	79%	40%
005 18-19	94%	46%	87%	96%	98%	100%	91%	68%	40%
006 18-19	No 2018 Grads								

CCMR Action Plans

- **Earn an Industry-Based Certifications (IBCs):** A graduate earning an industry-based certification under 19 TAC §74.1003.
    - Curriculum revisions, professional learning, and instructional resource alignment
        - Continue the focus on curriculum writing and instructional resource alignment with new state Career and Technical Education Programs of Study.
        - Ensure that industry-based certifications are embedded in each Program of Study where appropriate.
        - Review specific instructional resources aligned to Industry-Based Certifications (IBC) along with professional development to ensure implementation.
        - Collaboration between district CTE staff and campus staff to ensure appropriate equipment and technology resources are available for successful implementation
        - Work with an appropriate IBC mentor to support student preparation of knowledge and skills for successful attainment.
        - Offer work-based learning opportunities for student experiences to apply knowledge and skills aligned to IBCs
    - Completion of Career and Technical Education Programs of Study
        - Meet with District CTE staff and campus to determine appropriate Program of Study capacity at the campus level along with staffing and facility needs.
        - Work with District CTE staff and campus to adapt Program of Study student recruitment and retainment plans including branding and marketing initiatives .
        - Implement achievement recognitions for IBC earners and Program of Study completers.
    - Data analysis and action planning

        - District CTE staff provides data to principals and campus personnel at the end of each school year in order to facilitate their data conversations with teachers and teams.
        - District CTE curriculum staff meets with campus leaders regarding specific areas of concern identified in the data.
        - District CTE staff along with campus staff facilitates district CTE PLC times to work on opportunities for improvement.

- **Meet criteria on Advanced Placement (AP)/International Baccalaureate (IB) Examination:** A graduate meeting the criterion score on an AP or IB examination in any subject area. Criterion score is 3 or more for AP and 4 or more for IB. (Data source: College Board or IB)
    - Curriculum revisions, professional learning, and instructional resource alignment
        - Focus on curriculum development and instructional resource alignment to AP and IB standards.
        - Provide professional learning opportunities for AP and IB teachers, counselors and administrators.
        - Engage in monthly collaboration between the District Director of Advanced Programs and Deans of Instruction to plan professional learning, alignment of resources and AP/IB program coordination.
        - Engage in quarterly LISD District IB meetings to support campus needs and system-wide alignment of resources, professional learning and program implementation.
        - Monitor curricular changes and ensure development of new curriculum.
    - Student recruitment, participation and performance in AP/IB.
        - Use data to create course suggestions for rising ninth-grade students to encourage advanced program participation.
        - Provide campuses lists of students who are not accessing advanced programs but show potential for success in these courses based on student performance data.
        - Promote participation by communicating AP/IB program success district-wide.
        - Provide stakeholders guidance on AP and IB program offerings and benefits to postsecondary success.
        - Provide reduced AP and IB Exam registration fees.
    - Data analysis and action planning
        - Provide guidance to Principals, Deans of Instruction and IB Coordinators related to student enrollment and both formative and summative performance data.
        - Monitor and communicate legislative AP/IB program changes to campuses.
        - Work directly with College Board Representatives and Texas IB organization to support campus initiatives and program implementation.

- **Texas Success Initiative (TSI) Criteria:** A graduate meeting the TSI college readiness standards in both ELA/reading and mathematics; specifically, meeting the college-ready

criteria on the TSI assessment, SAT, ACT, or by successfully completing and earning credit for a college prep course as defined in TEC §28.014, in both ELA and mathematics.

- Curriculum Implementation, CPM/CPE
  - Continue focus on curriculum development/revision and instructional resource alignment for both the College Prep Mathematics course and the College Prep English/EIV overlay
  - Communicate and coordinate course enrollment eligibility and recommendations to counselors, students, and parents.
  - Provide cross-district professional learning opportunities for CPM/CPE teachers.
  - Communicate changes in the TSI-A 2.0 (Texas Success Initiative - Assessment 2.0) to be implemented Fall 2020.
  - Develop a communication plan to inform entering high school students and families of the importance and implications of students becoming TSI complete.
- Professional Learning
  - Coordinate College Board SAT Workshops for teachers.
  - Provide professional learning opportunities for counselors and administrators related to TSI.
  - Attend annual, regional PK-12 + IHE (Institution of Higher Ed) partnership professional learning
- Student Performance and Action Planning
  - Monitor TSI completion rate monthly.
  - Engage in district-wide collaboration to share best practices for ensuring all students meet TSI.
  - Engage in data analysis of student performance on SAT/ACT and TSI-A and create a plan for students who have not met TSI.
  - Continue review and honoring of MOU considerations pertaining to student assessment and enrollment at IHE
- College Entrance Exam Opportunities
  - Eleventh-grade LISD students take the SAT school day at no cost to students or families.
  - Provide district-wide communication related to why SAT School Day is administered and how it relates to TSI.
  - Provide district-wide communication related to students connecting PSAT scores to Khan Academy in order to improve scores in needed areas.
  - Coordinate district-wide PSAT for grades 8-11 to allow for baseline data and practice.
  - Coordinate ACT during the school day for eleventh-grade students who wish to opt-in to taking the exam.

- **Earn Dual Course Credits:** A graduate completing nine or more hours of postsecondary credit in any subject or three or more hours of ELA or math.
    - Student recruitment, participation and performance in Dual Credit.
        - Effectively communicate Dual Credit eligibility to counselors, students, and parents.
        - Provide suggested coursework and plans for students at each grade level for use in planning for Dual Credit participation and alignment with four year plans.
        - Offer multiple opportunities for free, on-campus TSI Assessment testing opportunities for students needing to meet TSI.
        - Promote participation by communicating Dual Credit success district-wide.
        - Promote participation by communicating course transferability, cost-savings, and student preparation.
        - Work with education foundations and academic booster clubs to support textbook scholarships. Communicate these opportunities to eco-dis students to promote enrollment.
    - Data analysis and action planning
        - Evaluate data to monitor success in recruitment, participation, and performance within the Dual Credit program.
        - Assess need/demand for course offerings to expand opportunities, considering curriculum areas not met through traditional high school programs.
        - Evaluate current staff qualifications or consider hiring staff who meet adjunct professor requirements in order to expand offerings.

HOUSE BILL 3 LEGISLATION

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Leander High School

CCMR Action Plans

- **Earn an Industry-Based Certifications (IBCs):** A graduate earning an industry-based certification under 19 TAC §74.1003.
    - Curriculum revisions, professional learning, and instructional resource alignment
        - Continue the focus on curriculum writing and instructional resource alignment with new state Career and Technical Education Programs of Study.
        - Ensure that industry-based certifications are embedded in each Program of Study where appropriate.
        - Review specific instructional resources aligned to Industry-Based Certifications (IBC) along with professional development to ensure implementation.
        - Collaboration between district CTE staff and campus staff to ensure appropriate equipment and technology resources are available for successful implementation
        - Work with an appropriate IBC mentor to support student preparation of knowledge and skills for successful attainment.
        - Offer work-based learning opportunities for student experiences to apply knowledge and skills aligned to IBCs
    - Completion of Career and Technical Education Programs of Study
        - Meet with District CTE staff and campus to determine appropriate Program of Study capacity at the campus level along with staffing and facility needs.
        - Work with District CTE staff and campus to adapt Program of Study student recruitment and retainment plans including branding and marketing initiatives .
        - Implement achievement recognitions for IBC earners and Program of Study completers.
    - Data analysis and action planning
        - District CTE staff provides data to principals and campus personnel at the end of each school year in order to facilitate their data conversations with teachers and teams.

    - District CTE curriculum staff meets with campus leaders regarding specific areas of concern identified in the data.
    - District CTE staff along with campus staff facilitates district CTE PLC times to work on opportunities for improvement.

- **Meet criteria on Advanced Placement (AP)/International Baccalaureate (IB) Examination:** A graduate meeting the criterion score on an AP or IB examination in any subject area. Criterion score is 3 or more for AP and 4 or more for IB. (Data source: College Board or IB)
    - Curriculum revisions, professional learning, and instructional resource alignment
        - Ensure AP/IB teachers plan and implement engaging lessons that focus on high-yield strategies and that are aligned to curriculum.
        - Ensure teachers are participating in AP/IB professional learning opportunities in order to build capacity.
        - Engage in monthly collaboration between the District Director of Advanced Programs and Deans of Instruction to plan professional learning, alignment of resources and AP/IB program coordination.
        - Create a plan to ensure teachers provide appropriate support for students who struggle in AP/IB courses.
        - Engage in quarterly LISD District IB meetings to support campus needs and system-wide alignment of resources, professional learning and program implementation.
        - Monitor curricular changes and ensure development of new curriculum.
        - Ensure advanced program budgets are allocated to support implementation of curriculum and areas of needed support.
    - Student recruitment, participation and performance in AP/IB.
        - Create a plan to encourage students and families to participate in advanced programs.
        - Conduct outreach to students who are not accessing advanced programs but show potential for success in these courses based on student performance data.
        - Promote participation by communicating AP/IB program offerings through campus-wide marketing and interactive informational sessions. Publically celebrate the success of programs.
        - Provide stakeholders guidance on AP and IB program offerings and benefits to postsecondary success.
        - Communicate AP/IB Exam scholarships for students experiencing economic hardships.
        - Create campus mock exams opportunities for students.

        - Data analysis and action planning
            - Provide guidance to teachers related to student enrollment and both formative and summative performance data.
            - Communicate legislative AP/IB program changes to campus personnel.
            - Work directly with the Director of Advanced Programs to communicate campus needs and program support.
            - Create AP/IB PLCs to ensure collaboration related to student success.
- **Texas Success Initiative (TSI) Criteria:** A graduate meeting the TSI college readiness standards in both ELA/reading and mathematics; specifically, meeting the college-ready criteria on the TSI assessment, SAT, ACT, or by successfully completing and earning credit for a college prep course as defined in TEC §28.014, in both ELA and mathematics.
    - Curriculum Implementation, CPM/CPE
    - Professional Learning
        - Ensure teacher participation in College Board SAT Workshops in ELA and Math.
        - Engage in and communicate needs for professional learning opportunities for counselors and administrators related to TSI.
    - Student Performance and Action Planning
        - Monitor and communicate TSI completion rate monthly.
        - Engage in district-wide collaboration to share best practices for ensuring all students meet TSI.
        - Engage in data analysis of student performance on SAT/ACT and TSI-A.
        - Create a personal intervention plan for students not meeting TSI.
    - College Entrance Exam Opportunities
        - Coordinate campus-wide SAT school day for eleventh-grade students.
        - Disseminate campus communication related to why SAT School Day is administered and how it relates to TSI.
        - Create a plan to ensure students understand why TSI completion is important and how college entrance exams are connected to TSI.
        - Ensure students link PSAT scores to Khan Academy and engage in practice in order to improve scores in needed areas.
        - Coordinate campus-wide PSAT for grades 8-11 to allow for baseline data and practice.
        - Coordinate ACT during the school day for eleventh-grade students who wish to opt-in to taking the exam.
- **Earn Dual Course Credits:** A graduate completing nine or more hours of postsecondary credit in any subject or three or more hours of ELA or math.
    - TBD

Key Question: To what extent are Leander ISD graduates college, career, and military ready?

Leander ISD Baseline Data & Proposed Annual Goals

% Meets College, Career, & Military Readiness Accountability Data

	All Students	African American	Hispanic	White	Asian	Two or More Races	Special Ed	Eco. Disadv.	EL
2018-19	86%	69%	76%	90%	95%	87%	92%	73%	55%
~~2019-20~~	~~87%~~	~~70%~~	~~77%~~	~~91%~~	~~95%~~	~~88%~~	~~93%~~	~~74%~~	~~56%~~
2020-21	87%	70%	77%	91%	95%	88%	93%	74%	56%
2021-22	88%	71%	78%	92%	95%	89%	93%	75%	57%
2022-23	88%	72%	79%	93%	95%	90%	94%	76%	58%
2023-24	89%	73%	80%	94%	95%	91%	94%	77%	59%
2024-25	90%	74%	81%	95%	95%	92%	95%	78%	60%

Leander HS 2018-19 Baseline Data & Proposed Annual Goals

% Meets College, Career, & Military Readiness Accountability Data, Only groups of 25+ Reported

	All Students	African American	Hispanic	White	Asian	Two or More Races	Special Ed	Eco. Disadv.	EL
2018-19	79%	69%	71%	84%	84%	80%	93%	71%	57%
~~2019-20~~	~~80%~~	~~70%~~	~~72%~~	~~85%~~	~~85%~~	~~81%~~	~~93%~~	~~72%~~	~~58%~~
2020-21	80%	70%	72%	85%	85%	81%	93%	72%	58%
2021-22	81%	71%	73%	86%	86%	82%	94%	73%	59%
2022-23	82%	72%	74%	87%	87%	83%	94%	74%	60%
2023-24	83%	73%	75%	88%	88%	84%	95%	75%	61%
2024-25	84%	74%	76%	89%	89%	85%	95%	76%	62%

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, November 5, 2020

Agenda Item:	Consider Approval of Policies DIA and FMF as Part of the Texas Association of School Boards (TASB) Update 115
Purpose (this meeting):	☐ Discussion Item/Report Only ☒ Action Requested
Administrator Responsible:	Shawn Swisher
Attachments:	TASB Response to Texas Values Letter Policy FMG(Local) Policy FM(Local) Update 115 Legal Annotated Abridged Update 115 Vantage Points Bostock v Clayton County Price Waterhouse v Hopkins Policy DIA(Local) Policy FMF(Local)

Background Information:

At the October 8, 2020 Board meeting the Board approved the formation of a Board Policy Review Sub-Committee. As part of the first assignment, the Board assigned policies DIA(LOCAL) and FMF(LOCAL) from TASB initiated policy update 115 for further review and to bring back to the full Board for deliberation and action. The first Sub-Committee is meeting on November 2, 2020. The committee was provided with materials regarding the two policies, which were also made available to the whole board for deliberation at the November 5, 2020 board meeting.

Administrative Recommendation:

Based on the work of the Policy Review Sub-Committee, administration recommends adopting the TASB initiated policy update 115 proposal for DIA(LOCAL). Administration recommends rejecting the TASB recommendation to delete Policy FMF(LOCAL) and advises retaining Policy FMF(LOCAL).

Sample Motion:

I move to adopt the proposed changes to DIA(LOCAL) as presented in the TASB initiated policy update and to retain Policy FMF(LOCAL).

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, November 5, 2020

Agenda Item:	Consider Approval of Policies DIA and FMF as Part of the Texas Association of School Boards (TASB) Update 115
Purpose (this meeting):	☐ Discussion Item/Report Only ☒ Action Requested
Administrator Responsible:	Shawn Swisher
Attachments:	TASB Response to Texas Values Letter Policy FMG(Local) Policy FM(Local) Update 115 Legal Annotated Abridged Update 115 Vantage Points Bostock v Clayton County Price Waterhouse v Hopkins Policy DIA *(to be loaded to Board Book prior to the meeting)*

Background Information:

At the October 8, 2020 Board meeting the Board approved the formation of a Board Policy Review Sub-Committee. As part of the first assignment, the Board assigned policies DIA(LOCAL) and FMF(LOCAL) from TASB initiated policy update 115 for further review and to bring back to the full Board for deliberation and action. The first Sub-Committee is meeting on November 2, 2020. The committee was provided with materials regarding the two policies, which were also made available to the whole board for deliberation at the November 5, 2020 board meeting.

Administrative Recommendation:

To be determined after the Board Policy Review Sub-Committee Meeting.

Sample Motion:

To be determined after the Board Policy Review Sub-Committee Meeting.

Texas Association of School Boards
Legal Services
P.O. Box 400 • Austin, Texas 78767-0400 • 512.467.3610 • 800.580.5345 • legal.tasb.org • legal@tasb.org

Serving Texas Schools Since 1949

To: **TASB Member School District Officials**
From: **TASB Legal Services**
Date: **October 19, 2020**

Re: *Letters from ACLU and Texas Values*

Many school districts received a letter dated October 12, 2020, from a group called Texas Values. The letter suggests that Update 115 to your TASB policy manual is flawed and should not be adopted. According to the letter, Update 115 applies a recent United States Supreme Court case, *Bostock v. Clayton County, Georgia*, which is about employment discrimination, to claims of student discrimination. The letter makes reference to another letter your district may have received from the American Civil Liberties Union (ACLU), dated September 2, 2020. The ACLU letter expressed concern about student dress and grooming standards that differentiate between genders, as well as standards that might have a disparate impact on students on the basis of their race, ethnicity, religion, or other protected characteristics. Both of these letters have been sent statewide by advocacy groups purporting to explain TASB's policy guidance.

In response to the ACLU letter, we directed school officials to our TASB guidance on student dress and appearance and suggested that school districts work with their own communities and attorneys to consider any changes to dress or grooming codes. We communicated that the ACLU letter did *not* require districts to take any action but was a transparent explanation of the position that advocacy group would take in the event of a legal challenge.

The same can be said about the Texas Values letter. Like the ACLU, Texas Values employs lawyers known to sue school districts. Letters from sparring advocacy groups should not be substituted for the advice of your district's school attorney.

Before you put any credence in the Texas Values letter, we would encourage you to read Update 115. Contrary to the letter, nothing in Update 115 says that the U.S. Supreme Court decision in *Bostock* applies to students. The case was added at TASB Policy DIA(LEGAL), in the Employment section in a code entitled "Employee Welfare: Freedom from Discrimination, Harassment, and Retaliation," with a statement taken almost verbatim from the Court's decision:

> Firing an employee on the basis of homosexuality or transgender status violates Title VII's prohibition against sex discrimination in employment. *Bostock v. Clayton County, Georgia*, 17-1618, 2020 WL 3146686, (U.S. June 15, 2020).

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Changes at Update 115

A corresponding statement was added to DIA(LOCAL) to define discrimination on the basis of sex in accordance with the *Bostock* case: "In accordance with law, discrimination on the basis of sex includes discrimination on the basis of biological sex, gender identity, sexual orientation, gender stereotypes, or any other prohibited basis related to sex." Although the Bostock case did not address gender stereotypes, another Supreme Court case, *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989), concluded that an employer may not evaluate employees by assuming or insisting that they match the stereotype associated with their sex.

Employment Policy vs. Student Policy

Texas Values says, "School districts should only rely on binding court precedent and not wishful predictions." We agree. The *Bostock* case is the Supreme Court's authoritative interpretation of Title VII, a federal law that prohibits discrimination on the basis of sex in employment. According to the U.S. Supreme Court, making an adverse employment decision on the basis of an employee's homosexual or transgender status would constitute discrimination on the basis of sex. School districts cannot opt out of this binding Supreme Court precedent just by refusing to "adopt" Update 115.

Moreover, as school officials know, school boards do not "adopt" legally-referenced codes like DIA(LEGAL). The legal codes, which we identify as "(LEGAL)," are reference material included in the policy manual to give legal context for local decision-making. They are an unbiased presentation of the law. On the other hand, local codes, which we identify as "(LOCAL)," are board-adopted and represent local school board choices within the scope of their authority.

After confusing (LEGAL) codes with (LOCAL) codes, and employment policies with student policies, the Texas Values letter goes on at length about issues like dress codes, restrooms, housing, separate toilets, showers, and sports teams, none of which are addressed in Update 115, or indeed any recent TASB recommended policies.

The letter warns, "Many school districts will be receiving or have received guidance from the TASB encouraging them to change all school policies to add language that would grant special protections for 'sexual orientation', 'gender identity', and 'gender expression.'" Nothing in Update 115 adds special protections. Instead, TASB recommended local policy language has prohibited discrimination and harassment against both employees and students on the basis of sex and gender for many years. Suggested adjustments to student-related codes, including policy FFH(LOCAL), in Update 115, address the Department of Education's new regulations on Title IX. They have nothing to do with the *Bostock* case. Recommended policy FFH(LOCAL) does not grant any protected status; it simply helps school districts implement the new Title IX regulations on sexual harassment (as defined in the regulations) and resolve other complaints as efficiently and fairly as possible.

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TASB Legal Services

Recommended Next Steps

- If you have legal questions, talk to your school attorney, not these advocacy groups competing for your attention.
- If you are interested in choosing alternative wording for your LOCAL policy, communicate any changes to your TASB policy consultant.
- Please understand that changing your board-adopted LOCAL policy does not change the precedents governing local school district decision-making and may even make the district vulnerable to legal challenges. The legal issues brought forth by both the ACLU and Texas Values are complex. We encourage you to make informed decisions in consultation with local counsel.

As always, if you have questions, we are happy to help. School officials can reach TASB Legal Services at 800.580.5345 or legal@tasb.org.

This document is continually updated, and references to online resources are hyperlinked, at tasb.org/services/legal-services/tasb-school-law-esource/students/documents/tasb-response-to-texas-values-letter.pdf. For more information on this and other school law topics, visit TASB School Law eSource at schoollawesource.tasb.org.

This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is not an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. Consult with your own attorneys to apply these legal principles to specific fact situations.

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Transportation for Student Travel

A student who participates in a school-sponsored trip shall be required to use transportation provided by the school to and from the event.

An exception may be made if:

1. The student's parent makes a written request that the student be released to the parent or to another adult designated by the parent;
2. The student is traveling to or from an individual competition/performance; or
3. The student is traveling to or from activities within the boundaries of the District.

The District shall not be liable for any injuries that occur to a student using transportation that is not provided by the school.

Overnight Trips

The Superintendent and principal shall have authority to approve in-state overnight trips by student organizations and other student groups.

Out-of-State Trips

Any out-of-state trips by student organizations or other student groups shall require approval from the Superintendent and principal.

Extracurricular Activity Absences

The District shall make no distinction between absences for UIL activities and absences for other extracurricular activities approved by the Board. A student shall be allowed ten extracurricular absences not related to post-district competition, five absences for post-district competition prior to state, and two absences for state competition.

Additional absences, to a maximum of five, shall be permitted when a student has a grade point average of at least 70 in the courses or subjects to be missed.

Use of District Facilities

School-sponsored student groups may use District facilities with prior approval of the appropriate administrator. Other student groups may use District facilities in accordance with policy FNAB.

(LOCAL) Policy Comparison Packet

This packet is generated by an automated process that compares the updated policy to the district's current policy as found in TASB records.

In this packet, you will find:

- Policies being recommended for revision (annotated)
- New policies (not annotated)
- Policies recommended for deletion (annotated in PDF; omitted in Word)

Annotations are shown as follows.

- *Deletions* are shown in a red strike-through font: ~~deleted text~~.
- *Additions* are shown in a blue, bold font: **new text**.
- Blocks of text that have been *moved* without alteration are shown in green, with double underline and double strike-through formatting to distinguish the text's destination from its origin: ~~moved text~~ becomes moved text.
- *Revision bars* appear in the right margin, as above.

Note: While the annotation software competently identifies simple changes, large or complicated changes—as in an extensive rewrite—may be more difficult to follow. In addition, TASB's recent changes to the policy templates to facilitate accessibility sometimes makes formatting changes appear tracked, even though the text remains the same.

For further assistance in understanding policy changes, please refer to the explanatory notes in your Localized Policy Manual update packet or contact your policy consultant.

Contact:

School Districts and Education Service Centers	**Community Colleges**
policy.service@tasb.org	colleges@tasb.org
800.580.7529 512.467.0222	800.580.1488 512.467.3689

Note: This policy addresses discrimination, harassment, and retaliation against ~~involving~~ District employees. For Title IX and other provisions regarding ~~For~~ discrimination, harassment, and retaliation against ~~involving~~ students, see FFH. For reporting requirements related to child abuse and neglect, see FFG.

Definitions

Solely for purposes of this policy, the term "employee" includes former employees, applicants for employment, and unpaid interns.

Statement of Nondiscrimination

The District prohibits discrimination, including harassment, against any employee on the basis of race, color, religion, sex, national origin, age, disability, armed forces service, genetic information, pregnancy~~, sex~~, or any other basis prohibited by law. Retaliation against anyone involved in the complaint process is a violation of District policy and is prohibited.

Discrimination

Discrimination against an employee is defined as conduct directed at an employee by another employee or a third party under the District's disciplinary authority on the basis of race, color, religion, sex, national origin, age, disability, armed forces service, genetic information, pregnancy~~, sex~~, or any other basis prohibited by law, that adversely affects the employee's employment.

In accordance with law, discrimination on the basis of sex includes discrimination on the basis of biological sex, gender identity, sexual orientation, gender stereotypes, or any other prohibited basis related to sex.

Prohibited Conduct

In this policy, the term "prohibited conduct" includes discrimination, harassment, and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

Prohibited conduct also includes sexual harassment as defined by Title IX. [See FFH(LEGAL)]

Prohibited Harassment

Prohibited harassment of an employee is defined as physical, verbal, or nonverbal conduct based on an employee's race, color, religion, sex, national origin, age, disability, armed forces service, genetic information, pregnancy~~, sex~~, or any other basis prohibited by law, when the conduct is so severe, persistent, or pervasive that the conduct:

1. Has the purpose or effect of unreasonably interfering with the employee's work performance;
2. Creates an intimidating, threatening, hostile, or offensive work environment; or

3. Otherwise adversely affects the employee's performance, environment, or employment opportunities.

Examples

Examples of prohibited harassment may include offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, gender identity, or need for workplace accommodation; threatening or intimidating conduct; offensive jokes, name calling, slurs, or rumors; cyberharassment; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other negative stereotypes; or other kinds~~types~~ of aggressive conduct such as theft or damage to property.

Sex-Based Harassment

As required by law, the District shall follow the procedures below at Response to Sexual Harassment—Title IX upon a report of sex-based harassment, including sexual harassment, when such allegations, if proved, would meet the definition of sexual harassment under Title IX. [See FFH(LEGAL)]

Sexual Harassment

Sexual harassment is a form of sex discrimination defined as unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

1. Submission to the conduct is either explicitly or implicitly a condition of an employee's employment, or when submission to or rejection of the conduct is the basis for an employment action affecting the employee; or

2. The conduct is so severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with the employee's work performance or creates an intimidating, threatening, hostile, or offensive work environment.

Examples

Examples of sexual harassment may include sexual advances; touching intimate body parts; coercing or forcing a sexual act on another; jokes or conversations of a sexual nature; and other sexually motivated conduct, contact, or communication, including electronic communication~~or contact~~.

~~**Retaliation**~~

~~The District prohibits retaliation against an employee who makes a claim alleging to have experienced discrimination or harassment, or another employee who, in good faith, makes a report, serves as a witness, or otherwise participates in an investigation. The District shall investigate allegations of retaliation and take action against those found to have retaliated.~~

~~Examples~~

~~Examples of retaliation may include termination, refusal to hire, demotion, and denial of promotion. Retaliation may also include threats, unjustified negative evaluations, unjustified negative references, or increased surveillance.~~

~~Prohibited~~ Conduct	~~In this policy, the~~ term "prohibited conduct" includes ~~dis~~crimination, ~~harassment, and retaliation as~~ defined ~~by~~ this policy, ~~even~~ if ~~the be-havior~~ does ~~not~~ rise to the ~~level of~~ unlawful conduct.
Reporting Procedures	Any~~An~~ employee who believes that he or she has experienced prohibited conduct or believes that another employee has experienced prohibited conduct should immediately report the alleged acts. The employee may report the alleged acts to his or her supervisor or campus principal. The employee may also submit an incident form available on the District's internal website. Alternatively, the employee may report the alleged acts to one of the District officials below.
Definition of District Officials	For the purposes of this policy, District officials are the Title IX coordinator, the ADA/Section 504 coordinator, and the Superintendent.
Title IX Coordinator	Reports of discrimination based on sex, including sexual harassment, may be directed to the designated Title IX coordinator. [See DIA(EXHIBIT)]
ADA / Section 504 Coordinator	Reports of discrimination based on disability may be directed to the designated ADA/Section 504 coordinator. [See DIA(EXHIBIT)]
Superintendent	The Superintendent shall serve as coordinator for purposes of District compliance with all other nondiscrimination~~antidiscrimination~~ laws.
Alternative Reporting Procedures	An employee shall not be required to report prohibited conduct to the person alleged to have committed the conduct ~~it~~. Reports concerning prohibited conduct, including reports against the Title IX coordinator or ADA/Section 504 coordinator, may be directed to the Superintendent. A report against the Superintendent may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.
Timely Reporting	To ensure the District's prompt investigation, reports~~Reports~~ of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. ~~A failure to promptly report may impair the District's ability to investigate and address the prohibited conduct.~~
Notice of Report	Any District supervisor who receives a report of prohibited conduct shall immediately notify the appropriate District official listed above and take any other steps required by this policy.

Any District employee who receives a report of prohibited conduct based on sex, including sexual harassment, shall immediately notify the Title IX coordinator.

Investigation of Reports Other Than Title IX~~the Report~~

The following procedures apply to all allegations of prohibited conduct other than allegations of harassment prohibited by Title IX. [See FFH(LEGAL)] For allegations of sex-based harassment that, if proved, would meet the definition of sexual harassment under Title IX, see the procedures below at Response to Sexual Harassment—Title IX.

The District may request, but shall not require~~insist upon~~, a written report. If a report is made orally, the District official shall reduce the report to written form.

Initial Assessment

Upon receipt or notice of a report, the District official shall determine whether the allegations, if proved~~proven~~, would constitute prohibited conduct as defined by this policy. If so, the District ~~official~~ shall immediately authorize or undertake an adequate, reliable, and impartial investigation, regardless of whether a criminal or regulatory investigation regarding the same or similar allegations is pending.

Interim Action

If appropriate, the District shall promptly take interim action calculated to prevent prohibited conduct during the course of an investigation.

District Investigation

The investigation may be conducted by the District official or a designee, such as the campus principal, or by a third party designated by the District, such as an attorney. When appropriate, the ~~campus~~ principal or supervisor shall be involved in or informed of the investigation.

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The parties shall have the opportunity, as appropriate, to identify witnesses and evidence that will assist in the investigation. The investigation may also include analysis of other information or documents related to the allegations.

Concluding the Investigation

Absent extenuating circumstances, the investigation should be completed within ten District business days from the date of the report; however, the investigator shall take additional time if necessary to complete a thorough investigation.

The investigator shall prepare a written report of the investigation. The report shall be filed with the District official overseeing the in-

vestigation. Written notice of the findings shall be given to the parties involved in the complaint investigated, as appropriate, and in accordance with confidentiality and privacy laws, including FERPA.

District Action

If the results of an investigation indicate that prohibited conduct occurred, the District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct. The District shall enforce its policies and regulations to prevent a recurrence of any discrimination and to correct its effects on those involved in the investigation. [See Retaliation, below~~above~~]

The District may take action based on the results of an investigation, even if the conduct did not rise to the level of prohibited or unlawful conduct.

Confidentiality

To the greatest extent possible, the District shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.

Appeal

A complainant who is dissatisfied with the outcome of the investigation may appeal through DGBA(LOCAL), beginning at the appropriate level.

The complainant may have a right to file a complaint with appropriate state or federal agencies.

Response to Sexual Harassment—Title IX

General Response

For purposes of the District's response to reports of harassment prohibited by Title IX, definitions can be found in FFH(LEGAL).

When the District receives notice or an allegation of conduct that, if proved, would meet the definition of sexual harassment under Title IX, the Title IX coordinator shall promptly contact the complainant to:

- Discuss the availability of supportive measures and inform the complainant that they are available, with or without the filing of a formal complaint;
- Consider the complainant's wishes with respect to supportive measures; and
- Explain to the complainant the option and process for filing a formal complaint.

The District's response to sexual harassment shall treat complainants and respondents equitably by offering supportive measures to both parties, as appropriate, and by following the Title IX formal complaint process before imposing disciplinary sanctions or other actions that are not supportive measures against a respondent.

If a formal complaint is not filed, the District reserves the right to investigate and respond to prohibited conduct in accordance with Board policies and administrative procedures.

Title IX Formal Complaint Process

To distinguish the process described below from the District's general grievance policies [see DGBA, FNG, and GF], this policy refers to the grievance process required by Title IX regulations for responding to formal complaints of sexual harassment as the District's "Title IX formal complaint process."

The Superintendent shall ensure the development of a Title IX formal complaint process that complies with legal requirements. [See FFH(LEGAL)] The formal complaint process shall be posted on the District's website. In compliance with Title IX regulations, the District's Title IX formal complaint process shall address the following basic requirements:

1. Equitable treatment of complainants and respondents;
2. An objective evaluation of all relevant evidence;
3. A requirement that the Title IX coordinator, investigator, decision-maker, or any person designated to facilitate an informal resolution process not have a conflict of interest or bias;
4. A presumption that the respondent is not responsible for the alleged sexual harassment until a determination is made at the conclusion of the Title IX formal complaint process;
5. Time frames that provide for a reasonably prompt conclusion of the Title IX formal complaint process, including time frames for appeals and any informal resolution process, and that allow for temporary delays or the limited extension of time frames with good cause and written notice as required by law;
6. A description of the possible disciplinary sanctions and remedies that may be implemented following a determination of responsibility for the alleged sexual harassment;
7. A statement of the standard of evidence to be used to determine responsibility for all Title IX formal complaints of sexual harassment;
8. Procedures and permissible bases for the complainant and respondent to appeal a determination of responsibility or a dismissal of a Title IX formal complaint or any allegations therein;
9. A description of the supportive measures available to the complainant and respondent;

10. A prohibition on using or seeking information protected under a legally recognized privilege unless the individual holding the privilege has waived the privilege;

11. Additional formal complaint procedures in 34 C.F.R. 106.45(b), including written notice of a formal complaint, consolidation of formal complaints, recordkeeping, and investigation procedures; and

12. Other local procedures as determined by the Superintendent.

Standard of Evidence

The standard of evidence used to determine responsibility in a Title IX formal complaint of sexual harassment shall be the preponderance of the evidence.

Retaliation

The District prohibits retaliation against an employee who makes a claim alleging to have experienced discrimination or harassment, or another employee who, in good faith, makes a report of harassment or discrimination, files a complaint of harassment or discrimination, serves as a witness, or otherwise participates or refuses to participate in an investigation. The District shall investigate allegations of retaliation and take action against those found to have retaliated.

Examples

Examples of retaliation may include termination, refusal to hire, demotion, and denial of promotion. Retaliation may also include threats, intimidation, coercion, unjustified negative evaluations, unjustified negative references, or increased surveillance.

Records Retention

The District shall retain copies of allegations ~~Copies of reports alleging prohibited conduct~~, investigation reports, and related records regarding any prohibited conduct in accordance with ~~shall be maintained by~~ the District's records control schedules, but ~~District~~ for no less than the minimum amount ~~a period~~ of time required by law. ~~at least three years.~~ [See CPC]

[For Title IX recordkeeping and retention provisions, see FFH(LEGAL) and the District's Title IX formal complaint process.]

Access to Policy and Procedures

Information regarding this ~~This~~ policy and any accompanying procedures shall be distributed annually to District employees. Copies of the policy and procedures shall be posted on the District's website, to the extent practicable, and readily available at each campus and the District's ~~District~~ administrative offices.

UIL Activities

State Board and UIL rules shall govern interscholastic activities; however, Board policies and District rules may supplement State Board and UIL rules.

No event shall be scheduled and no student allowed to participate in any UIL event unless all pertinent rules and regulations are strictly enforced. The Superintendent or designee shall maintain all necessary records and reports. Sponsors and coaches are responsible for knowledge of and compliance with rules for eligibility and participation. [See FM]

Athletic Program

A well-rounded program of interscholastic athletics shall be maintained in the District secondary schools. The operation of the total program, including the starting and ending dates for each sport, shall be in accordance with regulations set by the UIL and the Board.

Supervision of the program shall be the responsibility of the Superintendent, but certain responsibilities may be delegated to other staff members. In each school, the principal shall have direct responsibility to maintain the athletic program as an integral part of the educational program of that school.

Interschool competitive athletics shall not be part of the elementary grades' program. To the extent practicable, a program of intraschool sports activities for elementary students shall be maintained as part of the physical education program.

Non-UIL Activities

Contests and competitive activities that are sponsored by outside organizations shall not be recommended to students unless the activities supplement and do not interfere with the regular school program. Contests and competitive activities shall have the prior approval of the Superintendent or designee, who shall develop the necessary rules and regulations to implement this policy. [See FM]

Overnight Trips

Students involved in UIL competition above the UIL district level that requires an overnight trip shall have their expenses paid by the District. [See also FM, FMG]

Explanatory Notes
TASB Localized Policy Manual Update 115

Leander ISD

ATTN(NOTE) GENERAL INFORMATION ABOUT THIS UPDATE

Update 115 includes new Title IX regulations, effective August 14, 2020, which define sexual harassment under Title IX and establish detailed procedures for how districts must respond to notice or allegations of sexual harassment. The final Title IX regulations and related materials are available on the U.S. Department of Education Office for Civil Rights website.

Multiple changes at Update 115 are based on legislation from the Regular Session of the 86th Texas Legislature that impose changes effective with the 2020–21 school year. Unless otherwise noted, references to legislative bills throughout these explanatory notes refer to Senate Bills (SB) or House Bills (HB) from the 86th Legislature.

An overview video of the local policy changes is available under Policy Manual Update Resources in the myTASB Policy Service Resource Library. **(LEGAL) policies provide the legal framework for key areas of district operations; they are not adopted by the board.**

Leander ISD

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

The Note pointing to other relevant policies has been updated to reflect Title IX changes. We have added the recent U.S. Supreme Court case, *Bostock v. Clayton County, Georgia*, which held that firing an employee on the basis of homosexuality or transgender status violates Title VII's prohibition against sex discrimination in employment. Margin notes have also been updated.

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

Recommended revisions to this policy incorporate the recent United States Supreme Court decision *Bostock v. Clayton County, Georgia*, which held that an adverse employment action against an employee on the basis of homosexuality or transgender status violates Title VII's prohibition on sex discrimination in employment. As a result, the policy clarifies that discrimination on the basis of sex includes discrimination on the basis of biological sex, gender identity, sexual orientation, gender stereotypes, or any other prohibited basis related to sex.

Based on the new Title IX regulations, recommended revisions include the following.

- The definition of Prohibited Conduct has been revised to include conduct that meets the Title IX definition of sexual harassment, but the policy retains the broader definitions of prohibited conduct in districts' current policies to ensure that all prohibited conduct is addressed.
- Text at Sex-Based Harassment and Investigation of Reports Other than Title IX directs readers to new provisions on responding to allegations of prohibited conduct that if proved would meet the definition of sexual harassment under Title IX, as the law requires a specific response process for these allegations. Allegations of prohibited conduct not based on sex or that would not meet the definition of sexual harassment under Title IX will follow the district's existing investigation process.
- The Title IX regulations provide that a district has actual knowledge of sexual harassment if notice or allegations are made to any employee; therefore, a new provision at Notice of Report requires *any* employee who receives a report of prohibited conduct based on sex to notify the Title IX coordinator.
- Text at Response to Sexual Harassment—Title IX addresses legally required actions when the district receives notice or allegations of conduct that would meet the definition of sexual harassment under Title IX.
- New provisions direct the superintendent to develop a Title IX formal complaint process that will apply following a formal complaint and that must comply with the elements in the new regulations, as included in FFH(LEGAL).
- To determine responsibility in a Title IX formal complaint of sexual harassment, the policy designates that the district will use a *preponderance of the evidence* standard. **If the board wishes to instead use the *clear and convincing evidence* standard, which is a higher standard of evidence, please contact the district's policy consultant.** The district must use the same standard of evidence for investigation of all formal Title IX sexual harassment complaints, including complaints by students.
- Provisions on retaliation and records retention have been updated.

Policy Service also recommends updates to the examples for harassment to include cyberharassment and electronic communications and clarification of the provisions on distribution of the policy and any accompanying procedures.

TASB's Title IX model procedures are available in TASB School Law eSource.

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The *Legal Issues in Update 115* memo describes common legal concerns and best practices specific to this policy topic.

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

The new Title IX regulations require districts to notify employees, students, parents, and others of the Title IX coordinator's contact information, which now must include an email address. For consistency, Policy Service recommends adding an email address for the ADA/Section 504 coordinator, if applicable to your district.

If you have not already completed the survey from Policy Service regarding coordinator contact information, including providing email addresses for each coordinator, please do so in order for your policy consultant to update this exhibit.

The *Legal Issues in Update 115* memo describes common legal concerns and best practices specific to this policy topic.

FM(LEGAL) STUDENT ACTIVITIES

The detailed list of honors classes for purposes of eligibility to participate in extracurricular activities has been deleted in lieu of a reference to the Administrative Code.

Existing statutory provisions on before- and after-school programs for elementary and middle school grades have been added.

FMF(LOCAL) STUDENT ACTIVITIES: CONTESTS AND COMPETITION

This local policy on student contests and competition is recommended for deletion. There is no requirement for board policy on these issues; the district's practices can be included in administrative procedures.

Vantage Points

A Board Member's Guide to Update 115

Please note: *Vantage Points* is an executive summary, prepared specifically for board members, of the local policies included in the update. The topic-by-topic outline and brief descriptions focus on key issues to help local officials understand changes found in the policies.

The description of local policy changes in *Vantage Points* is highly summarized. Please pay careful attention to the more detailed, district-specific Explanatory Notes and the policies in your localized update packet.

For questions, contact Policy Service at policy.service@tasb.org, call us at 800-580-7529, or visit our website at policy.tasb.org.

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

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Update 115 focuses on updating and reorganizing several policies in the FFE series of the policy manual addressing student welfare. FFEA continues to focus on counseling, and a new code, FFEB, focuses on mental health provisions.

Several policies have been revised to incorporate the new Title IX regulations, effective August 14, 2020, which define sexual harassment under Title IX and establish detailed procedures for how districts must respond to notice or allegations of sexual harassment.

In addition to these changes, Update 115 includes several other policies affected by legislation from the 86th Legislative Session that were not included in Update 114 and incorporates numerous changes from revised Administrative Code rules.

We strongly encourage you to review the Explanatory Notes contained in your district's update packet for information specific to your local policies and background on changes to the legal policies. Please remember that (LEGAL) policies provide the legal framework for key areas of district operations; they are not adopted by the board.

Section B—Local Governance

Board Policy

A revision to **BF(LOCAL)** addressing board policy adoption clarifies that a district's legally referenced policies are not adopted by the board. The (LEGAL) policies provide information on current law and context for the district's (LOCAL) policies.

Section D—Personnel

Compensation and Benefits

For districts that provide paid vacation and holiday benefits, recommended revisions to **DED(LOCAL)** address the board's authorization of these programs, including which employees are eligible for the benefits. Administrative procedures are recommended to address the details of these programs to promote consistent, effective implementation and prevent conflict between policy and administrative procedures.

Discrimination, Harassment, and Retaliation

Revisions to **DIA(LOCAL)** incorporate the recent United States Supreme Court decision *Bostock v. Clayton County, Georgia*, which held that an adverse employment action against an employee on the basis of homosexuality or transgender status violates Title VII's prohibition on sex discrimination in employment. As a result, the policy clarifies that discrimination on the basis of sex includes discrimination on the basis of biological sex, gender identity, sexual orientation, gender stereotypes, or any other prohibited basis related to sex.

Other revisions address the new Title IX regulations and:

- Include sexual harassment as defined by Title IX in the definition of prohibited conduct and clarify employee reporting requirements;

- Indicate that the district will follow the district's existing investigation process to address allegations of prohibited conduct that would not meet the Title IX definition of sexual harassment;

- Add specific provisions outlining the legally required district response when the district receives notice or an allegation of conduct that could meet the definition of sexual harassment under Title IX;

- Add a requirement for the superintendent to develop a Title IX formal complaint process that will apply following a formal complaint and that must comply with the elements in the new regulations; and

- Designate the preponderance of the evidence standard to determine responsibility in formal complaints of sexual harassment under Title IX. **If the board wishes to instead use the clear and convincing evidence standard, which is a higher standard of evidence, please contact the district's policy consultant.** The district must use the same standard of evidence for investigation of all formal Title IX sexual harassment complaints, including complaints by employees.

Section E—Instruction

Academic Achievement

Revised Administrative Code rules prompted revisions to **EI(LOCAL)** on academic achievement. Provisions on partial credit reflect new terminology from the rules regarding awarding of credit proportionately when a student receives a passing grade in "half" of a course, rather than per "semester."

To provide flexibility, Policy Service recommends deletion of the statement in most districts' policies that a student shall be required to retake only the portion of the course with a failing grade. There are various methods for a student to earn credit for the failed part of a course, and board policy is not required to specify which particular method may be used.

For those districts that did not have existing provisions on awarding course credit proportionately to a student who successfully completes only half a course, provisions have been recommended for the district's consideration. **This is optional text; contact the district's policy consultant if the district does not wish to include it.**

Some districts' local policies included provisions on late enrollment or withdrawal of mobile students. To avoid conflict with new Administrative Code rules addressing transition assistance for highly mobile students who are homeless or in substitute care, which are addressed in FD(LOCAL), below, Policy Service recommends deleting these provisions from EI(LOCAL). Any specific practices in this area will need to align with the new rules and could be included in administrative procedures.

Section F—Students

Admissions

As mentioned above, recommended changes to **FD(LOCAL)** on admissions are based on new Administrative Code rules addressing transition assistance for highly mobile students who are homeless or in substitute care. The rules require districts to adopt local policy to assist with awarding credit to these students for a course that was earned prior to the student enrolling in or transferring to the district.

Attendance Accounting

Recommended revisions to **FEB(LOCAL)** on attendance accounting are to address amended Administrative Code rules. The rules remove the reference to taking attendance during the second or fifth instructional hour and specify that attendance shall be determined at the official attendance-taking time during the campus's instructional day. The recommended policy text assigns to the superintendent the responsibility of designating the district's official attendance-taking time. Note that there is no requirement to include the official attendance-taking time in policy; it may be designated in district procedures.

Child Abuse and Neglect

FFG(LOCAL) on child abuse and neglect has been significantly revised to comply with amended Administrative Code rules.

Recommended text is included to provide the required policy addressing sexual abuse, trafficking, and other maltreatment of children that must be included in the district improvement plan and the student handbook.

The rules also revise the elements of the required child abuse and neglect reporting policy. To ensure all the policy elements are addressed in board-adopted local policy, we have revised and moved provisions from FFG(EXHIBIT) into the local policy and recommend deletion of the exhibit.

Discrimination, Harassment, and Retaliation

Revisions to **FFH(LOCAL)** address the new Title IX regulations and are similar to those made at DIA(LOCAL), above. The FFH(LOCAL) revisions:

- Include sexual harassment as defined by Title IX in the definition of prohibited conduct and clarify employee reporting requirements;
- Indicate that the district will follow the district's existing investigation process to address allegations of prohibited conduct that would not meet the Title IX definition of sexual harassment;
- Add specific provisions outlining the legally required district response when the district receives notice or an allegation of conduct that could meet the definition of sexual harassment under Title IX;
- Add a requirement for the superintendent to develop a Title IX formal complaint process that will apply following a formal complaint and that must comply with the elements in the new regulations; and

- Designate the preponderance of the evidence standard to determine responsibility in formal complaints of sexual harassment under Title IX. **If the board wishes to instead use the clear and convincing evidence standard, which is a higher standard of evidence, please contact the district's policy consultant.** The district must use the same standard of evidence for investigation of all formal Title IX sexual harassment complaints, including complaints by employees.

Provisions in **FB(LOCAL)** on the district's Title IX coordinator for students have been updated to include required language from the new Title IX regulations. Corresponding wording changes were also made to the ADA/Section 504 coordinator text.

Student and Parent Complaints

FNG(LOCAL) on grievances by students and parents includes a recommended revision to specify that a person filing a complaint regarding refusal of entry to or ejection from property based on Education Code 37.105 shall be permitted to address the board within 90 "calendar" days unless the complaint is resolved at the administrative level. This is an exception to how other timelines are calculated in the policy, which are based on "business" days in accordance with how days are defined. In addition, we have reordered the list of protected characteristics at Other Complaint Processes, item 1, to align with revisions at FFH(LOCAL) above.

Section G—Community and Governmental Relations

Public Complaints

As with FNG(LOCAL), above, **GF(LOCAL)** on complaints by members of the public includes a recommended revision to specify that a person filing a complaint regarding refusal of entry to or ejection from property based on Education Code 37.105 shall be permitted to address the board within 90 "calendar" days unless the complaint is resolved at the administrative level. This is an exception to how other timelines are calculated in the policy, which are based on "business" days in accordance with how days are defined.

Miscellaneous Deletions

Several local policies focusing on administrative details are recommended for deletion for those districts that had them. Board-adopted policy is not required on these topics.

- BDF(LOCAL)—citizen advisory committees
- DMD(LOCAL)—professional meetings
- FMF(LOCAL)—student contests and competitions

A message from TASB Governmental Relations

TASB Advocates for Public Schools

It's a given that state and federal legislation influences school district policy and practice. But did you know that school board members can influence legislation?

- As a private citizen who serves the public, your voice has weight with legislators.[1]
- By engaging with TASB[2] you can influence the TASB Advocacy Agenda by participating in our grassroots meetings, attending Delegate Assembly, serving on the TASB Legislative Advisory Council, and more.

If you have questions about TASB's advocacy efforts and programs, contact TASB Governmental Relations[3] at 800-580-4885 or Dax.Gonzalez@tasb.org.

[1] Working with Legislators: https://www.tasb.org/trustees/champion-your-district/working-with-legislators.aspx
[2] Engage with TASB: https://www.tasb.org/trustees/champion-your-district/engage-with-tasb.aspx
[3] TASB Governmental Relations: https://gr.tasb.org

ANNOTATED

Policy Reference Manual
Update 115

Update 115 revisions to legal policies are described in the update Explanatory Notes.

The *Policy Reference Manual* is a comprehensive collection of federal and state statutes and regulations, case law, attorney general opinions, and commissioner's decisions affecting Texas school districts. As such, it is an excellent reference document that recites a broad array of legal requirements, many of which apply to all districts, others to only a certain few. For this reason, these (LEGAL) policies are not suitable for incorporation in localized policy manuals.

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

If you have any questions concerning this update or the *TASB Policy Reference Manual*, please call 800-580-7529 or 512-467-0222.

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Instruction Sheet

TASB Policy Reference Manual Update 115

Policy Reference Manual

Code	Type	Action To Be Taken	Note

Policy Reference Manual

ATTN(NOTE) GENERAL INFORMATION ABOUT THIS UPDATE

Update 115 includes new Title IX regulations, effective August 14, 2020, which define sexual harassment under Title IX and establish detailed procedures for how districts must respond to notice or allegations of sexual harassment. The final Title IX regulations and related materials are available on the U.S. Department of Education Office for Civil Rights website.

Multiple changes at Update 115 are based on legislation from the Regular Session of the 86th Texas Legislature that impose changes effective with the 2020–21 school year. Unless otherwise noted, references to legislative bills throughout these explanatory notes refer to Senate Bills (SB) or House Bills (HB) from the 86th Legislature.

Explanatory Notes
TASB Policy Reference Manual Update 115

Policy Reference Manual

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

The Note pointing to other relevant policies has been updated to reflect Title IX changes. We have added the recent U.S. Supreme Court case, *Bostock v. Clayton County, Georgia*, which held that firing an employee on the basis of homosexuality or transgender status violates Title VII's prohibition against sex discrimination in employment. Margin notes have also been updated.

FM(LEGAL) STUDENT ACTIVITIES

The detailed list of honors classes for purposes of eligibility to participate in extracurricular activities has been deleted in lieu of a reference to the Administrative Code.

Existing statutory provisions on before- and after-school programs for elementary and middle school grades have been added.

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.*

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Nondiscrimination — in General

A district shall not fail or refuse to hire or discharge any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis of any of the following protected characteristics:

1. Race, color, or national origin;
2. Sex;
3. Religion;
4. Age (applies to individuals who are 40 years of age or older);
5. Disability; or
6. Genetic information [see DAB].

42 U.S.C. 1981; 42 U.S.C. 2000e et seq. (Title VII); 20 U.S.C. 1681 et seq. (Title IX); 42 U.S.C. 12111 et seq. (Americans with Disabilities Act); 29 U.S.C. 621 et seq. (Age Discrimination in Employment Act); 29 U.S.C. 793, 794 (Rehabilitation Act); 42 U.S.C. 2000ff et seq. (Genetic Information Nondiscrimination Act); U.S. Const. Amend. I; Human Resources Code 121.003(f); Labor Code Ch. 21 (Texas Commission on Human Rights Act); Labor Code Ch. 21, Subch. H (genetic information)

Title VII proscribes employment practices that are overtly discriminatory (disparate treatment), as well as those that are fair in form but discriminatory in practice (disparate impact). *Wards Cove Packing Co. v. Atonio, 490 U.S. 642 (1989)*

Disparate Treatment

Disparate treatment (intentional discrimination) occurs when members of a protected group have been denied the same employment, promotion, membership, or other employment opportunities as have been available to other employees or applicants. *29 C.F.R. 1607.11*

Disparate Impact

Disparate impact occurs when an employer uses a particular employment practice that causes a disparate (disproportionate) impact on a protected group and the employer fails to demonstrate that the challenged practice is job-related and consistent with business necessity. *42 U.S.C. 2000e-2(k)(1)(A); Labor Code 21.115, .122*

Bankruptcy Discrimination

A district may not deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under federal bankruptcy laws~~. A district may not discriminate against a person with whom a bankrupt or debtor has been associated~~, solely because the bankrupt or debtor is or has been a debtor under federal bankruptcy laws; was

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insolvent before the commencement of a bankruptcy case or during the case but before the debtor was granted or denied a discharge; or has not paid a debt that is dischargeable in the bankruptcy case or that was discharged under the bankruptcy laws. *11 U.S.C. 525(a)*

Student Loan Repayment

A district that issues a license may not take disciplinary action against a person based on the person's default on a student loan or breach of a student loan repayment contract or scholarship contract including by:

1. Denying the person's application for a license or license renewal;
2. Suspending the person's license; or
3. Taking other disciplinary action against the person.

Occupations Code 56.001, .003

Job Qualification

A district may take employment actions based on religion, sex, national origin, or age in those certain instances where religion, sex, national origin, or age is a bona fide occupational qualification. *42 U.S.C. 2000e-2(e); 29 U.S.C. 623(f); Labor Code 21.119*

Employment Postings

A district shall not print or publish any notice or advertisement relating to district employment that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, disability, or national origin, unless the characteristic is a bona fide occupational qualification. *42 U.S.C. 2000e-3(b); Labor Code 21.059*

Harassment of Employees

A district has an affirmative duty to maintain a working environment free of harassment on the basis of a protected characteristic. *42 U.S.C. 2000e et seq.; 29 C.F.R. 1606.8(a), 1604.11* [See DIA]

Retaliation

A district may not discriminate against any employee or applicant for employment because the employee or applicant has opposed any unlawful, discriminatory employment practices or participated in the investigation of any complaint related to an unlawful, discriminatory employment practice. *29 U.S.C. 623(d) (ADEA); 42 U.S.C. 2000e-3(a) (Title VII); 34 C.F.R. 100.7(e) (Title VI); 34 C.F.R. 110.34 (Age Act); 42 U.S.C. 12203 (ADA); Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 (2005) (Title IX); Labor Code 21.055* [See DIA]

Notices

A district shall post in conspicuous places upon its premises a notice setting forth the information the Equal Employment Opportunity Commission deems appropriate to effectuate the purposes of the anti-discrimination laws. *29 U.S.C. 627; 42 U.S.C. 2000e-10*

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Section 504 Notice

A district that employs 15 or more persons shall take appropriate steps to notify applicants and employees, including those with impaired vision or hearing, that it does not discriminate on the basis of disability.

The notice shall state:

1. That the district does not discriminate in employment in its programs and activities; and
2. The identity of the district's 504 coordinator.

Methods of notification may include:

1. Posting of notices;
2. Publication in newspapers and magazines;
3. Placing notices in district publications; and
4. Distributing memoranda or other written communications.

If a district publishes or uses recruitment materials containing general information that it makes available to applicants or employees, it shall include in those materials a statement of its nondiscrimination policy.

34 C.F.R. 104.8

Age Discrimination

The prohibition against discrimination on the basis of age applies only to discrimination against an individual 40 years of age or older. *Labor Code 21.101*

Bona Fide Employee Benefit Plan

A district may take an employment action on the basis of age pursuant to a bona fide seniority system or a bona fide employee benefit plan. However, a bona fide employee benefit plan shall not excuse the failure to hire any individual and no such benefit plan shall require or permit the involuntary retirement of any individual because of age. *29 U.S.C. 623(f); Labor Code 21.102*

Sex Discrimination

Gender Stereotypes

A district may not evaluate employees by assuming or insisting that they match the stereotype associated with their group. *Price Waterhouse v. Hopkins, 490 U.S. 228 (1989)*

Pregnancy

The prohibition against discrimination on the basis of sex includes discrimination on the basis of pregnancy, childbirth, or related medical conditions. A district shall treat women affected by pregnancy, childbirth, or related medical conditions the same as other employees for all employment-related purposes, including receipt of benefits under fringe benefit programs. *42 U.S.C. 2000e(k); 29 C.F.R. 1604.10; Labor Code 21.106*

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Equal Pay	A district may not pay an employee at a rate less than the rate the district pays employees of the opposite sex for equal work on jobs the performance of which require equal skill, effort, or responsibility and which are performed under similar working conditions. This rule does not apply if the payment is pursuant to a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any other factor other than sex. *29 U.S.C. 206(d) (Equal Pay Act); 34 C.F.R. 106.54 (Title IX)*
Religious Discrimination	The prohibition against discrimination on the basis of religion includes all aspects of religious observances and practice, as well as religious belief, unless a district demonstrates that it is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship to the district's business. "Undue hardship" means more than a *de minimus* (minimal) cost. *42 U.S.C. 2000e(j); 29 C.F.R. 1605.2; Labor Code 21.108* A district may not substantially burden an employee's free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. & Rem. Code 110.003* A person employed or maintained to obtain or aid in obtaining positions for public school employees may not directly or indirectly ask about, orally or in writing, the religion or religious affiliation of anyone applying for employment in a public school of this state. A violation of this provision is a Class B misdemeanor. A person who violates this provision is subject to civil penalties. *Education Code 22.901*
Disability Discrimination	A district may not discriminate against a qualified individual on the basis of disability in job application procedures, hiring, advancement, or discharge of employees, compensation, job training, and other terms, conditions, and privileges of employment. *42 U.S.C. 12112(a); 29 C.F.R. 1630.4(b); Labor Code 21.051* In addition, each district that receives assistance under the Individuals with Disabilities Education Act (IDEA) must make positive efforts to employ, and advance in employment, qualified individuals with disabilities in programs assisted by the IDEA. *34 C.F.R. 300.177(b)*
Discrimination Based on Lack of Disability	The Americans with Disabilities Act (ADA) and the Texas Commission on Human Rights Act do not provide a basis for a claim that an individual was subject to discrimination because of the individual's lack of disability. *42 U.S.C. 12201(g); 29 C.F.R. 1630.4(b); Labor Code 21.005(c)*

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Definition of Disability

"Disability" means:

1. An actual disability: a physical or mental impairment [see definition, below] that substantially limits one or more of an individual's major life activities;

2. A record of having such an impairment; or

3. Being regarded as having such an impairment.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

"Regarded as" Having an Impairment

An individual meets the requirement of being "regarded as" having an impairment if the individual establishes that he or she has been subjected to an action prohibited by the ADA because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

Transitory and Minor

The "regarded as" prong of the definition does not apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of six months or less. The "transitory" exception does not apply to the "actual disability" or "record of disability" prongs of the definition.

Mitigating Measures

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices, prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

The ameliorative effects of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. Ordinary eyeglasses and contact lenses are lenses that are intended to fully correct visual acuity or to eliminate refractive error.

42 U.S.C. 12102(1), (3), (4); 29 C.F.R. 1630.2(g), (j)(1); Labor Code 21.002, .0021

Other Definitions

"Physical or mental impairment" means:

Physical or Mental Impairment

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or

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2. Any mental or psychological disorder, such as an intellectual disability (formerly termed "mental retardation"), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

29 C.F.R. 1630.2(h)

Major Life Activities

"Major life activities" include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working.

"Major life activities" also include the operation of major bodily functions, including functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within the body system.

42 U.S.C. 12102(2); 29 C.F.R. 1630.2(i); Labor Code 21.002

Qualified Individual

"Qualified individual" means an individual who:

1. Satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires; and

2. With or without reasonable accommodation, can perform the essential functions of such position. Consideration shall be given to a district's judgment as to what functions of a job are essential. A written job description prepared before advertising or interviewing applicants for the job is evidence of the job's essential functions.

42 U.S.C. 12111(8); 29 C.F.R. 1630.2(m)

Reasonable Accommodations

A district is required, absent undue hardship, to make a reasonable accommodation to an otherwise qualified individual who meets the definition of disability under the "actual disability" or "record of disability" prongs. A district is not required to provide a reasonable accommodation to an individual who meets the definition of disability solely under the "regarded as" prong. *42 U.S.C. 12112(b)(5); 29 C.F.R. 1630.2(o)(4), .9; 29 U.S.C. 794; 34 C.F.R. 104.11; Labor Code 21.128* [See DBB regarding medical examinations and inquiries under the Americans with Disabilities Act]

"Reasonable accommodation" includes:

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1. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

2. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

42 U.S.C. 12111(9); 29 C.F.R. 1630.2(o); 34 C.F.R. 104.12(b)

"Undue hardship" means an action requiring significant difficulty or expense when considered in light of the nature and cost of the accommodation needed, overall financial resources of the affected facility and the district, and other factors set out in law. *42 U.S.C. 12111(10); 29 C.F.R. 1630.2(p); 34 C.F.R. 104.12(c)*

Discrimination Based on Relationship

A district shall not exclude or deny equal jobs or benefits to, or otherwise discriminate against, a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social, or other relationship or association. *42 U.S.C. 12112(b)(4); 29 C.F.R. 1630.8; 34 C.F.R. 104.11*

Illegal Drugs and Alcohol

The term "qualified individual with a disability" does not include any employee or applicant who is currently engaging in the illegal use of drugs, when a district acts on the basis of such use.

Drug Testing

A district is not prohibited from conducting drug testing of employees and applicants for the illegal use of drugs or making employment decisions based on the results of such tests.

42 U.S.C. 12114(c), (d); Labor Code 21.002(6)(A) [See DHE]

Alcohol Use

The term "qualified individual with a disability" does not include an individual who is an alcoholic and whose current use of alcohol prevents the employee from performing the duties of his or her job or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others. *42 U.S.C. 12114(a); 29 U.S.C. 705(20)(C); 29 C.F.R. 1630.3(a); 28 C.F.R. 35.104; Labor Code 21.002(6)(A)*

Qualification Standards

It is unlawful for a district to use qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, on the basis of disability, unless the standard, test, or other selection criteria, as used by the district, is shown to be job related for the position in question and is consistent with business necessity. *29 C.F.R. 1630.10(a)*

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Direct Threat to Health or Safety	As a qualification standard, a district may require that an individual not pose a direct threat to the health or safety of other individuals in the workplace. "Direct threat" means a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation. *42 U.S.C. 12111(3); 29 C.F.R. 1630.2(r); Labor Code 21.002(6)(B)*
Vision Standards and Tests	A district shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the district, is shown to be job-related for the position in question and consistent with business necessity. *42 U.S.C. 12113(c); 29 C.F.R. 1630.10(b); Labor Code 21.115(b)*
Communicable Diseases	A district may refuse to assign or continue to assign an individual to a job involving food handling if the individual has an infectious or communicable disease that is transmitted to others through handling of food. *42 U.S.C. 12113(e); 29 U.S.C. 705(20)(D); 29 C.F.R. 1630.16(e); Labor Code 21.002(6)(B)*
Service Animals	A district that is subject to the jurisdiction of Title I of the ADA (employment discrimination) or to section 504 of the Rehabilitation Act (employment discrimination) shall comply with the reasonable accommodation requirements of those laws with respect to service animals. [See Reasonable Accommodations, above] A district that is not subject to either Title I or section 504 shall comply with Title II of the ADA (discrimination by public entity). An employer that is subject to Title II shall comply with 28 C.F.R. part 35, including the requirements relating to service animals at 28 C.F.R. 35.136 [see FBA]. *28 C.F.R. 35.140*
Military Service	A district shall not deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of membership in a uniformed service, performance in a uniformed service, application for uniformed service, or obligation to a uniformed service. A district shall not take adverse employment action or discriminate against any person who takes action to enforce protections afforded by the Uniformed Services Employment and Re-employment Rights Act (USERRA). *38 U.S.C. 4311* [See also DECB]
Grievance ~~Policies~~Procedures Section 504	A district that receives federal financial assistance and that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for

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	the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act. *34 C.F.R. 104.7(b), .11*
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 ADA. *28 C.F.R. 35.107, .140*
Title IX	A district that receives federal financial assistance shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX. *34 C.F.R. 106.8(~~b~~c); North Haven Board of Education v. Bell, 456 U.S. 512 (1982)* [For legally referenced material relating to Title IX grievance procedures, see FFH(LEGAL).]
Compliance Coordinators	A district that employs fifteen or more persons shall designate at least one ~~employee~~person to coordinate its efforts to comply with ~~Title IX,~~ Section 504 of the Rehabilitation Act. The district's Section 504 notification [see Section 504 Notice, above] shall also identify the responsible employee so designated. *34 C.F.R. 104.7(a), .8(a)*
Section 504	
Americans with Disabilities Act	A district that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with~~Section 504, the Age Act,~~ and carry out its responsibilities under the ADA~~. The district shall notify~~ , including any investigation of any complaint communicated to it alleging its noncompliance with the ADA or alleging any actions that would be prohibited by the ADA. The district shall make available to all ~~employees of~~interested individuals the name, office address, and telephone number of the employee or employees so designated. *28 C.F.R. 35.107(a)*
Title IX	A district must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under Title IX, which employee must be referred to as the "Title IX Coordinator." The district must notify applicants for admission and employment, students, parents or legal guardians, employees, and all professional organizations holding professional agreements with the district, of the name or title, office address, electronic mail address, and telephone number of the employee(s) so designated. *~~34 C.F.R. 104.7(b), .11; 28 C.F.R. 35.107, .140; 34~~ 34 C.F.R. 106.8(~~b~~a)*
~~Student~~ Loan ~~Repayment~~	~~A district that~~ issues a license may not take disciplinary action ~~against a person~~ based ~~on~~ the person's default on a student loan ~~or~~ breach of a student loan repayment contract or scholarship contract ~~including~~ by: ~~1.~~ Denying the person's application for a license or license renewal;

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~~2.~~1. ~~Suspending~~ ~~the~~ person's license~~;~~ or

~~3.~~1. ~~Taking~~ other disciplinary acti~~o~~n against t~~he~~ person.

~~*Occupations Code* 56.001~~, *.003*

Age Discrimination in Employment Act

A district shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the Age Discrimination in Employment Act (ADEA), including investigation of any complaints that the district receives alleging any actions that are prohibited by the ADEA. A district shall notify its employees of the identity of the responsible employee by name or title, address, and telephone number. *34 C.F.R. 110.25(a), (b)*

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~~***Note:*** This policy addresses harassment of district employees. For legally referenced material relating to discrimination and retaliation, see DAA(LEGAL). For harassment of students, see FFH. For reporting requirements related to child abuse and neglect, see FFG.~~

Note: This policy addresses the prohibition against harassment of employees. For legally referenced material relating to employee discrimination and retaliation, see DAA(LEGAL).

For provisions related to harassment of students, including the district's response to sexual harassment as defined by Title IX, see FFH.

Criminal Offense— Official Oppression

A public servant acting under color of the public servant's office or employment commits an offense if the public servant intentionally subjects another to sexual harassment.

A public servant acts under color of the public servant's office or employment if the person acts or purports to act in an official capacity or takes advantage of such actual or purported capacity.

"Sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly.

Penal Code 39.03(a)(3), (b), (c)

Harassment of Employees Prohibited

Harassment on the basis of a protected characteristic is a violation of the federal anti-discrimination laws. A district has an affirmative duty, under Title VII, to maintain a working environment free of harassment on the basis of sex, race, color, religion, and national origin. *42 U.S.C. 2000e, et seq.; 29 C.F.R. 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)*

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Firing an employee on the basis of homosexuality or transgender status violates Title VII's prohibition against sex discrimination in employment. *Bostock v. Clayton County, Georgia, 17-1618, 2020 WL 3146686, (U.S. June 15, 2020)*

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 C.F.R. 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 C.F.R. 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

A 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 C.F.R. 1604.11(f)*

Corrective Action

A district is responsible for acts of unlawful harassment by fellow employees and by nonemployees if the district, its agents, or its supervisory employees knew or should have known of the conduct, unless the district takes immediate and appropriate corrective action. *29 C.F.R. 1604.11(d), (e), 1606.8(d), (e)*

When no tangible employment action is taken, a district may raise the following affirmative defense:

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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)

Harassment of Unpaid Interns

A district commits an unlawful employment practice if sexual harassment of an unpaid intern occurs and the district or its agents or supervisors know or should have known that the conduct constituting sexual harassment was occurring, and fail to take immediate and appropriate corrective action. *Labor Code 21.1065*

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UIL Rules and District Policies

A student enrolled in a district or who participates in an extracurricular activity or a University Interscholastic League (UIL) competition is subject to district policy and UIL rules regarding participation only when the student is under the direct supervision of an employee of the school or district in which the student is enrolled or at any other time specified by resolution of a board. *Education Code 33.081(b)* [See FO regarding additional standards of conduct for extracurricular activities]

Athletic Activities

UIL Forms

Each student participating in an extracurricular athletic activity must complete the UIL forms entitled "Preparticipation Physical Evaluation—Medical History" and "Acknowledgement of Rules." Each form must be signed by both the student and the student's parent or guardian. *Education Code 33.203(a)*

Notices

Each school that offers an extracurricular athletic activity shall:

1. Prominently display at its administrative offices the telephone number and electronic mail address that the commissioner of education maintains for reporting violations of Education Code Chapter 33, Subchapter F; and
2. Provide each student participant and the student's parent or guardian a copy of the text of Education Code 33.201–33.207 and a copy of the UIL's parent information manual. The document may be provided in an electronic format unless otherwise requested.

Education Code 33.207(b), .208

Safety Training

The UIL shall provide training to students participating in an extracurricular athletic activity related to:

1. Recognizing the symptoms of potentially catastrophic injuries, including head and neck injuries, concussions, injuries related to second impact syndrome, asthma attacks, heatstroke, cardiac arrest, and injuries requiring use of a defibrillator; and
2. The risks of using dietary supplements designed to enhance or marketed as enhancing athletic performance.

The training must be conducted by the UIL or by another organization as determined by the UIL, including the American Red Cross, the American Heart Association, or a similar organization.

Education Code 33.202(d)–(e)

Records

A superintendent shall maintain complete and accurate records of the district's compliance and the district shall make available to the public proof of compliance for each person enrolled in the district who is required to receive safety training.

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A campus that is determined by the superintendent to be out of compliance with the safety training requirements or the requirements regarding unsafe practices and safety precautions (see below) shall be subject to the range of penalties determined by the UIL.

Education Code 33.206

Unsafe Practices

A coach, trainer, or sponsor for an extracurricular athletic activity may not encourage or permit a student participant to engage in any unreasonably dangerous athletic technique that unnecessarily endangers the health of a student, including using a helmet or any other sports equipment as a weapon. *Education Code 33.204*

Safety Precautions

A coach, trainer, or sponsor for an extracurricular athletic activity shall at each athletic practice or competition ensure that:

1. Each student participant is adequately hydrated;
2. Any prescribed asthma medication for a student participant is readily available to the student;
3. Emergency lanes providing access to the practice or competition area are open and clear; and
4. Heatstroke prevention materials are readily available.

If a student participating in a practice or competition becomes unconscious during the activity, the student may not:

1. Return to the activity during which the student became unconscious; or
2. Participate in any extracurricular athletic activity until the student receives written authorization for such participation from a physician.

Education Code 33.205

Concussions

“Interscholastic athletic activity” includes practice and competition, sponsored or sanctioned by a district, including a home-rule district, or a public school, including any school for which a charter has been granted under Education Code Chapter 12, or the UIL. *Education Code 38.152*

“Concussion” means a complex pathophysiological process affecting the brain caused by a traumatic physical force or impact to the head or body, which may include temporary or prolonged altered brain function resulting in physical, cognitive, or emotional symptoms or altered sleep patterns, and involve loss of consciousness. *Education Code 38.151(4)*

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Concussion Oversight Team

The board of a district with students enrolled who participate in an interscholastic athletic activity shall appoint or approve a concussion oversight team. *Education Code 38.153(a)*

Each concussion oversight team must include at least one physician and, to the greatest extent practicable, considering factors including the population of the metropolitan statistical area in which the district is located, district enrollment, and the availability of and access to licensed health-care professionals in the district or charter school area, must also include one or more of the following: an athletic trainer, an advanced practice nurse, a neuropsychologist, or a physician assistant. If a district employs an athletic trainer, the athletic trainer must be a member of the concussion oversight team. If a district employs a school nurse, the school nurse may be a member of the district concussion oversight team if requested by the school nurse.

Each member of the concussion oversight team must have had training in the evaluation, treatment, and oversight of concussions at the time of appointment or approval as a member of the team. The members also must take a training course at least once every two years and submit proof of timely completion to the superintendent or designee in accordance with Education Code 38.158.

Education Code 38.154, .158

Return-to-Play Protocol

Each concussion oversight team shall establish a return-to-play protocol, based on peer-reviewed scientific evidence, for a student's return to interscholastic athletics practice or competition following the force or impact believed to have caused a concussion. *Education Code 38.153(b)*

Required Annual Form

A student may not participate in an interscholastic athletic activity for a school year until both the student and the student's parent or guardian or another person with legal authority to make medical decisions for the student have signed a form for that school year that acknowledges receiving and reading written information that explains concussion prevention, symptoms, treatment, and oversight and that includes guidelines for safely resuming participation in an athletic activity following a concussion. The form must be approved by the UIL. *Education Code 38.155*

Removal from Play

A student shall be removed from an interscholastic athletics practice or competition immediately if one of the following persons believes the student might have sustained a concussion during the practice or competition: a coach; a physician; a licensed health-care professional, as defined by Education Code 38.151(5); a licensed chiropractor; a school nurse; or the student's parent or

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guardian or another person with legal authority to make medical decisions for the student. *Education Code 38.156*

Return to Play

A student removed from an interscholastic athletics practice or competition under Education Code 38.156 may not be permitted to practice or compete again following the force or impact believed to have caused the concussion until:

1. The student has been evaluated, using established medical protocols based on peer-reviewed scientific evidence, by a treating physician chosen by the student or the student's parent or guardian or another person with legal authority to make medical decisions for the student;

2. The student has successfully completed each requirement of the return-to-play protocol established under Education Code 38.153 necessary for the student to return to play;

3. The treating physician has provided a written statement indicating that, in the physician's professional judgment, it is safe for the student to return to play; and

4. The student and the student's parent or guardian or another person with legal authority to make medical decisions for the student have acknowledged that the student has completed the requirements of the return-to-play protocol necessary for the student to return to play, have provided the treating physician's written statement to the person responsible for compliance with the return-to-play protocol and the person who has supervisory responsibilities, and have signed a consent form indicating that the person signing:

    a. Has been informed concerning and consents to the student participating in returning to play in accordance with the return-to-play protocol;

    b. Understands the risks associated with the student returning to play and will comply with any ongoing requirements in the return-to-play protocol;

    c. Consents to the disclosure to appropriate persons, consistent with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, of the treating physician's written statement and, if any, the return-to-play recommendations of the treating physician; and

    d. Understands the immunity provisions under Education Code 38.159.

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A coach of an interscholastic athletics team may not authorize a student's return to play.

The superintendent or designee shall supervise an athletic trainer or other person responsible for compliance with the return-to-play protocol. The person who has supervisory responsibilities may not be a coach of an interscholastic athletics team.

Education Code 38.157

Immunity

These provisions do not:

1. Waive any immunity from liability of a district or of district officers or employees;
2. Create any liability for a cause of action against a district or against district officers or employees;
3. Waive any immunity from liability under Civil Practice and Remedies Code 74.151; or
4. Create any cause of action or liability for a member of a concussion oversight team arising from the injury or death of a student participating in an interscholastic athletics practice or competition, based on service or participation on the concussion oversight team.

Education Code 38.159

Football Helmet Safety Requirements

A district may not use a football helmet that is 16 years old or older in the district's football program. A district shall ensure that each football helmet used in the district's football program that is 10 years old or older is reconditioned at least once every two years.

A district shall maintain and make available to parents of students enrolled in the district documentation indicating the age of each football helmet used in the district's football program and the dates on which each helmet is reconditioned.

Education Code 33.094(a)–(c)

Steroid Testing

The UIL shall adopt rules for the annual administration of a steroid testing program under which high school students participating in an athletic competition sponsored or sanctioned by the league are tested at multiple times throughout the year for the presence of steroids [see FNF].

Results of such steroid tests are confidential and, unless required by court order, may be disclosed only to the student and the student's parent and the activity directors, principal, and assistant principals of the school attended by the student.

Education Code 33.091(d)–(e)

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Cardiac Assessment

A district must provide a district student who is required under UIL rule or policy to receive a physical examination before being allowed to participate in an athletic activity sponsored or sanctioned by the UIL, information about sudden cardiac arrest and electrocardiogram testing and notification of the option of the student to request the administration of an electrocardiogram, in addition to the physical examination.

A student may request an electrocardiogram from any health-care professional, including a health-care professional provided through a district program, provided that the health-care professional is appropriately licensed in Texas and authorized to administer and interpret electrocardiograms under the health-care professional's scope of practice, as establish by the health-care professional's Texas licensing act.

Immunity

These provisions do not create a cause of action or liability or a standard of care, obligation, or duty that provides a basis for a cause of action or liability against a health-care professional described in the provision, the UIL, a district, or a district officer or employee for:

1. The injury or death of a student participating in or practicing for an athletic activity sponsored or sanctioned by the UIL based on or in connection with the administration or interpretation of or reliance on an electrocardiogram; or
2. The content or distribution of the information required under these provisions or the failure to distribute the required information.

Education Code 33.096

Rodeos

This section applies only to a primary or secondary school that sponsors, promotes, or otherwise is associated with a rodeo in which children who attend the school are likely to participate.

"Rodeo" means an exhibition or competition, without regard to whether the participants are compensated, involving activities related to cowboy skills, including:

1. Riding a horse, with or without a saddle, with the goal of remaining on the horse while it attempts to throw off the rider;
2. Riding a bull;
3. Roping an animal, including roping as part of a team;
4. Wrestling a steer; and

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5. Riding a horse in a pattern around preset barrels or other obstacles.

Educational Program

A primary or secondary school to which this section applies shall, before the first rodeo associated with the school in each school year, conduct a mandatory educational program on safety, including the proper use of protective gear, for children planning to participate in the rodeo, in accordance with 25 Administrative Code 104.4. The educational program may consist of an instructional video, subject to the Department of State Health Services approval.

Restriction on Participation

A child may not participate in a rodeo associated with the child's school during a school year unless the child has completed the educational program not more than one year before the first day of the rodeo.

Protective Gear for Bull Riding

A child may not engage in bull riding, including engaging in bull riding outside a rodeo for the purpose of practicing bull riding, unless the child is wearing a protective vest and bull riding helmet in accordance with 25 Administrative Code 104.3.

Health and Safety Code 768.001(6), .003; 25 TAC 104.2–.4

Eligibility

A student otherwise eligible to participate in an extracurricular activity or a UIL competition is not ineligible because the student is enrolled in a course offered for joint high school and college credit, or in a course offered under a concurrent enrollment program, regardless of the location at which the course is provided. *Education Code 33.087*

Military Dependents

The district shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified. *Education Code 162.002 art. VI, § B* [See FDD]

Suspension from Extracurricular Activities

A student shall be suspended from participation in any extracurricular activity sponsored or sanctioned by a district or the UIL after a grade evaluation period in which the student received a grade lower than the equivalent of 70 on a scale of 100 in any academic class other than a course described below at Exempt Courses.

Length of Suspension

A suspension continues for at least three school weeks and is not removed during the school year until the conditions of Reinstatement, described below, are met. A suspension shall not last beyond the end of a school year.

Grade Evaluation Period

"Grade evaluation period" means:

1. The six-week grade reporting period; or

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2. The first six weeks of a semester and each grade reporting period thereafter, in the case of a district with a grade reporting period longer than six weeks.

Education Code 33.081(c)

School Week

The school week is defined as beginning at 12:01 a.m. on the first instructional day of the calendar week and ending at the close of instruction on the last instructional day of the calendar week, excluding holidays. *19 TAC 76.1001(b)*

Exempt Courses

The suspension and reinstatement provisions of Education Code 33.081(c) and (d) do not apply to an advanced placement or international baccalaureate course, or to an honors or dual credit course in the subject areas of English language arts, mathematics, science, social studies, economics, or a language other than English. *Education Code 33.081(d-1)*

~~The following are~~ Honors classes for purposes of eligibility to participate in extracurricular activities~~:~~ are listed at 19 Administrative Code 74.30(a).

3. ~~All College Board Advanced Placement courses and International Baccalaureate courses in all disciplines;~~

4. ~~English language arts: high school/college concurrent enrollment classes that are included in the "Community College General Academic Course Guide Manual (Part One)";~~

5. ~~Languages other than English: high school/college concurrent enrollment classes that are included in the "Community College General Academic Course Guide Manual (Part One)" and languages other than English courses Levels IV–VII;~~

6. ~~Mathematics: high school/college concurrent enrollment classes that are included in the "Community College General Academic Course Guide Manual (Part One)" and precalculus;~~

7. ~~Science: high school/college concurrent enrollment classes that are included in the "Community College General Academic Course Guide Manual (Part One)"; and~~

8. ~~Social Studies: Social Studies Advanced Studies, Economics Advanced Studies, high school/college concurrent enrollment classes that are included in the "Community College General Academic Course Guide Manual (Part One).";~~

Districts may identify additional honors courses in the subject areas of English language arts, mathematics, science, social studies~~, economics~~, or a language other than English for the purposes of extracurricular eligibility but must identify such courses before the

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semester in which any exemptions related to extracurricular activities occur.

Districts are neither required to nor restricted from considering courses as honors for the purpose of grade point average calculation.

19 TAC 74.30

Students with Disabilities

In the case of a student with a disability that significantly interferes with the student's ability to meet regular academic standards, suspension must be based on the student's failure to meet the requirements of the student's individualized education program (IEP). The determination of whether the disability substantially interferes with the student's ability to meet the requirements of the student's IEP must be made by the admission, review, and dismissal (ARD) committee.

For the purposes of this provision, "student with a disability" means a student who is eligible for a district's special education program under Education Code 29.003(b).

Education Code 33.081(e)

Practice or Rehearsal

A student suspended under Education Code 33.081 may practice or rehearse with other students for an extracurricular activity but may not participate in a competition or other public performance. *Education Code 33.081(f)*

Reinstatement

Until the suspension is removed or the school year ends, a district shall review the grades of a student at the end of each three-week period following the date on which the suspension began. At the time of a review, the suspension is removed if the student's grade in each class, other than a course described above at Exempt Courses, is equal to or greater than the equivalent of 70 on a scale of 100. The principal and each of the student's teachers shall make the determination concerning the student's grades. *Education Code 33.081(d)*

Attendance and Participation

The State Board of Education (SBOE) by rule shall limit participation in and practice for extracurricular activities during the school day and the school week.

The board of a district may adopt a policy establishing the number of times a student who is otherwise eligible to participate in an extracurricular activity may be absent from class to participate in an extracurricular activity sponsored or sanctioned by the district, UIL, or an organization sanctioned by board resolution. The policy must permit a student to be absent from class at least ten times during

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the school year, and the policy prevails over any conflicting policy adopted by the SBOE.

Education Code 33.081(a), .0811

SBOE Rules

The following provisions apply to any UIL activity.

Other organizations requiring student participation that causes a student to miss a class may request sanction from a board. If sanctioned by resolution of the board, student participation in the organization's activities shall be subject to all provisions of statute and to 19 Administration Code 76.1001. If a board does not grant sanction, any absences incurred by a student while participating with that organization's activities shall be subject to the attendance provisions of the Education Code. *19 TAC 76.1001(f)* [See FEB]

Extracurricular Activities

An extracurricular activity is an activity sponsored by the UIL, a board, or an organization sanctioned by board resolution. The activity is not necessarily directly related to instruction of the essential knowledge and skills but may have an indirect relation to some areas of the curriculum.

Extracurricular activities include, but are not limited to, public performances, contests, demonstrations, displays, and club activities. In addition, an activity is subject to this policy if any one of the following criteria applies:

1. The activity is competitive;
2. The activity is held in conjunction with another activity that is considered extracurricular;
3. The activity is held off-campus, except in a case in which adequate facilities do not exist on campus;
4. The general public is invited; or
5. An admission is charged.

Exceptions

Public Performances

A student ineligible to participate in an extracurricular activity, but who is enrolled in a state-approved course that requires demonstration of the mastery of the essential knowledge and skills in a public performance, may participate in the performance if:

1. The general public is invited; and
2. The requirement for student participation in public is stated in the essential knowledge and skills of the course.

State-Approved Music Courses

A student ineligible to participate in an extracurricular activity, but who is enrolled in a state-approved music course that participates

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in UIL Concert and Sight-Reading Evaluation, may perform with the ensemble during the UIL evaluation performance.

19 TAC 76.1001(a)

Limits on Participation and Practice

Limitations on practice, rehearsal, and student participation during the school week shall be as follows:

During the School Week

1. For any given extracurricular activity, a student may not participate in more than one activity per school week, excluding holidays, except as provided in item 2, below.
2. A student may also participate in a tournament or post-district contest, as well as a contest postponed by weather or public disaster that may determine advancement to a post-district level of competition.
3. For each extracurricular activity, a district must limit students to a maximum of eight hours of practice and rehearsal outside the school day per school week.
4. The commissioner recommends that districts avoid scheduling extracurricular activities or public performances on the day or evening immediately preceding the day on which the statewide student assessment program is scheduled for grades 3–11.

19 TAC 76.1001(d); Education Code 33.081(a)

During the School Day

Limitations on practice and rehearsal during the school day shall be as follows:

1. A district must limit a student to one period of practice during the regularly scheduled school day for practice of extracurricular activities, such as athletics, drill team, or cheerleading.
2. The limit in item 1 does not prohibit a student from enrolling in any state-approved class. A student who is enrolled in a state-approved class that includes essential knowledge and skills that relate to the preparation for an extracurricular activity may practice that extracurricular activity for no more than one period during the school day.
3. A student may not be permitted to miss a scheduled academic class to practice for an unrelated extracurricular activity.
4. A district must limit extracurricular practice during the school day to ensure that class periods for extracurricular practice do not exceed the time allotted for other class periods.

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5. Regardless of the schedule type in place (traditional or non-traditional), a school may elect to practice extracurricular activities daily, provided the total minutes allowed for the extracurricular practice is not greater than 300 minutes during the school week.

19 TAC 76.1001(e); Education Code 33.081(a)

Record of Absences — A district shall maintain an accurate record of extracurricular absences for each student in the district each school year. *19 TAC 76.1001(c)*

Parental Notice and Consent — A parent is entitled to full information regarding the school activities of a parent's child except as provided by Education Code 38.004 (child abuse investigations). *Education Code 26.008(a)*

Anonymous Evaluations — Anonymous evaluations of a student that determine whether the student may participate in a school-related program do not provide full information about the student's school activities. A district may by policy establish the parameters for parental contact with evaluating teachers, taking into account the type of evaluation, the information elicited in the evaluation, and scheduling and workload requirements of the teachers. *Byard v. Clear Creek Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 020-R5-1001 (June 17, 2002)*

Videotaping and Recording — A district employee is not required to obtain the consent of a child's parent before the employee may videotape the child or record the child's voice if the videotape or recording is to be used only for a purpose related to a cocurricular or extracurricular activity. *Education Code 26.009(b)(2)*

Discriminatory Club — An extracurricular activity sponsored or sanctioned by a district, including an athletic event or an athletic team practice, may not take place at an athletic club located in the United States that denies any person full and equal enjoyment of equipment or facilities provided by the athletic club because of the person's race, color, religion, creed, national origin, or sex.

"Athletic club" means an entity that provides sports or exercise equipment or facilities to its customers or members or to the guests of its customers or members.

Education Code 33.082

Special Olympics Recognition — If a district allows high school students to earn a letter for academic, athletic, or extracurricular achievements, the district must allow high school students to earn a letter on the basis of a student's participation in a Special Olympics event. *Education Code 33.093*

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Student Election Clerks

Unless applied toward instructional requirements [see EIA], a student who is appointed as a student election clerk under Election Code 32.0511 or as a student early voting clerk under Election Code 83.012, may apply the time served toward a service requirement for participation in a school-sponsored extracurricular activity at the discretion of the school sponsor. *Education Code 33.092*

Before-School and After-School Programs

The board may establish before-school or after-school programs for students enrolled in elementary or middle school grades. A program established under this section may operate before, after, or before and after school hours.

A student is eligible to participate in the district's before-school or after-school program if the student is enrolled in a public or private school or resides within the boundaries of the district.

A district shall conduct a request for proposals procurement process to enable the district to determine if contracting with a child-care facility that provides a before-school or after-school program, as defined by Human Resources Code 42.002, to provide the district's before-school or after-school program would serve the district's best interests. Following the request for proposals procurement process, the district may enter into a contract with a child-care facility or implement a before-school or after-school program operated by the district. If the district enters into a contract with a child-care facility, the contract must comply with the requirements of Education Code 44.031 and may not exceed a term of three years.

The board may adopt rules in accordance with Education Code 11.165 [see BAA] to provide access to school campuses before or after school hours for the purpose of providing a before-school or after-school program.

Education Code 33.9031

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Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

BOSTOCK *v.* CLAYTON COUNTY, GEORGIA

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

No. 17–1618. Argued October 8, 2019—Decided June 15, 2020*

In each of these cases, an employer allegedly fired a long-time employee simply for being homosexual or transgender. Clayton County, Georgia, fired Gerald Bostock for conduct "unbecoming" a county employee shortly after he began participating in a gay recreational softball league. Altitude Express fired Donald Zarda days after he mentioned being gay. And R. G. & G. R. Harris Funeral Homes fired Aimee Stephens, who presented as a male when she was hired, after she informed her employer that she planned to "live and work full-time as a woman." Each employee sued, alleging sex discrimination under Title VII of the Civil Rights Act of 1964. The Eleventh Circuit held that Title VII does not prohibit employers from firing employees for being gay and so Mr. Bostock's suit could be dismissed as a matter of law. The Second and Sixth Circuits, however, allowed the claims of Mr. Zarda and Ms. Stephens, respectively, to proceed.

Held: An employer who fires an individual merely for being gay or transgender violates Title VII. Pp. 4–33.

(a) Title VII makes it "unlawful . . . for an employer to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual . . . because of such individual's race, color, religion, sex, or national origin." 42 U. S. C. §2000e–2(a)(1). The straightforward application of Title VII's terms interpreted in accord

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*Together with No. 17–1623, *Altitude Express, Inc., et al.* v. *Zarda et al., as Co-Independent Executors of the Estate of Zarda*, on certiorari to the United States Court of Appeals for the Second Circuit, and No. 18–107, *R. G. & G. R. Harris Funeral Homes, Inc.* v. *Equal Employment Opportunity Commission et al.*, on certiorari to the United States Court of Appeals for the Sixth Circuit.

Syllabus

with their ordinary public meaning at the time of their enactment resolves these cases. Pp. 4–12.

(1) The parties concede that the term "sex" in 1964 referred to the biological distinctions between male and female. And "the ordinary meaning of 'because of' is 'by reason of' or 'on account of,'" *University of Tex. Southwestern Medical Center* v. *Nassar,* 570 U. S. 338, 350. That term incorporates the but-for causation standard, *id.,* at 346, 360, which, for Title VII, means that a defendant cannot avoid liability just by citing some *other* factor that contributed to its challenged employment action. The term "discriminate" meant "[t]o make a difference in treatment or favor (of one as compared with others)." Webster's New International Dictionary 745. In so-called "disparate treatment" cases, this Court has held that the difference in treatment based on sex must be intentional. See, *e.g.*, *Watson* v. *Fort Worth Bank & Trust*, 487 U. S. 977, 986. And the statute's repeated use of the term "individual" means that the focus is on "[a] particular being as distinguished from a class." Webster's New International Dictionary, at 1267. Pp. 4–9.

(2) These terms generate the following rule: An employer violates Title VII when it intentionally fires an individual employee based in part on sex. It makes no difference if other factors besides the plaintiff's sex contributed to the decision or that the employer treated women as a group the same when compared to men as a group. A statutory violation occurs if an employer intentionally relies in part on an individual employee's sex when deciding to discharge the employee. Because discrimination on the basis of homosexuality or transgender status requires an employer to intentionally treat individual employees differently because of their sex, an employer who intentionally penalizes an employee for being homosexual or transgender also violates Title VII. There is no escaping the role intent plays: Just as sex is necessarily a but-for cause when an employer discriminates against homosexual or transgender employees, an employer who discriminates on these grounds inescapably intends to rely on sex in its decisionmaking. Pp. 9–12.

(b) Three leading precedents confirm what the statute's plain terms suggest. In *Phillips* v. *Martin Marietta Corp.,* 400 U. S. 542, a company was held to have violated Title VII by refusing to hire women with young children, despite the fact that the discrimination also depended on being a parent of young children and the fact that the company favored hiring women over men. In *Los Angeles Dept. of Water and Power* v. *Manhart,* 435 U. S. 702, an employer's policy of requiring women to make larger pension fund contributions than men because women tend to live longer was held to violate Title VII, notwithstanding the policy's evenhandedness between men and women as groups.

And in *Oncale* v. *Sundowner Offshore Services, Inc.,* 523 U. S. 75, a male plaintiff alleged a triable Title VII claim for sexual harassment by co-workers who were members of the same sex.

The lessons these cases hold are instructive here. First, it is irrelevant what an employer might call its discriminatory practice, how others might label it, or what else might motivate it. In *Manhart*, the employer might have called its rule a "life expectancy" adjustment, and in *Phillips*, the employer could have accurately spoken of its policy as one based on "motherhood." But such labels and additional intentions or motivations did not make a difference there, and they cannot make a difference here. When an employer fires an employee for being homosexual or transgender, it necessarily intentionally discriminates against that individual in part because of sex. Second, the plaintiff's sex need not be the sole or primary cause of the employer's adverse action. In *Phillips*, *Manhart*, and *Oncale*, the employer easily could have pointed to some other, nonprotected trait and insisted it was the more important factor in the adverse employment outcome. Here, too, it is of no significance if another factor, such as the plaintiff's attraction to the same sex or presentation as a different sex from the one assigned at birth, might also be at work, or even play a more important role in the employer's decision. Finally, an employer cannot escape liability by demonstrating that it treats males and females comparably as groups. *Manhart* is instructive here. An employer who intentionally fires an individual homosexual or transgender employee in part because of that individual's sex violates the law even if the employer is willing to subject all male and female homosexual or transgender employees to the same rule. Pp. 12–15.

(c) The employers do not dispute that they fired their employees for being homosexual or transgender. Rather, they contend that even intentional discrimination against employees based on their homosexual or transgender status is not a basis for Title VII liability. But their statutory text arguments have already been rejected by this Court's precedents. And none of their other contentions about what they think the law was meant to do, or should do, allow for ignoring the law as it is. Pp. 15–33.

(1) The employers assert that it should make a difference that plaintiffs would likely respond in conversation that they were fired for being gay or transgender and not because of sex. But conversational conventions do not control Title VII's legal analysis, which asks simply whether sex is a but-for cause. Nor is it a defense to insist that intentional discrimination based on homosexuality or transgender status is not intentional discrimination based on sex. An employer who discriminates against homosexual or transgender employees necessarily and intentionally applies sex-based rules. Nor does it make a difference

Syllabus

that an employer could refuse to hire a gay or transgender individual without learning that person's sex. By intentionally setting out a rule that makes hiring turn on sex, the employer violates the law, whatever he might know or not know about individual applicants. The employers also stress that homosexuality and transgender status are distinct concepts from sex, and that if Congress wanted to address these matters in Title VII, it would have referenced them specifically. But when Congress chooses not to include any exceptions to a broad rule, this Court applies the broad rule. Finally, the employers suggest that because the policies at issue have the same adverse consequences for men and women, a stricter causation test should apply. That argument unavoidably comes down to a suggestion that sex must be the sole or primary cause of an adverse employment action under Title VII, a suggestion at odds with the statute. Pp. 16–23.

(2) The employers contend that few in 1964 would have expected Title VII to apply to discrimination against homosexual and transgender persons. But legislative history has no bearing here, where no ambiguity exists about how Title VII's terms apply to the facts. See *Milner* v. *Department of Navy,* 562 U. S. 562, 574. While it is possible that a statutory term that means one thing today or in one context might have meant something else at the time of its adoption or might mean something different in another context, the employers do not seek to use historical sources to illustrate that the meaning of any of Title VII's language has changed since 1964 or that the statute's terms ordinarily carried some missed message. Instead, they seem to say when a new application is both unexpected and important, even if it is clearly commanded by existing law, the Court should merely point out the question, refer the subject back to Congress, and decline to enforce the law's plain terms in the meantime. This Court has long rejected that sort of reasoning. And the employers' new framing may only add new problems and leave the Court with more than a little law to overturn. Finally, the employers turn to naked policy appeals, suggesting that the Court proceed without the law's guidance to do what it thinks best. That is an invitation that no court should ever take up. Pp. 23–33.

No. 17–1618, 723 Fed. Appx. 964, reversed and remanded; No. 17–1623, 883 F. 3d 100, and No. 18–107, 884 F. 3d 560, affirmed.

GORSUCH, J., delivered the opinion of the Court, in which ROBERTS, C. J., and GINSBURG, BREYER, SOTOMAYOR, and KAGAN, JJ., joined. ALITO, J., filed a dissenting opinion, in which THOMAS, J., joined. KAVANAUGH, J., filed a dissenting opinion.

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

Nos. 17–1618, 17–1623 and 18–107

GERALD LYNN BOSTOCK, PETITIONER
17–1618 *v.*
CLAYTON COUNTY, GEORGIA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

ALTITUDE EXPRESS, INC., ET AL., PETITIONERS
17–1623 *v.*
MELISSA ZARDA AND WILLIAM ALLEN MOORE, JR., CO-INDEPENDENT EXECUTORS OF THE ESTATE OF DONALD ZARDA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

R.G. & G.R. HARRIS FUNERAL HOMES, INC., PETITIONER
18–107 *v.*
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

[June 15, 2020]

JUSTICE GORSUCH delivered the opinion of the Court.

Sometimes small gestures can have unexpected consequences. Major initiatives practically guarantee them. In our time, few pieces of federal legislation rank in significance with the Civil Rights Act of 1964. There, in Title VII, Congress outlawed discrimination in the workplace on the basis of race, color, religion, sex, or national origin. Today, we must decide whether an employer can fire someone simply for being homosexual or transgender. The answer is clear. An employer who fires an individual for being homosexual or transgender fires that person for traits or actions it would not have questioned in members of a different sex. Sex plays a necessary and undisguisable role in the decision, exactly what Title VII forbids.

Those who adopted the Civil Rights Act might not have anticipated their work would lead to this particular result. Likely, they weren't thinking about many of the Act's consequences that have become apparent over the years, including its prohibition against discrimination on the basis of motherhood or its ban on the sexual harassment of male employees. But the limits of the drafters' imagination supply no reason to ignore the law's demands. When the express terms of a statute give us one answer and extratextual considerations suggest another, it's no contest. Only the written word is the law, and all persons are entitled to its benefit.

I

Few facts are needed to appreciate the legal question we face. Each of the three cases before us started the same way: An employer fired a long-time employee shortly after the employee revealed that he or she is homosexual or transgender—and allegedly for no reason other than the employee's homosexuality or transgender status.

Gerald Bostock worked for Clayton County, Georgia, as a child welfare advocate. Under his leadership, the county won national awards for its work. After a decade with the

county, Mr. Bostock began participating in a gay recreational softball league. Not long after that, influential members of the community allegedly made disparaging comments about Mr. Bostock's sexual orientation and participation in the league. Soon, he was fired for conduct "unbecoming" a county employee.

Donald Zarda worked as a skydiving instructor at Altitude Express in New York. After several seasons with the company, Mr. Zarda mentioned that he was gay and, days later, was fired.

Aimee Stephens worked at R. G. & G. R. Harris Funeral Homes in Garden City, Michigan. When she got the job, Ms. Stephens presented as a male. But two years into her service with the company, she began treatment for despair and loneliness. Ultimately, clinicians diagnosed her with gender dysphoria and recommended that she begin living as a woman. In her sixth year with the company, Ms. Stephens wrote a letter to her employer explaining that she planned to "live and work full-time as a woman" after she returned from an upcoming vacation. The funeral home fired her before she left, telling her "this is not going to work out."

While these cases began the same way, they ended differently. Each employee brought suit under Title VII alleging unlawful discrimination on the basis of sex. 78 Stat. 255, 42 U. S. C. §2000e–2(a)(1). In Mr. Bostock's case, the Eleventh Circuit held that the law does not prohibit employers from firing employees for being gay and so his suit could be dismissed as a matter of law. 723 Fed. Appx. 964 (2018). Meanwhile, in Mr. Zarda's case, the Second Circuit concluded that sexual orientation discrimination does violate Title VII and allowed his case to proceed. 883 F. 3d 100 (2018). Ms. Stephens's case has a more complex procedural history, but in the end the Sixth Circuit reached a decision along the same lines as the Second Circuit's, holding that Title VII bars employers from firing employees because of

their transgender status. 884 F. 3d 560 (2018). During the course of the proceedings in these long-running disputes, both Mr. Zarda and Ms. Stephens have passed away. But their estates continue to press their causes for the benefit of their heirs. And we granted certiorari in these matters to resolve at last the disagreement among the courts of appeals over the scope of Title VII's protections for homosexual and transgender persons. 587 U. S. ___ (2019).

II

This Court normally interprets a statute in accord with the ordinary public meaning of its terms at the time of its enactment. After all, only the words on the page constitute the law adopted by Congress and approved by the President. If judges could add to, remodel, update, or detract from old statutory terms inspired only by extratextual sources and our own imaginations, we would risk amending statutes outside the legislative process reserved for the people's representatives. And we would deny the people the right to continue relying on the original meaning of the law they have counted on to settle their rights and obligations. See *New Prime Inc.* v. *Oliveira*, 586 U. S. ___, ___–___ (2019) (slip op., at 6–7).

With this in mind, our task is clear. We must determine the ordinary public meaning of Title VII's command that it is "unlawful . . . for an employer to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin." §2000e–2(a)(1). To do so, we orient ourselves to the time of the statute's adoption, here 1964, and begin by examining the key statutory terms in turn before assessing their impact on the cases at hand and then confirming our work against this Court's precedents.

A

The only statutorily protected characteristic at issue in today's cases is "sex"—and that is also the primary term in Title VII whose meaning the parties dispute. Appealing to roughly contemporaneous dictionaries, the employers say that, as used here, the term "sex" in 1964 referred to "status as either male or female [as] determined by reproductive biology." The employees counter by submitting that, even in 1964, the term bore a broader scope, capturing more than anatomy and reaching at least some norms concerning gender identity and sexual orientation. But because nothing in our approach to these cases turns on the outcome of the parties' debate, and because the employees concede the point for argument's sake, we proceed on the assumption that "sex" signified what the employers suggest, referring only to biological distinctions between male and female.

Still, that's just a starting point. The question isn't just what "sex" meant, but what Title VII says about it. Most notably, the statute prohibits employers from taking certain actions "because of" sex. And, as this Court has previously explained, "the ordinary meaning of 'because of' is 'by reason of' or 'on account of.'" *University of Tex. Southwestern Medical Center* v. *Nassar*, 570 U. S. 338, 350 (2013) (citing *Gross* v. *FBL Financial Services, Inc.*, 557 U. S. 167, 176 (2009); quotation altered). In the language of law, this means that Title VII's "because of" test incorporates the "'simple'" and "traditional" standard of but-for causation. *Nassar*, 570 U. S., at 346, 360. That form of causation is established whenever a particular outcome would not have happened "but for" the purported cause. See *Gross*, 557 U. S., at 176. In other words, a but-for test directs us to change one thing at a time and see if the outcome changes. If it does, we have found a but-for cause.

This can be a sweeping standard. Often, events have multiple but-for causes. So, for example, if a car accident

occurred *both* because the defendant ran a red light *and* because the plaintiff failed to signal his turn at the intersection, we might call each a but-for cause of the collision. Cf. *Burrage* v. *United States*, 571 U. S. 204, 211–212 (2014). When it comes to Title VII, the adoption of the traditional but-for causation standard means a defendant cannot avoid liability just by citing some *other* factor that contributed to its challenged employment decision. So long as the plaintiff's sex was one but-for cause of that decision, that is enough to trigger the law. See *ibid.*; *Nassar*, 570 U. S., at 350.

No doubt, Congress could have taken a more parsimonious approach. As it has in other statutes, it could have added "solely" to indicate that actions taken "because of" the confluence of multiple factors do not violate the law. Cf. 11 U. S. C. §525; 16 U. S. C. §511. Or it could have written "primarily because of" to indicate that the prohibited factor had to be the main cause of the defendant's challenged employment decision. Cf. 22 U. S. C. §2688. But none of this is the law we have. If anything, Congress has moved in the opposite direction, supplementing Title VII in 1991 to allow a plaintiff to prevail merely by showing that a protected trait like sex was a "motivating factor" in a defendant's challenged employment practice. Civil Rights Act of 1991, §107, 105 Stat. 1075, codified at 42 U. S. C. §2000e–2(m). Under this more forgiving standard, liability can sometimes follow even if sex *wasn't* a but-for cause of the employer's challenged decision. Still, because nothing in our analysis depends on the motivating factor test, we focus on the more traditional but-for causation standard that continues to afford a viable, if no longer exclusive, path to relief under Title VII. §2000e–2(a)(1).

As sweeping as even the but-for causation standard can be, Title VII does not concern itself with everything that happens "because of" sex. The statute imposes liability on

employers only when they "fail or refuse to hire," "discharge," "or otherwise . . . discriminate against" someone because of a statutorily protected characteristic like sex. *Ibid.* The employers acknowledge that they discharged the plaintiffs in today's cases, but assert that the statute's list of verbs is qualified by the last item on it: "otherwise . . . discriminate against." By virtue of the word *otherwise*, the employers suggest, Title VII concerns itself not with every discharge, only with those discharges that involve discrimination.

Accepting this point, too, for argument's sake, the question becomes: What did "discriminate" mean in 1964? As it turns out, it meant then roughly what it means today: "To make a difference in treatment or favor (of one as compared with others)." Webster's New International Dictionary 745 (2d ed. 1954). To "discriminate against" a person, then, would seem to mean treating that individual worse than others who are similarly situated. See *Burlington N. & S. F. R. Co.* v. *White*, 548 U. S. 53, 59 (2006). In so-called "disparate treatment" cases like today's, this Court has also held that the difference in treatment based on sex must be intentional. See, *e.g., Watson* v. *Fort Worth Bank & Trust*, 487 U. S. 977, 986 (1988). So, taken together, an employer who intentionally treats a person worse because of sex—such as by firing the person for actions or attributes it would tolerate in an individual of another sex—discriminates against that person in violation of Title VII.

At first glance, another interpretation might seem possible. Discrimination sometimes involves "the act, practice, or an instance of discriminating categorically rather than individually." Webster's New Collegiate Dictionary 326 (1975); see also *post,* at 27–28, n. 22 (ALITO, J., dissenting). On that understanding, the statute would require us to consider the employer's treatment of groups rather than individuals, to see how a policy affects one sex as a whole versus the other as a whole. That idea holds some intuitive appeal

too. Maybe the law concerns itself simply with ensuring that employers don't treat women generally less favorably than they do men. So how can we tell which sense, individual or group, "discriminate" carries in Title VII?

The statute answers that question directly. It tells us three times—including immediately after the words "discriminate against"—that our focus should be on individuals, not groups: Employers may not "fail or refuse to hire or . . . discharge any *individual*, or otherwise . . . discriminate against any *individual* with respect to his compensation, terms, conditions, or privileges of employment, because of such *individual's* . . . sex." §2000e–2(a)(1) (emphasis added). And the meaning of "individual" was as uncontroversial in 1964 as it is today: "A particular being as distinguished from a class, species, or collection." Webster's New International Dictionary, at 1267. Here, again, Congress could have written the law differently. It might have said that "it shall be an unlawful employment practice to prefer one sex to the other in hiring, firing, or the terms or conditions of employment." It might have said that there should be no "sex discrimination," perhaps implying a focus on differential treatment between the two sexes as groups. More narrowly still, it could have forbidden only "sexist policies" against women as a class. But, once again, that is not the law we have.

The consequences of the law's focus on individuals rather than groups are anything but academic. Suppose an employer fires a woman for refusing his sexual advances. It's no defense for the employer to note that, while he treated that individual woman worse than he would have treated a man, he gives preferential treatment to female employees overall. The employer is liable for treating *this* woman worse in part because of her sex. Nor is it a defense for an employer to say it discriminates against both men and women because of sex. This statute works to protect individuals of both sexes from discrimination, and does so

equally. So an employer who fires a woman, Hannah, because she is insufficiently feminine and also fires a man, Bob, for being insufficiently masculine may treat men and women as groups more or less equally. But in *both* cases the employer fires an individual in part because of sex. Instead of avoiding Title VII exposure, this employer doubles it.

B

From the ordinary public meaning of the statute's language at the time of the law's adoption, a straightforward rule emerges: An employer violates Title VII when it intentionally fires an individual employee based in part on sex. It doesn't matter if other factors besides the plaintiff's sex contributed to the decision. And it doesn't matter if the employer treated women as a group the same when compared to men as a group. If the employer intentionally relies in part on an individual employee's sex when deciding to discharge the employee—put differently, if changing the employee's sex would have yielded a different choice by the employer—a statutory violation has occurred. Title VII's message is "simple but momentous": An individual employee's sex is "not relevant to the selection, evaluation, or compensation of employees." *Price Waterhouse* v. *Hopkins*, 490 U. S. 228, 239 (1989) (plurality opinion).

The statute's message for our cases is equally simple and momentous: An individual's homosexuality or transgender status is not relevant to employment decisions. That's because it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex. Consider, for example, an employer with two employees, both of whom are attracted to men. The two individuals are, to the employer's mind, materially identical in all respects, except that one is a man and the other a woman. If the employer fires the

male employee for no reason other than the fact he is attracted to men, the employer discriminates against him for traits or actions it tolerates in his female colleague. Put differently, the employer intentionally singles out an employee to fire based in part on the employee's sex, and the affected employee's sex is a but-for cause of his discharge. Or take an employer who fires a transgender person who was identified as a male at birth but who now identifies as a female. If the employer retains an otherwise identical employee who was identified as female at birth, the employer intentionally penalizes a person identified as male at birth for traits or actions that it tolerates in an employee identified as female at birth. Again, the individual employee's sex plays an unmistakable and impermissible role in the discharge decision.

That distinguishes these cases from countless others where Title VII has nothing to say. Take an employer who fires a female employee for tardiness or incompetence or simply supporting the wrong sports team. Assuming the employer would not have tolerated the same trait in a man, Title VII stands silent. But unlike any of these other traits or actions, homosexuality and transgender status are inextricably bound up with sex. Not because homosexuality or transgender status are related to sex in some vague sense or because discrimination on these bases has some disparate impact on one sex or another, but because to discriminate on these grounds requires an employer to intentionally treat individual employees differently because of their sex.

Nor does it matter that, when an employer treats one employee worse because of that individual's sex, other factors may contribute to the decision. Consider an employer with a policy of firing any woman he discovers to be a Yankees fan. Carrying out that rule because an employee is a woman *and* a fan of the Yankees is a firing "because of sex" if the employer would have tolerated the same allegiance in a male employee. Likewise here.

When an employer fires an employee because she is homosexual or transgender, two causal factors may be in play—*both* the individual's sex *and* something else (the sex to which the individual is attracted or with which the individual identifies). But Title VII doesn't care. If an employer would not have discharged an employee but for that individual's sex, the statute's causation standard is met, and liability may attach.

Reframing the additional causes in today's cases as additional intentions can do no more to insulate the employers from liability. Intentionally burning down a neighbor's house is arson, even if the perpetrator's ultimate intention (or motivation) is only to improve the view. No less, intentional discrimination based on sex violates Title VII, even if it is intended only as a means to achieving the employer's ultimate goal of discriminating against homosexual or transgender employees. There is simply no escaping the role intent plays here: Just as sex is necessarily a but-for *cause* when an employer discriminates against homosexual or transgender employees, an employer who discriminates on these grounds inescapably *intends* to rely on sex in its decisionmaking. Imagine an employer who has a policy of firing any employee known to be homosexual. The employer hosts an office holiday party and invites employees to bring their spouses. A model employee arrives and introduces a manager to Susan, the employee's wife. Will that employee be fired? If the policy works as the employer intends, the answer depends entirely on whether the model employee is a man or a woman. To be sure, that employer's ultimate goal might be to discriminate on the basis of sexual orientation. But to achieve that purpose the employer must, along the way, intentionally treat an employee worse based in part on that individual's sex.

An employer musters no better a defense by responding that it is equally happy to fire male *and* female employees who are homosexual or transgender. Title VII liability is

not limited to employers who, through the sum of all of their employment actions, treat the class of men differently than the class of women. Instead, the law makes each instance of discriminating against an individual employee because of that individual's sex an independent violation of Title VII. So just as an employer who fires both Hannah and Bob for failing to fulfill traditional sex stereotypes doubles rather than eliminates Title VII liability, an employer who fires both Hannah and Bob for being gay or transgender does the same.

At bottom, these cases involve no more than the straightforward application of legal terms with plain and settled meanings. For an employer to discriminate against employees for being homosexual or transgender, the employer must intentionally discriminate against individual men and women in part because of sex. That has always been prohibited by Title VII's plain terms—and that "should be the end of the analysis." 883 F. 3d, at 135 (Cabranes, J., concurring in judgment).

C

If more support for our conclusion were required, there's no need to look far. All that the statute's plain terms suggest, this Court's cases have already confirmed. Consider three of our leading precedents.

In *Phillips* v. *Martin Marietta Corp.*, 400 U. S. 542 (1971) (*per curiam*), a company allegedly refused to hire women with young children, but did hire men with children the same age. Because its discrimination depended not only on the employee's sex as a female but also on the presence of another criterion—namely, being a parent of young children—the company contended it hadn't engaged in discrimination "because of" sex. The company maintained, too, that it hadn't violated the law because, as a whole, it tended to favor hiring women over men. Unsurprisingly by now,

these submissions did not sway the Court. That an employer discriminates intentionally against an individual only in part because of sex supplies no defense to Title VII. Nor does the fact an employer may happen to favor women as a class.

In *Los Angeles Dept. of Water and Power* v. *Manhart*, 435 U. S. 702 (1978), an employer required women to make larger pension fund contributions than men. The employer sought to justify its disparate treatment on the ground that women tend to live longer than men, and thus are likely to receive more from the pension fund over time. By everyone's admission, the employer was not guilty of animosity against women or a "purely habitual assumptio[n] about a woman's inability to perform certain kinds of work"; instead, it relied on what appeared to be a statistically accurate statement about life expectancy. *Id.*, at 707–708. Even so, the Court recognized, a rule that appears evenhanded at the group level can prove discriminatory at the level of individuals. True, women as a class may live longer than men as a class. But "[t]he statute's focus on the individual is unambiguous," and any individual woman might make the larger pension contributions and still die as early as a man. *Id.*, at 708. Likewise, the Court dismissed as irrelevant the employer's insistence that its actions were motivated by a wish to achieve classwide equality between the sexes: An employer's intentional discrimination on the basis of sex is no more permissible when it is prompted by some further intention (or motivation), even one as prosaic as seeking to account for actuarial tables. *Ibid.* The employer violated Title VII because, when its policy worked exactly as planned, it could not "pass the simple test" asking whether an individual female employee would have been treated the same regardless of her sex. *Id.*, at 711.

In *Oncale* v. *Sundowner Offshore Services, Inc.*, 523 U. S. 75 (1998), a male plaintiff alleged that he was singled out by his male co-workers for sexual harassment. The Court

held it was immaterial that members of the same sex as the victim committed the alleged discrimination. Nor did the Court concern itself with whether men as a group were subject to discrimination or whether something in addition to sex contributed to the discrimination, like the plaintiff's conduct or personal attributes. "[A]ssuredly," the case didn't involve "the principal evil Congress was concerned with when it enacted Title VII." *Id.*, at 79. But, the Court unanimously explained, it is "the provisions of our laws rather than the principal concerns of our legislators by which we are governed." *Ibid.* Because the plaintiff alleged that the harassment would not have taken place but for his sex—that is, the plaintiff would not have suffered similar treatment if he were female—a triable Title VII claim existed.

The lessons these cases hold for ours are by now familiar.

First, it's irrelevant what an employer might call its discriminatory practice, how others might label it, or what else might motivate it. In *Manhart*, the employer called its rule requiring women to pay more into the pension fund a "life expectancy" adjustment necessary to achieve sex equality. In *Phillips*, the employer could have accurately spoken of its policy as one based on "motherhood." In much the same way, today's employers might describe their actions as motivated by their employees' homosexuality or transgender status. But just as labels and additional intentions or motivations didn't make a difference in *Manhart* or *Phillips*, they cannot make a difference here. When an employer fires an employee for being homosexual or transgender, it necessarily and intentionally discriminates against that individual in part because of sex. And that is all Title VII has ever demanded to establish liability.

Second, the plaintiff's sex need not be the sole or primary cause of the employer's adverse action. In *Phillips*, *Manhart*, and *Oncale*, the defendant easily could have pointed to some other, nonprotected trait and insisted it was the

more important factor in the adverse employment outcome. So, too, it has no significance here if another factor—such as the sex the plaintiff is attracted to or presents as—might also be at work, or even play a more important role in the employer's decision.

Finally, an employer cannot escape liability by demonstrating that it treats males and females comparably as groups. As *Manhart* teaches, an employer is liable for intentionally requiring an individual female employee to pay more into a pension plan than a male counterpart even if the scheme promotes equality at the group level. Likewise, an employer who intentionally fires an individual homosexual or transgender employee in part because of that individual's sex violates the law even if the employer is willing to subject all male and female homosexual or transgender employees to the same rule.

III

What do the employers have to say in reply? For present purposes, they do not dispute that they fired the plaintiffs for being homosexual or transgender. Sorting out the true reasons for an adverse employment decision is often a hard business, but none of that is at issue here. Rather, the employers submit that even intentional discrimination against employees based on their homosexuality or transgender status supplies no basis for liability under Title VII.

The employers' argument proceeds in two stages. Seeking footing in the statutory text, they begin by advancing a number of reasons why discrimination on the basis of homosexuality or transgender status doesn't involve discrimination because of sex. But each of these arguments turns out only to repackage errors we've already seen and this Court's precedents have already rejected. In the end, the employers are left to retreat beyond the statute's text, where they fault us for ignoring the legislature's purposes

in enacting Title VII or certain expectations about its operation. They warn, too, about consequences that might follow a ruling for the employees. But none of these contentions about what the employers think the law was meant to do, or should do, allow us to ignore the law as it is.

A

Maybe most intuitively, the employers assert that discrimination on the basis of homosexuality and transgender status aren't referred to as sex discrimination in ordinary conversation. If asked by a friend (rather than a judge) why they were fired, even today's plaintiffs would likely respond that it was because they were gay or transgender, not because of sex. According to the employers, that conversational answer, not the statute's strict terms, should guide our thinking and suffice to defeat any suggestion that the employees now before us were fired because of sex. Cf. *post,* at 3 (ALITO, J., dissenting); *post,* at 8–13 (KAVANAUGH, J., dissenting).

But this submission rests on a mistaken understanding of what kind of cause the law is looking for in a Title VII case. In conversation, a speaker is likely to focus on what seems most relevant or informative to the listener. So an employee who has just been fired is likely to identify the primary or most direct cause rather than list literally every but-for cause. To do otherwise would be tiring at best. But these conversational conventions do not control Title VII's legal analysis, which asks simply whether sex was a but-for cause. In *Phillips*, for example, a woman who was not hired under the employer's policy might have told her friends that her application was rejected because she was a mother, or because she had young children. Given that many women could be hired under the policy, it's unlikely she would say she was not hired because she was a woman. But the Court did not hesitate to recognize that the employer in *Phillips* discriminated against the plaintiff because of her sex. Sex

wasn't the only factor, or maybe even the main factor, but it was one but-for cause—and that was enough. You can call the statute's but-for causation test what you will—expansive, legalistic, the dissents even dismiss it as wooden or literal. But it is the law.

Trying another angle, the defendants before us suggest that an employer who discriminates based on homosexuality or transgender status doesn't *intentionally* discriminate based on sex, as a disparate treatment claim requires. See *post*, at 9–12 (ALITO, J., dissenting); *post*, at 12–13 (KAVANAUGH, J., dissenting). But, as we've seen, an employer who discriminates against homosexual or transgender employees necessarily and intentionally applies sex-based rules. An employer that announces it will not employ anyone who is homosexual, for example, intends to penalize male employees for being attracted to men and female employees for being attracted to women.

What, then, do the employers mean when they insist intentional discrimination based on homosexuality or transgender status isn't intentional discrimination based on sex? Maybe the employers mean they don't intend to harm one sex or the other as a class. But as should be clear by now, the statute focuses on discrimination against individuals, not groups. Alternatively, the employers may mean that they don't perceive themselves as motivated by a desire to discriminate based on sex. But nothing in Title VII turns on the employer's labels or any further intentions (or motivations) for its conduct beyond sex discrimination. In *Manhart*, the employer intentionally required women to make higher pension contributions only to fulfill the further purpose of making things more equitable between men and women as groups. In *Phillips*, the employer may have perceived itself as discriminating based on motherhood, not sex, given that its hiring policies as a whole *favored* women. But in both cases, the Court set all this aside as irrelevant. The employers' policies involved intentional discrimination

because of sex, and Title VII liability necessarily followed.

Aren't these cases different, the employers ask, given that an employer could refuse to hire a gay or transgender individual without ever learning the applicant's sex? Suppose an employer asked homosexual or transgender applicants to tick a box on its application form. The employer then had someone else redact any information that could be used to discern sex. The resulting applications would disclose which individuals are homosexual or transgender without revealing whether they also happen to be men or women. Doesn't that possibility indicate that the employer's discrimination against homosexual or transgender persons cannot be sex discrimination?

No, it doesn't. Even in this example, the individual applicant's sex still weighs as a factor in the employer's decision. Change the hypothetical ever so slightly and its flaws become apparent. Suppose an employer's application form offered a single box to check if the applicant is either black or Catholic. If the employer refuses to hire anyone who checks that box, would we conclude the employer has complied with Title VII, so long as it studiously avoids learning any particular applicant's race or religion? Of course not: By intentionally setting out a rule that makes hiring turn on race or religion, the employer violates the law, whatever he might know or not know about individual applicants.

The same holds here. There is no way for an applicant to decide whether to check the homosexual or transgender box without considering sex. To see why, imagine an applicant doesn't know what the words homosexual or transgender mean. Then try writing out instructions for who should check the box without using the words man, woman, or sex (or some synonym). It can't be done. Likewise, there is no way an employer can discriminate against those who check the homosexual or transgender box without discriminating in part because of an applicant's sex. By discriminating against homosexuals, the employer intentionally penalizes

men for being attracted to men and women for being attracted to women. By discriminating against transgender persons, the employer unavoidably discriminates against persons with one sex identified at birth and another today. Any way you slice it, the employer intentionally refuses to hire applicants in part because of the affected individuals' sex, even if it never learns any applicant's sex.

Next, the employers turn to Title VII's list of protected characteristics—race, color, religion, sex, and national origin. Because homosexuality and transgender status can't be found on that list and because they are conceptually distinct from sex, the employers reason, they are implicitly excluded from Title VII's reach. Put another way, if Congress had wanted to address these matters in Title VII, it would have referenced them specifically. Cf. *post,* at 7–8 (ALITO, J., dissenting); *post,* at 13–15 (KAVANAUGH, J., dissenting).

But that much does not follow. We agree that homosexuality and transgender status are distinct concepts from sex. But, as we've seen, discrimination based on homosexuality or transgender status necessarily entails discrimination based on sex; the first cannot happen without the second. Nor is there any such thing as a "canon of donut holes," in which Congress's failure to speak directly to a specific case that falls within a more general statutory rule creates a tacit exception. Instead, when Congress chooses not to include any exceptions to a broad rule, courts apply the broad rule. And that is exactly how this Court has always approached Title VII. "Sexual harassment" is conceptually distinct from sex discrimination, but it can fall within Title VII's sweep. *Oncale*, 523 U. S., at 79–80. Same with "motherhood discrimination." See *Phillips*, 400 U. S., at 544. Would the employers have us reverse those cases on the theory that Congress could have spoken to those problems more specifically? Of course not. As enacted, Title VII prohibits all forms of discrimination because of sex, however

they may manifest themselves or whatever other labels might attach to them.

The employers try the same point another way. Since 1964, they observe, Congress has considered several proposals to add sexual orientation to Title VII's list of protected characteristics, but no such amendment has become law. Meanwhile, Congress has enacted other statutes addressing other topics that do discuss sexual orientation. This postenactment legislative history, they urge, should tell us something. Cf. *post*, at 2, 42–43 (ALITO, J., dissenting); *post*, at 4, 15–16 (KAVANAUGH, J., dissenting).

But what? There's no authoritative evidence explaining why later Congresses adopted other laws referencing sexual orientation but didn't amend this one. Maybe some in the later legislatures understood the impact Title VII's broad language already promised for cases like ours and didn't think a revision needed. Maybe others knew about its impact but hoped no one else would notice. Maybe still others, occupied by other concerns, didn't consider the issue at all. All we can know for certain is that speculation about why a later Congress declined to adopt new legislation offers a "particularly dangerous" basis on which to rest an interpretation of an existing law a different and earlier Congress did adopt. *Pension Benefit Guaranty Corporation* v. *LTV Corp.*, 496 U. S. 633, 650 (1990); see also *United States* v. *Wells*, 519 U. S. 482, 496 (1997); *Sullivan* v. *Finkelstein*, 496 U. S. 617, 632 (1990) (Scalia, J., concurring) ("Arguments based on subsequent legislative history . . . should not be taken seriously, not even in a footnote").

That leaves the employers to seek a different sort of exception. Maybe the traditional and simple but-for causation test should apply in all other Title VII cases, but it just doesn't work when it comes to cases involving homosexual and transgender employees. The test is too blunt to capture the nuances here. The employers illustrate their concern with an example. When we apply the simple test to Mr.

Bostock—asking whether Mr. Bostock, a man attracted to other men, would have been fired had he been a woman—we don't just change his sex. Along the way, we change his sexual orientation too (from homosexual to heterosexual). If the aim is to isolate whether a plaintiff's sex caused the dismissal, the employers stress, we must hold sexual orientation constant—meaning we need to change both his sex and the sex to which he is attracted. So for Mr. Bostock, the question should be whether he would've been fired if he were a woman attracted to women. And because his employer would have been as quick to fire a lesbian as it was a gay man, the employers conclude, no Title VII violation has occurred.

While the explanation is new, the mistakes are the same. The employers might be onto something if Title VII only ensured equal treatment between groups of men and women or if the statute applied only when sex is the sole or primary reason for an employer's challenged adverse employment action. But both of these premises are mistaken. Title VII's plain terms and our precedents don't care if an employer treats men and women comparably as groups; an employer who fires both lesbians and gay men equally doesn't diminish but doubles its liability. Just cast a glance back to *Manhart*, where it was no defense that the employer sought to equalize pension contributions based on life expectancy. Nor does the statute care if other factors besides sex contribute to an employer's discharge decision. Mr. Bostock's employer might have decided to fire him only because of the confluence of two factors, his sex and the sex to which he is attracted. But exactly the same might have been said in *Phillips*, where motherhood was the added variable.

Still, the employers insist, something seems different here. Unlike certain other employment policies this Court has addressed that harmed only women or only men, the employers' policies in the cases before us have the same adverse consequences for men and women. How could sex be

necessary to the result if a member of the opposite sex might face the same outcome from the same policy?

What the employers see as unique isn't even unusual. Often in life and law two but-for factors combine to yield a result that could have also occurred in some other way. Imagine that it's a nice day outside and your house is too warm, so you decide to open the window. Both the cool temperature outside and the heat inside are but-for causes of your choice to open the window. That doesn't change just because you also would have opened the window had it been warm outside and cold inside. In either case, no one would deny that the window is open "because of" the outside temperature. Our cases are much the same. So, for example, when it comes to homosexual employees, male sex and attraction to men are but-for factors that can combine to get them fired. The fact that female sex and attraction to women can *also* get an employee fired does no more than show the same outcome can be achieved through the combination of different factors. In either case, though, sex plays an essential but-for role.

At bottom, the employers' argument unavoidably comes down to a suggestion that sex must be the sole or primary cause of an adverse employment action for Title VII liability to follow. And, as we've seen, that suggestion is at odds with everything we know about the statute. Consider an employer eager to revive the workplace gender roles of the 1950s. He enforces a policy that he will hire only men as mechanics and only women as secretaries. When a qualified woman applies for a mechanic position and is denied, the "simple test" immediately spots the discrimination: A qualified man would have been given the job, so sex was a but-for cause of the employer's refusal to hire. But like the employers before us today, this employer would say not so fast. By comparing the woman who applied to be a mechanic to a man who applied to be a mechanic, we've quietly

changed two things: the applicant's sex and her trait of failing to conform to 1950s gender roles. The "simple test" thus overlooks that it is really the applicant's bucking of 1950s gender roles, not her sex, doing the work. So we need to hold that second trait constant: Instead of comparing the disappointed female applicant to a man who applied for the same position, the employer would say, we should compare her to a man who applied to be a secretary. And because that jobseeker would be refused too, this must not be sex discrimination.

No one thinks *that*, so the employers must scramble to justify deploying a stricter causation test for use only in cases involving discrimination based on sexual orientation or transgender status. Such a rule would create a curious discontinuity in our case law, to put it mildly. Employer hires based on sexual stereotypes? Simple test. Employer sets pension contributions based on sex? Simple test. Employer fires men who do not behave in a sufficiently masculine way around the office? Simple test. But when that same employer discriminates against women who are attracted to women, or persons identified at birth as women who later identify as men, we suddenly roll out a new and more rigorous standard? Why are *these* reasons for taking sex into account different from all the rest? Title VII's text can offer no answer.

B

Ultimately, the employers are forced to abandon the statutory text and precedent altogether and appeal to assumptions and policy. Most pointedly, they contend that few in 1964 would have expected Title VII to apply to discrimination against homosexual and transgender persons. And whatever the text and our precedent indicate, they say, shouldn't this fact cause us to pause before recognizing liability?

It might be tempting to reject this argument out of hand.

This Court has explained many times over many years that, when the meaning of the statute's terms is plain, our job is at an end. The people are entitled to rely on the law as written, without fearing that courts might disregard its plain terms based on some extratextual consideration. See, *e.g.*, *Carcieri* v. *Salazar*, 555 U. S. 379, 387 (2009); *Connecticut Nat. Bank* v. *Germain*, 503 U. S. 249, 253–254 (1992); *Rubin* v. *United States*, 449 U. S. 424, 430 (1981). Of course, some Members of this Court have consulted legislative history when interpreting *ambiguous* statutory language. Cf. *post*, at 40 (ALITO, J., dissenting). But that has no bearing here. "Legislative history, for those who take it into account, is meant to clear up ambiguity, not create it." *Milner* v. *Department of Navy*, 562 U. S. 562, 574 (2011). And as we have seen, no ambiguity exists about how Title VII's terms apply to the facts before us. To be sure, the statute's application in these cases reaches "beyond the principal evil" legislators may have intended or expected to address. *Oncale*, 523 U. S., at 79. But "'the fact that [a statute] has been applied in situations not expressly anticipated by Congress'" does not demonstrate ambiguity; instead, it simply "'demonstrates [the] breadth'" of a legislative command. *Sedima, S. P. R. L.* v. *Imrex Co.*, 473 U. S. 479, 499 (1985). And "it is ultimately the provisions of" those legislative commands "rather than the principal concerns of our legislators by which we are governed." *Oncale*, 523 U. S., at 79; see also A. Scalia & B. Garner, Reading Law: The Interpretation of Legal Texts 101 (2012) (noting that unexpected applications of broad language reflect only Congress's "presumed point [to] produce general coverage—not to leave room for courts to recognize ad hoc exceptions").

Still, while legislative history can never defeat unambiguous statutory text, historical sources can be useful for a different purpose: Because the law's ordinary meaning at the time of enactment usually governs, we must be sensitive to the possibility a statutory term that means one thing

today or in one context might have meant something else at the time of its adoption or might mean something different in another context. And we must be attuned to the possibility that a statutory phrase ordinarily bears a different meaning than the terms do when viewed individually or literally. To ferret out such shifts in linguistic usage or subtle distinctions between literal and ordinary meaning, this Court has sometimes consulted the understandings of the law's drafters as some (not always conclusive) evidence. For example, in the context of the National Motor Vehicle Theft Act, this Court admitted that the term "vehicle" in 1931 could literally mean "a conveyance working on land, water or air." *McBoyle* v. *United States*, 283 U. S. 25, 26 (1931). But given contextual clues and "everyday speech" at the time of the Act's adoption in 1919, this Court concluded that "vehicles" in that statute included only things "moving on land," not airplanes too. *Ibid.* Similarly, in *New Prime*, we held that, while the term "contracts of employment" today might seem to encompass only contracts with employees, at the time of the statute's adoption the phrase was ordinarily understood to cover contracts with independent contractors as well. 586 U. S., at ___–___ (slip op., at 6–9). Cf. *post,* at 7–8 (KAVANAUGH, J., dissenting) (providing additional examples).

The employers, however, advocate nothing like that here. They do not seek to use historical sources to illustrate that the meaning of any of Title VII's language has changed since 1964 or that the statute's terms, whether viewed individually or as a whole, ordinarily carried some message we have missed. To the contrary, as we have seen, the employers *agree* with our understanding of all the statutory language—"discriminate against any individual . . . because of such individual's . . . sex." Nor do the competing dissents offer an alternative account about what these terms mean either when viewed individually or in the ag-

gregate. Rather than suggesting that the statutory language bears some other *meaning*, the employers and dissents merely suggest that, because few in 1964 expected today's *result*, we should not dare to admit that it follows ineluctably from the statutory text. When a new application emerges that is both unexpected and important, they would seemingly have us merely point out the question, refer the subject back to Congress, and decline to enforce the plain terms of the law in the meantime.

That is exactly the sort of reasoning this Court has long rejected. Admittedly, the employers take pains to couch their argument in terms of seeking to honor the statute's "expected applications" rather than vindicate its "legislative intent." But the concepts are closely related. One could easily contend that legislators only intended expected applications or that a statute's purpose is limited to achieving applications foreseen at the time of enactment. However framed, the employer's logic impermissibly seeks to displace the plain meaning of the law in favor of something lying beyond it.

If anything, the employers' new framing may only add new problems. The employers assert that "no one" in 1964 or for some time after would have anticipated today's result. But is that really true? Not long after the law's passage, gay and transgender employees began filing Title VII complaints, so at least *some* people foresaw this potential application. See, *e.g.*, *Smith* v. *Liberty Mut. Ins. Co.*, 395 F. Supp. 1098, 1099 (ND Ga. 1975) (addressing claim from 1969); *Holloway* v. *Arthur Andersen & Co.*, 566 F. 2d 659, 661 (CA9 1977) (addressing claim from 1974). And less than a decade after Title VII's passage, during debates over the Equal Rights Amendment, others counseled that its language—which was strikingly similar to Title VII's—might also protect homosexuals from discrimination. See, *e.g.*, Note, The Legality of Homosexual Marriage, 82 Yale L. J. 573, 583–584 (1973).

Why isn't that enough to demonstrate that today's result isn't totally unexpected? How many people have to foresee the application for it to qualify as "expected"? Do we look only at the moment the statute was enacted, or do we allow some time for the implications of a new statute to be worked out? Should we consider the expectations of those who had no reason to give a particular application any thought or only those with reason to think about the question? How do we account for those who change their minds over time, after learning new facts or hearing a new argument? How specifically or generally should we frame the "application" at issue? None of these questions have obvious answers, and the employers don't propose any.

One could also reasonably fear that objections about unexpected applications will not be deployed neutrally. Often lurking just behind such objections resides a cynicism that Congress could not *possibly* have meant to protect a disfavored group. Take this Court's encounter with the Americans with Disabilities Act's directive that no "'public entity'" can discriminate against any "'qualified individual with a disability.'" *Pennsylvania Dept. of Corrections* v. *Yeskey*, 524 U. S. 206, 208 (1998). Congress, of course, didn't list every public entity the statute would apply to. And no one batted an eye at its application to, say, post offices. But when the statute was applied to *prisons*, curiously, some demanded a closer look: Pennsylvania argued that "Congress did not 'envisio[n] that the ADA would be applied to state prisoners.'" *Id.*, at 211–212. This Court emphatically rejected that view, explaining that, "in the context of an unambiguous statutory text," whether a specific application was anticipated by Congress "is irrelevant." *Id.*, at 212. As *Yeskey* and today's cases exemplify, applying protective laws to groups that were politically unpopular at the time of the law's passage—whether prisoners in the 1990s or homosexual and transgender employees

in the 1960s—often may be seen as unexpected. But to refuse enforcement just because of that, because the parties before us happened to be unpopular at the time of the law's passage, would not only require us to abandon our role as interpreters of statutes; it would tilt the scales of justice in favor of the strong or popular and neglect the promise that all persons are entitled to the benefit of the law's terms. Cf. *post*, at 28–35 (ALITO, J., dissenting); *post,* at 21–22 (KAVANAUGH, J., dissenting).

The employer's position also proves too much. If we applied Title VII's plain text only to applications some (yet-to-be-determined) group expected in 1964, we'd have more than a little law to overturn. Start with *Oncale*. How many people in 1964 could have expected that the law would turn out to protect male employees? Let alone to protect them from harassment by other male employees? As we acknowledged at the time, "male-on-male sexual harassment in the workplace was assuredly not the principal evil Congress was concerned with when it enacted Title VII." 523 U. S., at 79. Yet the Court did not hesitate to recognize that Title VII's plain terms forbade it. Under the employer's logic, it would seem this was a mistake.

That's just the beginning of the law we would have to unravel. As one Equal Employment Opportunity Commission (EEOC) Commissioner observed shortly after the law's passage, the words of "'the sex provision of Title VII [are] difficult to . . . control.'" Franklin, Inventing the "Traditional Concept" of Sex Discrimination, 125 Harv. L. Rev. 1307, 1338 (2012) (quoting Federal Mediation Service To Play Role in Implementing Title VII, [1965–1968 Transfer Binder] CCH Employment Practices ¶8046, p. 6074). The "difficult[y]" may owe something to the initial proponent of the sex discrimination rule in Title VII, Representative Howard Smith. On some accounts, the congressman may have wanted (or at least was indifferent to the possibility

of) broad language with wide-ranging effect. Not necessarily because he was interested in rooting out sex discrimination in all its forms, but because he may have hoped to scuttle the whole Civil Rights Act and thought that adding language covering sex discrimination would serve as a poison pill. See C. Whalen & B. Whalen, The Longest Debate: A Legislative History of the 1964 Civil Rights Act 115–118 (1985). Certainly nothing in the meager legislative history of this provision suggests it was meant to be read narrowly.

Whatever his reasons, thanks to the broad language Representative Smith introduced, many, maybe most, applications of Title VII's sex provision were "unanticipated" at the time of the law's adoption. In fact, many now-obvious applications met with heated opposition early on, even among those tasked with enforcing the law. In the years immediately following Title VII's passage, the EEOC officially opined that listing men's positions and women's positions separately in job postings was simply helpful rather than discriminatory. Franklin, 125 Harv. L. Rev., at 1340 (citing Press Release, EEOC (Sept. 22, 1965)). Some courts held that Title VII did not prevent an employer from firing an employee for refusing his sexual advances. See, *e.g.*, *Barnes* v. *Train*, 1974 WL 10628, *1 (D DC, Aug. 9, 1974). And courts held that a policy against hiring mothers but not fathers of young children wasn't discrimination because of sex. See *Phillips* v. *Martin Marietta Corp.*, 411 F. 2d 1 (CA5 1969), rev'd, 400 U. S. 542 (1971) (*per curiam*).

Over time, though, the breadth of the statutory language proved too difficult to deny. By the end of the 1960s, the EEOC reversed its stance on sex-segregated job advertising. See Franklin, 125 Harv. L. Rev., at 1345. In 1971, this Court held that treating women with children differently from men with children violated Title VII. *Phillips*, 400 U. S., at 544. And by the late 1970s, courts began to recognize that sexual harassment can sometimes amount to sex discrimination. See, *e.g.*, *Barnes* v. *Costle*, 561 F. 2d 983,

990 (CADC 1977). While to the modern eye each of these examples may seem "plainly [to] constitut[e] discrimination because of biological sex," *post*, at 38 (ALITO, J., dissenting), all were hotly contested for years following Title VII's enactment. And as with the discrimination we consider today, many federal judges long accepted interpretations of Title VII that excluded these situations. Cf. *post*, at 21–22 (KAVANAUGH, J., dissenting) (highlighting that certain lower courts have rejected Title VII claims based on homosexuality and transgender status). Would the employers have us undo every one of these unexpected applications too?

The weighty implications of the employers' argument from expectations also reveal why they cannot hide behind the no-elephants-in-mouseholes canon. That canon recognizes that Congress "does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions." *Whitman* v. *American Trucking Assns., Inc.*, 531 U. S. 457, 468 (2001). But it has no relevance here. We can't deny that today's holding—that employers are prohibited from firing employees on the basis of homosexuality or transgender status—is an elephant. But where's the mousehole? Title VII's prohibition of sex discrimination in employment is a major piece of federal civil rights legislation. It is written in starkly broad terms. It has repeatedly produced unexpected applications, at least in the view of those on the receiving end of them. Congress's key drafting choices—to focus on discrimination against individuals and not merely between groups and to hold employers liable whenever sex is a but-for cause of the plaintiff's injuries—virtually guaranteed that unexpected applications would emerge over time. This elephant has never hidden in a mousehole; it has been standing before us all along.

With that, the employers are left to abandon their concern for expected applications and fall back to the last line

of defense for all failing statutory interpretation arguments: naked policy appeals. If we were to apply the statute's plain language, they complain, any number of undesirable policy consequences would follow. Cf. *post*, at 44–54 (ALITO, J., dissenting). Gone here is any pretense of statutory interpretation; all that's left is a suggestion we should proceed without the law's guidance to do as we think best. But that's an invitation no court should ever take up. The place to make new legislation, or address unwanted consequences of old legislation, lies in Congress. When it comes to statutory interpretation, our role is limited to applying the law's demands as faithfully as we can in the cases that come before us. As judges we possess no special expertise or authority to declare for ourselves what a self-governing people should consider just or wise. And the same judicial humility that requires us to refrain from adding to statutes requires us to refrain from diminishing them.

What are these consequences anyway? The employers worry that our decision will sweep beyond Title VII to other federal or state laws that prohibit sex discrimination. And, under Title VII itself, they say sex-segregated bathrooms, locker rooms, and dress codes will prove unsustainable after our decision today. But none of these other laws are before us; we have not had the benefit of adversarial testing about the meaning of their terms, and we do not prejudge any such question today. Under Title VII, too, we do not purport to address bathrooms, locker rooms, or anything else of the kind. The only question before us is whether an employer who fires someone simply for being homosexual or transgender has discharged or otherwise discriminated against that individual "because of such individual's sex." As used in Title VII, the term "'discriminate against'" refers to "distinctions or differences in treatment that injure protected individuals." *Burlington N. & S. F. R.*, 548 U. S., at 59. Firing employees because of a statutorily protected trait surely counts. Whether other policies and practices

might or might not qualify as unlawful discrimination or find justifications under other provisions of Title VII are questions for future cases, not these.

Separately, the employers fear that complying with Title VII's requirement in cases like ours may require some employers to violate their religious convictions. We are also deeply concerned with preserving the promise of the free exercise of religion enshrined in our Constitution; that guarantee lies at the heart of our pluralistic society. But worries about how Title VII may intersect with religious liberties are nothing new; they even predate the statute's passage. As a result of its deliberations in adopting the law, Congress included an express statutory exception for religious organizations. §2000e–1(a). This Court has also recognized that the First Amendment can bar the application of employment discrimination laws "to claims concerning the employment relationship between a religious institution and its ministers." *Hosanna-Tabor Evangelical Lutheran Church and School* v. *EEOC*, 565 U. S. 171, 188 (2012). And Congress has gone a step further yet in the Religious Freedom Restoration Act of 1993 (RFRA), 107 Stat. 1488, codified at 42 U. S. C. §2000bb *et seq.* That statute prohibits the federal government from substantially burdening a person's exercise of religion unless it demonstrates that doing so both furthers a compelling governmental interest and represents the least restrictive means of furthering that interest. §2000bb–1. Because RFRA operates as a kind of super statute, displacing the normal operation of other federal laws, it might supersede Title VII's commands in appropriate cases. See §2000bb–3.

But how these doctrines protecting religious liberty interact with Title VII are questions for future cases too. Harris Funeral Homes did unsuccessfully pursue a RFRA-based defense in the proceedings below. In its certiorari petition, however, the company declined to seek review of that adverse decision, and no other religious liberty claim is now

before us. So while other employers in other cases may raise free exercise arguments that merit careful consideration, none of the employers before us today represent in this Court that compliance with Title VII will infringe their own religious liberties in any way.

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Some of those who supported adding language to Title VII to ban sex discrimination may have hoped it would derail the entire Civil Rights Act. Yet, contrary to those intentions, the bill became law. Since then, Title VII's effects have unfolded with far-reaching consequences, some likely beyond what many in Congress or elsewhere expected.

But none of this helps decide today's cases. Ours is a society of written laws. Judges are not free to overlook plain statutory commands on the strength of nothing more than suppositions about intentions or guesswork about expectations. In Title VII, Congress adopted broad language making it illegal for an employer to rely on an employee's sex when deciding to fire that employee. We do not hesitate to recognize today a necessary consequence of that legislative choice: An employer who fires an individual merely for being gay or transgender defies the law.

The judgments of the Second and Sixth Circuits in Nos. 17–1623 and 18–107 are affirmed. The judgment of the Eleventh Circuit in No. 17–1618 is reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

SUPREME COURT OF THE UNITED STATES

Nos. 17–1618, 17–1623 and 18–107

GERALD LYNN BOSTOCK, PETITIONER
17–1618 *v.*
CLAYTON COUNTY, GEORGIA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

ALTITUDE EXPRESS, INC., ET AL., PETITIONERS
17–1623 *v.*
MELISSA ZARDA AND WILLIAM ALLEN MOORE, JR., CO-INDEPENDENT EXECUTORS OF THE ESTATE OF DONALD ZARDA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

R.G. & G.R. HARRIS FUNERAL HOMES, INC., PETITIONER
18–107 *v.*
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

[June 15, 2020]

JUSTICE ALITO, with whom JUSTICE THOMAS joins, dissenting.

There is only one word for what the Court has done today: legislation. The document that the Court releases is in the form of a judicial opinion interpreting a statute, but that is deceptive.

Title VII of the Civil Rights Act of 1964 prohibits employment discrimination on any of five specified grounds: "race, color, religion, sex, [and] national origin." 42 U. S. C. §2000e–2(a)(1). Neither "sexual orientation" nor "gender identity" appears on that list. For the past 45 years, bills have been introduced in Congress to add "sexual orientation" to the list,[1] and in recent years, bills have included "gender identity" as well.[2] But to date, none has passed both Houses.

Last year, the House of Representatives passed a bill that would amend Title VII by defining sex discrimination to include both "sexual orientation" and "gender identity," H. R. 5, 116th Cong., 1st Sess. (2019), but the bill has stalled in the Senate. An alternative bill, H. R. 5331, 116th Cong., 1st Sess. (2019), would add similar prohibitions but contains provisions to protect religious liberty.[3] This bill remains before a House Subcommittee.

Because no such amendment of Title VII has been enacted in accordance with the requirements in the Constitution (passage in both Houses and presentment to the President, Art. I, §7, cl. 2), Title VII's prohibition of

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[1] *E.g.*, H. R. 166, 94th Cong., 1st Sess., §6 (1975); H. R. 451, 95th Cong., 1st Sess., §6 (1977); S. 2081, 96th Cong., 1st Sess. (1979); S. 1708, 97th Cong., 1st Sess. (1981); S. 430, 98th Cong., 1st Sess. (1983); S. 1432, 99th Cong., 1st Sess., §5 (1985); S. 464, 100th Cong., 1st Sess., §5 (1987); H. R. 655, 101st Cong., 1st Sess., §2 (1989); S. 574, 102d Cong., 1st Sess., §5 (1991); H. R. 423, 103d Cong., 1st Sess., §2 (1993); S. 932, 104th Cong., 1st Sess. (1995); H. R. 365, 105th Cong., 1st Sess., §2 (1997); H. R. 311, 106th Cong., 1st Sess., §2 (1999); H. R. 217, 107th Cong., 1st Sess., §2 (2001); S. 16, 108th Cong., 1st Sess., §§701–704 (2003); H. R. 288, 109th Cong., 1st Sess., §2 (2005).

[2] See, *e.g.*, H. R. 2015, 110th Cong., 1st Sess. (2007); H. R. 3017, 111th Cong., 1st Sess. (2009); H. R. 1397, 112th Cong., 1st Sess. (2011); H. R. 1755, 113th Cong., 1st Sess. (2013); H. R. 3185, 114th Cong., 1st Sess., §7 (2015); H. R. 2282, 115th Cong., 1st Sess., §7 (2017); H. R. 5, 116th Cong., 1st Sess. (2019).

[3] H. R. 5331, 116th Cong., 1st Sess., §§4(b), (c) (2019).

discrimination because of "sex" still means what it has always meant. But the Court is not deterred by these constitutional niceties. Usurping the constitutional authority of the other branches, the Court has essentially taken H. R. 5's provision on employment discrimination and issued it under the guise of statutory interpretation.[4] A more brazen abuse of our authority to interpret statutes is hard to recall.

The Court tries to convince readers that it is merely enforcing the terms of the statute, but that is preposterous. Even as understood today, the concept of discrimination because of "sex" is different from discrimination because of "sexual orientation" or "gender identity." And in any event, our duty is to interpret statutory terms to "mean what they conveyed to reasonable people *at the time they were written*." A. Scalia & B. Garner, Reading Law: The Interpretation of Legal Texts 16 (2012) (emphasis added). If every single living American had been surveyed in 1964, it would have been hard to find any who thought that discrimination because of sex meant discrimination because of sexual orientation—not to mention gender identity, a concept that was essentially unknown at the time.

The Court attempts to pass off its decision as the inevitable product of the textualist school of statutory interpretation championed by our late colleague Justice Scalia, but no one should be fooled. The Court's opinion is like a pirate ship. It sails under a textualist flag, but what it actually represents is a theory of statutory interpretation that Justice Scalia excoriated—the theory that courts should "update" old statutes so that they better reflect the current values of society. See A. Scalia, A Matter of Interpretation 22

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[4] Section 7(b) of H. R. 5 strikes the term "sex" in 42 U. S. C. §2000e–2 and inserts: "SEX (INCLUDING SEXUAL ORIENTATION AND GENDER IDENTITY)."

(1997). If the Court finds it appropriate to adopt this theory, it should own up to what it is doing.[5]

Many will applaud today's decision because they agree on policy grounds with the Court's updating of Title VII. But the question in these cases is not whether discrimination because of sexual orientation or gender identity *should be* outlawed. The question is *whether Congress did that in 1964*.

It indisputably did not.

I

A

Title VII, as noted, prohibits discrimination "because of . . . sex," §2000e–2(a)(1), and in 1964, it was as clear as clear could be that this meant discrimination because of the genetic and anatomical characteristics that men and women have at the time of birth. Determined searching has not found a single dictionary from that time that defined "sex" to mean sexual orientation, gender identity, or "transgender status."[6] *Ante*, at 2. (Appendix A, *infra*, to

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[5] That is what Judge Posner did in the Seventh Circuit case holding that Title VII prohibits discrimination because of sexual orientation. See *Hively* v. *Ivy Tech Community College of Ind.*, 853 F. 3d 339 (2017) (en banc). Judge Posner agreed with that result but wrote:

"*I would prefer to see us acknowledge openly that today we, who are judges rather than members of Congress, are imposing on a half-century-old statute a meaning of 'sex discrimination' that the Congress that enacted it would not have accepted*." *Id.*, at 357 (concurring opinion) (emphasis added).

[6] The Court does not define what it means by "transgender status," but the American Psychological Association describes "transgender" as "[a]n umbrella term encompassing those whose gender identities or gender roles differ from those typically associated with the sex they were assigned at birth." A Glossary: Defining Transgender Terms, 49 Monitor on Psychology 32 (Sept. 2018), https://www.apa.org/monitor/2018/09/ce-corner-glossary. It defines "gender identity" as "[a]n internal sense of being male, female or something else, which may or may not correspond

this opinion includes the full definitions of "sex" in the unabridged dictionaries in use in the 1960s.)

In all those dictionaries, the primary definition of "sex" was essentially the same as that in the then-most recent edition of Webster's New International Dictionary 2296 (def. 1) (2d ed. 1953): "[o]ne of the two divisions of organisms formed on the distinction of male and female." See also American Heritage Dictionary 1187 (def. 1(a)) (1969) ("The property or quality by which organisms are classified according to their reproductive functions"); Random House Dictionary of the English Language 1307 (def. 1) (1966) (Random House Dictionary) ("the fact or character of being either male or female"); 9 Oxford English Dictionary 577 (def. 1) (1933) ("Either of the two divisions of organic beings distinguished as male and female respectively").

The Court does not dispute that this is what "sex" means in Title VII, although it coyly suggests that there is at least some support for a different and potentially relevant definition. *Ante*, at 5. (I address alternative definitions below. See Part I–B–3, *infra*.) But the Court declines to stand on that ground and instead "proceed[s] on the assumption that 'sex' . . . refer[s] only to biological distinctions between male and female." *Ante*, at 5.

If that is so, it should be perfectly clear that Title VII does not reach discrimination because of sexual orientation or gender identity. If "sex" in Title VII means biologically male or female, then discrimination because of sex means discrimination because the person in question is biologically male or biologically female, not because that person is sexually attracted to members of the same sex or identifies as a member of a particular gender.

How then does the Court claim to avoid that conclusion?

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to an individual's sex assigned at birth or sex characteristics." *Ibid.* Under these definitions, there is no apparent difference between discrimination because of transgender status and discrimination because of gender identity.

The Court tries to cloud the issue by spending many pages discussing matters that are beside the point. The Court observes that a Title VII plaintiff need not show that "sex" was the sole or primary motive for a challenged employment decision or its sole or primary cause; that Title VII is limited to discrimination with respect to a list of specified actions (such as hiring, firing, etc.); and that Title VII protects individual rights, not group rights. See *ante*, at 5–9, 11.

All that is true, but so what? In cases like those before us, a plaintiff must show that sex was a "motivating factor" in the challenged employment action, 42 U. S. C. §2000e–2(m), so the question we must decide comes down to this: if an individual employee or applicant for employment shows that his or her sexual orientation or gender identity was a "motivating factor" in a hiring or discharge decision, for example, is that enough to establish that the employer discriminated "because of . . . sex"? Or, to put the same question in different terms, if an employer takes an employment action solely because of the sexual orientation or gender identity of an employee or applicant, has that employer necessarily discriminated because of biological sex?

The answers to those questions must be no, unless discrimination because of sexual orientation or gender identity inherently constitutes discrimination because of sex. The Court attempts to prove that point, and it argues, not merely that the terms of Title VII *can* be interpreted that way but that they *cannot reasonably be interpreted any other way*. According to the Court, the text is unambiguous. See *ante*, at 24, 27, 30.

The arrogance of this argument is breathtaking. As I will show, there is not a shred of evidence that any Member of Congress interpreted the statutory text that way when Title VII was enacted. See Part III–B, *infra*. But the Court apparently thinks that this was because the Members were not "smart enough to realize" what its language means.

Hively v. *Ivy Tech Community College of Ind.*, 853 F. 3d 339, 357 (CA7 2017) (Posner, J., concurring). The Court seemingly has the same opinion about our colleagues on the Courts of Appeals, because until 2017, every single Court of Appeals to consider the question interpreted Title VII's prohibition against sex discrimination to mean discrimination on the basis of biological sex. See Part III–C, *infra*. And for good measure, the Court's conclusion that Title VII unambiguously reaches discrimination on the basis of sexual orientation and gender identity necessarily means that the EEOC failed to see the obvious for the first 48 years after Title VII became law.[7] Day in and day out, the Commission enforced Title VII but did not grasp what discrimination "because of . . . sex" unambiguously means. See Part III–C, *infra*.

The Court's argument is not only arrogant, it is wrong. It fails on its own terms. "Sex," "sexual orientation," and "gender identity" are different concepts, as the Court concedes. *Ante*, at 19 ("homosexuality and transgender status are distinct concepts from sex"). And neither "sexual orientation" nor "gender identity" is tied to either of the two biological sexes. See *ante*, at 10 (recognizing that "discrimination on these bases" does not have "some disparate impact on one sex or another"). Both men and women may be attracted to members of the opposite sex, members of the same sex, or members of both sexes.[8] And individuals who are born with

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[7] The EEOC first held that "discrimination against a transgender individual because that person is transgender" violates Title VII in 2012 in *Macy* v. *Holder*, 2012 WL 1435995, *11 (Apr. 20, 2012), though it earlier advanced that position in an *amicus* brief in Federal District Court in 2011, *ibid.*, n. 16. It did not hold that discrimination on the basis of sexual orientation violated Title VII until 2015. See *Baldwin* v. *Foxx*, 2015 WL 4397641 (July 15, 2015).

[8] "Sexual orientation refers to a person's erotic response tendency or sexual attractions, be they directed toward individuals of the same sex (homosexual), the other sex (heterosexual), or both sexes (bisexual)." 1 B.

the genes and organs of either biological sex may identify with a different gender.[9]

Using slightly different terms, the Court asserts again and again that discrimination because of sexual orientation or gender identity inherently or necessarily entails discrimination because of sex. See *ante*, at 2 (When an employer "fires an individual for being homosexual or transgender," "[s]ex plays a necessary and undisguisable role in the decision"); *ante*, at 9 ("[I]t is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex"); *ante*, at 11 ("[W]hen an employer discriminates against homosexual or transgender employees, [the] employer . . . inescapably *intends* to rely on sex in its decisionmaking"); *ante*, at 12 ("For an employer to discriminate against employees for being homosexual or transgender, the employer must intentionally discriminate against individual men and women in part because of sex"); *ante*, at 14 ("When an employer fires an employee for being homosexual or transgender, it necessarily and intentionally discriminates against that individual in part because of sex"); *ante*, at 19 ("[D]iscrimination based on homosexuality or transgender status necessarily entails discrimination based on sex"). But repetition of an assertion does not make it so, and the Court's repeated assertion is demonstrably untrue.

Contrary to the Court's contention, discrimination because of sexual orientation or gender identity does not in

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Sadock, V. Sadock, & P. Ruiz, Comprehensive Textbook of Psychiatry 2061 (9th ed. 2009); see also American Heritage Dictionary 1607 (5th ed. 2011) (defining "sexual orientation" as "[t]he direction of a person's sexual interest, as toward people of the opposite sex, the same sex, or both sexes"); Webster's New College Dictionary 1036 (3d ed. 2008) (defining "sexual orientation" as "[t]he direction of one's sexual interest toward members of the same, opposite, or both sexes").

[9] See n. 6, *supra*; see also Sadock, *supra,* at 2063 ("transgender" refers to "any individual who identifies with and adopts the gender role of a member of the other biological sex").

and of itself entail discrimination because of sex. We can see this because it is quite possible for an employer to discriminate on those grounds without taking the sex of an individual applicant or employee into account. An employer can have a policy that says: "We do not hire gays, lesbians, or transgender individuals." And an employer can implement this policy without paying any attention to or even knowing the biological sex of gay, lesbian, and transgender applicants. In fact, at the time of the enactment of Title VII, the United States military had a blanket policy of refusing to enlist gays or lesbians, and under this policy for years thereafter, applicants for enlistment were required to complete a form that asked whether they were "homosexual." Appendix D, *infra*, at 88, 101.

At oral argument, the attorney representing the employees, a prominent professor of constitutional law, was asked if there would be discrimination because of sex if an employer with a blanket policy against hiring gays, lesbians, and transgender individuals implemented that policy without knowing the biological sex of any job applicants. Her candid answer was that this would "not" be sex discrimination.[10] And she was right.

The attorney's concession was necessary, but it is fatal to the Court's interpretation, for if an employer discriminates against individual applicants or employees without even knowing whether they are male or female, it is impossible to argue that the employer intentionally discriminated because of sex. Contra, *ante*, at 19. An employer cannot intentionally discriminate on the basis of a characteristic of which the employer has no knowledge. And if an employer does not violate Title VII by discriminating on the basis of

[10] See Tr. of Oral Arg. in Nos. 17–1618, 17–1623, pp. 69–70 ("If there was that case, it might be the rare case in which sexual orientation discrimination is not a subset of sex"); see also *id.*, at 69 ("Somebody who comes in and says I'm not going to tell you what my sex is, but, believe me, I was fired for my sexual orientation, that person will lose").

sexual orientation or gender identity without knowing the sex of the affected individuals, there is no reason why the same employer could not lawfully implement the same policy even if it knows the sex of these individuals. If an employer takes an adverse employment action for a perfectly legitimate reason—for example, because an employee stole company property—that action is not converted into sex discrimination simply because the employer knows the employee's sex. As explained, a disparate treatment case requires proof of intent—*i.e.,* that the employee's sex motivated the firing. In short, what this example shows is that discrimination because of sexual orientation or gender identity does not inherently or necessarily entail discrimination because of sex, and for that reason, the Court's chief argument collapses.

Trying to escape the consequences of the attorney's concession, the Court offers its own hypothetical:

> "Suppose an employer's application form offered a single box to check if the applicant is either black or Catholic. If the employer refuses to hire anyone who checks that box, would we conclude the employer has complied with Title VII, so long as it studiously avoids learning any particular applicant's race or religion? Of course not." *Ante*, at 18.

How this hypothetical proves the Court's point is a mystery. A person who checked that box would presumably be black, Catholic, or both, and refusing to hire an applicant because of race or religion is prohibited by Title VII. Rejecting applicants who checked a box indicating that they are homosexual is entirely different because it is impossible to tell from that answer whether an applicant is male or female.

The Court follows this strange hypothetical with an even stranger argument. The Court argues that an applicant

could not answer the question whether he or she is homosexual without knowing something about sex. If the applicant was unfamiliar with the term "homosexual," the applicant would have to look it up or ask what the term means. And because this applicant would have to take into account his or her sex and that of the persons to whom he or she is sexually attracted to answer the question, it follows, the Court reasons, that an employer could not reject this applicant without taking the applicant's sex into account. See *ante*, at 18–19.

This is illogical. Just because an applicant cannot say whether he or she is homosexual without knowing his or her own sex and that of the persons to whom the applicant is attracted, it does not follow that an employer cannot reject an applicant based on homosexuality without knowing the applicant's sex.

While the Court's imagined application form proves nothing, another hypothetical case offered by the Court is telling. But what it proves is not what the Court thinks. The Court posits:

> "Imagine an employer who has a policy of firing any employee known to be homosexual. The employer hosts an office holiday party and invites employees to bring their spouses. A model employee arrives and introduces a manager to Susan, the employee's wife. Will that employee be fired? If the policy works as the employer intends, the answer depends entirely on whether the model employee is a man or a woman." *Ante*, at 11.

This example disproves the Court's argument because it is perfectly clear that the employer's motivation in firing the female employee had nothing to do with that employee's sex. The employer presumably knew that this employee was a woman before she was invited to the fateful party. Yet the employer, far from holding her biological sex

against her, rated her a "model employee." At the party, the employer learned something new, her sexual orientation, and it was this new information that motivated her discharge. So this is another example showing that discrimination because of sexual orientation does not inherently involve discrimination because of sex.

In addition to the failed argument just discussed, the Court makes two other arguments, more or less in passing. The first of these is essentially that sexual orientation and gender identity are closely related to sex. The Court argues that sexual orientation and gender identity are "inextricably bound up with sex," *ante*, at 10, and that discrimination on the basis of sexual orientation or gender identity involves the application of "sex-based rules," *ante*, at 17. This is a variant of an argument found in many of the briefs filed in support of the employees and in the lower court decisions that agreed with the Court's interpretation. All these variants stress that sex, sexual orientation, and gender identity are related concepts. The Seventh Circuit observed that "[i]t would require considerable calisthenics to remove 'sex' from 'sexual orientation.'" *Hively*, 853 F. 3d, at 350.[11] The Second Circuit wrote that sex is necessarily "a factor in sexual orientation" and further concluded that "sexual orientation is a function of sex." 883 F. 3d 100, 112–113 (CA2 2018) (en banc). Bostock's brief and those of *amici* supporting his position contend that sexual orientation is "a sex-based consideration."[12] Other briefs state that sexual orientation is "a function of sex"[13] or is "intrinsically related to

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[11] See also Brief for William N. Eskridge Jr. et al. as *Amici Curiae* 2 ("[T]here is no reasonable way to disentangle sex from same-sex attraction or transgender status").

[12] Brief for Petitioner in No. 17–1618, at 14; see also Brief for Southern Poverty Law Center et al. as *Amici Curiae* 7–8.

[13] Brief for Scholars Who Study the LGB Population as *Amici Curiae* in Nos. 17–1618, 17–1623, p. 10.

sex."[14] Similarly, Stephens argues that sex and gender identity are necessarily intertwined: "By definition, a transgender person is someone who lives and identifies with a sex different than the sex assigned to the person at birth."[15]

It is curious to see this argument in an opinion that purports to apply the purest and highest form of textualism because the argument effectively amends the statutory text. Title VII prohibits discrimination because of *sex itself,* not everything that is related to, based on, or defined with reference to, "sex." Many things are related to sex. Think of all the nouns other than "orientation" that are commonly modified by the adjective "sexual." Some examples yielded by a quick computer search are "sexual harassment," "sexual assault, "sexual violence," "sexual intercourse," and "sexual content."

Does the Court really think that Title VII prohibits discrimination on all these grounds? Is it unlawful for an employer to refuse to hire an employee with a record of sexual harassment in prior jobs? Or a record of sexual assault or violence?

To be fair, the Court does not claim that Title VII prohibits discrimination because of *everything* that is related to sex. The Court draws a distinction between things that are "inextricably" related and those that are related in "some vague sense." *Ante*, at 10. Apparently the Court would graft onto Title VII some arbitrary line separating the things that are related closely enough and those that are not.[16] And it would do this in the name of high textualism.

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[14] Brief for American Psychological Association et al. as *Amici Curiae* 11.

[15] Reply Brief for Respondent Aimee Stephens in No. 18–107, p. 5.

[16] Notably, Title VII itself already suggests a line, which the Court ignores. The statute specifies that the terms "because of sex" and "on the basis of sex" cover certain conditions that are biologically tied to sex,

An additional argument made in passing also fights the text of Title VII and the policy it reflects. The Court proclaims that "[a]n individual's homosexuality or transgender status is not relevant to employment decisions." *Ante*, at 9. That is the policy view of many people in 2020, and perhaps Congress would have amended Title VII to implement it if this Court had not intervened. But that is not the policy embodied in Title VII in its current form. Title VII prohibits discrimination based on five specified grounds, and neither sexual orientation nor gender identity is on the list. As long as an employer does not discriminate based on one of the listed grounds, the employer is free to decide for itself which characteristics are "relevant to [its] employment decisions." *Ibid.* By proclaiming that sexual orientation and gender identity are "not relevant to employment decisions," the Court updates Title VII to reflect what it regards as 2020 values.

The Court's remaining argument is based on a hypothetical that the Court finds instructive. In this hypothetical, an employer has two employees who are "attracted to men," and "*to the employer's mind*" the two employees are "materially identical" except that one is a man and the other is a woman. *Ante*, at 9 (emphasis added). The Court reasons that if the employer fires the man but not the woman, the employer is necessarily motivated by the man's biological sex. *Ante*, at 9–10. After all, if two employees are identical in every respect but sex, and the employer fires only one, what other reason could there be?

The problem with this argument is that the Court loads the dice. That is so because in the mind of an employer who does not want to employ individuals who are attracted to

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namely, "pregnancy, childbirth, [and] related medical conditions." 42 U. S. C. §2000e(k). This definition should inform the meaning of "because of sex" in Title VII more generally. Unlike pregnancy, neither sexual orientation nor gender identity is biologically linked to women or men.

members of the same sex, these two employees are not materially identical in every respect but sex. On the contrary, they differ in another way that the employer thinks is quite material. And until Title VII is amended to add sexual orientation as a prohibited ground, this is a view that an employer is permitted to implement. As noted, other than prohibiting discrimination on any of five specified grounds, "race, color, religion, sex, [and] national origin." 42 U. S. C. §2000e–2(a)(1), Title VII allows employers to decide whether two employees are "materially identical." Even idiosyncratic criteria are permitted; if an employer thinks that Scorpios make bad employees, the employer can refuse to hire Scorpios. Such a policy would be unfair and foolish, but under Title VII, it is permitted. And until Title VII is amended, so is a policy against employing gays, lesbians, or transgender individuals.

Once this is recognized, what we have in the Court's hypothetical case are two employees who differ in *two* ways—sex and sexual orientation—and if the employer fires one and keeps the other, all that can be inferred is that the employer was motivated either entirely by sexual orientation, entirely by sex, or in part by both. We cannot infer with any certainty, as the hypothetical is apparently meant to suggest, that the employer was motivated even in part by sex. The Court harps on the fact that under Title VII a prohibited ground need not be the sole motivation for an adverse employment action, see *ante*, at 10–11, 14–15, 21, but its example does not show that sex necessarily played *any* part in the employer's thinking.

The Court tries to avoid this inescapable conclusion by arguing that sex is really the only difference between the two employees. This is so, the Court maintains, because both employees "are attracted to men." *Ante*, at 9–10. Of course, the employer would couch its objection to the man differently. It would say that its objection was his sexual orientation. So this may appear to leave us with a battle of

labels. If the employer's objection to the male employee is characterized as attraction to men, it seems that he is just like the woman in all respects except sex and that the employer's disparate treatment must be based on that one difference. On the other hand, if the employer's objection is sexual orientation or homosexuality, the two employees differ in two respects, and it cannot be inferred that the disparate treatment was due even in part to sex.

The Court insists that its label is the right one, and that presumably is why it makes such a point of arguing that an employer cannot escape liability under Title VII by giving sex discrimination some other name. See *ante*, at 14, 17. That is certainly true, but so is the opposite. Something that is *not* sex discrimination cannot be converted into sex discrimination by slapping on that label. So the Court cannot prove its point simply by labeling the employer's objection as "attract[ion] to men." *Ante*, at 9–10. Rather, the Court needs to show that its label is the correct one.

And a labeling standoff would not help the Court because that would mean that the bare text of Title VII does not unambiguously show that its interpretation is right. The Court would have no justification for its stubborn refusal to look any further.

As it turns out, however, there is no standoff. It can easily be shown that the employer's real objection is not "attract[ion] to men" but homosexual orientation.

In an effort to prove its point, the Court carefully includes in its example just two employees, a homosexual man and a heterosexual woman, but suppose we add two more individuals, a woman who is attracted to women and a man who is attracted to women. (A large employer will likely have applicants and employees who fall into all four categories, and a small employer can potentially have all four as well.) We now have the four exemplars listed below, with the discharged employees crossed out:

~~Man attracted to men~~
Woman attracted to men
~~Woman attracted to women~~
Man attracted to women

The discharged employees have one thing in common. It is not biological sex, attraction to men, or attraction to women. It is attraction to members of their own sex—in a word, sexual orientation. And that, we can infer, is the employer's real motive.

In sum, the Court's textual arguments fail on their own terms. The Court tries to prove that "it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex," *ante,* at 9, but as has been shown, it is entirely possible for an employer to do just that. "[H]omosexuality and transgender status are distinct concepts from sex," *ante*, at 19, and discrimination because of sexual orientation or transgender status does not inherently or necessarily constitute discrimination because of sex. The Court's arguments are squarely contrary to the statutory text.

But even if the words of Title VII did not definitively refute the Court's interpretation, that would not justify the Court's refusal to consider alternative interpretations. The Court's excuse for ignoring everything other than the bare statutory text is that the text is unambiguous and therefore no one can reasonably interpret the text in any way other than the Court does. Unless the Court has met that high standard, it has no justification for its blinkered approach. And to say that the Court's interpretation is the only possible reading is indefensible.

B

Although the Court relies solely on the arguments discussed above, several other arguments figure prominently in the decisions of the lower courts and in briefs submitted

by or in support of the employees. The Court apparently finds these arguments unpersuasive, and so do I, but for the sake of completeness, I will address them briefly.

1

One argument, which relies on our decision in *Price Waterhouse* v. *Hopkins*, 490 U. S. 228 (1989) (plurality opinion), is that discrimination because of sexual orientation or gender identity violates Title VII because it constitutes prohibited discrimination on the basis of sex stereotypes. See 883 F. 3d, at 119–123; *Hively*, 853 F. 3d, at 346; 884 F. 3d 560, 576–577 (CA6 2018). The argument goes like this. Title VII prohibits discrimination based on stereotypes about the way men and women should behave; the belief that a person should be attracted only to persons of the opposite sex and the belief that a person should identify with his or her biological sex are examples of such stereotypes; therefore, discrimination on either of these grounds is unlawful.

This argument fails because it is based on a faulty premise, namely, that Title VII forbids discrimination based on sex stereotypes. It does not. It prohibits discrimination because of "sex," and the two concepts are not the same. See *Price Waterhouse*, 490 U. S., at 251. That does not mean, however, that an employee or applicant for employment cannot prevail by showing that a challenged decision was based on a sex stereotype. Such evidence is relevant to prove discrimination because of sex, and it may be convincing where the trait that is inconsistent with the stereotype is one that would be tolerated and perhaps even valued in a person of the opposite sex. See *ibid.*

Much of the plaintiff's evidence in *Price Waterhouse* was of this nature. The plaintiff was a woman who was passed over for partnership at an accounting firm, and some of the adverse comments about her work appeared to criticize her for being forceful and insufficiently "feminin[e]." *Id.*, at 235–236.

The main issue in *Price Waterhouse*—the proper allocation of the burdens of proof in a so-called mixed motives Title VII case—is not relevant here, but the plurality opinion, endorsed by four Justices, commented on the issue of sex stereotypes. The plurality observed that "sex stereotypes do not inevitably prove that gender played a part in a particular employment decision" but "can certainly be *evidence* that gender played a part." *Id.*, at 251.[17] And the plurality made it clear that "[t]he plaintiff must show that the employer actually relied on her gender in making its decision." *Ibid.*

Plaintiffs who allege that they were treated unfavorably because of their sexual orientation or gender identity are not in the same position as the plaintiff in *Price Waterhouse*. In cases involving discrimination based on sexual orientation or gender identity, the grounds for the employer's decision—that individuals should be sexually attracted only to persons of the opposite biological sex or should identify with their biological sex—apply equally to men and women. "[H]eterosexuality is not a *female* stereotype; it not a *male* stereotype; it is not a *sex-specific* stereotype at all." *Hively*, 853 F. 3d, at 370 (Sykes, J., dissenting).

To be sure, there may be cases in which a gay, lesbian, or transgender individual can make a claim like the one in *Price Waterhouse*. That is, there may be cases where traits or behaviors that some people associate with gays, lesbians, or transgender individuals are tolerated or valued in persons of one biological sex but not the other. But that is a

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[17] Two other Justices concurred in the judgment but did not comment on the issue of stereotypes. See *id.*, at 258–261 (opinion of White, J.); *id.*, at 261–279 (opinion of O'Connor, J.). And Justice Kennedy reiterated on behalf of the three Justices in dissent that "Title VII creates no independent cause of action for sex stereotyping," but he added that "[e]vidence of use by decisionmakers of sex stereotypes is, of course, quite relevant to the question of discriminatory intent." *Id.*, at 294.

different matter.

2

A second prominent argument made in support of the result that the Court now reaches analogizes discrimination against gays and lesbians to discrimination against a person who is married to or has an intimate relationship with a person of a different race. Several lower court cases have held that discrimination on this ground violates Title VII. See, *e.g.*, *Holcomb* v. *Iona College*, 521 F. 3d 130 (CA2 2008); *Parr* v. *Woodmen of World Life Ins. Co.*, 791 F. 2d 888 (CA11 1986). And the logic of these decisions, it is argued, applies equally where an employee or applicant is treated unfavorably because he or she is married to, or has an intimate relationship with, a person of the same sex.

This argument totally ignores the historically rooted reason why discrimination on the basis of an interracial relationship constitutes race discrimination. And without taking history into account, it is not easy to see how the decisions in question fit the terms of Title VII.

Recall that Title VII makes it unlawful for an employer to discriminate against an individual "because of *such individual's race*." 42 U. S. C. §2000e–2(a) (emphasis added). So if an employer is happy to employ whites and blacks but will not employ any employee in an interracial relationship, how can it be said that the employer is discriminating against either whites or blacks "because of such individual's race"? This employer would be applying the same rule to all its employees regardless of their race.

The answer is that this employer is discriminating on a ground that history tells us is a core form of race discrimination.[18] "It would require absolute blindness to the history

[18] Notably, Title VII recognizes that in light of history distinctions on the basis of race are always disadvantageous, but it permits certain dis-

of racial discrimination in this country not to understand what is at stake in such cases . . . . A prohibition on 'race-mixing' was . . . grounded in bigotry against a particular race and was an integral part of preserving the rigid hierarchical distinction that denominated members of the black race as inferior to whites." 883 F. 3d, at 158–159 (Lynch, J., dissenting).

Discrimination because of sexual orientation is different. It cannot be regarded as a form of sex discrimination on the ground that applies in race cases since discrimination because of sexual orientation is not historically tied to a project that aims to subjugate either men or women. An employer who discriminates on this ground might be called "homophobic" or "transphobic," but not sexist. See *Wittmer* v. *Phillips 66 Co.*, 915 F. 3d 328, 338 (CA5 2019) (Ho, J., concurring).

3

The opinion of the Court intimates that the term "sex" was not universally understood in 1964 to refer just to the categories of male and female, see *ante*, at 5, and while the Court does not take up any alternative definition as a ground for its decision, I will say a word on this subject.

As previously noted, the definitions of "sex" in the unabridged dictionaries in use in the 1960s are reproduced in Appendix A, *infra*. Anyone who examines those definitions can see that the primary definition in every one of them refers to the division of living things into two groups, male and female, based on biology, and most of the definitions further down the list are the same or very similar. In addition, some definitions refer to heterosexual sex acts. See

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tinctions based on sex. Title 42 U. S. C. §2000e–2(e)(1) allows for "instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of [a] particular business or enterprise." Race is wholly absent from this list.

Random House Dictionary 1307 ("coitus," "sexual intercourse" (defs. 5–6)); American Heritage Dictionary, at 1187 ("sexual intercourse" (def. 5)).[19]

Aside from these, what is there? One definition, "to neck passionately," Random House Dictionary 1307 (def. 8), refers to sexual conduct that is not necessarily heterosexual. But can it be seriously argued that one of the aims of Title VII is to outlaw employment discrimination against employees, whether heterosexual or homosexual, who engage in necking? And even if Title VII had that effect, that is not what is at issue in cases like those before us.

That brings us to the two remaining subsidiary definitions, both of which refer to sexual urges or instincts and their manifestations. See the fourth definition in the American Heritage Dictionary, at 1187 ("the sexual urge or instinct as it manifests itself in behavior"), and the fourth definition in both Webster's Second and Third ("[p]henomena of sexual instincts and their manifestations," Webster's New International Dictionary, at 2296 (2d ed.); Webster's Third New International Dictionary 2081 (1966)). Since both of these come after three prior definitions that refer to men and women, they are most naturally read to have the same association, and in any event, is it plausible that Title VII prohibits discrimination based on *any* sexual urge or instinct and its manifestations? The urge to rape?

Viewing all these definitions, the overwhelming impact is that discrimination because of "sex" was understood during the era when Title VII was enacted to refer to men and women. (The same is true of current definitions, which are reproduced in Appendix B, *infra*.) This no doubt explains why neither this Court nor any of the lower courts have tried to make much of the dictionary definitions of sex just

[19] See American Heritage Dictionary 1188 (1969) (defining "sexual intercourse"); Webster's Third New International Dictionary 2082 (1966) (same); Random House Dictionary of the English Language 1308 (1966) (same).

discussed.

II

A

So far, I have not looked beyond dictionary definitions of "sex," but textualists like Justice Scalia do not confine their inquiry to the scrutiny of dictionaries. See Manning, Textualism and the Equity of the Statute, 101 Colum. L. Rev. 1, 109 (2001). Dictionary definitions are valuable because they are evidence of what people at the time of a statute's enactment would have understood its words to mean. *Ibid.* But they are not the only source of relevant evidence, and what matters in the end is the answer to the question that the evidence is gathered to resolve: How would the terms of a statute have been understood by ordinary people at the time of enactment?

Justice Scalia was perfectly clear on this point. The words of a law, he insisted, "mean *what they conveyed to reasonable people at the time*." Reading Law, at 16 (emphasis added).[20]

Leading proponents of Justice Scalia's school of textualism have expounded on this principle and explained that it is grounded on an understanding of the way language works. As Dean John F. Manning explains, "the meaning of language depends on the way a linguistic community uses words and phrases in context." What Divides Textualists From Purposivists? 106 Colum. L. Rev. 70, 78 (2006). "[O]ne can make sense of others' communications only by placing them in their appropriate social and linguistic context," *id.*, at 79–80, and this is no less true of statutes than any other verbal communications. "[S]tatutes convey meaning only because members of a relevant linguistic

[20] See also *Chisom* v. *Roemer*, 501 U. S. 380, 405 (1991) (Scalia, J., dissenting) ("We are to read the words of [a statutory] text as any ordinary Member of Congress would have read them . . . and apply the meaning so determined").

community apply shared background conventions for understanding how particular words are used in particular contexts." Manning, The Absurdity Doctrine, 116 Harv. L. Rev. 2387, 2457 (2003). Therefore, judges should ascribe to the words of a statute "what a reasonable person conversant with applicable social conventions would have understood them to be adopting." Manning, 106 Colum. L. Rev., at 77. Or, to put the point in slightly different terms, a judge interpreting a statute should ask "'what one would ordinarily be understood as saying, given the circumstances in which one said it.'" Manning, 116 Harv. L. Rev., at 2397–2398.

Judge Frank Easterbrook has made the same points:

> "Words are arbitrary signs, having meaning only to the extent writers and readers share an understanding. . . . Language in general, and legislation in particular, is a social enterprise to which both speakers and listeners contribute, drawing on background understandings and the structure and circumstances of the utterance." *Herrmann* v. *Cencom Cable Assocs., Inc.*, 978 F. 2d 978, 982 (CA7 1992).

Consequently, "[s]licing a statute into phrases while ignoring . . . the setting of the enactment . . . is a formula for disaster." *Ibid.*; see also *Continental Can Co.* v. *Chicago Truck Drivers, Helpers and Warehouse Workers Union (Independent) Pension Fund*, 916 F. 2d 1154, 1157 (CA7 1990) ("You don't have to be Ludwig Wittgenstein or Hans-Georg Gadamer to know that successful communication depends on meanings shared by interpretive communities").

Thus, when textualism is properly understood, it calls for an examination of the social context in which a statute was enacted because this may have an important bearing on what its words were understood to mean at the time of enactment. Textualists do not read statutes as if they were messages picked up by a powerful radio telescope from a

distant and utterly unknown civilization. Statutes consist of communications between members of a particular linguistic community, one that existed in a particular place and at a particular time, and these communications must therefore be interpreted as they were understood by that community at that time.

For this reason, it is imperative to consider how Americans in 1964 would have understood Title VII's prohibition of discrimination because of sex. To get a picture of this, we may imagine this scene. Suppose that, while Title VII was under consideration in Congress, a group of average Americans decided to read the text of the bill with the aim of writing or calling their representatives in Congress and conveying their approval or disapproval. What would these ordinary citizens have taken "discrimination because of sex" to mean? Would they have thought that this language prohibited discrimination because of sexual orientation or gender identity?

B

The answer could not be clearer. In 1964, ordinary Americans reading the text of Title VII would not have dreamed that discrimination because of sex meant discrimination because of sexual orientation, much less gender identity. The *ordinary meaning* of discrimination because of "sex" was discrimination because of a person's biological sex, not sexual orientation or gender identity. The possibility that discrimination on either of these grounds might fit within some exotic understanding of sex discrimination would not have crossed their minds.

1

In 1964, the concept of prohibiting discrimination "because of sex" was no novelty. It was a familiar and well-understood concept, and what it meant was equal treatment for men and women.

Long before Title VII was adopted, many pioneering state and federal laws had used language substantively indistinguishable from Title VII's critical phrase, "discrimination because of sex." For example, the California Constitution of 1879 stipulated that no one, "*on account of sex*, [could] be disqualified from entering upon or pursuing any lawful business, vocation, or profession." Art. XX, §18 (emphasis added). It also prohibited a student's exclusion from any state university department "on account of sex." Art. IX, §9; accord, Mont. Const., Art. XI, §9 (1889).

Wyoming's first Constitution proclaimed broadly that "[b]oth male and female citizens of this state shall equally enjoy all civil, political and religious rights and privileges," Art. VI, §1 (1890), and then provided specifically that "[i]n none of the public schools . . . shall distinction or discrimination be made *on account of sex*," Art. VII, §10 (emphasis added); see also §16 (the "university shall be equally open to students of both sexes"). Washington's Constitution likewise required "ample provision for the education of all children . . . without distinction or preference *on account of . . . sex*." Art. IX, §1 (1889) (emphasis added).

The Constitution of Utah, adopted in 1895, provided that the right to vote and hold public office "shall not be denied or abridged *on account of sex*." Art. IV, §1 (emphasis added). And in the next sentence it made clear what "on account of sex" meant, stating that "[b]oth male and female citizens . . . shall enjoy equally all civil, political and religious rights and privileges." *Ibid*.

The most prominent example of a provision using this language was the Nineteenth Amendment, ratified in 1920, which bans the denial or abridgment of the right to vote "on account of sex." U. S. Const., Amdt. 19. Similar language appeared in the proposal of the National Woman's Party for an Equal Rights Amendment. As framed in 1921, this proposal forbade all "political, civil or legal disabilities or inequalities *on account of sex*, [o]r on account of marriage."

Women Lawyers Meet: Representatives of 20 States Endorse Proposed Equal Rights Amendment, N. Y. Times, Sept. 16, 1921, p. 10.

Similar terms were used in the precursor to the Equal Pay Act. Introduced in 1944 by Congresswoman Winifred C. Stanley, it proclaimed that "[d]iscrimination against employees, in rates of compensation paid, *on account of sex*" was "contrary to the public interest." H. R. 5056, 78th Cong., 2d Sess.

In 1952, the new Constitution for Puerto Rico, which was approved by Congress, 66 Stat. 327, prohibited all "discrimination . . . *on account of* . . . *sex*," Art. II, Bill of Rights §1 (emphasis added), and in the landmark Immigration and Nationality Act of 1952, Congress outlawed discrimination in naturalization "*because of* . . . *sex*." 8 U. S. C. §1422 (emphasis added).

In 1958, the International Labour Organisation, a United Nations agency of which the United States is a member, recommended that nations bar employment discrimination "made *on the basis of* . . . *sex*." Convention (No. 111) Concerning Discrimination in Respect of Employment and Occupation, Art. 1(a), June 25, 1958, 362 U. N. T. S. 32 (emphasis added).

In 1961, President Kennedy ordered the Civil Service Commission to review and modify personnel policies "to assure that selection for any career position is hereinafter made solely on the basis of individual merit and fitness, *without regard to sex*."[21] He concurrently established a "Commission on the Status of Women" and directed it to recommend policies "for overcoming discriminations in government and private employment *on the basis of sex*." Exec. Order No. 10980, 3 CFR 138 (1961 Supp.) (emphasis

[21] J. Kennedy, Statement by the President on the Establishment of the President's Commission on the Status of Women 3 (Dec. 14, 1961) (emphasis added), https://www.jfklibrary.org/asset-viewer/archives/JFKPOF/093/JFKPOF-093-004.

added).

In short, the concept of discrimination "because of," "on account of," or "on the basis of" sex was well understood. It was part of the campaign for equality that had been waged by women's rights advocates for more than a century, and what it meant was equal treatment for men and women.[22]

2

Discrimination "because of sex" was not understood as having anything to do with discrimination because of sexual orientation or transgender status. Any such notion would have clashed in spectacular fashion with the societal norms of the day.

For most 21st-century Americans, it is painful to be reminded of the way our society once treated gays and lesbians, but any honest effort to understand what the terms of Title VII were understood to mean when enacted must take into account the societal norms of that time. And the plain truth is that in 1964 homosexuality was thought to be a mental disorder, and homosexual conduct was regarded as morally culpable and worthy of punishment.

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[22] Analysis of the way Title VII's key language was used in books and articles during the relevant time period supports this conclusion. A study searched a vast database of documents from that time to determine how the phrase "discriminate against . . . because of [some trait]" was used. Phillips, The Overlooked Evidence in the Title VII Cases: The Linguistic (and Therefore Textualist) Principle of Compositionality (manuscript, at 3) (May 11, 2020) (brackets in original), https://ssrn.com/abstract=3585940. The study found that the phrase was used to denote discrimination against "someone . . . motivated by prejudice, or biased ideas or attitudes . . . directed at people with that trait in particular." *Id.*, at 7 (emphasis deleted). In other words, "*discriminate against*" was "associated with negative treatment directed at members of a discrete group." *Id.,* at 5. Thus, as used in 1964, "discrimination because of sex" would have been understood to mean discrimination against a woman or a man based on "unfair beliefs or attitudes" about members of that particular sex. *Id.,* at 7.

In its then-most recent Diagnostic and Statistical Manual of Mental Disorders (1952) (DSM–I), the American Psychiatric Association (APA) classified same-sex attraction as a "sexual deviation," a particular type of "sociopathic personality disturbance," *id.*, at 38–39, and the next edition, issued in 1968, similarly classified homosexuality as a "sexual deviatio[n]," Diagnostic and Statistical Manual of Mental Disorders 44 (2d ed.) (DSM–II). It was not until the sixth printing of the DSM–II in 1973 that this was changed.[23]

Society's treatment of homosexuality and homosexual conduct was consistent with this understanding. Sodomy was a crime in every State but Illinois, see W. Eskridge, Dishonorable Passions 387–407 (2008), and in the District of Columbia, a law enacted by Congress made sodomy a felony punishable by imprisonment for up to 10 years and permitted the indefinite civil commitment of "sexual psychopath[s]," Act of June 9, 1948, §§104, 201–207, 62 Stat. 347–349.[24]

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[23] APA, Homosexuality and Sexual Orientation Disturbance: Proposed Change in DSM–II, 6th Printing, p. 44 (APA Doc. Ref. No. 730008, 1973) (reclassifying "homosexuality" as a "[s]exual orientation disturbance," a category "for individuals whose sexual interests are directed primarily toward people of the same sex and who are either disturbed by . . . or wish to change their sexual orientation," and explaining that "homosexuality . . . by itself does not constitute a psychiatric disorder"); see also APA, Diagnostic and Statistical Manual of Mental Disorders 281–282 (3d ed. 1980) (DSM–III) (similarly creating category of "Ego-dystonic Homosexuality" for "homosexuals for whom changing sexual orientation is a persistent concern," while observing that "homosexuality itself is not considered a mental disorder"); *Obergefell* v. *Hodges*, 576 U. S. 644, 661 (2015).

[24] In 1981, after achieving home rule, the District attempted to decriminalize sodomy, see D. C. Act No. 4–69, but the House of Representatives vetoed the bill, H. Res. 208, 97th Cong., 1st Sess. (1981); 127 Cong. Rec. 22764–22779 (1981). Sodomy was not decriminalized in the District until 1995. See Anti-Sexual Abuse Act of 1994, §501(b), 41 D. C. Reg. 53 (1995), enacted as D. C. Law 10–257.

This view of homosexuality was reflected in the rules governing the federal work force. In 1964, federal "[a]gencies could deny homosexual men and women employment because of their sexual orientation," and this practice continued until 1975. GAO, D. Heivilin, Security Clearances: Consideration of Sexual Orientation in the Clearance Process 2 (GAO/NSIAD–95–21, 1995). See, *e.g.*, *Anonymous* v. *Macy*, 398 F. 2d 317, 318 (CA5 1968) (affirming dismissal of postal employee for homosexual acts).

In 1964, individuals who were known to be homosexual could not obtain security clearances, and any who possessed clearances were likely to lose them if their orientation was discovered. A 1953 Executive Order provided that background investigations should look for evidence of "sexual perversion," as well as "[a]ny criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct." Exec. Order No. 10450, §8(a)(1)(iii), 3 CFR 938 (1949–1953 Comp.). "Until about 1991, when agencies began to change their security policies and practices regarding sexual orientation, there were a number of documented cases where defense civilian or contractor employees' security clearances were denied or revoked because of their sexual orientation." GAO, Security Clearances, at 2. See, *e.g.*, *Adams* v. *Laird*, 420 F. 2d 230, 240 (CADC 1969) (upholding denial of security clearance to defense contractor employee because he had "engaged in repeated homosexual acts"); see also *Webster* v. *Doe*, 486 U. S. 592, 595, 601 (1988) (concluding that decision to fire a particular individual because he was homosexual fell within the "discretion" of the Director of Central Intelligence under the National Security Act of 1947 and thus was unreviewable under the APA).

The picture in state employment was similar. In 1964, it was common for States to bar homosexuals from serving as teachers. An article summarizing the situation *15 years after Title VII became law* reported that "[a]ll states have statutes that permit the revocation of teaching certificates

(or credentials) for immorality, moral turpitude, or unprofessionalism," and, the survey added, "[h]omosexuality is considered to fall within all three categories."[25]

The situation in California is illustrative. California laws prohibited individuals who engaged in "immoral conduct" (which was construed to include homosexual behavior), as well as those convicted of "sex offenses" (like sodomy), from employment as teachers. Cal. Educ. Code Ann. §§13202, 13207, 13209, 13218, 13255 (West 1960). The teaching certificates of individuals convicted of engaging in homosexual acts were revoked. See, *e.g.*, *Sarac* v. *State Bd. of Ed.*, 249 Cal. App. 2d 58, 62–64, 57 Cal. Rptr. 69, 72–73 (1967) (upholding revocation of secondary teaching credential from teacher who was convicted of engaging in homosexual conduct on public beach), overruled in part, *Morrison* v. *State Bd. of Ed.*, 1 Cal. 3d 214, 461 P. 2d 375 (1969).

In Florida, the legislature enacted laws authorizing the revocation of teaching certificates for "misconduct involving moral turpitude," Fla. Stat. Ann. §229.08(16) (1961), and this law was used to target homosexual conduct. In 1964, a legislative committee was wrapping up a 6-year campaign to remove homosexual teachers from public schools and state universities. As a result of these efforts, the state board of education apparently revoked at least 71 teachers' certificates and removed at least 14 university professors. Eskridge, Dishonorable Passions, at 103.

Individuals who engaged in homosexual acts also faced the loss of other occupational licenses, such as those needed to work as a "lawyer, doctor, mortician, [or] beautician."[26] See, *e.g.*, *Florida Bar* v. *Kay*, 232 So. 2d 378 (Fla. 1970) (attorney disbarred after conviction for homosexual conduct in

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[25] Rivera, Our Straight-Laced Judges: The Legal Position of Homosexual Persons in the United States, 30 Hastings L. J. 799, 861 (1979).

[26] Eskridge, Challenging the Apartheid of the Closet: Establishing Conditions for Lesbian and Gay Intimacy, *Nomos*, and Citizenship, 1961–1981, 25 Hofstra L. Rev. 817, 819 (1997).

public bathroom).

In 1964 and for many years thereafter, homosexuals were barred from the military. See, *e.g.*, Army Reg. 635–89, §I(2)(a) (July 15, 1966) ("Personnel who voluntarily engage in homosexual acts, irrespective of sex, will not be permitted to serve in the Army in any capacity, and their prompt separation is mandatory"); Army Reg. 600–443, §I(2) (April 10, 1953) (similar). Prohibitions against homosexual conduct by members of the military were not eliminated until 2010. See Don't Ask, Don't Tell Repeal Act of 2010, 124 Stat. 3515 (repealing 10 U. S. C. §654, which required members of the Armed Forces to be separated for engaging in homosexual conduct).

Homosexuals were also excluded from entry into the United States. The Immigration and Nationality Act of 1952 (INA) excluded aliens "afflicted with psychopathic personality." 8 U. S. C. §1182(a)(4) (1964 ed.). In *Boutilier* v. *INS*, 387 U. S. 118, 120–123 (1967), this Court, relying on the INA's legislative history, interpreted that term to encompass homosexuals and upheld an alien's deportation on that ground. Three Justices disagreed with the majority's interpretation of the phrase "psychopathic personality."[27] But it apparently did not occur to anyone to argue that the Court's interpretation was inconsistent with the INA's express prohibition of discrimination "because of sex." That was how our society—and this Court—saw things a half century ago. Discrimination because of sex and discrimination because of sexual orientation were viewed as two entirely different concepts.

To its credit, our society has now come to recognize the injustice of past practices, and this recognition provides the impetus to "update" Title VII. But that is not our job. Our

[27] Justices Douglas and Fortas thought that a homosexual is merely "one, who by some freak, is the product of an arrested development." *Boutilier*, 387 U. S., at 127 (Douglas, J., dissenting); see also *id.*, at 125 (Brennan, J., dissenting) (based on lower court dissent).

duty is to understand what the terms of Title VII were understood to mean when enacted, and in doing so, we must take into account the societal norms of that time. We must therefore ask whether ordinary Americans in 1964 would have thought that discrimination because of "sex" carried some exotic meaning under which private-sector employers would be prohibited from engaging in a practice that represented the official policy of the Federal Government with respect to its own employees. We must ask whether Americans at that time would have thought that Title VII banned discrimination against an employee for engaging in conduct that Congress had made a felony and a ground for civil commitment.

The questions answer themselves. Even if discrimination based on sexual orientation or gender identity could be squeezed into some arcane understanding of sex discrimination, the context in which Title VII was enacted would tell us that this is not what the statute's terms were understood to mean at that time. To paraphrase something Justice Scalia once wrote, "our job is not to scavenge the world of English usage to discover whether there is any possible meaning" of discrimination because of sex that might be broad enough to encompass discrimination because of sexual orientation or gender identity. *Chisom* v. *Roemer*, 501 U. S. 380, 410 (1991) (dissenting opinion). Without strong evidence to the contrary (and there is none here), our job is to ascertain and apply the "*ordinary* meaning" of the statute. *Ibid*. And in 1964, ordinary Americans most certainly would not have understood Title VII to ban discrimination because of sexual orientation or gender identity.

The Court makes a tiny effort to suggest that at least some people in 1964 might have seen what Title VII really means. *Ante*, at 26. What evidence does it adduce? One complaint filed in 1969, another filed in 1974, and arguments made in the mid-1970s about the meaning of the Equal Rights Amendment. *Ibid*. To call this evidence

merely feeble would be generous.

C

While Americans in 1964 would have been shocked to learn that Congress had enacted a law prohibiting sexual orientation discrimination, they would have been bewildered to hear that this law also forbids discrimination on the basis of "transgender status" or "gender identity," terms that would have left people at the time scratching their heads. The term "transgender" is said to have been coined "'in the early 1970s,'"[28] and the term "gender identity," now understood to mean "[a]n internal sense of being male, female or something else,"[29] apparently first appeared in an academic article in 1964.[30] Certainly, neither term was in common parlance; indeed, dictionaries of the time still primarily defined the word "gender" by reference to grammatical classifications. See, *e.g.*, American Heritage Dictionary, at 548 (def. 1(a)) ("Any set of two or more categories, such as masculine, feminine, and neuter, into which words are divided . . . and that determine agreement with or the

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[28] Drescher, Transsexualism, Gender Identity Disorder and the DSM, 14 J. Gay & Lesbian Mental Health 109, 110 (2010).

[29] American Psychological Association, 49 Monitor on Psychology, at 32.

[30] Green, Robert Stoller's *Sex and Gender*: 40 Years On, 39 Archives Sexual Behav. 1457 (2010); see Stoller, A Contribution to the Study of Gender Identity, 45 Int'l J. Psychoanalysis 220 (1964). The term appears to have been coined a year or two earlier. See Haig, The Inexorable Rise of Gender and the Decline of Sex: Social Change in Academic Titles, 1945–2001, 33 Archives Sexual Behav. 87, 93 (2004) (suggesting the term was first introduced at 23rd International Psycho-Analytical Congress in Stockholm in 1963); J. Meyerowitz, How Sex Changed 213 (2002) (referring to founding of "Gender Identity Research Clinic" at UCLA in 1962). In his book, Sex and Gender, published in 1968, Robert Stoller referred to "*gender identity*" as "a working term" "associated with" his research team but noted that they were not "fixed on copyrighting the term or on defending the concept as one of the splendors of the scientific world." Sex and Gender, p. viii.

selection of modifiers, referents, or grammatical forms").

While it is likely true that there have always been individuals who experience what is now termed "gender dysphoria," *i.e.*, "[d]iscomfort or distress related to an incongruence between an individual's gender identity and the gender assigned at birth,"[31] the current understanding of the concept postdates the enactment of Title VII. Nothing resembling what is now called gender dysphoria appeared in either DSM–I (1952) or DSM–II (1968). It was not until 1980 that the APA, in DSM–III, recognized two main psychiatric diagnoses related to this condition, "Gender Identity Disorder of Childhood" and "Transsexualism" in adolescents and adults.[32] DSM–III, at 261–266.

The first widely publicized sex reassignment surgeries in the United States were not performed until 1966,[33] and the great majority of physicians surveyed in 1969 thought that an individual who sought sex reassignment surgery was either "'severely neurotic'" or "'psychotic.'"[34]

It defies belief to suggest that the public meaning of discrimination because of sex in 1964 encompassed discrimination on the basis of a concept that was essentially unknown to the public at that time.

D

1

The Court's main excuse for entirely ignoring the social context in which Title VII was enacted is that the meaning of Title VII's prohibition of discrimination because of sex is

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[31] American Psychological Association, 49 Monitor on Psychology, at 32.

[32] See Drescher, *supra*, at 112.

[33] Buckley, A Changing of Sex by Surgery Begun at Johns Hopkins, N. Y. Times, Nov. 21, 1966, p. 1, col. 8; see also J. Meyerowitz, How Sex Changed 218–220 (2002).

[34] Drescher, *supra*, at 112 (quoting Green, Attitudes Toward Transsexualism and Sex-Reassignment Procedures, in Transsexualism and Sex Reassignment 241–242 (R. Green & J. Money eds. 1969)).

clear, and therefore it simply does not matter whether people in 1964 were "smart enough to realize" what its language means. *Hively,* 853 F. 3d, at 357 (Posner, J., concurring). According to the Court, an argument that looks to the societal norms of those times represents an impermissible attempt to displace the statutory language. *Ante*, at 25–26.

The Court's argument rests on a false premise. As already explained at length, the text of Title VII does not prohibit discrimination because of sexual orientation or gender identity. And what the public thought about those issues in 1964 is relevant and important, not because it provides a ground for departing from the statutory text, but because it helps to explain what the text was understood to mean when adopted.

In arguing that we must put out of our minds what we know about the time when Title VII was enacted, the Court relies on Justice Scalia's opinion for the Court in *Oncale* v. *Sundowner Offshore Services, Inc.*, 523 U. S. 75 (1998). But *Oncale* is nothing like these cases, and no one should be taken in by the majority's effort to enlist Justice Scalia in its updating project.

The Court's unanimous decision in *Oncale* was thoroughly unremarkable. The Court held that a male employee who alleged that he had been sexually harassed at work by other men stated a claim under Title VII. Although the impetus for Title VII's prohibition of sex discrimination was to protect women, anybody reading its terms would immediately appreciate that it applies equally to both sexes, and by the time *Oncale* reached the Court, our precedent already established that sexual harassment may constitute sex discrimination within the meaning of Title VII. See *Meritor Savings Bank, FSB* v. *Vinson*, 477 U. S. 57 (1986). Given these premises, syllogistic reasoning dictated the holding.

What today's decision latches onto are *Oncale*'s comments about whether "'male-on-male sexual harassment'" was on Congress's mind when it enacted Title VII. *Ante*, at 28 (quoting 523 U. S., at 79). The Court in *Oncale* observed that this specific type of behavior "was assuredly not the *principal evil* Congress was concerned with when it enacted Title VII," but it found that immaterial because "statutory prohibitions often go beyond the *principal evil* to cover reasonably comparable evils, and it is ultimately the provisions of our laws rather than the *principal concerns* of our legislators by which we are governed." 523 U. S., at 79 (emphasis added).

It takes considerable audacity to read these comments as committing the Court to a position on deep philosophical questions about the meaning of language and their implications for the interpretation of legal rules. These comments are better understood as stating mundane and uncontroversial truths. Who would argue that a statute applies only to the "principal evils" and not lesser evils that fall within the plain scope of its terms? Would even the most ardent "purposivists" and fans of legislative history contend that congressional intent is restricted to Congress's "*principal* concerns"?

Properly understood, *Oncale* does not provide the slightest support for what the Court has done today. For one thing, it would be a wild understatement to say that discrimination because of sexual orientation and transgender status was not the "principal evil" on Congress's mind in 1964. Whether we like to admit it now or not, in the thinking of Congress and the public at that time, such discrimination would not have been evil at all.

But the more important difference between these cases and *Oncale* is that here the interpretation that the Court adopts does not fall within the ordinary meaning of the statutory text as it would have been understood in 1964. To

decide for the defendants in *Oncale*, it would have been necessary to carve out an exception to the statutory text. Here, no such surgery is at issue. Even if we totally disregard the societal norms of 1964, the text of Title VII does not support the Court's holding. And the reasoning of *Oncale* does not preclude or counsel against our taking those norms into account. They are relevant, not for the purpose of creating an exception to the terms of the statute, but for the purpose of better appreciating how those terms would have been understood at the time.

2

The Court argues that two other decisions—*Phillips* v. *Martin Marietta Corp.*, 400 U. S. 542 (1971) (*per curiam*), and *Los Angeles Dept. of Water and Power* v. *Manhart*, 435 U. S. 702 (1978)—buttress its decision, but those cases merely held that Title VII prohibits employer conduct that plainly constitutes discrimination because of biological sex. In *Philips*, the employer treated women with young children less favorably than men with young children. In *Manhart*, the employer required women to make larger pension contributions than men. It is hard to see how these holdings assist the Court.

The Court extracts three "lessons" from *Phillips*, *Manhart*, and *Oncale*, but none sheds any light on the question before us. The first lesson is that "it's irrelevant what an employer might call its discriminatory practice, how others might label it, or what else might motivate it." *Ante*, at 14. This lesson is obviously true but proves nothing. As to the label attached to a practice, has anyone ever thought that the application of a law to a person's conduct depends on how it is labeled? Could a bank robber escape conviction by saying he was engaged in asset enhancement? So if an employer discriminates because of sex, the employer is liable no matter what it calls its conduct, but if the employer's

conduct is not sex discrimination, the statute does not apply. Thus, this lesson simply takes us back to the question whether discrimination because of sexual orientation or gender identity is a form of discrimination because of biological sex. For reasons already discussed, see Part I–A, *supra*, it is not.

It likewise proves nothing of relevance here to note that an employer cannot escape liability by showing that discrimination on a prohibited ground was not its sole motivation. So long as a prohibited ground was a motivating factor, the existence of other motivating factors does not defeat liability.

The Court makes much of the argument that "[i]n *Phillips*, the employer could have accurately spoken of its policy as one based on 'motherhood.'" *Ante*, at 14; see also *ante,* at 16. But motherhood, by definition, is a condition that can be experienced only by women, so a policy that distinguishes between motherhood and parenthood is necessarily a policy that draws a sex-based distinction. There was sex discrimination in *Phillips*, because women with children were treated disadvantageously compared to men with children.

Lesson number two—"the plaintiff's sex need not be the sole or primary cause of the employer's adverse action," *ante*, at 14—is similarly unhelpful. The standard of causation in these cases is whether sex is necessarily a "motivating factor" when an employer discriminates on the basis of sexual orientation or gender identity. 42 U. S. C. §2000e–2(m). But the essential question—whether discrimination because of sexual orientation or gender identity constitutes sex discrimination—would be the same no matter what causation standard applied. The Court's extensive discussion of causation standards is so much smoke.

Lesson number three—"an employer cannot escape liability by demonstrating that it treats males and females comparably as groups," *ante,* at 15, is also irrelevant. There

is no dispute that discrimination against an individual employee based on that person's sex cannot be justified on the ground that the employer's treatment of the average employee of that sex is at least as favorable as its treatment of the average employee of the opposite sex. Nor does it matter if an employer discriminates against only a subset of men or women, where the same subset of the opposite sex is treated differently, as in *Phillips*. That is not the issue here. An employer who discriminates equally on the basis of sexual orientation or gender identity applies the same criterion to every affected *individual* regardless of sex. See Part I–A, *supra*.

III

A

Because the opinion of the Court flies a textualist flag, I have taken pains to show that it cannot be defended on textualist grounds. But even if the Court's textualist argument were stronger, that would not explain today's decision. Many Justices of this Court, both past and present, have not espoused or practiced a method of statutory interpretation that is limited to the analysis of statutory text. Instead, when there is ambiguity in the terms of a statute, they have found it appropriate to look to other evidence of "congressional intent," including legislative history.

So, why in these cases are congressional intent and the legislative history of Title VII totally ignored? Any assessment of congressional intent or legislative history seriously undermines the Court's interpretation.

B

As the Court explained in *General Elec. Co.* v. *Gilbert*, 429 U. S. 125, 143 (1976), the legislative history of Title VII's prohibition of sex discrimination is brief, but it is nevertheless revealing. The prohibition of sex discrimination was "added to Title VII at the last minute on the floor of the

House of Representatives," *Meritor Savings Bank*, 477 U. S., at 63, by Representative Howard Smith, the Chairman of the Rules Committee. See 110 Cong. Rec. 2577 (1964). Representative Smith had been an ardent opponent of the civil rights bill, and it has been suggested that he added the prohibition against discrimination on the basis of "sex" as a poison pill. See, *e.g.*, *Ulane* v. *Eastern Airlines, Inc.*, 742 F. 2d 1081, 1085 (CA7 1984). On this theory, Representative Smith thought that prohibiting employment discrimination against women would be unacceptable to Members who might have otherwise voted in favor of the bill and that the addition of this prohibition might bring about the bill's defeat.[35] But if Representative Smith had been looking for a poison pill, prohibiting discrimination on the basis of sexual orientation or gender identity would have been far more potent. However, neither Representative Smith nor any other Member said one word about the possibility that the prohibition of sex discrimination might have that meaning. Instead, all the debate concerned discrimination on the basis of biological sex.[36] See 110 Cong. Rec. 2577–2584.

Representative Smith's motivations are contested, 883 F. 3d, at 139–140 (Lynch, J., dissenting), but whatever they

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[35] See Osterman, Origins of a Myth: Why Courts, Scholars, and the Public Think Title VII's Ban on Sex Discrimination Was an Accident, 20 Yale J. L. & Feminism 409, 409–410 (2009).

[36] Recent scholarship has linked the adoption of the Smith Amendment to the broader campaign for women's rights that was underway at the time. *E.g.*, Osterman, *supra*; Freeman, How Sex Got Into Title VII: Persistent Opportunism as a Maker of Public Policy, 9 L. & Ineq. 163 (1991); Barzilay, Parenting Title VII: Rethinking the History of the Sex Discrimination Provision, 28 Yale J. L. & Feminism 55 (2016); Gold, A Tale of Two Amendments: The Reasons Congress Added Sex to Title VII and Their Implication for the Issue of Comparable Worth, 19 Duquesne L. Rev. 453 (1981). None of these studies has unearthed evidence that the amendment was understood to apply to discrimination because of sexual orientation or gender identity.

were, the meaning of *the adoption of the prohibition* of sex discrimination is clear. It was no accident. It grew out of "a long history of women's rights advocacy that had increasingly been gaining mainstream recognition and acceptance," and it marked a landmark achievement in the path toward fully equal rights for women. *Id.*, at 140. "Discrimination against gay women and men, by contrast, was not on the table for public debate . . . [i]n those dark, pre-Stonewall days." *Ibid.*

For those who regard congressional intent as the touchstone of statutory interpretation, the message of Title VII's legislative history cannot be missed.

C

Post-enactment events only clarify what was apparent when Title VII was enacted. As noted, bills to add "sexual orientation" to Title VII's list of prohibited grounds were introduced in every Congress beginning in 1975, see *supra*, at 2, and two such bills were before Congress in 1991[37] when it made major changes in Title VII. At that time, the three Courts of Appeals to reach the issue had held that Title VII does not prohibit discrimination because of sexual orientation,[38] two other Circuits had endorsed that interpretation in dicta,[39] and no Court of Appeals had held otherwise. Similarly, the three Circuits to address the application of Title VII to transgender persons had all rejected the argument

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[37] H. R. 1430, 102d Cong., 1st Sess., §2(d) (as introduced in the House on Mar. 13, 1991); S. 574, 102d Cong., 1st Sess., §5 (as introduced in the Senate on Mar. 6, 1991).

[38] See *Williamson* v. *A. G. Edwards & Sons, Inc.*, 876 F. 2d 69, 70 (CA8 1989) (*per curiam*), cert. denied, 493 U. S. 1089 (1990); *DeSantis* v. *Pacific Tel. & Tel. Co.*, 608 F. 2d 327, 329–330 (CA9 1979); *Blum* v. *Gulf Oil Corp.*, 597 F. 2d 936, 938 (CA5 1979) (*per curiam*).

[39] *Ruth* v. *Children's Med. Ctr.*, 1991 WL 151158, *5 (CA6, Aug. 8, 1991) (*per curiam*); *Ulane* v. *Eastern Airlines, Inc.*, 742 F. 2d 1081, 1084–1085 (CA7 1984), cert. denied, 471 U. S. 1017 (1985).

that it covered discrimination on this basis.[40] These were also the positions of the EEOC.[41] In enacting substantial changes to Title VII, the 1991 Congress abrogated numerous judicial decisions with which it disagreed. If it also disagreed with the decisions regarding sexual orientation and transgender discrimination, it could have easily overruled those as well, but it did not do so.[42]

After 1991, six other Courts of Appeals reached the issue of sexual orientation discrimination, and until 2017, every single Court of Appeals decision understood Title VII's prohibition of "discrimination because of sex" to mean discrimination because of biological sex. See, *e.g.*, *Higgins* v. *New Balance Athletic Shoe, Inc.*, 194 F. 3d 252, 259 (CA1 1999); *Simonton* v. *Runyon*, 232 F. 3d 33, 36 (CA2 2000); *Bibby* v. *Philadelphia Coca Cola Bottling Co.*, 260 F. 3d 257, 261 (CA3 2001), cert. denied, 534 U. S. 1155 (2002); *Wrightson* v. *Pizza Hut of Am., Inc.*, 99 F. 3d 138, 143 (CA4 1996); *Hamm* v. *Weyauwega Milk Products, Inc.*, 332 F. 3d 1058, 1062 (CA7 2003); *Medina* v. *Income Support Div., N. M.*, 413 F. 3d 1131, 1135 (CA10 2005); *Evans* v. *Georgia Regional Hospital*, 850 F. 3d 1248, 1255 (CA11), cert. denied, 583 U. S. ___ (2017). Similarly, the other Circuit to formally address whether Title VII applies to claims of discrimination based on transgender status had also rejected the argument, creating unanimous consensus prior to the Sixth Circuit's decision below. See *Etsitty* v. *Utah Transit Authority*, 502 F. 3d 1215, 1220–1221 (CA10

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[40] See *Ulane*, 742 F. 2d, at 1084–1085; *Sommers* v. *Budget Mktg., Inc.*, 667 F. 2d 748, 750 (CA8 1982) (*per curiam*); *Holloway* v. *Arthur Andersen & Co.*, 566 F. 2d 659, 661–663 (CA9 1977).

[41] *Dillon* v. *Frank*, 1990 WL 1111074, *3–*4 (EEOC, Feb. 14, 1990); *LaBate* v. *USPS*, 1987 WL 774785, *2 (EEOC, Feb. 11, 1987).

[42] In more recent legislation, when Congress has wanted to reach acts committed because of sexual orientation or gender identity, it has referred to those grounds by name. See, *e.g.*, 18 U. S. C. §249(a)(2)(A) (hate crimes) (enacted 2009); 34 U. S. C. §12291(b)(13)(A) (certain federally funded programs) (enacted 2013).

2007).

The Court observes that "[t]he people are entitled to rely on the law as written, without fearing that courts might disregard its plain terms," *ante*, at 24, but it has no qualms about disregarding over 50 years of uniform judicial interpretation of Title VII's plain text. Rather, the Court makes the jaw-dropping statement that its decision exemplifies "judicial humility." *Ante*, at 31. Is it humble to maintain, not only that Congress did not understand the terms it enacted in 1964, but that all the Circuit Judges on all the pre-2017 cases could not see what the phrase discrimination "because of sex" really means? If today's decision is humble, it is sobering to imagine what the Court might do if it decided to be bold.

IV

What the Court has done today—interpreting discrimination because of "sex" to encompass discrimination because of sexual orientation or gender identity—is virtually certain to have far-reaching consequences. Over 100 federal statutes prohibit discrimination because of sex. See Appendix C, *infra*; *e.g.*, 20 U. S. C. §1681(a) (Title IX); 42 U. S. C. §3631 (Fair Housing Act); 15 U. S. C. 1691(a)(1) (Equal Credit Opportunity Act). The briefs in these cases have called to our attention the potential effects that the Court's reasoning may have under some of these laws, but the Court waves those considerations aside. As to Title VII itself, the Court dismisses questions about "bathrooms, locker rooms, or anything else of the kind." *Ante*, at 31. And it declines to say anything about other statutes whose terms mirror Title VII's.

The Court's brusque refusal to consider the consequences of its reasoning is irresponsible. If the Court had allowed the legislative process to take its course, Congress would have had the opportunity to consider competing interests and might have found a way of accommodating at least

some of them. In addition, Congress might have crafted special rules for some of the relevant statutes. But by intervening and proclaiming categorically that employment discrimination based on sexual orientation or gender identity is simply a form of discrimination because of sex, the Court has greatly impeded—and perhaps effectively ended—any chance of a bargained legislative resolution. Before issuing today's radical decision, the Court should have given some thought to where its decision would lead.

As the briefing in these cases has warned, the position that the Court now adopts will threaten freedom of religion, freedom of speech, and personal privacy and safety. No one should think that the Court's decision represents an unalloyed victory for individual liberty.

I will briefly note some of the potential consequences of the Court's decision, but I do not claim to provide a comprehensive survey or to suggest how any of these issues should necessarily play out under the Court's reasoning.[43]

"[B]athrooms, locker rooms, [and other things] of [that] kind." The Court may wish to avoid this subject, but it is a matter of concern to many people who are reticent about disrobing or using toilet facilities in the presence of individuals whom they regard as members of the opposite sex. For some, this may simply be a question of modesty, but for others, there is more at stake. For women who have been victimized by sexual assault or abuse, the experience of seeing an unclothed person with the anatomy of a male in a confined and sensitive location such as a bathroom or locker room can cause serious psychological harm.[44]

Under the Court's decision, however, transgender persons will be able to argue that they are entitled to use a bathroom or locker room that is reserved for persons of the

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[43] Contrary to the implication in the Court's opinion, I do not label these potential consequences "undesirable." *Ante*, at 31. I mention them only as possible implications of the Court's reasoning.

[44] Brief for Defend My Privacy et al. as *Amici Curiae* 7–10.

sex with which they identify, and while the Court does not define what it means by a transgender person, the term may apply to individuals who are "gender fluid," that is, individuals whose gender identity is mixed or changes over time.[45] Thus, a person who has not undertaken any physical transitioning may claim the right to use the bathroom or locker room assigned to the sex with which the individual identifies at that particular time. The Court provides no clue why a transgender person's claim to such bathroom or locker room access might not succeed.

A similar issue has arisen under Title IX, which prohibits sex discrimination by any elementary or secondary school and any college or university that receives federal financial assistance.[46] In 2016, a Department of Justice advisory warned that barring a student from a bathroom assigned to individuals of the gender with which the student identifies constitutes unlawful sex discrimination,[47] and some lower court decisions have agreed. See *Whitaker* v. *Kenosha Unified School Dist. No. 1 Bd. of Ed.*, 858 F. 3d 1034, 1049 (CA7 2017); *G. G.* v. *Gloucester Cty. School Bd.*, 822 F. 3d 709, 715 (CA4 2016), vacated and remanded, 580 U. S. ___ (2017); *Adams* v. *School Bd. of St. Johns Cty.*, 318 F. Supp. 3d 1293, 1325 (MD Fla. 2018); cf. *Doe* v. *Boyertown Area*

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[45] See 1 Sadock, Comprehensive Textbook of Psychiatry, at 2063 (explaining that "gender is now often regarded as more *fluid*" and "[t]hus, gender identity may be described as masculine, feminine, or somewhere in between").

[46] Title IX makes it unlawful to discriminate on the basis of sex in education: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." 20 U. S. C. §1681(a).

[47] See Dept. of Justice & Dept. of Education, Dear Colleague Letter on Transgender Students, May 13, 2016 (Dear Colleague Letter), https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf.

School Dist., 897 F. 3d 518, 533 (CA3 2018), cert. denied, 587 U. S. ___ (2019).

Women's sports. Another issue that may come up under both Title VII and Title IX is the right of a transgender individual to participate on a sports team or in an athletic competition previously reserved for members of one biological sex.[48] This issue has already arisen under Title IX, where it threatens to undermine one of that law's major achievements, giving young women an equal opportunity to participate in sports. The effect of the Court's reasoning may be to force young women to compete against students who have a very significant biological advantage, including students who have the size and strength of a male but identify as female and students who are taking male hormones in order to transition from female to male. See, *e.g.*, Complaint in *Soule* v. *Connecticut Assn. of Schools*, No. 3:20–cv–00201 (D Conn., Apr. 17, 2020) (challenging Connecticut policy allowing transgender students to compete in girls' high school sports); Complaint in *Hecox* v. *Little*, No. 1:20–cv–00184 (D Idaho, Apr. 15, 2020) (challenging state law that bars transgender students from participating in school sports in accordance with gender identity). Students in these latter categories have found success in athletic competitions reserved for females.[49]

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[48] A regulation allows single-sex teams, 34 CFR §106.41(b) (2019), but the statute itself would of course take precedence.

[49] "[S]ince 2017, two biological males [in Connecticut] have collectively won 15 women's state championship titles (previously held by ten different Connecticut girls) against biologically female track athletes." Brief for Independent Women's Forum et al. as *Amici Curiae* in No. 18–107, pp. 14–15.

At the college level, a transgendered woman (biological male) switched from competing on the men's Division II track team to the women's Division II track team at Franklin Pierce University in New Hampshire after taking a year of testosterone suppressants. While this student had placed "eighth out of nine male athletes in the 400 meter hurdles the

The logic of the Court's decision could even affect professional sports. Under the Court's holding that Title VII prohibits employment discrimination because of transgender status, an athlete who has the physique of a man but identifies as a woman could claim the right to play on a women's professional sports team. The owners of the team might try to claim that biological sex is a bona fide occupational qualification (BFOQ) under 42 U. S. C. §2000e–2(e), but the BFOQ exception has been read very narrowly. See *Dothard* v. *Rawlinson*, 433 U. S. 321, 334 (1977).

Housing. The Court's decision may lead to Title IX cases against any college that resists assigning students of the opposite biological sex as roommates. A provision of Title IX, 20 U. S. C. §1686, allows schools to maintain "separate living facilities for the different sexes," but it may be argued that a student's "sex" is the gender with which the student identifies.[50] Similar claims may be brought under the Fair Housing Act. See 42 U. S. C. §3604.

Employment by religious organizations. Briefs filed by a wide range of religious groups—Christian, Jewish, and Muslim—express deep concern that the position now adopted by the Court "will trigger open conflict with faith-

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year before, the student won the women's competition by over a second and a half—a time that had garnered tenth place in the men's conference meet just three years before." *Id.*, at 15.

A transgender male—*i.e.*, a biological female who was in the process of transitioning to male and actively taking testosterone injections—won the Texas girls' state championship in high school wrestling in 2017. Babb, Transgender Issue Hits Mat in Texas, Washington Post, Feb. 26, 2017, p. A1, col. 1.

[50] Indeed, the 2016 advisory letter issued by the Department of Justice took the position that under Title IX schools "must allow transgender students to access housing consistent with their gender identity." Dear Colleague Letter 4.

based employment practices of numerous churches, synagogues, mosques, and other religious institutions."[51] They argue that "[r]eligious organizations need employees who actually live the faith,"[52] and that compelling a religious organization to employ individuals whose conduct flouts the tenets of the organization's faith forces the group to communicate an objectionable message.

This problem is perhaps most acute when it comes to the employment of teachers. A school's standards for its faculty "communicate a particular way of life to its students," and a "violation by the faculty of those precepts" may undermine the school's "moral teaching."[53] Thus, if a religious school teaches that sex outside marriage and sex reassignment procedures are immoral, the message may be lost if the school employs a teacher who is in a same-sex relationship or has undergone or is undergoing sex reassignment. Yet today's decision may lead to Title VII claims by such teachers and applicants for employment.

At least some teachers and applicants for teaching positions may be blocked from recovering on such claims by the "ministerial exception" recognized in *Hosanna-Tabor Evangelical Lutheran Church and School* v. *EEOC*, 565 U. S. 171 (2012). Two cases now pending before the Court present the question whether teachers who provide religious instruction can be considered to be "ministers."[54] But even if teachers with those responsibilities qualify, what about other very visible school employees who may not qualify for

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[51] Brief for National Association of Evangelicals et al. as *Amici Curiae* 3; see also Brief for United States Conference of Catholic Bishops et al. as *Amici Curiae* in No. 18–107, pp. 8–18.

[52] Brief for National Association of Evangelicals et al. as *Amici Curiae* 7.

[53] McConnell, Academic Freedom in Religious Colleges and Universities, 53 Law & Contemp. Prob. 303, 322 (1990).

[54] See *Our Lady of Guadalupe School* v. *Morrissey-Berru*, No. 19–267; *St. James School* v. *Biel*, No. 19–348.

the ministerial exception? Provisions of Title VII provide exemptions for certain religious organizations and schools "with respect to the employment of individuals of a particular religion to perform work connected with the carrying on" of the "activities" of the organization or school, 42 U. S. C. §2000e–1(a); see also §2000e–2(e)(2), but the scope of these provisions is disputed, and as interpreted by some lower courts, they provide only narrow protection.[55]

Healthcare. Healthcare benefits may emerge as an intense battleground under the Court's holding. Transgender employees have brought suit under Title VII to challenge employer-provided health insurance plans that do not cover costly sex reassignment surgery.[56] Similar claims have been brought under the Affordable Care Act (ACA), which broadly prohibits sex discrimination in the provision of healthcare.[57]

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[55] See, *e.g.*, *EEOC* v. *Kamehameha Schools/Bishop Estate*, 990 F. 2d 458, 460 (CA9 1993); *EEOC* v. *Fremont Christian School*, 781 F. 2d 1362, 1365–1367 (CA9 1986); *Rayburn* v. *General Conference of Seventh-day Adventists*, 772 F. 2d 1164, 1166 (CA4 1985); *EEOC* v. *Mississippi College*, 626 F. 2d 477, 484–486 (CA5 1980); see also Brief for United States Conference of Catholic Bishops et al. as *Amici Curiae* in No. 18–107, at 30, n. 28 (discussing disputed scope). In addition, 42 U. S. C. §2000e–2(e)(1) provides that religion may be a BFOQ, and allows religious schools to hire religious employees, but as noted, the BFOQ exception has been read narrowly. See *supra*, at 48.

[56] See, *e.g.*, Amended Complaint in *Toomey* v. *Arizona*, No. 4:19–cv–00035 (D Ariz., Mar. 2, 2020). At least one District Court has already held that a state health insurance policy that does not provide coverage for sex reassignment surgery violates Title VII. *Fletcher* v. *Alaska*, ___ F. Supp. 3d ___, ___, 2020 WL 2487060, *5 (D Alaska, Mar. 6, 2020).

[57] See, *e.g.*, Complaint in *Conforti* v. *St. Joseph's Healthcare System*, No. 2:17–cv–00050 (D NJ, Jan. 5, 2017) (transgender man claims discrimination under the ACA because a Catholic hospital refused to allow a surgeon to perform a hysterectomy). And multiple District Courts have already concluded that the ACA requires health insurance coverage for sex reassignment surgery and treatment. *Kadel* v. *Folwell*, ___ F. Supp. 3d ___, ___, 2020 WL 1169271, *12 (MDNC, Mar. 11, 2020) (allowing

Such claims present difficult religious liberty issues because some employers and healthcare providers have strong religious objections to sex reassignment procedures, and therefore requiring them to pay for or to perform these procedures will have a severe impact on their ability to honor their deeply held religious beliefs.

Freedom of speech. The Court's decision may even affect the way employers address their employees and the way teachers and school officials address students. Under established English usage, two sets of sex-specific singular personal pronouns are used to refer to someone in the third person (he, him, and his for males; she, her, and hers for females). But several different sets of gender-neutral pronouns have now been created and are preferred by some individuals who do not identify as falling into either of the two traditional categories.[58] Some jurisdictions, such as

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claims of discrimination under ACA, Title IX, and Equal Protection Clause); *Tovar* v. *Essentia Health*, 342 F. Supp. 3d 947, 952–954 (D Minn. 2018) (allowing ACA claim).

Section 1557 of the ACA, 42 U. S. C. §18116, provides:

"Except as otherwise provided for in this title (or an amendment made by this title), an individual shall not, on the ground prohibited under title VI of the Civil Rights Act of 1964 (42 U. S. C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U. S. C. 1681 et seq.), the Age Discrimination Act of 1975 (42 U. S. C. 6101 et seq.), or section 794 of title 29, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance, including credits, subsidies, or contracts of insurance, or under any program or activity that is administered by an Executive Agency or any entity established under this title (or amendments). The enforcement mechanisms provided for and available under such title VI, title IX, section 794, or such Age Discrimination Act shall apply for purposes of violations of this subsection." (Footnote omitted.)

[58] See, *e.g.*, University of Wisconsin Milwaukee Lesbian, Gay, Bisexual, Transgender, Queer Plus (LGBTQ+) Resource Center, Gender Pronouns (2020), https://uwm.edu/lgbtrc/support/gender-pronouns/ (listing six new categories of pronouns: (f)ae, (f)aer, (f)aers; e/ey, em, eir, eirs; per, pers;

New York City, have ordinances making the failure to use an individual's preferred pronoun a punishable offense,[59] and some colleges have similar rules.[60] After today's decision, plaintiffs may claim that the failure to use their preferred pronoun violates one of the federal laws prohibiting sex discrimination. See *Prescott* v. *Rady Children's Hospital San Diego*, 265 F. Supp. 3d 1090, 1098–1100 (SD Cal. 2017) (hospital staff's refusal to use preferred pronoun violates ACA).[61]

The Court's decision may also pressure employers to suppress any statements by employees expressing disapproval of same-sex relationships and sex reassignment procedures. Employers are already imposing such restrictions voluntarily, and after today's decisions employers will fear

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ve, ver, vis; xe, xem, xyr, xyrs; ze/zie, hir, hirs).

[59] See 47 N. Y. C. R. R. §2–06(a) (2020) (stating that a "deliberate refusal to use an individual's self-identified name, pronoun and gendered title" is a violation of N. Y. C. Admin. Code §8–107 "where the refusal is motivated by the individual's gender"); see also N. Y. C. Admin. Code §§8–107(1), (4), (5) (2020) (making it unlawful to discriminate on the basis of "gender" in employment, housing, and public accommodations); cf. D. C. Mun. Regs., tit. 4, §801.1 (2020) (making it "unlawful . . . to discriminate . . . on the basis of . . . actual or perceived gender identity or expression" in "employment, housing, public accommodations, or educational institutions" and further proscribing "engaging in verbal . . . harassment").

[60] See University of Minn., Equity and Access: Gender Identity, Gender Expression, Names, and Pronouns, Administrative Policy (Dec. 11, 2019), https://policy.umn.edu/operations/genderequity ("University members and units are expected to use the names, gender identities, and pronouns specified to them by other University members, except as legally required"); *Meriwether* v. *Trustees of Shawnee State Univ.*, 2020 WL 704615, *1 (SD Ohio, Feb. 12, 2020) (rejecting First Amendment challenge to university's nondiscrimination policy brought by evangelical Christian professor who was subjected to disciplinary actions for failing to use student's preferred pronouns).

[61] Cf. Notice of Removal in *Vlaming* v. *West Point School Board*, No. 3:19–cv–00773 (ED Va., Oct. 22, 2019) (contending that high school teacher's firing for failure to use student's preferred pronouns was based on nondiscrimination policy adopted pursuant to Title IX).

that allowing employees to express their religious views on these subjects may give rise to Title VII harassment claims.

Constitutional claims. Finally, despite the important differences between the Fourteenth Amendment and Title VII, the Court's decision may exert a gravitational pull in constitutional cases. Under our precedents, the Equal Protection Clause prohibits sex-based discrimination unless a "heightened" standard of review is met. *Sessions* v. *Morales-Santana*, 582 U. S. ___, ___ (2017) (slip op., at 8); *United States* v. *Virginia*, 518 U. S. 515, 532–534 (1996). By equating discrimination because of sexual orientation or gender identity with discrimination because of sex, the Court's decision will be cited as a ground for subjecting all three forms of discrimination to the same exacting standard of review.

Under this logic, today's decision may have effects that extend well beyond the domain of federal anti-discrimination statutes. This potential is illustrated by pending and recent lower court cases in which transgender individuals have challenged a variety of federal, state, and local laws and policies on constitutional grounds. See, *e.g.*, Complaint in *Hecox*, No. 1: 20–CV–00184 (state law prohibiting transgender students from competing in school sports in accordance with their gender identity); Second Amended Complaint in *Karnoski* v. *Trump*, No. 2:17–cv–01297 (WD Wash., July 31, 2019) (military's ban on transgender members); *Kadel* v. *Folwell*, ___ F. Supp. 3d ___, ___–___, 2020 WL 1169271, *10–*11 (MDNC, Mar. 11, 2020) (state health plan's exclusion of coverage for sex reassignment procedures); Complaint in *Gore* v. *Lee*, No. 3:19–cv–00328 (MD Tenn., Mar. 3, 2020) (change of gender on birth certificates); Brief for Appellee in *Grimm* v. *Gloucester Cty. School Bd.*, No. 19–1952 (CA4, Nov. 18, 2019) (transgender student forced to use gender neutral bathrooms at school); Complaint in *Corbitt* v. *Taylor*, No. 2:18–cv–00091 (MD Ala.,

July 25, 2018) (change of gender on driver's licenses); *Whitaker*, 858 F. 3d, at 1054 (school policy requiring students to use the bathroom that corresponds to the sex on birth certificate); *Keohane* v. *Florida Dept. of Corrections Secretary*, 952 F. 3d 1257, 1262–1265 (CA11 2020) (transgender prisoner denied hormone therapy and ability to dress and groom as a female); *Edmo* v. *Corizon, Inc.*, 935 F. 3d 757, 767 (CA9 2019) (transgender prisoner requested sex reassignment surgery); cf. *Glenn* v. *Brumby*, 663 F. 3d 1312, 1320 (CA11 2011) (transgender individual fired for gender non-conformity).

Although the Court does not want to think about the consequences of its decision, we will not be able to avoid those issues for long. The entire Federal Judiciary will be mired for years in disputes about the reach of the Court's reasoning.

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The updating desire to which the Court succumbs no doubt arises from humane and generous impulses. Today, many Americans know individuals who are gay, lesbian, or transgender and want them to be treated with the dignity, consideration, and fairness that everyone deserves. But the authority of this Court is limited to saying what the law *is*.

The Court itself recognizes this:

> "The place to make new legislation . . . lies in Congress. When it comes to statutory interpretation, our role is limited to applying the law's demands as faithfully as we can in the cases that come before us." *Ante*, at 31.

It is easy to utter such words. If only the Court would live by them.

I respectfully dissent.

APPENDIXES

A

Webster's New International Dictionary 2296 (2d ed. 1953):

sex (sĕks), *n.* [F. *sexe*, fr. L. *sexus;* prob. orig., division, and akin to L. *secare* to cut. See SECTION.] **1.** One of the two divisions of organisms formed on the distinction of male and female; males or females collectively. **2.** The sum of the peculiarities of structure and function that distinguish a male from a female organism; the character of being male or female, or of pertaining to the distinctive function of the male or female in reproduction. *Conjugation,* or *fertilization* (union of germplasm of two individuals), a process evidently of great but not readily explainable importance in the perpetuation of most organisms, seems to be the function of differentiation of sex, which occurs in nearly all organisms at least at some stage in their life history. Sex is manifested in the conjugating cells by the larger size, abundant food material, and immobility of the female gamete (*egg*, *egg cell*, or *ovum*), and the small size and the locomotive power of the male gamete (*spermatozoon* or *spermatozoid*), and in the adult organisms often by many structural, physiological, and (in higher forms) psychological characters, aside from the necessary modification of the reproductive apparatus. Cf. HERMAPHRODITE, 1. In botany the term *sex* is often extended to the distinguishing peculiarities of staminate and pistillate flowers, and hence in dioecious plants to the individuals bearing them.

In many animals and plants the body and germ cells have been shown to contain one or more chromosomes of a special kind (called *sex chromosomes; idiochromosomes; accessory chromosomes*) in addition to the ordinary paired autosomes. These special chromosomes serve to

determine sex. In the simplest case, the male germ cells are of two types, one with and one without a single extra chromosome (*X chromosome*, or *monosome*). The egg cells in this case all possess an *X chromosome*, and on fertilization by the two types of sperm, male and female zygotes result, of respective constitution *X*, and *XX*. In many other animals and plants (probably including man) the male organism produces two types of gametes, one possessing an *X chromosome*, the other a *Y chromosome*, these being visibly different members of a pair of chromosomes present in the diploid state. In this case also, the female organism is *XX*, the eggs *X*, and the zygotes respectively male (*XY*) and female (*XX*). In another type of sex determination, as in certain moths and possibly in the fowl, the female produces two kinds of eggs, the male only one kind of sperm. Each type of egg contains one member of a pair of differentiated chromosomes, called respectively *Z chromosomes* and *W chromosomes*, while all the sperm cells contain a *Z* chromosome. In fertilization, union of a *Z* with a *W* gives rise to a female, while union of two *Z* chromosomes produces a male. Cf. SECONDARY SEX CHARACTER.

3. a The sphere of behavior dominated by the relations between male and female. **b** *Psychoanalysis*. By extension, the whole sphere of behavior related even indirectly to the sexual functions and embracing all affectionate and pleasure-seeking conduct.

4. Phenomena of sexual instincts and their manifestations.

5. Sect;—a confused use.

Syn.—SEX, GENDER. SEX refers to physiological distinctions; GENDER, to distinctions in grammar.

—the sex. The female sex; women, in general.

sex, *adj*. Based on or appealing to sex.

sex, *v. t.* To determine the sex of, as skeletal remains.

Webster's Third New International Dictionary 2081 (1966):

[1]**sex** \'seks\ n –*ES often attrib* [ME, fr. L *sexus;* prob. akin to L *secare* to cut–more at SAW] **1:** one of the two divisions of organic esp. human beings respectively designated male or female <a member of the opposite ~> **2:** the sum of the morphological, physiological, and behavioral peculiarities of living beings that subserves biparental reproduction with its concomitant genetic segregation and recombination which underlie most evolutionary change, that in its typical dichotomous occurrence is usu. genetically controlled and associated with special sex chromosomes, and that is typically manifested as maleness and femaleness with one or the other of these being present in most higher animals though both may occur in the same individual in many plants and some invertebrates and though no such distinction can be made in many lower forms (as some fungi, protozoans, and possibly bacteria and viruses) either because males and females are replaced by mating types or because the participants in sexual reproduction are indistinguishable—compare HETEROTHALLIC, HOMOTHALLIC; FERTILIZATION, MEIOSIS, MENDEL'S LAW; FREEMARTIN, HERMAPHRODITE, INTERSEX **3:** the sphere of interpersonal behavior esp. between male and female most directly associated with, leading up to, substituting for, or resulting from genital union <agree that the Christian's attitude toward ~ should not be considered apart from love, marriage, family—M. M. Forney> **4:** the phenomena of sexual instincts and their manifestations <with his customary combination of philosophy, insight, good will toward the world, and entertaining interest in ~—Allen Drury> <studying and assembling what modern scientists have discovered about ~—*Time*>; *specif*: SEXUAL INTERCOURSE <an old law imposing death for ~ outside marriage—William

Empson>

²sex \"\ *vt* –ED/–ING/–ES **1:** to determine the sex of (an organic being) <it is difficult to ~ the animals at a distance—E. A. Hooton>—compare AUTOSEXING **2 a:** to increase the sexual appeal or attraction of—usu. used with *up* <titles must be ~*ed* up to attract 56 million customers—*Time*> **b:** to arouse the sexual instincts or desires of—usu. used with *up* <watching you ~*ing* up that bar kitten—Oakley Hall>

9 Oxford English Dictionary 577–578 (1933):

Sex (seks), *sb*. Also 6–7 sexe, (6 seex, 7 pl. sexe, 8 *poss*. sexe's). [ad. L. *sexus* (*u*-stem), whence also F. *sexe* (12th c.), Sp., Pg. *sexo*, It. *sesso*. Latin had also a form *secus* neut. (indeclinable).]

1. Either of the two divisions of organic beings distinguished as male and female respectively; the males or the females (of a species, etc., esp. of the human race) viewed collectively.

1382 WYCLIF *Gen*. vi. 19 Of alle thingis hauynge sowle of ony flehs, two thow shalt brynge into the ark, that maal sex and femaal lyuen with thee. **1532** MORE *Confut. Tindale* II. 152, I had as leue he bare them both a bare cheryte, as wyth the frayle feminyne sexe fall to far in loue. **1559** ALYMER *Harborowe* E 4 b, Neither of them debarred the heires female .. as though it had ben .. vnnatural for that sexe to gouern. **1576** GASCOIGNE *Philomene* xcviii, I speake against my sex. *a* **1586** SIDNEY *Arcadia* II. (1912) 158 The sexe of womankind of all other is most bound to have regardfull eie to mens judgements. **1600** NASHE *Summer's Last Will* F 3 b, A woman they imagine her to be, Because that sexe keepes nothing close they heare. **1615** CROOKE *Body of Man* 274 If wee respect the .. conformation of both the Sexes, the Male is sooner perfected .. in the wombe. **1634** SIR T. HERBERT *Trav.* 19 Both sexe goe naked. **1667** MILTON *P. L.* IX, 822 To add what wants In Femal Sex. **1671**—*Samson* 774 It was a weakness In me, but incident to all our sex. **1679** DRYDEN *Troilus & Cr.* I. ii, A strange dissembling sex we women are. **1711** ADDISON *Spect.* No. 10 ¶ 6 Their Amusements .. are more adapted to the Sex than to the Species. **1730** SWIFT *Let. to Mrs. Whiteway* 28 Dec., You have neither the scrawl nor the spelling of your sex. **1742** GRAY *Propertius* II. 73 She .. Condemns her fickle Sexe's fond Mistake. **1763** G. WILLIAMS in Jesse *Selwyn & Contemp.* (1843) I. 265 It would

astonish you to see the mixture of sexes at this place. **1780** BENTHAM *Princ. Legisl.* VI. §35 The sensibility of the female sex appears .. to be greater than that of the male. **1814** SCOTT *Ld. of Isles* VI. iii, Her sex's dress regain'd. **1836** THIRLWALL *Greece* xi. II. 51 Solon also made regulations for the government of the other sex. **1846** *Ecclesiologist* Feb. 41 The propriety and necessity of dividing the sexes during the publick offices of the Church. **1848** THACKERAY *Van. Fair* xxv, She was by no means so far superior to her sex as to be above jealousy. **1865** DICKENS *Mut. Fr.* II. i, It was a school for both sexes. **1886** MABEL COLLINS *Prettiest Woman* ii, Zadwiga had not yet given any serious attention to the other sex.

b. *collect.* followed by plural verb. *rare.*

1768 GOLDSM. *Good. n. Man* IV. (Globe) 632/2 Our sex are like poor tradesmen. **1839** MALCOM *Trav.* (1840) 40/I Neither sex tattoo any part of their bodies.

c. *The fair(er), gentle(r), soft(er), weak(er) sex; the devout sex*; *the second sex*; † *the woman sex*: the female sex, women. *The* † *better, sterner sex*: the male sex, men.

[**1583** STUBBES *Anat. Abus.* E vij b, Ye magnificency & liberalitie of that gentle sex. **1613** PURCHAS *Pilgrimage* (1614) 38 Strong Sampson and wise Solomon are witnesses, that the strong men are slaine by this weaker sexe.]

1641 BROME *Jovial Crew* III. (1652) H 4, I am bound by a strong vow to kisse all of the woman sex I meet this morning. **1648** J. BEAUMONT *Psyche* XIV. I, The softer sex, attending Him And his still-growing woes. **1665** SIR T. HERBERT *Trav.* (1677) 22 Whiles the better sex seek prey abroad, the women (therein like themselves) keep home and spin. **1665** BOYLE *Occas. Refl.* v. ix. 176 Persons of the fairer Sex. a **1700** EVELYN *Diary* 12 Nov. an. 1644, The Pillar .. at which the devout sex are always rubbing their chaplets. **1701** STANHOPE *St. Aug. Medit.* I. xxxv. (1704) 82, I may .. not suffer my self to be outdone by the weaker Sex. **1732** [see FAIR a. I b]. **1753** HOGARTH *Anal. Beauty* x. 65 An elegant degree of plumpness peculiar to the skin of the softer sex. **1820** BYRON *Juan* IV. cviii, Benign Ceruleans of the second sex! Who advertise new poems by your looks. **1838** *Murray's Hand-bk. N. Germ.* 430 It is much frequented by the fair sex. **1894** C. D. TYLER in *Geog. Jrnl.* III. 479 They are beardless, and usually wear a shock of unkempt hair, which is somewhat finer in the gentler sex.

¶d. Used occas. with extended notion. *The third sex*: eunuchs. Also *sarcastically* (see quot. 1873).

1820 BYRON *Juan* IV. lxxxvi, From all the Pope makes yearly, 'twould perplex To find three perfect pipes of the third sex. *Ibid.* V. xxvi, A black old neutral personage Of the third sex stept up. [**1873** LD. HOUGHTON *Monogr.* 280 Sydney Smith .. often spoke with much bitterness of the growing belief in three Sexes of Humanity—Men, Women, and Clergymen.]

e. *The sex*: the female sex. [F. *le sexe*.] Now *rare.*

Appendix A to opinion of ALITO, J.

1589 PUTTENHAM *Eng. Poesie* III. xix. (Arb.) 235 As he that had tolde a long tale before certaine noble women, of a matter somewhat in honour touching the Sex. **1608** D. T[UVILL] *Ess. Pol. & Mor.* 101 b, Not yet weighing with himselfe, the weaknesse and imbecillitie of the sex. **1631** MASSINGER *Emperor East* I. ii, I am called The Squire of Dames, or Servant of the Sex. **1697** VANBRUGH *Prov. Wife* II. ii, He has a strange penchant to grow fond of me, in spite of his aversion to the sex. **1760-2** GOLDSM. *Cit. W.* xcix, The men of Asia behave with more deference to the sex than you seem to imagine. **1792** A. YOUNG *Trav. France* I. 220 The sex of Venice are undoubtedly of a distinguished beauty. **1823** BYRON *Juan* XIII. lxxix, We give the sex the *pas*. **1863** R. F. BURTON *W. Africa* I. 22 Going 'up stairs', as the sex says, at 5 a.m. on the day after arrival, I cast the first glance at Funchal.

f. Without *the*, in predicative quasi-adj. use=feminine. *rare.*

a **1700** DRYDEN *Cymon & Iph.* 368 She hugg'd th' Offender, and forgave th' Offence, Sex to the last!

2. Quality in respect of being male or female.

a. With regard to persons or animals.

1526 *Pilgr. Perf.* (W. de. W. 1531) 282 b, Ye bee, whiche neuer gendreth with ony make of his kynde, nor yet hath ony distinct sex. **1577** T. KENDALL *Flowers of Epigr.* 71 b, If by corps supposd may be her seex, then sure a virgin she. **1616** T. SCOTT *Philomythie* I. (ed. 2) A 3 Euen as Hares change shape and sex, some say Once euery yeare. **1658** SIR T. BROWNE *Hydriot.* iii. 18 A critical view of bones makes a good distinction of sexes. **a 1665** DIGBY *Chym. Secrets* (1682) II. 225 Persons of all Ages and Sexes. **1667** MILTON *P. L.* I. 424 For Spirits when they please can either Sex assume, or both. **1710-11** SWIFT *Jrnl. to Stella* 7 Mar., I find I was mistaken in the sex, 'tis a boy. **1757** SMOLLETT *Reprisal* IV. v, As for me, my sex protects me. **1825** SCOTT *Betrothed* xiii, I am but a poor and neglected woman, feeble both from sex and age. **1841** ELPHINSTONE *Hist. India* I. 349 When persons of different sexes walk together, the woman always follows the man. **1882** TENSION-WOODS *Fish N. S. Wales* 116 Oysters are of distinct sexes.

b. with regard to plants (see FEMALE *a.* 2, MALE *a.* 2).

1567 MAPLET *Gr. Forest* 28 Some seeme to haue both sexes and kindes: as the Oke, the Lawrell and such others. **1631** WIDDOWES *Nat. Philos.* (ed. 2) 49 There be sexes of hearbes .. namely, the Male or Female. **1720** P. BLAIR *Bot. Ess.* iv. 237 These being very evident Proofs of a necessity of two Sexes in Plants as well as in Animals. **1790** SMELLIE *Philos. Nat. Hist.* I. 245 There is not a notion more generally adopted, that that vegetables have the distinction of sexes. **1848** LINDLEY *Introd. Bot.* (ed. 4) II. 80 Change of Sex under the influence of external causes.

3. The distinction between male and female in general. In recent use often with more explicit notion: The sum of those differences in the structure and function of the reproductive organs on the ground of which beings are distinguished as male and female, and of the other physiological differences consequent on these; the class of phenomena with which these differences are concerned.

Organs of sex: the reproductive organs in sexed animals or plants.

***a* 1631** DONNE *Songs & Sonn., The Printrose* Poems 1912 I. 61 Should she Be more then woman, she would get above All thought of sexe, and think to move My heart to study her, and not to love. ***a* 1643** CARTWRIGHT *Siedge* III. vi, My Soul's As Male as yours; there's no Sex in the mind. **1748** MELMOTH *Fitzosborne Lett.* lxii. (1749) II. 119 There may be a kind of sex in the very soul. **1751** HARRIS *Hermes* Wks. (1841) 129 Besides number, another characteristic, visible in substances, is that of sex. **1878** GLADSTONE *Prim. Homer* 68 Athenè .. has nothing of sex except the gender, nothing of the woman except the form. **1887** K. PEARSON *Eth. Freethought* xv. (1888) 429 What is the true type of social (moral) action in matters of sex? **1895** CRACKANTHORPE in 19*th Cent.* Apr. 607 (art.) Sex in modern literature. *Ibid.* 614 The writers and readers who have strenuously refused to allow to sex its place in creative art. **1912** H. G. WELLS *Marriage* ii. § 6. 72 The young need .. to be told .. all we know of three fundamental things; the first of which is God, .. and the third Sex.

¶ **4.** Used, by confusion, in senses of SECT (q. v. I, 4 b, 7, and cf. I d *note*).

1575-85 ABP. SANDYS *Serm.* xx. 358 So are all sexes and sorts of people called vpon. **1583** MELBANCKE *Philotimus* L iij b, Whether thinkest thou better sporte & more absurd, to see an Asse play on an harpe contrary to his sex, or heare [etc.]. **1586** J. HOOKER *Hist. Irel.* 180/2 in *Holinshed*, The whole sex of the Oconhours. **1586** T. B. *La Primaud. Fr. Acad.* I. 359 O detestable furie, not to be found in most cruell beasts, which spare the blood of their sexe. **a 1704** T BROWN *Dial. Dead, Friendship* Wks. 1711 IV. 56 We have had enough of these Christians, and sure there can be no worse among the other Sex of Mankind [i.e. Jews and Turks]? **1707** ATTERBURY *Large Vind. Doctr.* 47 Much less can I imagine, why a Jewish Sex (whether of Pharisees or Saducees) should be represented, as [etc.].

5. *attrib.* and *Comb.,* as *sex-distinction, function,* etc.; *sex-abusing, transforming* adjs.; sex-cell, a reproductive cell, with either male or female function; a sperm-cell or an egg-cell.

1642 H. MORE *Song of Soul* I. III. lxxi, Mad-making waters, sex trans-forming springs.

1781 COWPER *Expost.* 415 Sin, that in old time Brought fire from heav'n, the sex-abusing crime. **1876** HARDY *Ethelberta* xxxvii, You cannot have celebrity and sex-privilege both. **1887** *Jrnl. Educ.* No. 210. 29 If this examination craze is to prevail, and the sex-abolitionists are to have their way. **1889** GEDDES & THOMSON *Evol. Sex* 91 Very commonly the sex-cells originate in the ectoderm and ripen there. **1894** H. DRUMMOND *Ascent of Man* 317 The sex-distinction slowly gathers definition. **1897** J. HUTCHINSON *in Arch. Surg.* VIII. 230 Loss of Sex Function.

Sex (seks), *v.* [f. SEX *sb.*] *trans.* To determine the sex of, by anatomical examination; to label as male or female.

1884 GURNEY *Diurnal Birds Prey* 173 The specimen is not sexed, neither is the sex noted on the drawing. **1888** A. NEWTON in *Zoologist* Ser. 111. XII. 101 The .. barbarous phrase of 'collecting a specimen' and then of 'sexing' it.

Concise Oxford Dictionary of Current English 1164 (5th ed. 1964):

sĕx, n. Being male or female or hermaphrodite (*what is its ~?; ~ does not matter; without distinction of age or ~*), whence ~'LESS a., ~'**lėss**NESS n., ~'Y[2] a., immoderately concerned with ~; males or females collectively (*all ranks & both ~es; the fair, gentle, softer, weaker, ~,* & joc. *the ~,* women; *the sterner ~,* men; *is the fairest of her ~*); (attrib.) arising from difference, or consciousness, of ~ (*~ antagonism*, *~ instinct*, *~ urge*); *~ appeal*, attractiveness arising from difference of ~. [f. L *sexus –ūs;* partly thr. F]

Random House Dictionary of the English Language 1307 (1966):

sex (seks), *n.* **1.** The fact or character of being either male or female: *persons of different sex.* **2.** either of the two groups of persons exhibiting this character: *the stronger sex; the gentle sex.* **3.** the sum of the structural and functional differences by which the male and female are distinguished, or the phenomena or behavior dependent on these differences. **4.** the instinct or attraction drawing one sex toward another, or its manifestation in life and

conduct. **5.** coitus. **6. to have sex,** *Informal*. to engage in sexual intercourse. –*v.t.* **7.** to ascertain the sex of, esp. of newly hatched chicks. **8. sex it up,** *Slang*. to neck passionately: *They were really sexing it up last night*. **9. sex up,** *Informal*. **a.** to arouse sexually: *She certainly knows how to sex up the men*. **b.** to increase the appeal of; to make more interesting, attractive, or exciting: *We've decided to sex up the movie with some battle scenes*. [ME < L *sex*(*us*), akin to *secus*, deriv. of *secāre* to cut, divide; see SECTION]

American Heritage Dictionary 1187 (1969):

sex (sĕks) *n.* **1. a.** The property or quality by which organisms are classified according to their reproductive functions. **b.** Either of two divisions, designated *male* and *female*, of this classification. **2.** Males or females collectively. **3.** The condition or character of being male or female; the physiological, functional, and psychological differences that distinguish the male and the female. **4.** The sexual urge or instinct as it manifests itself in behavior. **5.** Sexual intercourse. –*tr.v.* **sexed, sexing, sexes.** To determine the sex of (young chickens). [Middle English, from Old French *sexe*, from Latin *sexus*†.]

B

Webster's Third New International Dictionary 2081 (2002):

[1]sex \'seks\ n –ES *often attrib* [ME, fr. L *sexus*; prob. akin to L *secare* to cut—more at SAW] **1:** one of the two divisions of organic esp. human beings respectively designated male or female <a member of the opposite ~> **2:** the sum of the morphological, physiological, and behavioral

peculiarities of living beings that subserves biparental reproduction with its concomitant genetic segregation and recombination which underlie most evolutionary change, that in its typical dichotomous occurrence is usu. genetically controlled and associated with special sex chromosomes, and that is typically manifested as maleness and femaleness with one or the other of these being present in most higher animals though both may occur in the same individual in many plants and some invertebrates and though no such distinction can be made in many lower forms (as some fungi, protozoans, and possibly bacteria and viruses) either because males and females are replaced by mating types or because the participants in sexual reproduction are indistinguishable—compare HETEROTHALLIC, HOMOTHALLIC; FERTILIZATION, MEIOSIS, MENDEL'S LAW; FREEMARTIN, HERMAPHRODITE, INTERSEX **3:** the sphere of interpersonal behavior esp. between male and female most directly associated with, leading up to, substituting for, or resulting from genital union <agree that the Christian's attitude toward ~ should not be considered apart from love, marriage, family—M. M. Forney> **4:** the phenomena of sexual instincts and their manifestations <with his customary combination of philosophy, insight, good will toward the world, and entertaining interest in ~—Allen Drury> <studying and assembling what modern scientists have discovered about ~—*Time*>; *specif*: SEXUAL INTERCOURSE <an old law imposing death for ~ outside marriage—William Empson>

²sex \"\ *vt* –ED/–ING/–ES **1:** to determine the sex of (an organic being) <it is difficult to ~ the animals at a distance—E. A. Hooton>—compare AUTOSEXING **2 a:** to increase the sexual appeal or attraction of—usu. used with *up* <titles must be ~*ed* up to attract 56 million customers—*Time*> **b:** to arouse the sexual instincts or desires of—usu. used with *up* <watching you ~*ing* up that bar kitten—Oakley Hall>

Random House Webster's Unabridged Dictionary 1754 (2d ed. 2001):

Sex (seks), *n.* **1**. either the male or female division of a species, esp. as differentiated with reference to the reproductive functions. **2**. the sum of the structural and functional differences by which the male and female are distinguished, or the phenomena or behavior dependent on these differences. **3**. the instinct or attraction drawing one sex toward another, or its manifestation in life and conduct. **4**. coitus. **5**. genitalia. **6**. **to have sex**, to engage in sexual intercourse. – *v.t.* **7**. to ascertain the sex of, esp. of newly-hatched chicks. **8**. **sex up**, *Informal*. **a**. to arouse sexually: *The only intent of that show was to sex up the audience*. **b**. to increase the appeal of; to make more interesting, attractive, or exciting: *We've decided to sex up the movie with some battle scenes*. [1350–1400; ME < L *Sexus*, perh. akin to *secāre* to divide (see SECTION)]

American Heritage Dictionary 1605 (5th ed. 2011):

Sex (seks) *n.* **1a.** Sexual activity, especially sexual intercourse: *hasn't had sex in months*. **b**. The sexual urge or instinct as it manifests itself in behavior: *motivated by sex*. **2a**. Either of the two divisions, designated female and male, by which most organisms are classified on the basis of their reproductive organs and functions: *How do you determine the sex of a lobster?* **b**. The fact or condition of existing in these two divisions, especially the collection of characteristics that distinguish female and male: *the evolution of sex in plants; a study that takes sex into account*. See Usage Note at **gender. 3.** Females or males considered as a group: *dormitories that house only one sex*. **4**. One's identity as either female or male. **5**. The genitals. ✣ *tr.v.* **sexed, sex-ing, sex-es 1.** To determine the sex of (an organism). **2.** *Slang* **a.** To arouse sexually. Often used with *up*. **b**. To increase the

appeal or attractiveness of. Often used with *up* [Middle English < Latin *sexus*.]

C

Statutes Prohibiting Sex Discrimination

- 2 U. S. C. §658a(2) (Congressional Budget and Fiscal Operations; Federal Mandates)
- 2 U. S. C. §1311(a)(1) (Congressional Accountability; Extension of Rights and Protections)
- 2 U. S. C. §1503(2) (Unfunded Mandates Reform)
- 3 U. S. C. §411(a)(1) (Presidential Offices; Employment Discrimination)
- 5 U. S. C. §2301(b)(2) (Merit System Principles)
- 5 U. S. C. §2302(b)(1) (Prohibited Personnel Practices)
- 5 U. S. C. §7103(a)(4)(A) (Labor-Management Relations; Definitions)
- 5 U. S. C. §7116(b)(4) (Labor-Management Relations; Unfair Labor Practices)
- 5 U. S. C. §7201(b) (Antidiscrimination Policy; Minority Recruitment Program)

- 5 U. S. C. §7204(b) (Antidiscrimination; Other Prohibitions)
- 6 U. S. C. §488f(b) (Secure Handling of Ammonium Nitrate; Protection From Civil Liability)
- 7 U. S. C. §2020(c)(1) (Supplemental Nutrition Assistance Program)
- 8 U. S. C. §1152(a)(1)(A) (Immigration; Numerical Limitations on Individual Foreign States)
- 8 U. S. C. §1187(c)(6) (Visa Waiver Program for Certain Visitors)
- 8 U. S. C. §1522(a)(5) (Authorization for Programs for Domestic Resettlement of and Assistance to Refugees)
- 10 U. S. C. §932(b)(4) (Uniform Code of Military Justice; Article 132 Retaliation)
- 10 U. S. C. §1034(j)(3) (Protected Communications; Prohibition of Retaliatory Personnel Actions)
- 12 U. S. C. §302 (Directors of Federal Reserve Banks; Number of Members; Classes)
- 12 U. S. C. §1735f–5(a) (Prohibition Against Discrimination on Account of Sex in Extension of Mortgage Assistance)

- 12 U. S. C. §1821(d)(13)(E)(iv) (Federal Deposit Insurance Corporation; Insurance Funds)

- 12 U. S. C. §1823(d)(3)(D)(iv) (Federal Deposit Insurance Corporation; Corporation Moneys)

- 12 U. S. C. §2277a–10c(b)(13)(E)(iv) (Farm Credit System Insurance Corporation; Corporation as Conservator or Receiver; Certain Other Powers)

- 12 U. S. C. §3015(a)(4) (National Consumer Cooperative Bank; Eligibility of Cooperatives)

- 12 U. S. C. §§3106a(1)(B) and (2)(B) (Foreign Bank Participation in Domestic Markets)

- 12 U. S. C. §4545(1) (Fair Housing)

- 12 U. S. C. §5390(a)(9)(E)(v) (Wall Street Reform and Consumer Protection; Powers and Duties of the Corporation)

- 15 U. S. C. §631(h) (Aid to Small Business)

- 15 U. S. C. §633(b)(1) (Small Business Administration)

- 15 U. S. C. §719 (Alaska Natural Gas Transportation; Civil Rights)

- 15 U. S. C. §775 (Federal Energy Administration; Sex Discrimination; Enforcement; Other Legal Remedies)

- 15 U. S. C. §1691(a)(1) (Equal Credit Opportunity Act)
- 15 U. S. C. §1691d(a) (Equal Credit Opportunity Act)
- 15 U. S. C. §3151(a) (Full Employment and Balanced Growth; Nondiscrimination)
- 18 U. S. C. §246 (Deprivation of Relief Benefits)
- 18 U. S. C. §3593(f) (Special Hearing To Determine Whether a Sentence of Death Is Justified)
- 20 U. S. C. §1011(a) (Higher Education Resources and Student Assistance; Antidiscrimination)
- 20 U. S. C. §1011f(h)(5)(D) (Disclosures of Foreign Gifts)
- 20 U. S. C. §1066c(d) (Historically Black College and University Capital Financing; Limitations on Federal Insurance Bonds Issued by Designated Bonding Authority)
- 20 U. S. C. §1071(a)(2) (Federal Family Education Loan Program)
- 20 U. S. C. §1078(c)(2)(F) (Federal Payments To Reduce Student Interest Costs)
- 20 U. S. C. §1087–1(e) (Federal Family Education Loan Program; Special Allowances)

- 20 U. S. C. §1087–2(e) (Student Loan Marketing Association)
- 20 U. S. C. §1087–4 (Discrimination in Secondary Markets Prohibited)
- 20 U. S. C. §1087tt(c) (Discretion of Student Financial Aid Administrators)
- 20 U. S. C. §1231e(b)(2) (Education Programs; Use of Funds Withheld)
- 20 U. S. C. §1681 (Title IX of the Education Amendments of 1972)
- 20 U. S. C. §1701(a)(1) (Equal Educational Opportunities; Congressional Declaration of Policy)
- 20 U. S. C. §1702(a)(1) (Equal Educational Opportunities; Congressional Findings)
- 20 U. S. C. §1703 (Denial of Equal Educational Opportunity Prohibited)
- 20 U. S. C. §1705 (Assignment on Neighborhood Basis Not a Denial of Equal Educational Opportunity)
- 20 U. S. C. §1715 (District Lines)
- 20 U. S. C. §1720 (Equal Educational Opportunities; Definitions)

- 20 U. S. C. §1756 (Remedies With Respect to School District Lines)
- 20 U. S. C. §2396 (Career and Technical Education; Federal Laws Guaranteeing Civil Rights)
- 20 U. S. C. §3401(2) (Department of Education; Congressional Findings)
- 20 U. S. C. §7231d(b)(2)(C) (Magnet Schools Assistance; Applications and Requirements)
- 20 U. S. C. §7914 (Strengthening and Improvement of Elementary and Secondary Schools; Civil Rights)
- 22 U. S. C. §262p–4n (Foreign Relations and Intercourse; Equal Employment Opportunities)
- 22 U. S. C. §2304(a)(1) (Human Rights and Security Assistance)
- 22 U. S. C. §2314(g) (Furnishing of Defense Articles or Related Training or Other Defense Service on Grant Basis)
- 22 U. S. C. §2426 (Discrimination Against United States Personnel)
- 22 U. S. C. §2504(a) (Peace Corps Volunteers)
- 22 U. S. C. §2661a (Foreign Contracts or Arrangements; Discrimination)

- 22 U. S. C. §2755 (Discrimination Prohibited if Based on Race, Religion, National Origin, or Sex)
- 22 U. S. C. §3901(b)(2) (Foreign Service; Congressional Findings and Objectives)
- 22 U. S. C. §3905(b)(1) (Foreign Service; Personnel Actions)
- 22 U. S. C. §4102(11)(A) (Foreign Service; Definitions)
- 22 U. S. C. §4115(b)(4) (Foreign Service; Unfair Labor Practices)
- 22 U. S. C. §6401(a)(3) (International Religious Freedom; Findings; Policy)
- 22 U. S. C. §8303(c)(2) (Office of Volunteers for Prosperity)
- 23 U. S. C. §140(a) (Federal-Aid Highways; Nondiscrimination)
- 23 U. S. C. §324 (Highways; Prohibition of Discrimination on the Basis of Sex)
- 25 U. S. C. §4223(d)(2) (Housing Assistance for Native Hawaiians)
- 26 U. S. C. §7471(a)(6)(A) (Tax Court; Employees)

- 28 U. S. C. §994(d) (Duties of the United States Sentencing Commission)
- 28 U. S. C. §1862 (Trial by Jury; Discrimination Prohibited)
- 28 U. S. C. §1867(e) (Trial by Jury; Challenging Compliance With Selection Procedures)
- 29 U. S. C. §206(d)(1) (Equal Pay Act of 1963)
- 29 U. S. C. §§2601(a)(6) and (b)(4) (Family and Medical Leave; Findings and Purposes)
- 29 U. S. C. §2651(a) (Family and Medical Leave; Effect on Other Laws)
- 29 U. S. C. §3248 (Workforce Development Opportunities; Nondiscrimination)
- 30 U. S. C. §1222(c) (Research Funds to Institutes)
- 31 U. S. C. §732(f) (Government Accountability Office; Personnel Management System)
- 31 U. S. C. §6711 (Federal Payments; Prohibited Discrimination)
- 31 U. S. C. §6720(a)(8) (Federal Payments; Definitions, Application, and Administration)

- 34 U. S. C. §10228(c) (Prohibition of Federal Control Over State and Local Criminal Justice Agencies; Prohibition of Discrimination)

- 34 U. S. C. §11133(a)(16) (Juvenile Justice and Delinquency Prevention; State Plans)

- 34 U. S. C. §12161(g) (Community Schools Youth Services and Supervision Grant Program)

- 34 U. S. C. §12361 (Violent Crime Control and Law Enforcement; Civil Rights for Women)

- 34 U. S. C. §20110(e) (Crime Victims Fund; Administration Provisions)

- 34 U. S. C. §50104(a) (Emergency Federal Law Enforcement Assistance)

- 36 U. S. C. §20204(b) (Air Force Sergeants Association; Membership)

- 36 U. S. C. §20205(c) (Air Force Sergeants Association; Governing Body)

- 36 U. S. C. §21003(a)(4) (American GI Forum of the United States; Purposes)

- 36 U. S. C. §21004(b) (American GI Forum of the United States; Membership)

- 36 U. S. C. §21005(c) (American GI Forum of the United States; Governing Body)

- 36 U. S. C. §21704A (The American Legion)
- 36 U. S. C. §22703(c) (Amvets; Membership)
- 36 U. S. C. §22704(d) (Amvets; Governing Body)
- 36 U. S. C. §60104(b) (82nd Airborne Division Association, Incorporated; Membership)
- 36 U. S. C. §60105(c) (82nd Airborne Division Association, Incorporated; Governing Body)
- 36 U. S. C. §70104(b) (Fleet Reserve Association; Membership)
- 36 U. S. C. §70105(c) (Fleet Reserve Association; Governing Body)
- 36 U. S. C. §140704(b) (Military Order of the World Wars; Membership)
- 36 U. S. C. §140705(c) (Military Order of the World Wars; Governing Body)
- 36 U. S. C. §154704(b) (Non Commissioned Officers Association of the United States of America, Incorporated; Membership)
- 36 U. S. C. §154705(c) (Non Commissioned Officers Association of the United States of America, Incorporated; Governing Body)
- 36 U. S. C. §190304(b) (Retired Enlisted Association, Incorporated; Membership)

- 36 U. S. C. §190305(c) (Retired Enlisted Association, Incorporated; Governing Body)
- 36 U. S. C. §220522(a)(8) and (9) (United States Olympic Committee; Eligibility Requirements)
- 36 U. S. C. §230504(b) (Vietnam Veterans of America, Inc.; Membership)
- 36 U. S. C. §230505(c) (Vietnam Veterans of America, Inc.; Governing Body)
- 40 U. S. C. §122(a) (Federal Property and Administrative Services; Prohibition on Sex Discrimination)
- 40 U. S. C. §14702 (Appalachian Regional Development; Nondiscrimination)
- 42 U. S. C. §213(f) (Military Benefits)
- 42 U. S. C. §290cc–33(a) (Projects for Assistance in Transition From Homelessness)
- 42 U. S. C. §290ff–1(e)(2)(C) (Children With Serious Emotional Disturbances; Requirements With Respect to Carrying Out Purpose of Grants)
- 42 U. S. C. §295m (Public Health Service; Prohibition Against Discrimination on Basis of Sex)

- 42 U. S. C. §296g (Public Health Service; Prohibition Against Discrimination by Schools on Basis of Sex)

- 42 U. S. C. §300w–7(a)(2) (Preventive Health and Health Services Block Grants; Nondiscrimination Provisions)

- 42 U. S. C. §300x–57(a)(2) (Block Grants Regarding Mental Health and Substance Abuse; Nondiscrimination)

- 42 U. S. C. §603(a)(5)(I)(iii) (Block Grants to States for Temporary Assistance for Needy Families)

- 42 U. S. C. §708(a)(2) (Maternal and Child Health Services Block Grant; Nondiscrimination Provisions)

- 42 U. S. C. §1975a(a) (Duties of Civil Rights Commission)

- 42 U. S. C. §2000c(b) (Civil Rights; Public Education; Definitions)

- 42 U. S. C. §2000c–6(a)(2) (Civil Rights; Public Education; Civil Actions by the Attorney General)

- 42 U. S. C. §2000e–2 (Equal Employment Opportunities; Unlawful Employment Practices)

- 42 U. S. C. §2000e–3(b) (Equal Employment Opportunities; Other Unlawful Employment Practices)

- 42 U. S. C. §2000e–16(a) (Employment by Federal Government)

- 42 U. S. C. §2000e–16a(b) (Government Employee Rights Act of 1991)

- 42 U. S. C. §2000e–16b(a)(1) (Discriminatory Practices Prohibited)

- 42 U. S. C. §2000h–2 (Intervention by Attorney General; Denial of Equal Protection on Account of Race, Color, Religion, Sex or National Origin)

- 42 U. S. C. §3123 (Discrimination on Basis of Sex Prohibited in Federally Assisted Programs)

- 42 U. S. C. §3604 (Fair Housing Act; Discrimination in the Sale or Rental of Housing and Other Prohibited Practices)

- 42 U. S. C. §3605 (Fair Housing Act; Discrimination in Residential Real Estate-Related Transactions)

- 42 U. S. C. §3606 (Fair Housing Act; Discrimination in the Provision of Brokerage Services)

- 42 U. S. C. §3631 (Fair Housing Act; Violations; Penalties)

- 42 U. S. C. §4701 (Intergovernmental Personnel Program; Congressional Findings and Declaration of Policy)

- 42 U. S. C. §5057(a)(1) (Domestic Volunteer Services; Nondiscrimination Provisions)

- 42 U. S. C. §5151(a) (Nondiscrimination in Disaster Assistance)

- 42 U. S. C. §5309(a) (Community Development; Nondiscrimination in Programs and Activities)

- 42 U. S. C. §5891 (Development of Energy Sources; Sex Discrimination Prohibited)

- 42 U. S. C. §6709 (Public Works Employment; Sex Discrimination; Prohibition; Enforcement)

- 42 U. S. C. §6727(a)(1) (Public Works Employment; Nondiscrimination)

- 42 U. S. C. §6870(a) (Weatherization Assistance for Low-Income Persons)

- 42 U. S. C. §8625(a) (Low-Income Home Energy Assistance; Nondiscrimination Provisions)

- 42 U. S. C. §9821 (Community Economic Development; Nondiscrimination Provisions)

- 42 U. S. C. §9849 (Head Start Programs; Nondiscrimination Provisions)

- 42 U. S. C. §9918(c)(1) (Community Services Block Grant Program; Limitations on Use of Funds)

- 42 U. S. C. §10406(c)(2)(B)(i) (Family Violence Prevention and Services; Formula Grants to States)

- 42 U. S. C. §11504(b) (Enterprise Zone Development; Waiver of Modification of Housing and Community Development Rules in Enterprise Zones)

- 42 U. S. C. §12635(a)(1) (National and Community Service State Grant Program; Nondiscrimination)

- 42 U. S. C. §12832 (Investment in Affordable Housing; Nondiscrimination)

- 43 U. S. C. §1747(10) (Loans to States and Political Subdivisions; Discrimination Prohibited)

- 43 U. S. C. §1863 (Outer Continental Shelf Resource Management; Unlawful Employment Practices; Regulations)

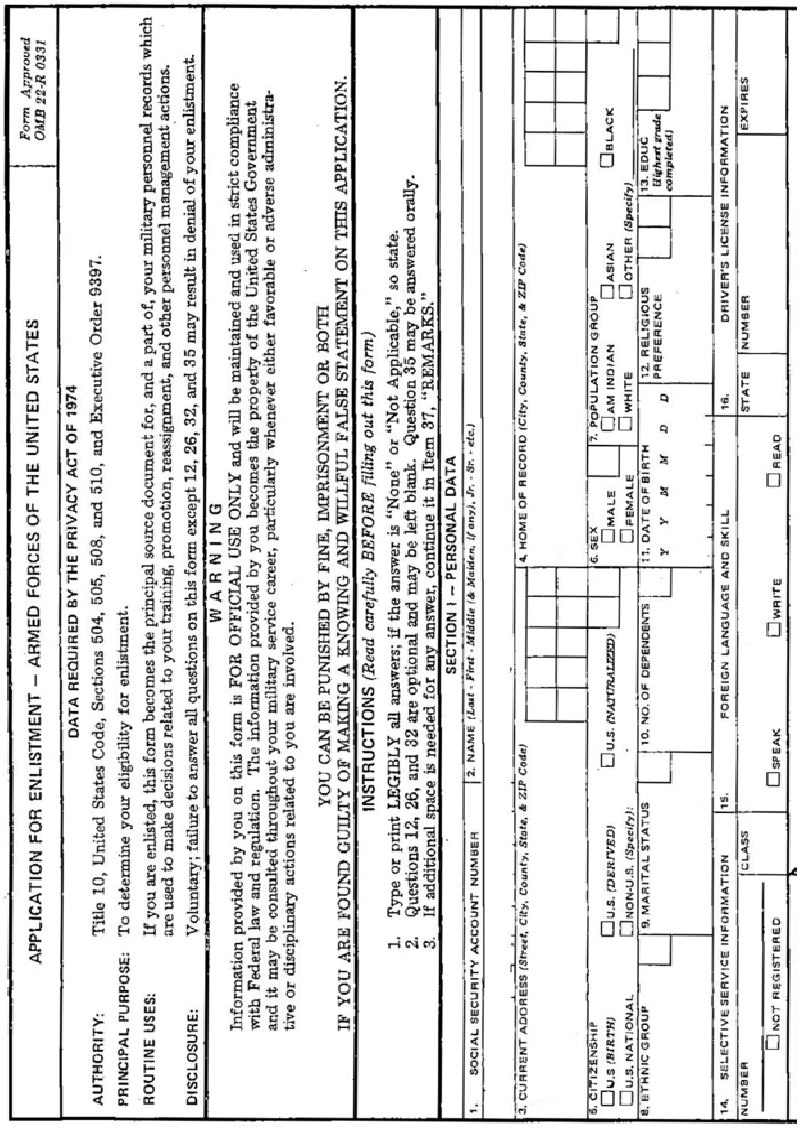
- 47 U. S. C. §151 (Federal Communications Commission)

- 47 U. S. C. §398(b)(1) (Public Broadcasting; Equal Opportunity Employment)

- 47 U. S. C. §§554(b) and (c) (Cable Communications; Equal Employment Opportunity)
- 47 U. S. C. §555a(c) (Cable Communications; Limitation of Franchising Authority Liability)
- 48 U. S. C. §1542(a) (Virgin Islands; Voting Franchise; Discrimination Prohibited)
- 48 U. S. C. §1708 (Discrimination Prohibited in Rights of Access to, and Benefits From, Conveyed Lands)
- 49 U. S. C. §306(b) (Duties of the Secretary of Transportation; Prohibited Discrimination)
- 49 U. S. C. §5332(b) (Public Transportation; Nondiscrimination)
- 49 U. S. C. §40127 (Air Commerce and Safety; Prohibitions on Discrimination)
- 49 U. S. C. §47123(a) (Airport Improvement; Nondiscrimination)
- 50 U. S. C. §3809(b)(3) (Selective Service System)
- 50 U. S. C. §4842(a)(1)(B) (Anti-Boycott Act of 2018)

Appendix D to opinion of ALITO, J.

D



APPLICATION FOR ENLISTMENT – ARMED FORCES OF THE UNITED STATES

Form Approved OMB 22-R 0331

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: Title 10, United States Code, Sections 504, 505, 508, and 510, and Executive Order 9397.

PRINCIPAL PURPOSE: To determine your eligibility for enlistment.

ROUTINE USES: If you are enlisted, this form becomes the principal source document for, and a part of, your military personnel records which are used to make decisions related to your training, promotion, reassignment, and other personnel management actions.

DISCLOSURE: Voluntary; failure to answer all questions on this form except 12, 26, 32, and 35 may result in denial of your enlistment.

WARNING

Information provided by you on this form is FOR OFFICIAL USE ONLY and will be maintained and used in strict compliance with Federal law and regulation. The information provided by you becomes the property of the United States Government and it may be consulted throughout your military service career, particularly whenever either favorable or adverse administrative or disciplinary actions related to you are involved.

YOU CAN BE PUNISHED BY FINE, IMPRISONMENT OR BOTH IF YOU ARE FOUND GUILTY OF MAKING A KNOWING AND WILLFUL FALSE STATEMENT ON THIS APPLICATION.

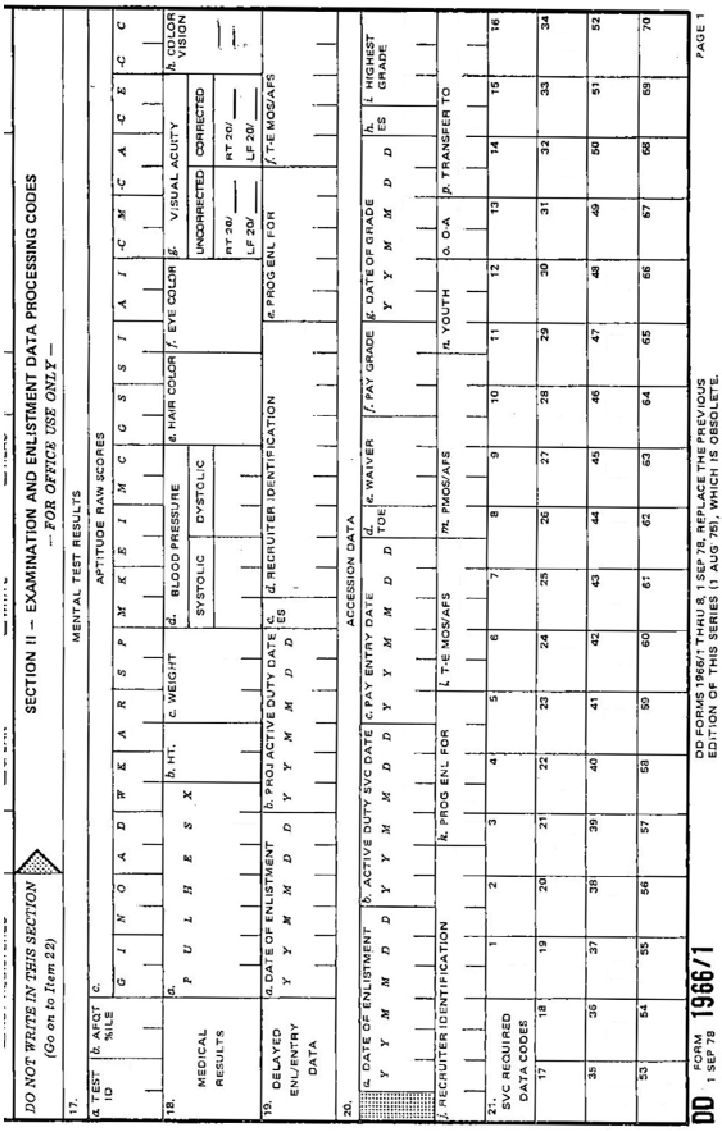
INSTRUCTIONS *(Read carefully BEFORE filling out this form.)*

1. Type or print **LEGIBLY** all answers; if the answer is "None" or "Not Applicable," so state.
2. Questions 12, 26, and 32 are optional and may be left blank. Question 35 may be answered orally.
3. If additional space is needed for any answer, continue it in Item 37, "REMARKS."

SECTION I – PERSONAL DATA

1. SOCIAL SECURITY ACCOUNT NUMBER
2. NAME *(Last - First - Middle (& Maiden, if any), Jr. - Sr. - etc.)*
3. CURRENT ADDRESS *(Street, City, County, State, & ZIP Code)*
4. HOME OF RECORD *(City, County, State, & ZIP Code)*
5. CITIZENSHIP
   - ☐ U.S. *(BIRTH)*
   - ☐ U.S. *(DERIVED)*
   - ☐ U.S. *(NATURALIZED)*
   - ☐ U.S. NATIONAL
   - ☐ NON-U.S. *(Specify)*:
6. SEX
   - ☐ MALE
   - ☐ FEMALE
7. POPULATION GROUP
   - ☐ AM INDIAN
   - ☐ ASIAN
   - ☐ BLACK
   - ☐ WHITE
   - ☐ OTHER *(Specify)*
8. ETHNIC GROUP
9. MARITAL STATUS
10. NO. OF DEPENDENTS
11. DATE OF BIRTH (Y Y M M D D)
12. RELIGIOUS PREFERENCE
13. EDUC *(Highest grade completed)*
14. SELECTIVE SERVICE INFORMATION
    - NUMBER
    - CLASS
    - ☐ NOT REGISTERED
15. FOREIGN LANGUAGE AND SKILL
    - ☐ SPEAK
    - ☐ WRITE
    - ☐ READ
16. DRIVER'S LICENSE INFORMATION
    - STATE
    - NUMBER
    - EXPIRES

Appendix D to opinion of ALITO, J.



DO NOT WRITE IN THIS SECTION (Go on to Item 22)

SECTION II — EXAMINATION AND ENLISTMENT DATA PROCESSING CODES
— FOR OFFICE USE ONLY —

17. MENTAL TEST RESULTS

a. TEST ID | b. AFQT %ILE | c. APTITUDE RAW SCORES: G I N O A D W E A R S P M K E I M C G S S I A I -C M -C A -C E -C C

18. MEDICAL RESULTS: d. F U L H E S X | e. WEIGHT | f. HT. | g. BLOOD PRESSURE: SYSTOLIC / DIASTOLIC | h. HAIR COLOR | i. EYE COLOR | j. VISUAL ACUITY: UNCORRECTED RT 20/ LF 20/ — CORRECTED RT 20/ LF 20/ | k. COLOR VISION

19. DELAYED ENL/ENTRY DATA: a. DATE OF ENLISTMENT Y Y M M D D | b. PROJ ACTIVE DUTY DATE Y Y M M D D | c. ES | d. RECRUITER IDENTIFICATION | e. PROG ENL FOR | f. T-E MOS/AFS

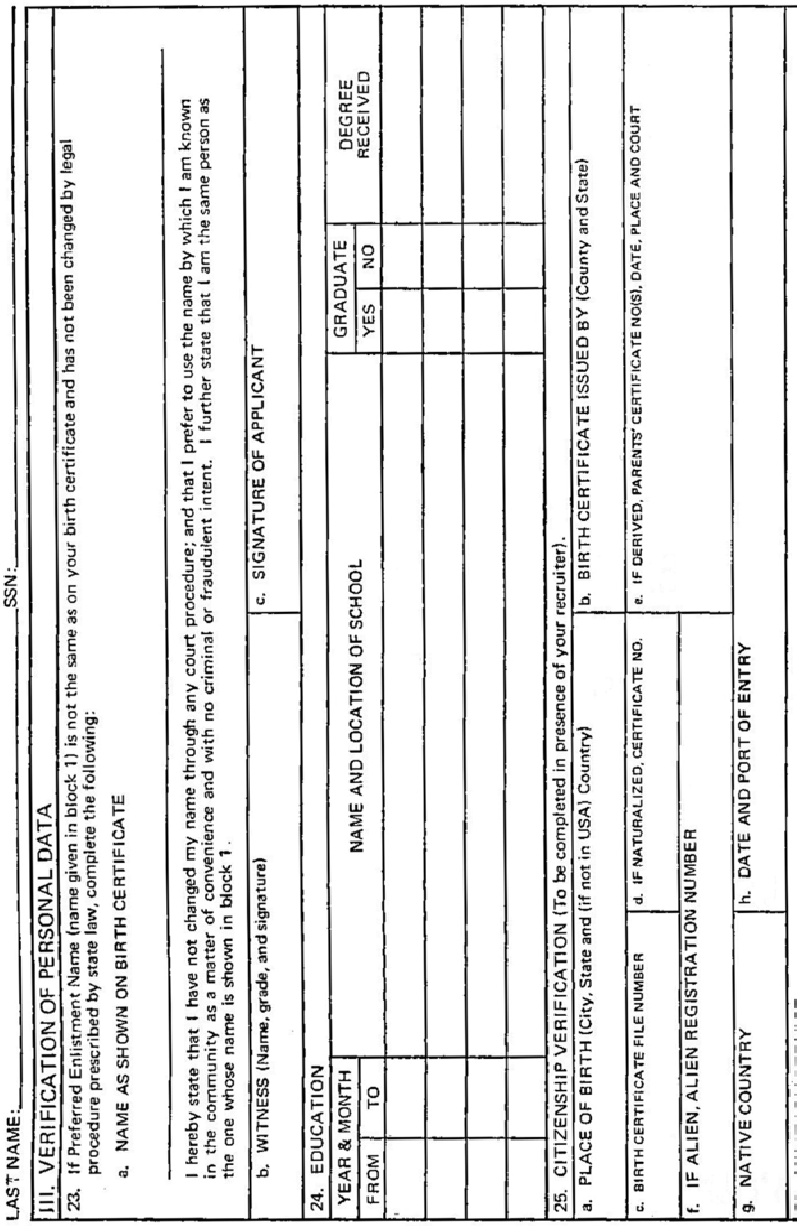
20. ACCESSION DATA

a. DATE OF ENLISTMENT Y Y M M D D | b. ACTIVE DUTY SVC DATE Y Y M M D D | c. PAY ENTRY DATE Y Y M M D D | d. TOE | e. WAIVER | f. PAY GRADE | g. DATE OF GRADE Y Y M M D D | h. ES | i. HIGHEST GRADE

j. RECRUITER IDENTIFICATION | k. PROG ENL FOR | l. T-E MOS/AFS | m. PMOS/AFS | n. YOUTH | o. O-A | p. TRANSFER TO

| | | |

Appendix D to opinion of ALITO, J.



LAST NAME: _____ SSN: _____

III. VERIFICATION OF PERSONAL DATA

23. If Preferred Enlistment Name (name given in block 1) is not the same as on your birth certificate and has not been changed by legal procedure prescribed by state law, complete the following:

a. NAME AS SHOWN ON BIRTH CERTIFICATE

_____

I hereby state that I have not changed my name through any court procedure; and that I prefer to use the name by which I am known in the community as a matter of convenience and with no criminal or fraudulent intent. I further state that I am the same person as the one whose name is shown in block 1.

b. WITNESS (Name, grade, and signature)	c. SIGNATURE OF APPLICANT

24. EDUCATION

YEAR & MONTH		NAME AND LOCATION OF SCHOOL	GRADUATE		DEGREE RECEIVED
FROM	TO		YES	NO	

25. CITIZENSHIP VERIFICATION (To be completed in presence of your recruiter).

a. PLACE OF BIRTH (City, State and (if not in USA) Country)	b. BIRTH CERTIFICATE ISSUED BY (County and State)
c. BIRTH CERTIFICATE FILE NUMBER	d. IF NATURALIZED, CERTIFICATE NO.
e. IF DERIVED, PARENTS' CERTIFICATE NO(S), DATE, PLACE AND COURT	
f. IF ALIEN, ALIEN REGISTRATION NUMBER	
g. NATIVE COUNTRY	h. DATE AND PORT OF ENTRY

Appendix D to opinion of ALITO, J.

26. MILITARY SERVICE

a. Are you now or have ever been in the Regular, Reserve or National Guard of the United States? ☐ No ☐ Yes. If "yes", complete the following:

b. PAY GRADE AND SERVICE NUMBER	c. SERVICE AND COMPONENT	d. DATE OF ENTRY	e. DATE OF DISCH	f. TYPE DISCH/REL	g. TIME LOST (NO. OF DAYS)

h. If you are now a member of a US Reserve or National Guard organization, fill in organization name and unit address:

27a. PREVIOUS MILITARY SERVICE

DO NOT WRITE IN THIS BLOCK

	Years	Months	Days
Total Active Military Service			
Total Inactive Military Service			

b. PEBD

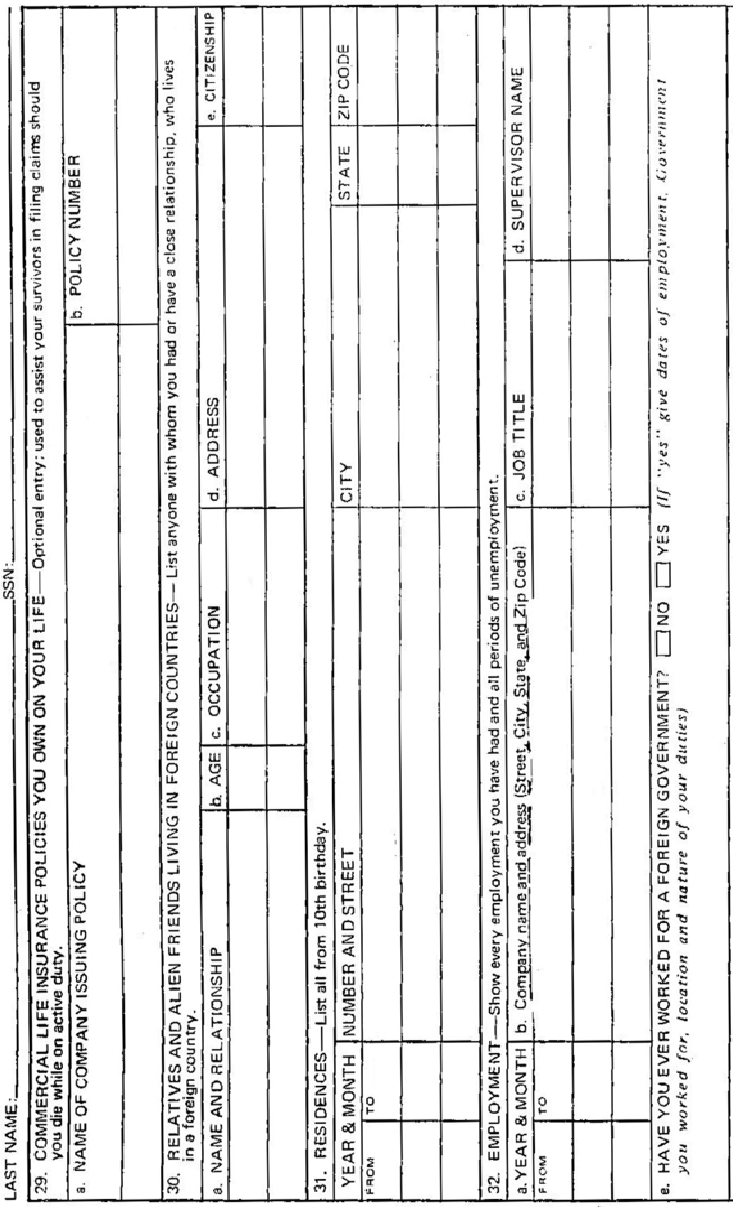
c. ADSD

IV. OTHER BACKGROUND DATA

28a. RELATIVES	b. DATE AND PLACE OF BIRTH	c. PRESENT ADDRESS	d. CITIZENSHIP
FATHER			
MOTHER (Maiden-name)			
SPOUSE (Maiden-name)			
CHILDREN (Show Relationship)			
[illegible]			

DD FORM 1 AUG 75 1966/2 REPLACES DD FORM 1966, 1 JUN 75, WHICH WILL BE USED PAGE 2

Appendix D to opinion of ALITO, J.



LAST NAME: _____ SSN: _____

29. COMMERCIAL LIFE INSURANCE POLICIES YOU OWN ON YOUR LIFE—Optional entry; used to assist your survivors in filing claims should you die while on active duty.

a. NAME OF COMPANY ISSUING POLICY	b. POLICY NUMBER

30. RELATIVES AND ALIEN FRIENDS LIVING IN FOREIGN COUNTRIES—List anyone with whom you had or have a close relationship, who lives in a foreign country.

a. NAME AND RELATIONSHIP	b. AGE	c. OCCUPATION	d. ADDRESS	e. CITIZENSHIP

31. RESIDENCES—List all from 10th birthday.

YEAR & MONTH		NUMBER AND STREET	CITY	STATE	ZIP CODE
FROM	TO				

32. EMPLOYMENT—Show every employment you have had and all periods of unemployment.

a. YEAR & MONTH		b. Company name and address (Street, City, State, and Zip Code)	c. JOB TITLE	d. SUPERVISOR NAME
FROM	TO			

e. HAVE YOU EVER WORKED FOR A FOREIGN GOVERNMENT? ☐NO ☐YES *(If "yes" give dates of employment, Government you worked for, location and nature of your duties)*

Appendix D to opinion of ALITO, J.

33. MEMBERSHIP IN YOUTH PROGRAMS—Optional entry; you *may be* eligible for a higher paygrade, based on membership and participation in the youth programs listed below.
☐ No membership

ORGANIZATION	MEMBERSHIP HELD		CONDUCTED BY (SPONSOR)	LOCATION (SCHOOL AND ADDRESS)	YEARS COMPLETED OR LEVEL REACHED
	FROM	TO			
ROTC					(YEARS)
JROTC					(YEARS)
CAP			AIR FORCE		(LEVEL)
SEA CADET			NAVY		(LEVEL)
OTHER (Specify)					(LEVEL)

34. FOREIGN TRAVEL—Other than as a direct result of military service.

YEAR & MONTH		COUNTRY VISITED	PURPOSE OF TRAVEL
FROM	TO		

35. DECLARATIONS—Explain "Yes" answers in item 41.

a. HAVE YOU EVER BEEN REJECTED FOR ENLISTMENT, REENLISTMENT, OR INDUCTION INTO ANY BRANCH OF THE ARMED FORCES OF THE UNITED STATES? ☐ NO ☐ YES

b. ARE YOU A CONSCIENTIOUS OBJECTOR? ☐ NO ☐ YES

c. ARE YOU NOW OR HAVE YOU EVER BEEN A DESERTER FROM ANY BRANCH OF THE ARMED FORCES OF THE UNITED STATES? ☐ NO ☐ YES

d. ARE YOU NOW DRAWING, OR DO YOU HAVE AN APPLICATION PENDING OR APPROVAL FOR, RETIRED PAY, DISABILITY ALLOWANCE, OR SEVERANCE PAY OR A PENSION FROM THE GOVERNMENT OF THE UNITED STATES? ☐ NO ☐ YES

e. ARE YOU THE ONLY LIVING CHILD OF YOUR PARENTS? ☐ NO ☐ YES

36. UNDERSTANDINGS.

a. I understand that if I am rejected for enlistment because of a disqualification I have concealed, I may not be provided return transportation from the place of examination to my home. (INITIALS)

b. (For male applicants only). I understand that if I have not reached my 26th birthday that an original enlistment obligates me to serve in the Armed Forces for a period of six (6) years (active and reserve) unless sooner discharged. (INITIALS)

DD FORM 1 AUG 75 1966/3 REPLACES DD FORM 1966, 1 JUN 75, WHICH WILL BE USED PAGE 3

Appendix D to opinion of ALITO, J.

LAST NAME:_____ SSN:_____

37. CHARACTER AND SOCIAL ADJUSTMENT: Read and consider the following instructions carefully **BEFORE** answering questions a through f.

1. If your answer to every question is truthfully "NO", please indicate in the appropriate space.
2. If your answer to any questions in this item is "YES", or you have reservations about answering questions of this nature, you are not required to answer, or explain any of these questions in writing. Instead, you may request a personal interview in which you may provide the required information for each question orally.
3. If you choose the personal interview, the information you give may be investigated; however, any written record of the interview itself will not be retained more than six months after entry upon active duty, and it will not become a part of your permanent military personnel service record.
4. If you enlist, this information may be requested from you again at some future date and may become a part of your security investigative file at that time. This could occur as a result of your being considered for duties involving access to classified information or other types of duty requiring a personnel security investigation.
5. A "YES" answer will not necessarily disqualify you for enlistment. It will depend on the circumstances surrounding the situation involved.

INITIAL HERE IF YOU PREFER A PERSONAL INTERVIEW: _____

APPLICANT HAS BEEN INTERVIEWED AND IS ☐ ELIGIBLE FOR ENLISTMENT, ☐ INELIGIBLE FOR ENLISTMENT

DATE OF INTERVIEW	NAME, ORGANIZATION & TITLE	SIGNATURE OF INTERVIEWER

EXPLAIN "YES" ANSWERS IN ITEM 41:	NO	YES
a. HAVE YOU EVER TAKEN ANY NARCOTIC SUBSTANCE, SEDATIVE, STIMULANT, OR TRANQUILIZER DRUGS EXCEPT AS PRESCRIBED BY A LICENSED PHYSICIAN?		
b. HAVE YOU EVER INTENTIONALLY SNIFFED GLUE, PAINT, HAIRSPRAY, OR OTHER CHEMICAL FUMES?		
c. HAVE YOU EVER BEEN INVOLVED IN THE USE, PURCHASE, POSSESSION OR SALE OF MARIJUANA, LSD, OR ANY HARMFUL OR HABIT-FORMING DRUGS AND/OR CHEMICALS EXCEPT AS PRESCRIBED BY A LICENSED PHYSICIAN?		
d. HAS YOUR USE OF ALCOHOLIC BEVERAGES (*SUCH AS LIQUOR, BEER, WINE*) EVER RESULTED IN THE LOSS OF A JOB, ARREST BY POLICE, or TREATMENT FOR ALCOHOLISM?		
e. HAVE YOU EVER BEEN A PATIENT (*WHETHER OR NOT FORMALLY COMMITTED*) IN ANY INSTITUTION PRIMARILY DEVOTED TO THE TREATMENT OF MENTAL, NERVOUS, EMOTIONAL, PSYCHOLOGICAL, OR PERSONALITY DISORDERS?		
f. HAVE YOU EVER ENGAGED IN HOMOSEXUAL ACTIVITY (SEXUAL RELATIONS WITH ANOTHER PERSON OF THE SAME SEX)?		

Appendix D to opinion of ALITO, J.

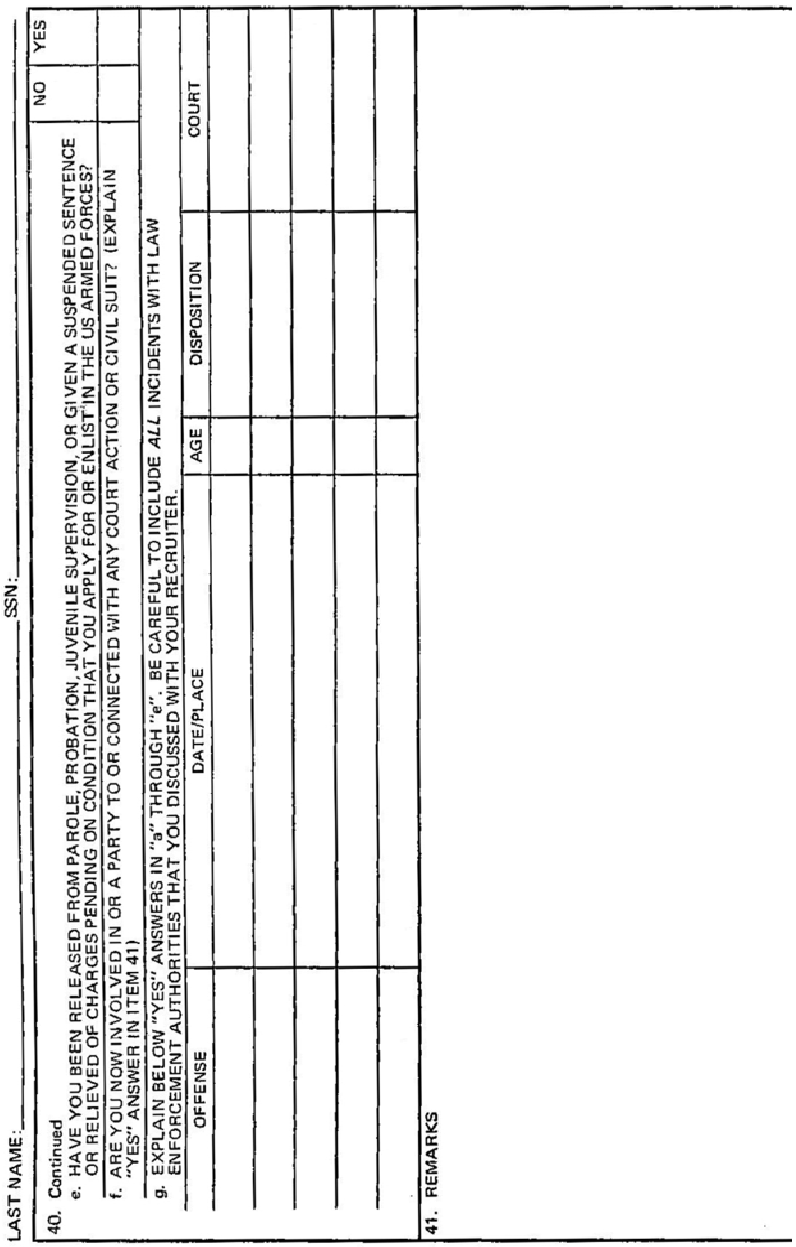
38. MARITAL STATUS AND DEPENDENCY	NO	YES
a. ARE YOU NOW, OR HAVE YOU EVER BEEN MARRIED?		
b. IF YOU HAVE BEEN MARRIED, ARE YOU NOW LIVING WITH YOUR SPOUSE?		
c. HAVE YOU EVER BEEN DIVORCED? (If yes, enter date, place and court which granted divorce or legal separation)		
d. IS ANY COURT ORDER OR JUDGEMENT DIRECTING SUPPORT FOR CHILDREN OR ALIMONY IN EFFECT? (Enter date, place, and court which granted alimony decree, or support as the result of a paternity suit)		
e. IS ANYONE OTHER THAN YOUR SPOUSE AND/OR CHILDREN SOLELY OR PARTIALLY DEPENDENT UPON YOU? (list name & address)		

39. Do you now have, or within the past ten years, have you had knowing membership with the specific intent of furthering the aims of, or adherance to and active participation in any foreign or domestic organizations, association, movement, group, or combination of persons (hereinafter referred to as organizations) which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or of any State, or which seeks to overthrow the Government of the United States or any State or subdivision thereof by unlawful means?	NO	YES
If you answered "yes", give the names of the organizations and inclusive dates (month and year) of your membership; describe the nature of your activities as a member of the organization(s) in the "Remarks" section, Item 41.		

40. INVOLVEMENT WITH POLICE OR JUDICIAL AUTHORITIES	NO	YES
YOUR ANSWERS TO THE FOLLOWING QUESTIONS WILL BE VERIFIED WITH THE FEDERAL BUREAU OF INVESTIGATION (FBI), AND OTHER AGENCIES TO DETERMINE ANY PREVIOUS RECORDS OF ARREST OR CONVICTIONS OR JUVENILE COURT ADJUDICATIONS. IF YOU CONCEAL SUCH RECORDS AT THIS TIME, YOU MAY, UPON ENLISTMENT, BE SUBJECT TO DISCIPLINARY ACTION UNDER THE UNIFORM CODE OF MILITARY JUSTICE AND/OR DISCHARGE FROM THE MILITARY SERVICE WITH OTHER THAN AN HONORABLE DISCHARGE.		
a. Have you ever been arrested, charged, cited, or held by Federal, State, or other law enforcement or juvenile authorities regardless of whether the citation or charge was dropped or dismissed or you were found not guilty?		
b. As a result of being arrested, charged, cited, or held by law enforcement or juvenile authorities, have you ever been convicted, fined by or forfeited bond to a Federal, State, or other judicial authority or adjudicated a youthful offender or juvenile delinquent (regardless of whether the record in your case has been "sealed" or otherwise stricken from the court record)?		
c. Have you ever been detained, held in, or served time in, any jail or prison, or reform or industrial school or any juvenile facility or institution under the jurisdiction of any City, County, State, Federal or foreign country?		
d. Have you ever been awarded, or are you now under suspended sentence, parole, or probation or awaiting any action on charges against you?		

DD, FORM 1966/4 REPLACES DD FORM 1966, 1 JUN 75, WHICH WILL BE USED AND DD FORM 373, 1 MAR 74; DD FORM 1966, 1 AUG 73, WHICH ARE OBSOLETE. PAGE 4

Appendix D to opinion of ALITO, J.



LAST NAME: _____ SSN: _____

40. Continued

	NO	YES
e. HAVE YOU BEEN RELEASED FROM PAROLE, PROBATION, JUVENILE SUPERVISION, OR GIVEN A SUSPENDED SENTENCE OR RELIEVED OF CHARGES PENDING ON CONDITION THAT YOU APPLY FOR OR ENLIST IN THE US ARMED FORCES?		
f. ARE YOU NOW INVOLVED IN OR A PARTY TO OR CONNECTED WITH ANY COURT ACTION OR CIVIL SUIT? (EXPLAIN "YES" ANSWER IN ITEM 41)		

g. EXPLAIN BELOW "YES" ANSWERS IN "a" THROUGH "e". BE CAREFUL TO INCLUDE *ALL* INCIDENTS WITH LAW ENFORCEMENT AUTHORITIES THAT YOU DISCUSSED WITH YOUR RECRUITER.

OFFENSE	DATE/PLACE	AGE	DISPOSITION	COURT

41. REMARKS

I am interested in the following options or programs:

V. CERTIFICATION

42. BY APPLICANT: I UNDERSTAND THAT THE ARMED FORCES REPRESENTATIVE WHO WILL ACCEPT MY ENLISTMENT DOES SO IN RELIANCE ON THE INFORMATION PROVIDED BY ME IN THIS DOCUMENT; THAT IF ANY OF THE INFORMATION IS KNOWINGLY FALSE OR INCORRECT, I MAY BE PROSECUTED UNDER FEDERAL CIVILIAN OR MILITARY LAW OR SUBJECT TO ADMINISTRATIVE SEPARATION PROCEEDINGS AND, IN EITHER INSTANCE, I MAY RECEIVE A LESS THAN HONORABLE DISCHARGE WHICH COULD AFFECT MY FUTURE EMPLOYMENT OPPORTUNITIES. I CERTIFY THAT THE INFORMATION GIVEN BY ME IN THIS DOCUMENT IS TRUE, COMPLETE, AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

a. DATE	b. NAME (First, Middle, Last)	c. SIGNATURE OF APPLICANT

43. DATA VERIFICATION: To be completed by the recruiter who enters a description of the actual documents reviewed by him/her to verify:

NAME	AGE	CITIZENSHIP
EDUCATION		PRIOR MILITARY SERVICE
OTHER (Specify)		

DD FORM 1 AUG 75 1966/5 REPLACES DD FORM 1966, 1 JUN 75, WHICH WILL BE USED PAGE 5

Appendix D to opinion of ALITO, J.

LAST NAME: _____ SSN: _____

44. RECRUITER: I certify that I have witnessed applicant's signature above and further certify that I have verified the data in Sections I, III, and IV of this document, and the documents listed above as prescribed by my directives. I understand my liability to trial by courts-martial under the Uniform Code of Military Justice should I effect or cause to be effected the enlistment of anyone known by me to be ineligible for enlistment.

a. DATE	b. NAME, GRADE, SSN, AND RECRUITER ID NO. (Type or Print)	c. SIGNATURE OF RECRUITER

VI. PARENTAL/GUARDIAN CONSENT FOR ENLISTMENT

45. I/we certify that the applicant named herein has no other legal guardian than me/us and I/we consent to his/her enlistment in the _____ subject to all the requirements and lawful commands of the officers who may, from time to time, be placed over him/her; and I/we certify that no promise of any kind has been made to me/us concerning assignment to duty, or promotion during his/her enlistment as an inducement to me/us to sign this consent. I/we hereby authorized the Armed Forces representatives concerned to administer medical examinations, mental and/or aptitude testing, and conduct records checks to determine applicant's enlistment eligibility. I/we relinquish all claim to his/her service and to any wage or compensation for such service.

46. *For enlistment in a Reserve Component:* I/we understand that as a member of a Reserve Component, he/she must serve minimum periods of active duty unless excused by competent authority. In the event he/she fails to fulfill the obligations of his/her Reserve commitment, he/she may be recalled to active duty as prescribed by law. I/we further understand that while the applicant is in the Ready Reserve, he/she may be ordered to extended active duty in time of war or national emergency declared by the Congress or the President or when otherwise authorized by law.

47. I/we certify that the applicant's birth date is: _____

NAME AND SIGNATURE OF WITNESSING OFFICIAL	SIGNATURE OF PARENT OR LEGAL GUARDIAN
NAME AND SIGNATURE OF WITNESSING OFFICIAL	SIGNATURE OF PARENT OR LEGAL GUARDIAN

VERIFICATION OF SINGLE SIGNATURE CONSENT

VII. ENLISTMENT OPTIONS – Completed by guidance counsellor, career counsellor, recruiter, AFEES Liaison NCO, etc., as specified by sponsoring service.

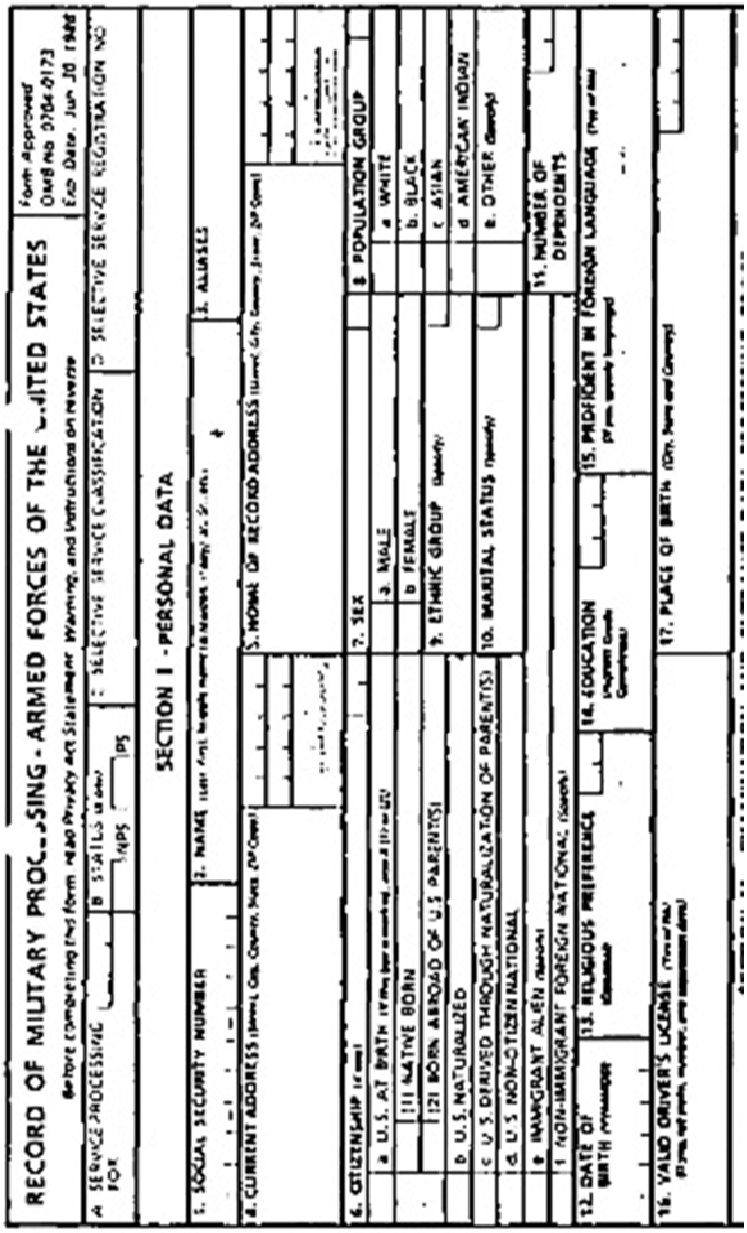
ENL. COMP.	GRADE/RATE	DATE OF RANK	TERM ENL.	T-E MOS/AFS	PMOS/AFS	WAIVER INFO	OPT ANAL	PROG ENL FOR

Appendix D to opinion of ALITO, J.

SPECIFIC OPTIONS ENLISTED FOR		
I certify that I have reviewed all information contained in this document and, to the best of my judgment and belief, applicant fulfills all legal and policy requirements for enlistment. I accept his/her enlistment on behalf of the _____. I further certify that service regulations governing such enlistment have been strictly complied with and any waivers required to effect applicant's enlistment have been secured and are attached to this document.		
DATE	NAME, GRADE, AND SSN, ORGANIZATION OR RECRUITER ID (Type or Print)	SIGNATURE
VIII. RECERTIFICATION BY APPLICANT, AND CORRECTION OF DATA AT TIME OF ENLISTMENT		
I HAVE REVIEWED ALL INFORMATION CONTAINED IN THIS DOCUMENT; THAT INFORMATION IS STILL CORRECT AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. IF CHANGES WERE REQUIRED, THE ORIGINAL ENTRY HAS BEEN MARKED. "SEE VIII" AND THE CORRECTED INFORMATION IS PROVIDED BELOW, KEYED TO THE APPROPRIATE QUESTION.		
QUESTION	CHANGE REQUIRED	
DATE	NAME, GRADE, SSN AND SIGNATURE OF WITNESS (Type or Print)	SIGNATURE OF APPLICANT

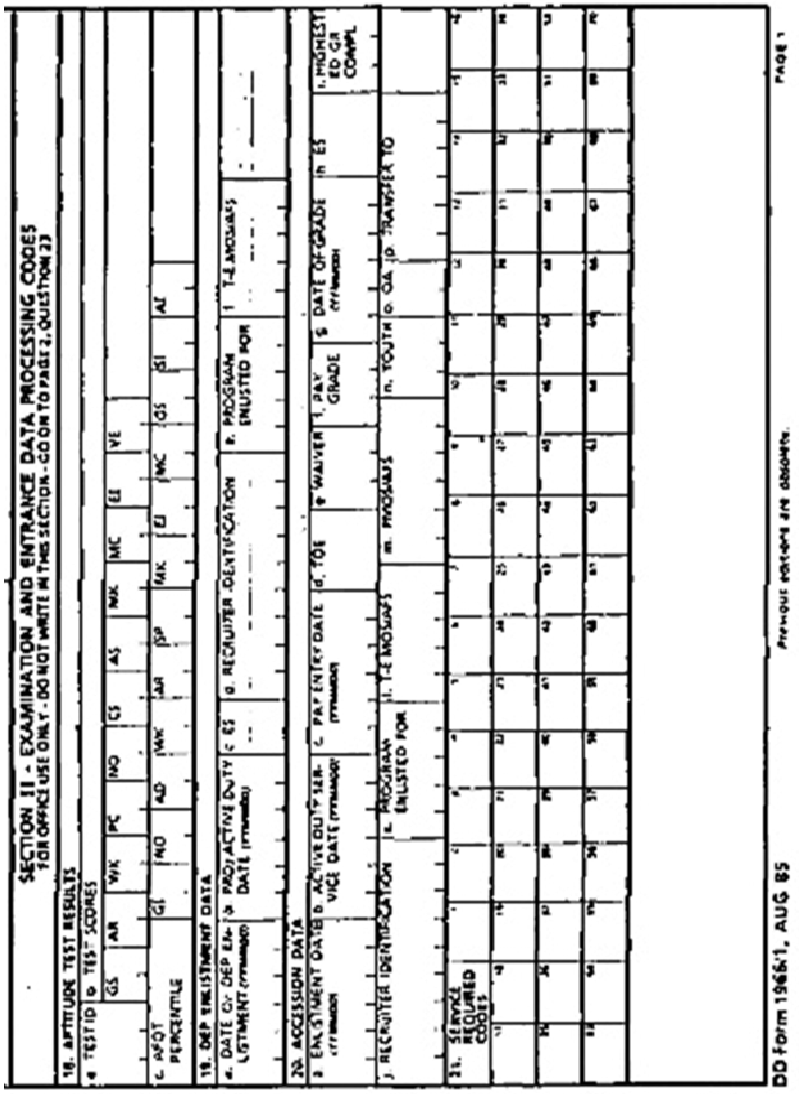
DD FORM 1966/6 REPLACES DD FORM 1966, 1 JUN 75, WHICH WILL BE USED PAGE 6
1 AUG 75

Appendix D to opinion of ALITO, J.

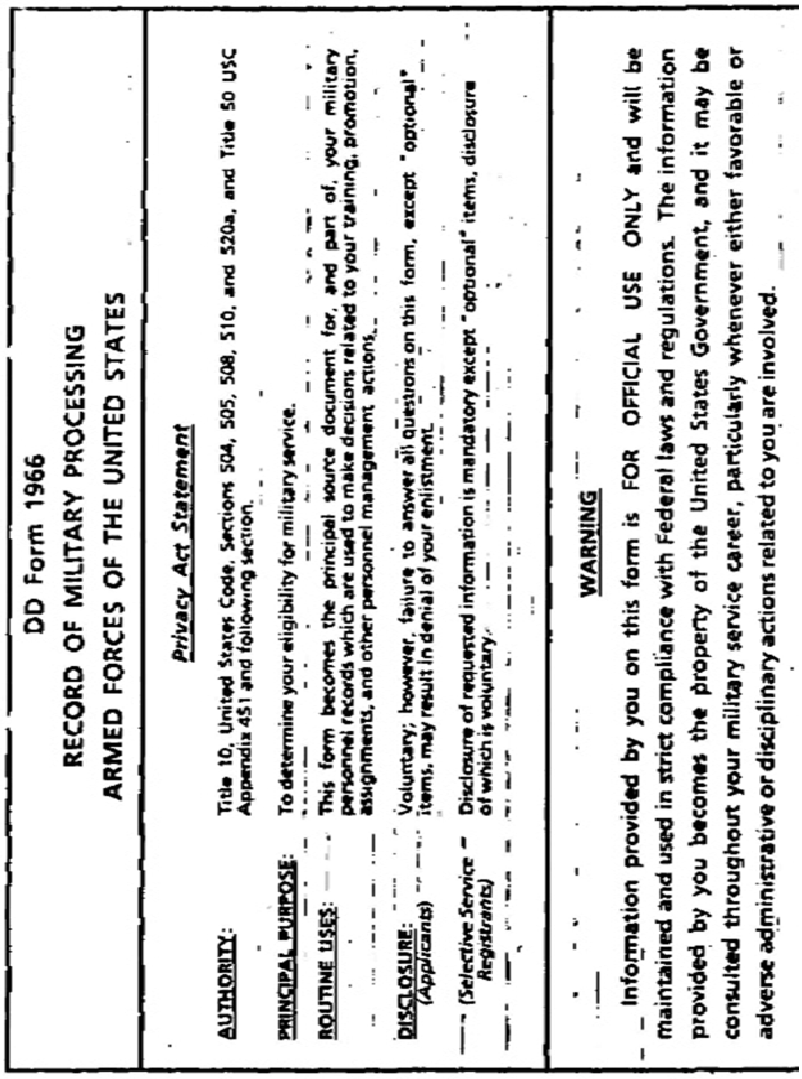

RECORD OF MILITARY PROC..SING - ARMED FORCES OF THE ..ITED STATES

SECTION I - PERSONAL DATA

Appendix D to opinion of ALITO, J.



Appendix D to opinion of ALITO, J.



DD Form 1966

RECORD OF MILITARY PROCESSING

ARMED FORCES OF THE UNITED STATES

Privacy Act Statement

AUTHORITY: Title 10, United States Code, Sections 504, 505, 508, 510, and 520a, and Title 50 USC Appendix 451 and following section.

PRINCIPAL PURPOSE: To determine your eligibility for military service.

ROUTINE USES: This form becomes the principal source document for, and part of, your military personnel records which are used to make decisions related to your training, promotion, assignments, and other personnel management actions.

DISCLOSURE: *(Applicants)* Voluntary; however, failure to answer all questions on this form, except "optional" items, may result in denial of your enlistment.

(Selective Service Registrants) Disclosure of requested information is mandatory except "optional" items, disclosure of which is voluntary.

WARNING

Information provided by you on this form is FOR OFFICIAL USE ONLY and will be maintained and used in strict compliance with Federal laws and regulations. The information provided by you becomes the property of the United States Government, and it may be consulted throughout your military service career, particularly whenever either favorable or adverse administrative or disciplinary actions related to you are involved.

YOU CAN BE PUNISHED BY FINE, IMPRISONMENT OR BOTH IF YOU ARE FOUND GUILTY OF MAKING A KNOWING AND WILLFUL FALSE STATEMENT ON THIS DOCUMENT.

INSTRUCTIONS

(Read carefully BEFORE filling out this form.)

1. Read Privacy Act Statement above before completing form.

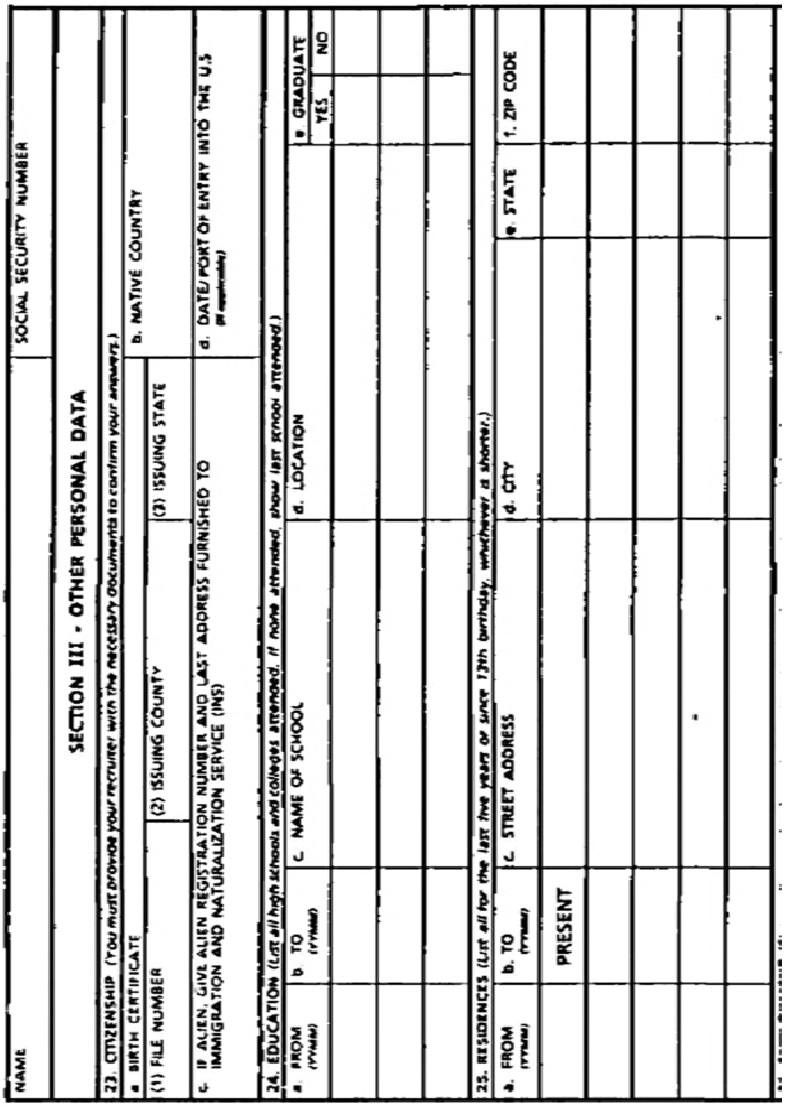
2. Type or print LEGIBLY all answers; if the answer is "None" or "Not Applicable," so state. "OPTIONAL" questions may be left blank.

3. List all responses requiring dates (schools, employment/residences) in chronological order beginning with present or the most recent and work backwards. Show all (employers/residences) for the last five years or since 13th birthday. Give inclusive dates for each period of residence/employment/school. If additional space is needed for any answer, continue it in item 39, "Remarks."

4. Unless otherwise specified, write all dates as 6 digits (with no spaces or marks) in YYMMDD fashion. February 13, 1985 is written 850213.

DD Form 1966/1R, AUG 85 Previous editions are obsolete . Reverse of Page 1

Appendix D to opinion of ALITO, J.



NAME | SOCIAL SECURITY NUMBER

SECTION III - OTHER PERSONAL DATA

23. CITIZENSHIP (You must provide your recruiter with the necessary documents to confirm your answers.)

a. BIRTH CERTIFICATE | b. NATIVE COUNTRY

(1) FILE NUMBER | (2) ISSUING COUNTY | (3) ISSUING STATE

c. IF ALIEN, GIVE ALIEN REGISTRATION NUMBER AND LAST ADDRESS FURNISHED TO IMMIGRATION AND NATURALIZATION SERVICE (INS) | d. DATE/PORT OF ENTRY INTO THE U.S (If applicable)

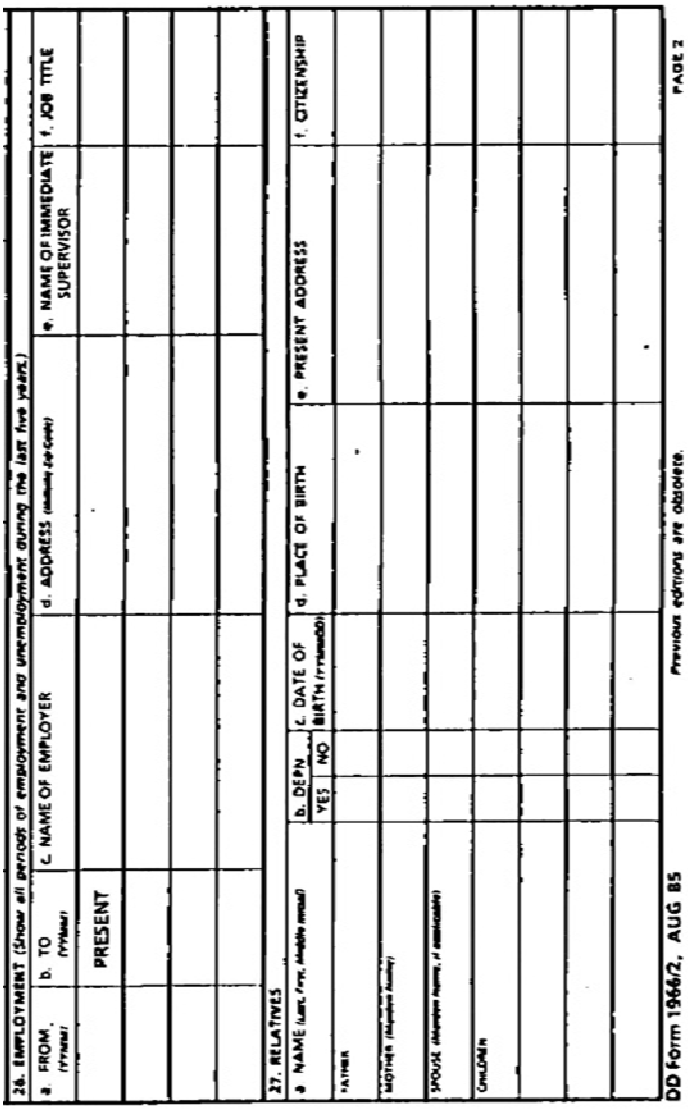
24. EDUCATION (List all high schools and colleges attended. If none attended, show last school attended.)

a. FROM (YY/MM)	b. TO (YY/MM)	c. NAME OF SCHOOL	d. LOCATION	e. GRADUATE	
				YES	NO

25. RESIDENCES (List all for the last five years or since 13th birthday, whichever is shorter.)

a. FROM (YY/MM)	b. TO (YY/MM)	c. STREET ADDRESS	d. CITY	e. STATE	f. ZIP CODE
	PRESENT				

Appendix D to opinion of ALITO, J.

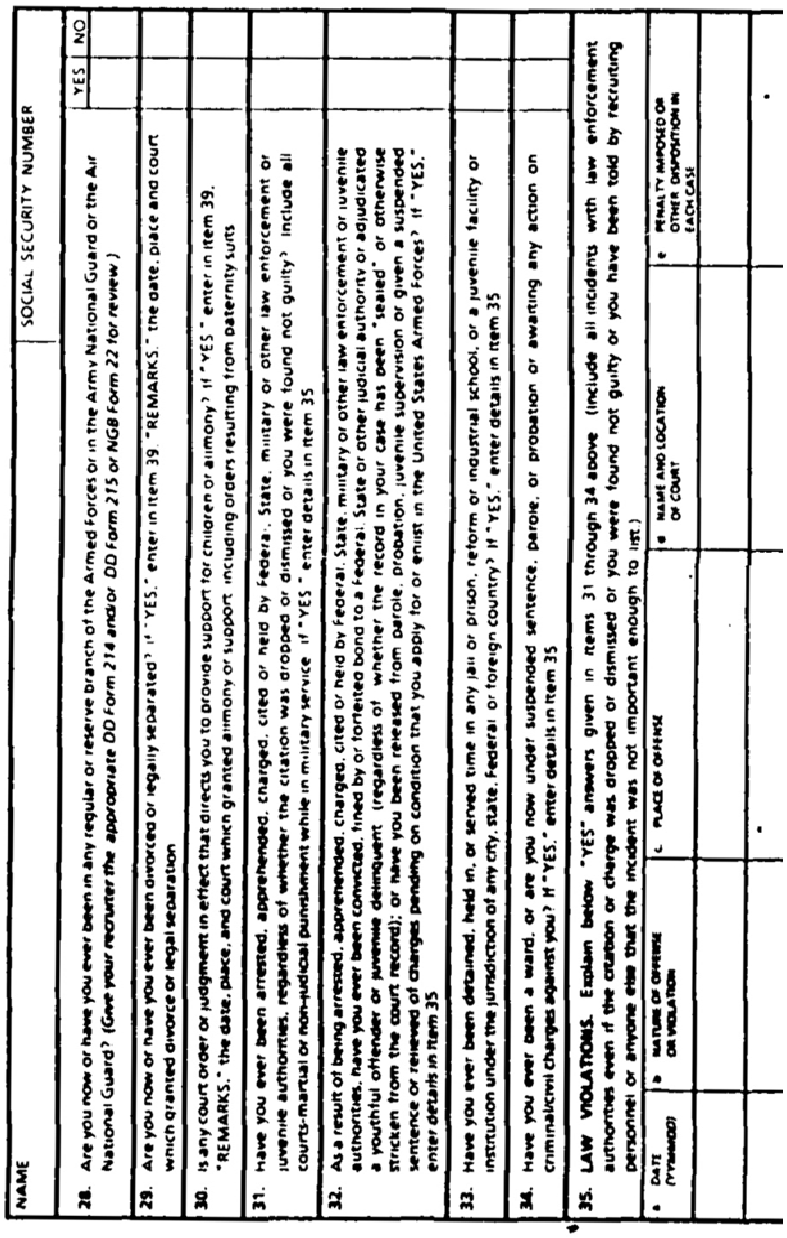


26. EMPLOYMENT (Show all periods of employment and unemployment during the last five years.)					
a. FROM, (Month)	b. TO (Month)	c. NAME OF EMPLOYER	d. ADDRESS (Include Zip Code)	e. NAME OF IMMEDIATE SUPERVISOR	f. JOB TITLE
	PRESENT				

27. RELATIVES					
a. NAME (Last, First, Middle name)	b. DEPN		c. DATE OF BIRTH (Month)	d. PLACE OF BIRTH	e. PRESENT ADDRESS	f. CITIZENSHIP
	YES	NO				
FATHER						
MOTHER (Maiden Name)						
SPOUSE (Maiden Name, if applicable)						
CHILDREN						

DD Form 1966/2, AUG 85 Previous editions are obsolete. PAGE 2

Appendix D to opinion of ALITO, J.



NAME	SOCIAL SECURITY NUMBER		
		YES	NO
28. Are you now or have you ever been in any regular or reserve branch of the Armed Forces or in the Army National Guard or the Air National Guard? *(Give your recruiter the appropriate DD Form 214 and/or DD Form 215 or NGB Form 22 for review.)*			
29. Are you now or have you ever been divorced or legally separated? If "YES," enter in item 39, "REMARKS," the date, place and court which granted divorce or legal separation			
30. Is any court order or judgment in effect that directs you to provide support for children or alimony? If "YES," enter in item 39, "REMARKS," the date, place, and court which granted alimony or support including orders resulting from paternity suits			
31. Have you ever been arrested, apprehended, charged, cited or held by Federal, State, military or other law enforcement or juvenile authorities, regardless of whether the citation was dropped or dismissed or you were found not guilty? Include all courts-martial or non-judicial punishment while in military service. If "YES," enter details in item 35			
32. As a result of being arrested, apprehended, charged, cited or held by Federal, State, military or other law enforcement or juvenile authorities, have you ever been convicted, fined by or forfeited bond to a Federal, State or other judicial authority or adjudicated a youthful offender or juvenile delinquent (regardless of whether the record in your case has been "sealed" or otherwise stricken from the court record); or have you been released from parole, probation, juvenile supervision or given a suspended sentence or relieved of charges pending on condition that you apply for or enlist in the United States Armed Forces? If "YES," enter details in item 35			
33. Have you ever been detained, held in, or served time in any jail or prison, reform or industrial school, or a juvenile facility or institution under the jurisdiction of any city, state, Federal or foreign country? If "YES," enter details in item 35			
34. Have you ever been a ward, or are you now under suspended sentence, parole, or probation or awaiting any action on criminal/civil charges against you? If "YES," enter details in item 35			

35. **LAW VIOLATIONS.** Explain below "YES" answers given in items 31 through 34 above (include all incidents with law enforcement authorities even if the citation or charge was dropped or dismissed or you were found not guilty or you have been told by recruiting personnel or anyone else that the incident was not important enough to list.)

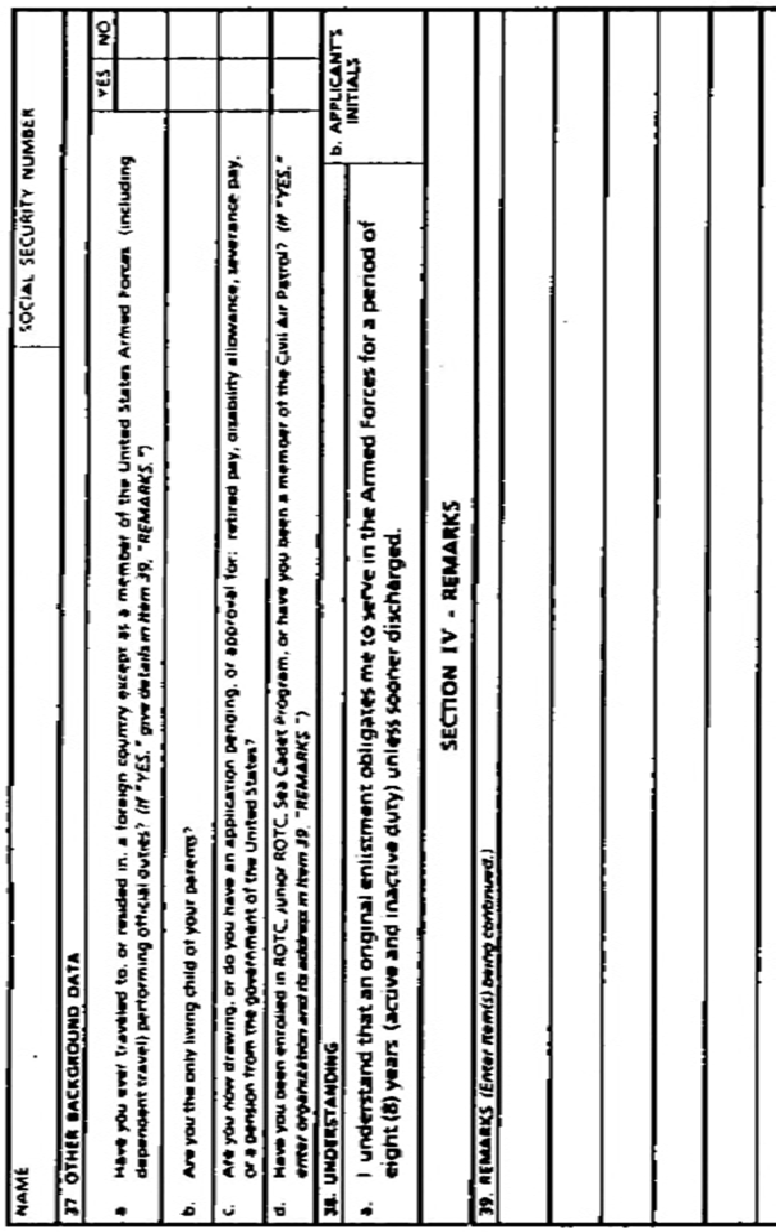
a. DATE (YYMMDD)	b. NATURE OF OFFENSE OR VIOLATION	c. PLACE OF OFFENSE	d. NAME AND LOCATION OF COURT	e. PENALTY IMPOSED OR OTHER DISPOSITION IN EACH CASE

36. CHARACTER AND SOCIAL ADJUSTMENT: If your answer to every question is truthfully "NO," indicate so in the appropriate space. If your answer is "YES," indicate so in the appropriate space and give details in Item 39, "REMARKS." A "YES" answer will not necessarily disqualify you for enlistment; it will depend on the circumstances surrounding the situation.

	YES	NO
a. Questions (1), (2), and (3) below concern possession, supply, use without a prescription of marijuana, narcotics, LSD or other dangerous drugs. A "Yes" answer to (3) has no bearing on your eligibility to enlist or be commissioned but is essential to accurate job classification. Additional screening will occur during basic training or officer training school		
(1) Have you ever used narcotics, LSD or other dangerous drugs?		
(2) Have you ever been a supplier of narcotics, LSD or other dangerous drugs or marijuana?		
(3) Have you used marijuana at any time in the past six months?		
b. Has your use of drugs or alcoholic beverages (such as liquor, beer, wine), ever resulted in your loss of a job, arrest by police, or treatment or alcoholism?		
Are you a homosexual or a bisexual? ("Homosexual" is defined as: sexual desire or behavior directed at a person(s) of one's own sex. "Bisexual" is defined as: a person sexually responsive to both sexes.)		
Do you intend to engage in homosexual acts (sexual relations with another person of the same sex)?		
c. Are you a conscientious objector? That is, do you have, or have you ever had, a firm, fixed, and sincere objection to participation in war in any form or to the bearing of arms because of religious training or belief?		
f. Have you ever been rejected for enlistment, reenlistment, or induction by any branch of the Armed Forces of the United States?		
g. Are you now, or have you ever been, a deserter from any branch of the Armed Forces of the United States?		
h. Are you now, or have you ever been, a member of the Communist Party or any Communist organization? Are you now, or have you ever been, affiliated with any organization, association, movement, group or combination of persons which advocates the overthrow of our constitutional form of government or which has adopted the policy of advocating the commission of acts of violence to deny other persons their rights under the Constitution of the United States or which seeks to alter the form of government of the United States by unconstitutional means? (If "YES," give details in Item 39, "REMARKS.")		

DD Form 1966/3, AUG 85 Previous editions are obsolete PAGE 3

Appendix D to opinion of ALITO, J.



NAME | SOCIAL SECURITY NUMBER

37. OTHER BACKGROUND DATA

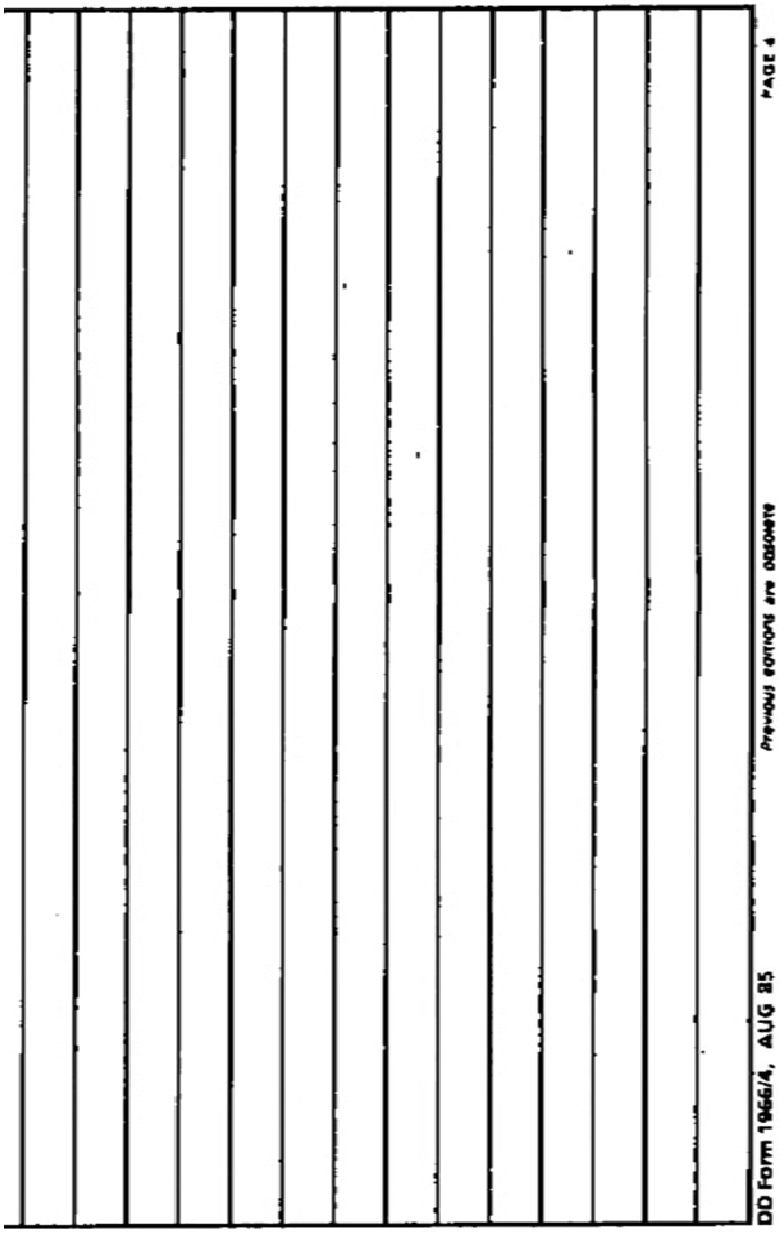
	YES	NO
a. Have you ever traveled to, or resided in, a foreign country except as a member of the United States Armed Forces (including dependent travel) performing official duties? (If "YES," give details in Item 39, "REMARKS.")		
b. Are you the only living child of your parents?		
c. Are you now drawing, or do you have an application pending, for disability retirement pay, disability allowance, severance pay, or a pension from the government of the United States?		
d. Have you been enrolled in ROTC, Junior ROTC, Sea Cadet Program, or have you been a member of the Civil Air Patrol? (If "YES," enter organization and its address in Item 39, "REMARKS.")		

38. UNDERSTANDING

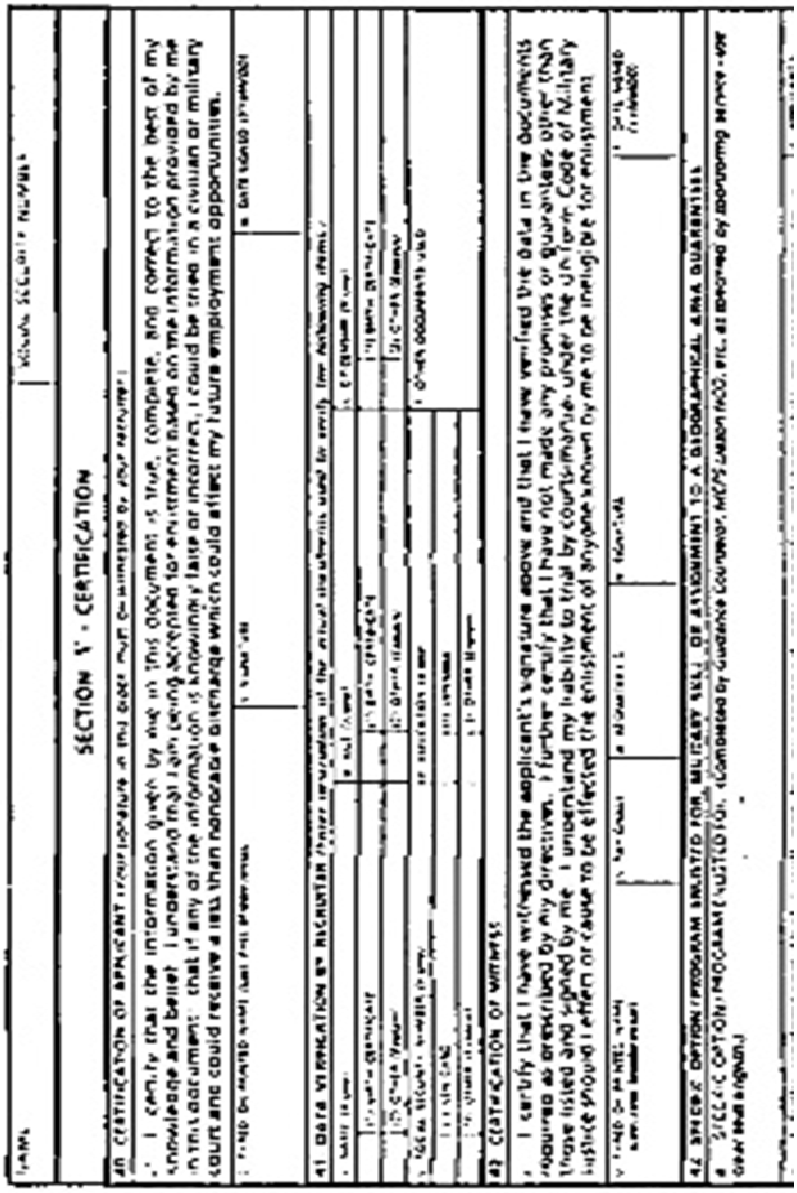
	b. APPLICANT'S INITIALS
a. I understand that an original enlistment obligates me to serve in the Armed Forces for a period of eight (8) years (active and inactive duty) unless sooner discharged.	

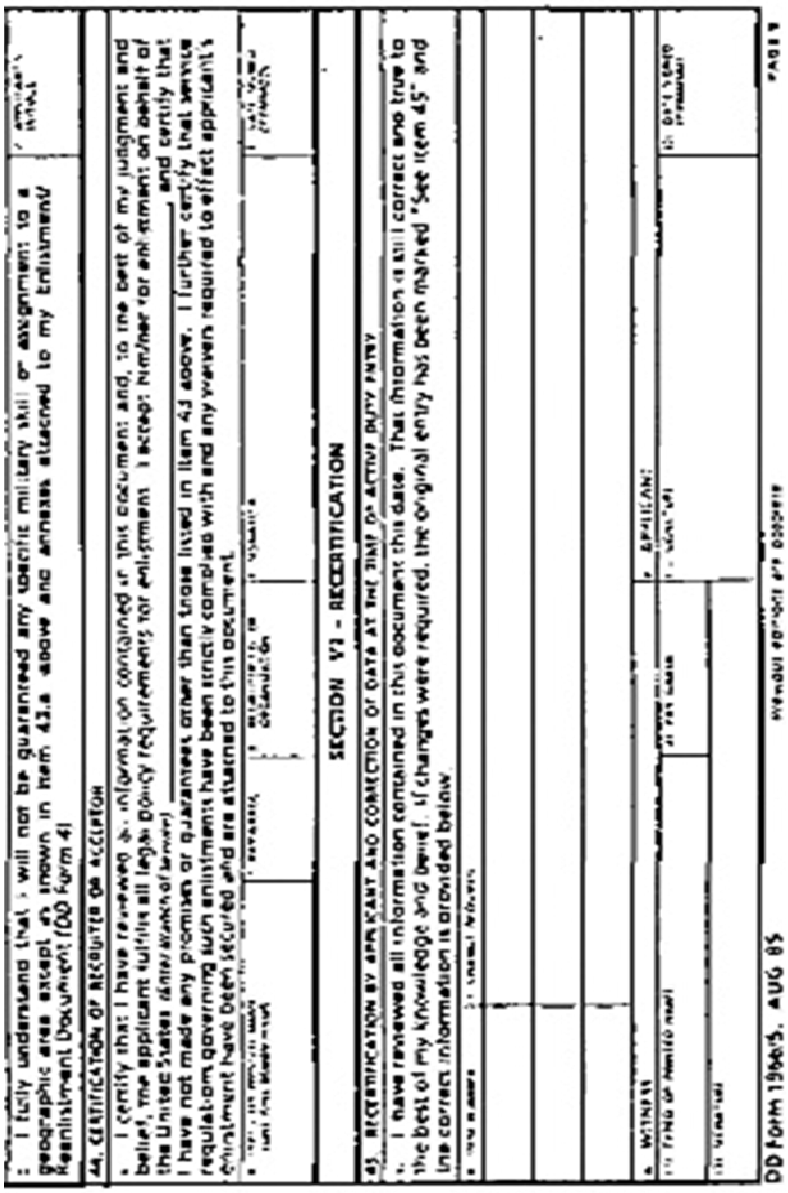
SECTION IV - REMARKS

39. REMARKS (Enter item(s) being continued.)


PAGE 4
DD Form 1966/4, AUG 85

Appendix D to opinion of ALITO, J.





I fully understand that I will not be guaranteed any specific military skill or assignment to a geographic area except as known in Item 43.a above and annexes attached to my Enlistment/Reenlistment Document (DD Form 4).

44. CERTIFICATION OF REQUISITE QUALIFICATION

a. I certify that I have reviewed the information contained in this document and, to the best of my judgment and belief, the applicant fulfills all legal policy requirements for enlistment. I accept him/her for enlistment on behalf of the United States (date week of review) _____ and certify that I have not made any promises or guarantees other than those listed in Item 43 above. I further certify that service regulations governing such enlistments have been strictly complied with and any waivers required to effect applicant's enlistment have been secured and are attached to this document.

SECTION VI - RECERTIFICATION

45. RECERTIFICATION BY APPLICANT AND CORRECTION OF DATA AT THE TIME OF ACTIVE DUTY ENTRY

a. I have reviewed all information contained in this document this date. That information is still correct and true to the best of my knowledge and belief. If changes were required, the original entry has been marked "See Item 45" and the correct information is provided below.

DD FORM 1966/5, AUG 85

PAGE 3

Appendix D to opinion of ALITO, J.

NAME | SOCIAL SECURITY NUMBER

NOTE
USE THIS DD FORM 1966 PAGE ONLY IF EITHER SECTION APPLIES TO THE APPLICANT'S RECORD OF MILITARY PROCESSING

SECTION VII - PARENTAL / GUARDIAN CONSENT FOR ENLISTMENT

6b. PARENT / GUARDIAN STATEMENT(S) (Line out portions not applicable)

a. I/we certify that (Enter name of applicant) _____

has no other legal guardian other than me/us and I/we consent to his/her enlistment in the United States (Enter Branch of Service) _____

I/we certify that no promises or anything have been made to me/us concerning assignment to duty, training, or promotion during his/her enlistment as an inducement to me/us to sign this consent. I/we hereby authorize the Armed Forces representatives concerned to perform medical examinations, other examinations required, and to conduct records checks to determine his/her eligibility. I/we relinquish all claim to his/her service and to any wage or compensation for such service.

b FOR ENLISTMENT IN A RESERVE COMPONENT

I/we understand that, as a member of a reserve component, he/she must serve minimum periods of active duty for training unless excused by competent authority. In the event he/she fails to fulfill the obligations of his/her reserve enlistment, he/she may be recalled to active duty as prescribed by law. I/we further understand that while he/she is in the ready reserve, he/she may be ordered to extended active duty in time of war or national emergency declared by the Congress or the President or when otherwise authorized by law.

c PARENT

(1) TYPED OR PRINTED NAME (Last, First, Middle name) | (2) SIGNATURE | (3) DATE SIGNED (YYMMDD)

d WITNESS

(1) TYPED OR PRINTED NAME (Last, First, Middle name) | (2) SIGNATURE | (3) DATE SIGNED (YYMMDD)

e. PARENT

(1) TYPED OR PRINTED NAME (Last, First, Middle Initial) | (2) SIGNATURE | (3) DATE SIGNED (YYYYMMDD)

f. WITNESS

(1) TYPED OR PRINTED NAME (Last, First, Middle Initial) | (2) SIGNATURE | (3) DATE SIGNED (YYYYMMDD)

47. VERIFICATION OF SINGLE SIGNATURE CONSENT

SECTION VIII - STATEMENT OF NAME FOR OFFICIAL MILITARY RECORDS

48. NAME CHANGE. If the preferred enlistment name (name given in item 2) is not the same as on your birth certificate, and it has not been changed by legal procedure prescribed by state law, and it is the same as on your social security number card, complete the following:

a. NAME AS SHOWN ON BIRTH CERTIFICATE | b. NAME AS SHOWN ON SOCIAL SECURITY NUMBER CARD

c. I hereby state that I have not changed my name through any court or other legal procedure; that I prefer to use the name of _____ by which I am known in the community as a matter of convenience and with no criminal intent. I further state that I am the same person as the person whose name is shown in item 2.

d. WITNESS

(1) TYPED OR PRINTED NAME | (2) PAY GRADE

(3) SIGNATURE

e. APPLICANT

(1) SIGNATURE | (2) DATE SIGNED (YYYYMMDD)

DD Form 1966/6, AUG 85 Previous editions are obsolete PAGE 6

SUPREME COURT OF THE UNITED STATES

Nos. 17–1618, 17–1623 and 18–107

GERALD LYNN BOSTOCK, PETITIONER
17–1618 *v.*
CLAYTON COUNTY, GEORGIA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

ALTITUDE EXPRESS, INC., ET AL., PETITIONERS
17–1623 *v.*
MELISSA ZARDA AND WILLIAM ALLEN MOORE, JR., CO-INDEPENDENT EXECUTORS OF THE ESTATE OF DONALD ZARDA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

R.G. & G.R. HARRIS FUNERAL HOMES, INC., PETITIONER
18–107 *v.*
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

[June 15, 2020]

JUSTICE KAVANAUGH, dissenting.

Like many cases in this Court, this case boils down to one fundamental question: Who decides? Title VII of the Civil Rights Act of 1964 prohibits employment discrimination "because of" an individual's "race, color, religion, sex, or national origin." The question here is whether Title VII

should be expanded to prohibit employment discrimination because of sexual orientation. Under the Constitution's separation of powers, the responsibility to amend Title VII belongs to Congress and the President in the legislative process, not to this Court.

The political branches are well aware of this issue. In 2007, the U. S. House of Representatives voted 235 to 184 to prohibit employment discrimination on the basis of sexual orientation. In 2013, the U. S. Senate voted 64 to 32 in favor of a similar ban. In 2019, the House again voted 236 to 173 to outlaw employment discrimination on the basis of sexual orientation. Although both the House and Senate have voted at different times to prohibit sexual orientation discrimination, the two Houses have not yet come together with the President to enact a bill into law.

The policy arguments for amending Title VII are very weighty. The Court has previously stated, and I fully agree, that gay and lesbian Americans "cannot be treated as social outcasts or as inferior in dignity and worth." *Masterpiece Cakeshop, Ltd.* v. *Colorado Civil Rights Comm'n*, 584 U. S. ___, ___ (2018) (slip op., at 9).

But we are judges, not Members of Congress. And in Alexander Hamilton's words, federal judges exercise "neither Force nor Will, but merely judgment." The Federalist No. 78, p. 523 (J. Cooke ed. 1961). Under the Constitution's separation of powers, our role as judges is to interpret and follow the law as written, regardless of whether we like the result. Cf. *Texas* v. *Johnson*, 491 U. S. 397, 420–421 (1989) (Kennedy, J., concurring). Our role is not to make or amend the law. As written, Title VII does not prohibit employment discrimination because of sexual orientation.[1]

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[1] Although this opinion does not separately analyze discrimination on the basis of gender identity, this opinion's legal analysis of discrimination on the basis of sexual orientation would apply in much the same way to discrimination on the basis of gender identity.

I

Title VII makes it unlawful for employers to discriminate because of "race, color, religion, sex, or national origin." 42 U. S. C. §2000e–2(a)(1).[2] As enacted in 1964, Title VII did not prohibit other forms of employment discrimination, such as age discrimination, disability discrimination, or sexual orientation discrimination.

Over time, Congress has enacted new employment discrimination laws. In 1967, Congress passed and President Johnson signed the Age Discrimination in Employment Act. 81 Stat. 602. In 1973, Congress passed and President Nixon signed the Rehabilitation Act, which in substance prohibited disability discrimination against federal and certain other employees. 87 Stat. 355. In 1990, Congress passed and President George H. W. Bush signed the comprehensive Americans with Disabilities Act. 104 Stat. 327.

To prohibit age discrimination and disability discrimination, this Court did not unilaterally rewrite or update the

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[2] In full, the statute provides:

"*It shall be an unlawful employment practice for an employer*—

"(1) to fail or refuse to hire or to discharge any individual, or otherwise *to discriminate against any individual* with respect to his compensation, terms, conditions, or privileges of employment, *because of such individual's race, color, religion, sex, or national origin*; or

"(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin." 42 U. S. C. §2000e–2(a) (emphasis added).

As the Court today recognizes, Title VII contains an important exemption for religious organizations. §2000e–1(a); see also §2000e–2(e). The First Amendment also safeguards the employment decisions of religious employers. See *Hosanna-Tabor Evangelical Lutheran Church and School* v. *EEOC*, 565 U. S. 171, 188–195 (2012). So too, the Religious Freedom Restoration Act of 1993 exempts employers from federal laws that substantially burden the exercise of religion, subject to limited exceptions. §2000bb–1.

law. Rather, Congress and the President enacted new legislation, as prescribed by the Constitution's separation of powers.

For several decades, Congress has considered numerous bills to prohibit employment discrimination based on sexual orientation. But as noted above, although Congress has come close, it has not yet shouldered a bill over the legislative finish line.

In the face of the unsuccessful legislative efforts (so far) to prohibit sexual orientation discrimination, judges may not rewrite the law simply because of their own policy views. Judges may not update the law merely because they think that Congress does not have the votes or the fortitude. Judges may not predictively amend the law just because they believe that Congress is likely to do it soon anyway.

If judges could rewrite laws based on their own policy views, or based on their own assessments of likely future legislative action, the critical distinction between legislative authority and judicial authority that undergirds the Constitution's separation of powers would collapse, thereby threatening the impartial rule of law and individual liberty. As James Madison stated: "Were the power of judging joined with the legislative, the life and liberty of the subject would be exposed to arbitrary controul, for *the judge* would then be *the legislator*." The Federalist No. 47, at 326 (citing Montesquieu). If judges could, for example, rewrite or update securities laws or healthcare laws or gun laws or environmental laws simply based on their own policy views, the Judiciary would become a democratically illegitimate super-legislature—unelected, and hijacking the important policy decisions reserved by the Constitution to the people's elected representatives.

Because judges interpret the law as written, not as they might wish it were written, the first 10 U. S. Courts of Appeals to consider whether Title VII prohibits sexual orientation discrimination all said no. Some 30 federal judges

considered the question. All 30 judges said no, based on the text of the statute. 30 out of 30.

But in the last few years, a new theory has emerged. To end-run the bedrock separation-of-powers principle that courts may not unilaterally rewrite statutes, the plaintiffs here (and, recently, two Courts of Appeals) have advanced a novel and creative argument. They contend that discrimination "because of sexual orientation" and discrimination "because of sex" are actually not separate categories of discrimination after all. Instead, the theory goes, discrimination because of sexual orientation always qualifies as discrimination because of sex: When a gay man is fired because he is gay, he is fired because he is attracted to men, even though a similarly situated woman would not be fired just because she is attracted to men. According to this theory, it follows that the man has been fired, at least as a literal matter, because of his sex.

Under this literalist approach, sexual orientation discrimination automatically qualifies as sex discrimination, and Title VII's prohibition against sex discrimination therefore also prohibits sexual orientation discrimination—and actually has done so since 1964, unbeknownst to everyone. Surprisingly, the Court today buys into this approach. *Ante*, at 9–12.

For the sake of argument, I will assume that firing someone because of their sexual orientation may, as a very literal matter, entail making a distinction based on sex. But to prevail in this case with their literalist approach, the plaintiffs must *also* establish one of two other points. The plaintiffs must establish that courts, when interpreting a statute, adhere to literal meaning rather than ordinary meaning. Or alternatively, the plaintiffs must establish that the ordinary meaning of "discriminate because of sex"—not just the literal meaning—encompasses sexual orientation discrimination. The plaintiffs fall short on both counts.

First, courts must follow ordinary meaning, not literal meaning. And courts must adhere to the ordinary meaning of phrases, not just the meaning of the words in a phrase.

There is no serious debate about the foundational interpretive principle that courts adhere to ordinary meaning, not literal meaning, when interpreting statutes. As Justice Scalia explained, "the good textualist is not a literalist." A. Scalia, A Matter of Interpretation 24 (1997). Or as Professor Eskridge stated: The "prime directive in statutory interpretation is to apply the meaning that a reasonable reader would derive from the text of the law," so that "for hard cases as well as easy ones, the *ordinary meaning* (or the 'everyday meaning' or the 'commonsense' reading) of the relevant statutory text is the anchor for statutory interpretation." W. Eskridge, Interpreting Law 33, 34–35 (2016) (footnote omitted). Or as Professor Manning put it, proper statutory interpretation asks "how a reasonable person, conversant with the relevant social and linguistic conventions, would read the text in context. This approach recognizes that the literal or dictionary definitions of words will often fail to account for settled nuances or background conventions that qualify the literal meaning of language and, in particular, of legal language." Manning, The Absurdity Doctrine, 116 Harv. L. Rev. 2387, 2392–2393 (2003). Or as Professor Nelson wrote: No "mainstream judge is interested solely in the literal definitions of a statute's words." Nelson, What Is Textualism?, 91 Va. L. Rev. 347, 376 (2005). The ordinary meaning that counts is the ordinary public meaning at the time of enactment—although in this case, that temporal principle matters little because the ordinary meaning of "discriminate because of sex" was the same in 1964 as it is now.

Judges adhere to ordinary meaning for two main reasons: rule of law and democratic accountability. A society governed by the rule of law must have laws that are known and understandable to the citizenry. And judicial adherence to

ordinary meaning facilitates the democratic accountability of America's elected representatives for the laws they enact. Citizens and legislators must be able to ascertain the law by reading the words of the statute. Both the rule of law and democratic accountability badly suffer when a court adopts a hidden or obscure interpretation of the law, and not its ordinary meaning.

Consider a simple example of how ordinary meaning differs from literal meaning. A statutory ban on "vehicles in the park" would literally encompass a baby stroller. But no good judge would interpret the statute that way because the word "vehicle," in its ordinary meaning, does not encompass baby strollers.

The ordinary meaning principle is longstanding and well settled. Time and again, this Court has rejected literalism in favor of ordinary meaning. Take a few examples:

- The Court recognized that beans may be seeds "in the language of botany or natural history," but concluded that beans are not seeds "in commerce" or "in common parlance." *Robertson* v. *Salomon*, 130 U. S. 412, 414 (1889).
- The Court explained that tomatoes are literally "the fruit of a vine," but "in the common language of the people," tomatoes are vegetables. *Nix* v. *Hedden*, 149 U. S. 304, 307 (1893).
- The Court stated that the statutory term "vehicle" does not cover an aircraft: "No doubt etymologically it is possible to use the word to signify a conveyance working on land, water or air . . . . But in everyday speech 'vehicle' calls up the picture of a thing moving on land." *McBoyle* v. *United States*, 283 U. S. 25, 26 (1931).
- The Court pointed out that "this Court's interpretation of the three-judge-court statutes has frequently deviated from the path of literalism." *Gonzalez* v. *Automatic Employees Credit Union*, 419 U. S. 90, 96 (1974).

- The Court refused a reading of "mineral deposits" that would include water, even if "water is a 'mineral,' in the broadest sense of that word," because it would bring about a "major . . . alteration in established legal relationships based on nothing more than an overly literal reading of a statute, without any regard for its context or history." *Andrus* v. *Charlestone Stone Products Co.*, 436 U. S. 604, 610, 616 (1978).
- The Court declined to interpret "facilitating" a drug distribution crime in a way that would cover purchasing drugs, because the "literal sweep of 'facilitate' sits uncomfortably with common usage." *Abuelhawa* v. *United States*, 556 U. S. 816, 820 (2009).
- The Court rebuffed a literal reading of "personnel rules" that would encompass any rules that personnel must follow (as opposed to human resources rules *about* personnel), and stated that no one "using ordinary language would describe" personnel rules "in this manner." *Milner* v. *Department of Navy*, 562 U. S. 562, 578 (2011).
- The Court explained that, when construing statutory phrases such as "arising from," it avoids "uncritical literalism leading to results that no sensible person could have intended." *Jennings* v. *Rodriguez*, 583 U. S. ___, ___–___ (2018) (plurality opinion) (slip op., at 9–10) (internal quotation marks omitted).

Those cases exemplify a deeply rooted principle: When there is a divide between the literal meaning and the ordinary meaning, courts must follow the ordinary meaning.

Next is a critical point of emphasis in this case. The difference between literal and ordinary meaning becomes especially important when—as in this case—judges consider *phrases* in statutes. (Recall that the shorthand version of the phrase at issue here is "discriminate because of sex.")[3]

[3] The full phrasing of the statute is provided above in footnote 2. This

Courts must heed the ordinary meaning of the *phrase as a whole*, not just the meaning of the words in the phrase. That is because a phrase may have a more precise or confined meaning than the literal meaning of the individual words in the phrase. Examples abound. An "American flag" could literally encompass a flag made in America, but in common parlance it denotes the Stars and Stripes. A "three-pointer" could literally include a field goal in football, but in common parlance, it is a shot from behind the arc in basketball. A "cold war" could literally mean any wintertime war, but in common parlance it signifies a conflict short of open warfare. A "washing machine" could literally refer to any machine used for washing any item, but in everyday speech it means a machine for washing clothes.

This Court has often emphasized the importance of sticking to the ordinary meaning *of a phrase*, rather than the meaning of words in the phrase. In *FCC* v. *AT&T Inc.*, 562 U. S. 397 (2011), for example, the Court explained:

> "AT&T's argument treats the term 'personal privacy' as simply the sum of its two words: the privacy of a person. . . . But two words together may assume a more particular meaning than those words in isolation. We understand a golden cup to be a cup made of or resembling gold. A golden boy, on the other hand, is one who is charming, lucky, and talented. A golden opportunity is one not to be missed. 'Personal' in the phrase 'personal privacy' conveys more than just 'of a person.' It suggests a type of privacy evocative of human concerns—not the sort usually associated with an entity like, say, AT&T." *Id.,* at 406.

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opinion uses "discriminate because of sex" as shorthand for "discriminate . . . because of . . . sex." Also, the plaintiffs do not dispute that the ordinary meaning of the statutory phrase "discriminate" because of sex is the same as the statutory phrase "to fail or refuse to hire or to discharge any individual" because of sex.

Exactly right and exactly on point in this case.

Justice Scalia explained the extraordinary importance of hewing to the ordinary meaning of a phrase: "Adhering to the *fair meaning* of the text (the textualist's touchstone) does not limit one to the hyperliteral meaning of each word in the text. In the words of Learned Hand: 'a sterile literalism . . . loses sight of the forest for the trees.' The full body of a text contains implications that can alter the literal meaning of individual words." A. Scalia & B. Garner, Reading Law 356 (2012) (footnote omitted). Put another way, "the meaning of a sentence may be more than that of the separate words, as a melody is more than the notes." *Helvering* v. *Gregory*, 69 F. 2d 809, 810–811 (CA2 1934) (L. Hand, J.). Judges must take care to follow ordinary meaning "when two words combine to produce a meaning that is not the mechanical composition of the two words separately." Eskridge, Interpreting Law, at 62. Dictionaries are not "always useful for determining the ordinary meaning of word clusters (like 'driving a vehicle') or phrases and clauses or entire sentences." *Id.*, at 44. And we must recognize that a phrase can cover a "dramatically smaller category than either component term." *Id.,* at 62.

If the usual evidence indicates that a statutory phrase bears an ordinary meaning different from the literal strung-together definitions of the individual words in the phrase, we may not ignore or gloss over that discrepancy. "Legislation cannot sensibly be interpreted by stringing together dictionary synonyms of each word and proclaiming that, if the right example of the meaning of each is selected, the 'plain meaning' of the statute leads to a particular result. No theory of interpretation, including textualism itself, is premised on such an approach." 883 F. 3d 100, 144, n. 7 (CA2 2018) (Lynch, J., dissenting).[4]

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[4]Another longstanding canon of statutory interpretation—the absurdity canon—similarly reflects the law's focus on ordinary meaning rather

In other words, this Court's precedents and longstanding principles of statutory interpretation teach a clear lesson: Do not simply split statutory phrases into their component words, look up each in a dictionary, and then mechanically put them together again, as the majority opinion today mistakenly does. See *ante*, at 5–9. To reiterate Justice Scalia's caution, that approach misses the forest for the trees.

A literalist approach to interpreting phrases disrespects ordinary meaning and deprives the citizenry of fair notice of what the law is. It destabilizes the rule of law and thwarts democratic accountability. For phrases as well as terms, the "linchpin of statutory interpretation is *ordinary meaning*, for that is going to be most accessible to the citizenry desirous of following the law *and* to the legislators and their staffs drafting the legal terms of the plans launched by statutes *and* to the administrators and judges implementing the statutory plan." Eskridge, Interpreting Law, at 81; see Scalia, A Matter of Interpretation, at 17.

Bottom line: Statutory Interpretation 101 instructs courts to follow ordinary meaning, not literal meaning, and to adhere to the ordinary meaning of phrases, not just the meaning of the words in a phrase.

Second, in light of the bedrock principle that we must adhere to the ordinary meaning of a phrase, the question in this case boils down to the ordinary meaning of the phrase "discriminate because of sex." Does the ordinary meaning of that phrase encompass discrimination because of sexual orientation? The answer is plainly no.

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than literal meaning. That canon tells courts to avoid construing a statute in a way that would lead to absurd consequences. The absurdity canon, properly understood, is "an implementation of (rather than . . . an exception to) the ordinary meaning rule." W. Eskridge, Interpreting Law 72 (2016). "What the rule of absurdity seeks to do is what all rules of interpretation seek to do: *make sense* of the text." A. Scalia & B. Garner, Reading Law 235 (2012).

On occasion, it can be difficult for judges to assess ordinary meaning. Not here. Both common parlance and common legal usage treat sex discrimination and sexual orientation discrimination as two distinct categories of discrimination—back in 1964 and still today.

As to common parlance, few in 1964 (or today) would describe a firing because of sexual orientation as a firing because of sex. As commonly understood, sexual orientation discrimination is distinct from, and not a form of, sex discrimination. The majority opinion acknowledges the common understanding, noting that the plaintiffs here probably did not tell their friends that they were fired because of their sex. *Ante*, at 16. That observation is clearly correct. In common parlance, Bostock and Zarda were fired because they were gay, not because they were men.

Contrary to the majority opinion's approach today, this Court has repeatedly emphasized that common parlance matters in assessing the ordinary meaning of a statute, because courts heed how "most people" "would have understood" the text of a statute when enacted. *New Prime Inc.* v. *Oliveira*, 586 U. S. ___, ___–___ (2019) (slip op., at 6–7); see *Henson* v. *Santander Consumer USA Inc.*, 582 U. S. ___, ___ (2017) (slip op., at 4) (using a conversation between friends to demonstrate ordinary meaning); see also *Wisconsin Central Ltd.* v. *United States*, 585 U. S. ___, ___–___ (2018) (slip op., at 2–3) (similar); *AT&T*, 562 U. S., at 403–404 (similar).

Consider the employer who has four employees but must fire two of them for financial reasons. Suppose the four employees are a straight man, a straight woman, a gay man, and a lesbian. The employer with animosity against women (animosity based on sex) will fire the two women. The employer with animosity against gays (animosity based on sexual orientation) will fire the gay man and the lesbian. Those are two distinct harms caused by two distinct biases that have two different outcomes. To treat one as a form of

the other—as the majority opinion does—misapprehends common language, human psychology, and real life. See *Hively* v. *Ivy Tech Community College of Ind.*, 853 F. 3d 339, 363 (CA7 2017) (Sykes, J., dissenting).

It also rewrites history. Seneca Falls was not Stonewall. The women's rights movement was not (and is not) the gay rights movement, although many people obviously support or participate in both. So to think that sexual orientation discrimination is just a form of sex discrimination is not just a mistake of language and psychology, but also a mistake of history and sociology.

Importantly, an overwhelming body of federal law reflects and reinforces the ordinary meaning and demonstrates that sexual orientation discrimination is distinct from, and not a form of, sex discrimination. Since enacting Title VII in 1964, Congress has *never* treated sexual orientation discrimination the same as, or as a form of, sex discrimination. Instead, Congress has consistently treated sex discrimination and sexual orientation discrimination as legally distinct categories of discrimination.

Many federal statutes prohibit sex discrimination, and many federal statutes also prohibit sexual orientation discrimination. But those sexual orientation statutes expressly prohibit sexual orientation discrimination in addition to expressly prohibiting sex discrimination. *Every single one.* To this day, Congress has never defined sex discrimination to encompass sexual orientation discrimination. Instead, when Congress wants to prohibit sexual orientation discrimination in addition to sex discrimination, Congress explicitly refers to sexual orientation discrimination.[5]

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[5] See 18 U. S. C. §249(a)(2)(A) (criminalizing violence because of "gender, sexual orientation"); 20 U. S. C. §1092(f)(1)(F)(ii) (requiring funding recipients to collect statistics on crimes motivated by the victim's "gender, . . . sexual orientation"); 34 U. S. C. §12291(b)(13)(A) (prohibiting discrimination on the basis of "sex, . . . sexual orientation"); §30501(1)

That longstanding and widespread congressional practice matters. When interpreting statutes, as the Court has often said, we "usually presume differences in language" convey "differences in meaning." *Wisconsin Central*, 585 U. S., at ___ (slip op., at 4) (internal quotation marks omitted). When Congress chooses distinct phrases to accomplish distinct purposes, and does so over and over again for decades, we may not lightly toss aside all of Congress's careful handiwork. As Justice Scalia explained for the Court, "it is not our function" to "treat alike subjects that different Congresses have chosen to treat differently." *West Virginia Univ. Hospitals, Inc.* v. *Casey*, 499 U. S. 83, 101 (1991); see *id.,* at 92.

And the Court has likewise stressed that we may not read "a specific concept into general words when precise language in other statutes reveals that Congress knew how to identify that concept." Eskridge, Interpreting Law, at 415; see *University of Tex. Southwestern Medical Center* v. *Nassar*, 570 U. S. 338, 357 (2013); *Arlington Central School Dist. Bd. of Ed.* v. *Murphy*, 548 U. S. 291, 297–298 (2006); *Jama* v. *Immigration and Customs Enforcement*, 543 U. S. 335, 341–342 (2005); *Custis* v. *United States*, 511 U. S. 485, 491–493 (1994); *West Virginia Univ. Hospitals*, 499 U. S., at 99.

(identifying violence motivated by "gender, sexual orientation" as national problem); §30503(a)(1)(C) (authorizing Attorney General to assist state, local, and tribal investigations of crimes motivated by the victim's "gender, sexual orientation"); §§41305(b)(1), (3) (requiring Attorney General to acquire data on crimes motivated by "gender . . . , sexual orientation," but disclaiming any cause of action including one "based on discrimination due to sexual orientation"); 42 U. S. C. §294e–1(b)(2) (conditioning funding on institution's inclusion of persons of "different genders and sexual orientations"); see also United States Sentencing Commission, Guidelines Manual §3A1.1(a) (Nov. 2018) (authorizing increased offense level if the crime was motivated by the victim's "gender . . . or sexual orientation"); 2E Guide to Judiciary Policy §320 (2019) (prohibiting judicial discrimination because of "sex, . . . sexual orientation").

So it is here. As demonstrated by all of the statutes covering sexual orientation discrimination, Congress knows how to prohibit sexual orientation discrimination. So courts should not read that specific concept into the general words "discriminate because of sex." We cannot close our eyes to the indisputable fact that Congress—for several decades in a large number of statutes—has identified sex discrimination and sexual orientation discrimination as two distinct categories.

Where possible, we also strive to interpret statutes so as not to create undue surplusage. It is not uncommon to find some scattered redundancies in statutes. But reading sex discrimination to encompass sexual orientation discrimination would cast aside as surplusage the numerous references to sexual orientation discrimination sprinkled throughout the U. S. Code in laws enacted over the last 25 years.

In short, an extensive body of federal law both reflects and reinforces the widespread understanding that sexual orientation discrimination is distinct from, and not a form of, sex discrimination.

The story is the same with bills proposed in Congress. Since the 1970s, Members of Congress have introduced many bills to prohibit sexual orientation discrimination in the workplace. Until very recently, all of those bills would have expressly established sexual orientation as a separately proscribed category of discrimination. The bills did not define sex discrimination to encompass sexual orientation discrimination.[6]

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[6] See, *e.g.*, H. R. 14752, 93d Cong., 2d Sess., §§6, 11 (1974) (amending Title VII "by adding after the word 'sex'" the words "'sexual orientation,'" defined as "choice of sexual partner according to gender"); H. R. 451, 95th Cong., 1st Sess., §§6, 11 (1977) ("adding after the word 'sex,' . . . 'affectional or sexual preference,'" defined as "having or manifesting an emotional or physical attachment to another consenting person or persons of either gender, or having or manifesting a preference for such

The proposed bills are telling not because they are relevant to congressional intent regarding Title VII. See *Central Bank of Denver, N. A.* v. *First Interstate Bank of Denver, N. A.*, 511 U. S. 164, 186–188 (1994). Rather, the proposed bills are telling because they, like the enacted laws, further demonstrate the widespread usage of the English language in the United States: Sexual orientation discrimination is distinct from, and not a form of, sex discrimination.

Presidential Executive Orders reflect that same common understanding. In 1967, President Johnson signed an Executive Order prohibiting sex discrimination in federal employment. In 1969, President Nixon issued a new order that did the same. Exec. Order No. 11375, 3 CFR 684 (1966–1970 Comp.); Exec. Order No. 11478, *id.,* at 803. In 1998, President Clinton charted a new path and signed an Executive Order prohibiting sexual orientation discrimination in federal employment. Exec. Order No. 13087, 3 CFR 191 (1999). The Nixon and Clinton Executive Orders remain in effect today.

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attachment"); S. 1708, 97th Cong., 1st Sess., §§1, 2 (1981) ("inserting after 'sex' . . . 'sexual orientation,'" defined as "'homosexuality, heterosexuality, and bisexuality'"); H. R. 230, 99th Cong., 1st Sess., §§4, 8 (1985) ("inserting after 'sex,' . . . 'affectional or sexual orientation,'" defined as "homosexuality, heterosexuality, and bisexuality"); S. 47, 101st Cong., 1st Sess., §§5, 9 (1989) ("inserting after 'sex,' . . . 'affectional or sexual orientation,'" defined as "homosexuality, heterosexuality, and bisexuality"); H. R. 431, 103d Cong., 1st Sess., §2 (1993) (prohibiting discrimination "on account of . . . sexual orientation" without definition); H. R. 1858, 105th Cong., 1st Sess., §§3, 4 (1997) (prohibiting discrimination "on the basis of sexual orientation," defined as "homosexuality, bisexuality, or heterosexuality"); H. R. 2692, 107th Cong., 1st Sess., §§3, 4 (2001) (prohibiting discrimination "because of . . . sexual orientation," defined as "homosexuality, bisexuality, or heterosexuality"); H. R. 2015, 110th Cong., 1st Sess., §§3, 4 (2007) (prohibiting discrimination "because of . . . sexual orientation," defined as "homosexuality, heterosexuality, or bisexuality"); S. 811, 112th Cong., 1st Sess., §§3, 4 (2011) (same).

Like the relevant federal statutes, the 1998 Clinton Executive Order expressly added sexual orientation as a new, separately prohibited form of discrimination. As Judge Lynch cogently spelled out, "the Clinton Administration did not argue that the prohibition of sex discrimination in" the prior 1969 Executive Order "already banned, or henceforth would be deemed to ban, sexual orientation discrimination." 883 F. 3d, at 152, n. 22 (dissenting opinion). In short, President Clinton's 1998 Executive Order indicates that the Executive Branch, like Congress, has long understood sexual orientation discrimination to be distinct from, and not a form of, sex discrimination.

Federal regulations likewise reflect that same understanding. The Office of Personnel Management is the federal agency that administers and enforces personnel rules across the Federal Government. OPM has issued regulations that "govern . . . the employment practices of the Federal Government generally, and of individual agencies." 5 CFR §§300.101, 300.102 (2019). Like the federal statutes and the Presidential Executive Orders, those OPM regulations separately prohibit sex discrimination and sexual orientation discrimination.

The States have proceeded in the same fashion. A majority of States prohibit sexual orientation discrimination in

employment, either by legislation applying to most workers,[7] an executive order applying to public employees,[8] or

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[7] See Cal. Govt. Code Ann. §12940(a) (West 2020 Cum. Supp.) (prohibiting discrimination because of "sex, . . . sexual orientation," etc.); Colo. Rev. Stat. §24–34–402(1)(a) (2019) (prohibiting discrimination because of "sex, sexual orientation," etc.); Conn. Gen. Stat. §46a–81c (2017) (prohibiting discrimination because of "sexual orientation"); Del. Code Ann., Tit. 19, §711 (2018 Cum. Supp.) (prohibiting discrimination because of "sex (including pregnancy), sexual orientation," etc.); D. C. Code §2–1402.11(a)(1) (2019 Cum. Supp.) (prohibiting discrimination based on "sex, . . . sexual orientation," etc.); Haw. Rev. Stat. §378–2(a)(1)(A) (2018 Cum. Supp.) (prohibiting discrimination because of "sex[,] . . . sexual orientation," etc.); Ill. Comp. Stat., ch. 775, §§5/1–103(Q), 5/2–102(A) (West 2018) (prohibiting discrimination because of "sex, . . . sexual orientation," etc.); Iowa Code §216.6(1)(a) (2018) (prohibiting discrimination because of "sex, sexual orientation," etc.); Me. Rev. Stat. Ann., Tit. 5, §4572(1)(A) (2013) (prohibiting discrimination because of "sex, sexual orientation," etc.); Md. State Govt. Code Ann. §20–606(a)(1)(i) (Supp. 2019) (prohibiting discrimination because of "sex, . . . sexual orientation," etc.); Mass. Gen. Laws, ch. 151B, §4 (2018) (prohibiting discrimination because of "sex, . . . sexual orientation," etc.); Minn. Stat. §363A.08(2) (2018) (prohibiting discrimination because of "sex, . . . sexual orientation," etc.); Nev. Rev. Stat. §613.330(1) (2017) (prohibiting discrimination because of "sex, sexual orientation," etc.); N. H. Rev. Stat. Ann. §354–A:7(I) (2018 Cum. Supp.) (prohibiting discrimination because of "sex," "sexual orientation," etc.); N. J. Stat. Ann. §10:5–12(a) (West Supp. 2019) (prohibiting discrimination because of "sexual orientation, . . . sex," etc.); N. M. Stat. Ann. §28–1–7(A) (Supp. 2019) (prohibiting discrimination because of "sex, sexual orientation," etc.); N. Y. Exec. Law Ann. §296(1)(a) (West Supp. 2020) (prohibiting discrimination because of "sexual orientation, . . . sex," etc.); Ore. Rev. Stat. §659A.030(1) (2019) (prohibiting discrimination because of "sex, sexual orientation," etc.); R. I. Gen. Laws §28–5–7(1) (Supp. 2019) (prohibiting discrimination because of "sex, sexual orientation," etc.); Utah Code §34A–5–106(1) (2019) (prohibiting discrimination because of "sex; . . . sexual orientation," etc.); Vt. Stat. Ann., Tit. 21, §495(a)(1) (2019 Cum. Supp.) (prohibiting discrimination because of "sex, sexual orientation," etc.); Wash. Rev. Code §49.60.180 (2008) (prohibiting discrimination because of "sex, . . . sexual orientation," etc.).

[8] See, *e.g.,* Alaska Admin. Order No. 195 (2002) (prohibiting public-employment discrimination because of "sex, . . . sexual orientation," etc.); Ariz. Exec. Order No. 2003–22 (2003) (prohibiting public-employment discrimination because of "sexual orientation"); Cal. Exec. Order No. B–

both. Almost every state statute or executive order proscribing sexual orientation discrimination expressly prohibits sexual orientation discrimination separately from the State's ban on sex discrimination.

54–79 (1979) (prohibiting public-employment discrimination because of "sexual preference"); Colo. Exec. Order (Dec. 10, 1990) (prohibiting public-employment discrimination because of "gender, sexual orientation," etc.); Del. Exec. Order No. 8 (2009) (prohibiting public-employment discrimination because of "gender, . . . sexual orientation," etc.); Ind. Governor's Pol'y Statement (2018) (prohibiting public-employment discrimination because of "sex, . . . sexual orientation," etc.); Kan. Exec. Order No. 19–02 (2019) (prohibiting public-employment discrimination because of "gender, sexual orientation," etc.); Ky. Exec. Order No. 2008–473 (2008) (prohibiting public-employment discrimination because of "sex, . . . sexual orientation," etc.); Mass. Exec. Order No. 526 (2011) (prohibiting public-employment discrimination because of "gender, . . . sexual orientation," etc.); Minn. Exec. Order No. 86–14 (1986) (prohibiting public-employment discrimination because of "sexual orientation"); Mo. Exec. Order No. 10–24 (2010) (prohibiting public-employment discrimination because of "sex, . . . sexual orientation," etc.); Mont. Exec. Order No. 04–2016 (2016) (prohibiting public-employment discrimination because of "sex, . . . sexual orientation," etc.); N. H. Exec. Order No. 2016–04 (2016) (prohibiting public-employment discrimination because of "sex, sexual orientation," etc.); N. J. Exec. Order No. 39 (1991) (prohibiting public-employment discrimination because of "sexual orientation"); N. C. Exec. Order No. 24 (2017) (prohibiting public-employment discrimination because of "sex, . . . sexual orientation," etc.); Ohio Exec. Order No. 2019–05D (2019) (prohibiting public-employment discrimination because of "gender, . . . sexual orientation," etc.); Ore. Exec. Order No. 19–08 (2019) (prohibiting public-employment discrimination because of "sexual orientation"); Pa. Exec. Order No. 2016–04 (2016) (prohibiting public-employment discrimination because of "gender, sexual orientation," etc.); R. I. Exec. Order No. 93–1 (1993) (prohibiting public-employment discrimination because of "sex, . . . sexual orientation," etc.); Va. Exec. Order No. 1 (2018) (prohibiting public-employment discrimination because of "sex, . . . sexual orientation," etc.); Wis. Exec. Order No. 1 (2019) (prohibiting public-employment discrimination because of "sex, . . . sexual orientation," etc.); cf. Wis. Stat. §§111.36(1)(d)(1), 111.321 (2016) (prohibiting employment discrimination because of sex, defined as including discrimination because of "sexual orientation"); Mich. Exec. Directive No. 2019–9 (2019) (prohibiting public-employment discrimination because of "sex," defined as including "sexual orientation").

That common usage in the States underscores that sexual orientation discrimination is commonly understood as a legal concept distinct from sex discrimination.

And it is the common understanding in this Court as well. Since 1971, the Court has employed rigorous or heightened constitutional scrutiny of laws that classify on the basis of sex. See *United States* v. *Virginia*, 518 U. S. 515, 531–533 (1996); *J. E. B.* v. *Alabama ex rel. T. B.*, 511 U. S. 127, 136–137 (1994); *Craig* v. *Boren*, 429 U. S. 190, 197–199 (1976); *Frontiero* v. *Richardson*, 411 U. S. 677, 682–684 (1973) (plurality opinion); *Reed* v. *Reed*, 404 U. S. 71, 75–77 (1971). Over the last several decades, the Court has also decided many cases involving sexual orientation. But in those cases, the Court never suggested that sexual orientation discrimination is just a form of sex discrimination. All of the Court's cases from *Bowers* to *Romer* to *Lawrence* to *Windsor* to *Obergefell* would have been far easier to analyze and decide if sexual orientation discrimination were just a form of sex discrimination and therefore received the same heightened scrutiny as sex discrimination under the Equal Protection Clause. See *Bowers* v. *Hardwick*, 478 U. S. 186 (1986); *Romer* v. *Evans*, 517 U. S. 620 (1996); *Lawrence* v. *Texas*, 539 U. S. 558 (2003); *United States* v. *Windsor*, 570 U. S. 744 (2013); *Obergefell* v. *Hodges*, 576 U. S. 644 (2015).

Did the Court in all of those sexual orientation cases just miss that obvious answer—and overlook the fact that sexual orientation discrimination is actually a form of sex discrimination? That seems implausible. Nineteen Justices have participated in those cases. Not a single Justice stated or even hinted that sexual orientation discrimination was just a form of sex discrimination and therefore entitled to the same heightened scrutiny under the Equal Protection Clause. The opinions in those five cases contain no trace of such reasoning. That is presumably because everyone on this Court, too, has long understood that sexual orientation

discrimination is distinct from, and not a form of, sex discrimination.

In sum, all of the usual indicators of ordinary meaning—common parlance, common usage by Congress, the practice in the Executive Branch, the laws in the States, and the decisions of this Court—overwhelmingly establish that sexual orientation discrimination is distinct from, and not a form of, sex discrimination. The usage has been consistent across decades, in both the federal and state contexts.

Judge Sykes summarized the law and language this way: "To a fluent speaker of the English language—then and now—. . . discrimination 'because of sex' is not reasonably understood to include discrimination based on sexual orientation, a different immutable characteristic. Classifying people by sexual orientation is different than classifying them by sex. The two traits are categorically distinct and widely recognized as such. There is no ambiguity or vagueness here." *Hively*, 853 F. 3d, at 363 (dissenting opinion).

To tie it all together, the plaintiffs have only two routes to succeed here. Either they can say that literal meaning overrides ordinary meaning when the two conflict. Or they can say that the ordinary meaning of the phrase "discriminate because of sex" encompasses sexual orientation discrimination. But the first flouts long-settled principles of statutory interpretation. And the second contradicts the widespread ordinary use of the English language in America.

II

Until the last few years, every U. S. Court of Appeals to address this question concluded that Title VII does not prohibit discrimination because of sexual orientation. As noted above, in the first 10 Courts of Appeals to consider the issue, all 30 federal judges agreed that Title VII does not prohibit sexual orientation discrimination. 30 out of 30

judges.[9]

The unanimity of those 30 federal judges shows that the question as a matter of law, as compared to as a matter of policy, was not deemed close. Those 30 judges realized a seemingly obvious point: Title VII is not a general grant of authority for judges to fashion an evolving common law of equal treatment in the workplace. Rather, Title VII identifies certain specific categories of prohibited discrimination. And under the separation of powers, Congress—not the courts—possesses the authority to amend or update the law, as Congress has done with age discrimination and disability discrimination, for example.

So what changed from the situation only a few years ago when 30 out of 30 federal judges had agreed on this question? Not the text of Title VII. The law has not changed. Rather, the judges' decisions have evolved.

To be sure, the majority opinion today does not openly profess that it is judicially updating or amending Title VII. Cf. *Hively*, 853 F. 3d, at 357 (Posner, J., concurring). But the majority opinion achieves the same outcome by seizing on literal meaning and overlooking the ordinary meaning of the phrase "discriminate because of sex." Although the majority opinion acknowledges that the meaning of a phrase and the meaning of a phrase's individual words *could* differ, it dismisses phrasal meaning for purposes of this case. The majority opinion repeatedly seizes on the meaning of the

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[9] See *Higgins* v. *New Balance Athletic Shoe, Inc.*, 194 F. 3d 252, 258–259 (CA1 1999); *Simonton* v. *Runyon*, 232 F. 3d 33, 36 (CA2 2000); *Bibby* v. *Philadelphia Coca Cola Bottling Co.*, 260 F. 3d 257, 261 (CA3 2001); *Wrightson* v. *Pizza Hut of America, Inc.*, 99 F. 3d 138, 143 (CA4 1996); *Blum* v. *Gulf Oil Corp.*, 597 F. 2d 936, 938 (CA5 1979) (*per curiam*); *Ruth* v. *Children's Medical Center*, 1991 WL 151158, *5 (CA6, Aug. 8, 1991) (*per curiam*); *Ulane* v. *Eastern Airlines, Inc.*, 742 F. 2d 1081, 1084–1085 (CA7 1984); *Williamson* v. *A. G. Edwards & Sons, Inc.*, 876 F. 2d 69, 70 (CA8 1989) (*per curiam*); *DeSantis* v. *Pacific Tel. & Tel. Co.*, 608 F. 2d 327, 329–330 (CA9 1979); *Medina* v. *Income Support Div., N. M.*, 413 F. 3d 1131, 1135 (CA10 2005).

statute's individual terms, mechanically puts them back together, and generates an interpretation of the phrase "discriminate because of sex" that is literal. See *ante*, at 5–9, 17, 24–26. But to reiterate, that approach to statutory interpretation is fundamentally flawed. Bedrock principles of statutory interpretation dictate that we look to ordinary meaning, not literal meaning, and that we likewise adhere to the ordinary meaning of phrases, not just the meaning of words in a phrase. And the ordinary meaning of the phrase "discriminate because of sex" does not encompass sexual orientation discrimination.

The majority opinion deflects that critique by saying that courts should base their interpretation of statutes on the text as written, not on the legislators' subjective intentions. *Ante*, at 20, 23–30. Of course that is true. No one disagrees. It is "the provisions of our laws rather than the principal concerns of our legislators by which we are governed." *Oncale* v. *Sundowner Offshore Services, Inc.*, 523 U. S. 75, 79 (1998).

But in my respectful view, the majority opinion makes a fundamental mistake by confusing ordinary meaning with subjective intentions. To briefly explain: In the early years after Title VII was enacted, some may have wondered whether Title VII's prohibition on sex discrimination protected male employees. After all, covering male employees may not have been the intent of some who voted for the statute. Nonetheless, discrimination on the basis of sex against women and discrimination on the basis of sex against men are both understood as discrimination because of sex (back in 1964 and now) and are therefore encompassed within Title VII. Cf. *id.,* at 78–79; see *Newport News Shipbuilding & Dry Dock Co.* v. *EEOC*, 462 U. S. 669, 682–685 (1983). So too, regardless of what the intentions of the drafters might have been, the ordinary meaning of the law demonstrates that harassing an employee because of her sex is discriminating against the employee because of her sex with respect

to the "terms, conditions, or privileges of employment," as this Court rightly concluded. *Meritor Savings Bank, FSB* v. *Vinson*, 477 U. S. 57, 64 (1986) (internal quotation marks omitted).[10]

By contrast, this case involves sexual orientation discrimination, which has long and widely been understood as distinct from, and not a form of, sex discrimination. Until now, federal law has always reflected that common usage and recognized that distinction between sex discrimination and sexual orientation discrimination. To fire one employee because she is a woman and another employee because he is gay implicates two distinct societal concerns, reveals two distinct biases, imposes two distinct harms, and falls within two distinct statutory prohibitions.

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[10] An *amicus* brief supporting the plaintiffs suggests that the plaintiffs' interpretive approach is supported by the interpretive approach employed by the Court in its landmark decision in *Brown* v. *Board of Education*, 347 U. S. 483 (1954). See Brief for Anti-Discrimination Scholars as *Amici Curiae* 4. That suggestion is incorrect. *Brown* is a correct decision as a matter of original public meaning. There were two analytical components of *Brown*. One issue was the meaning of "equal protection." The Court determined that black Americans—like all Americans—have an *individual* equal protection right against state discrimination on the basis of race. (That point is also directly made in *Bolling* v. *Sharpe*, 347 U. S. 497, 499–500 (1954).) Separate but equal is not equal. The other issue was whether that racial nondiscrimination principle applied to public schools, even though public schools did not exist in any comparable form in 1868. The answer was yes. The Court applied the equal protection principle to public schools in the same way that the Court applies, for example, the First Amendment to the Internet and the Fourth Amendment to cars.

This case raises the same kind of inquiry as the *first* question in *Brown*. There, the question was what equal protection meant. Here, the question is what "discriminate because of sex" means. If this case raised the question whether the sex discrimination principle in Title VII applied to some category of employers unknown in 1964, such as to social media companies, it might be a case in *Brown*'s second category, akin to the question whether the racial nondiscrimination principle applied to public schools. But that is not this case.

To be sure, as Judge Lynch appropriately recognized, it is "understandable" that those seeking legal protection for gay people "search for innovative arguments to classify workplace bias against gays as a form of discrimination that is already prohibited by federal law. But the arguments advanced by the majority ignore the evident meaning of the language of Title VII, the social realities that distinguish between the kinds of biases that the statute sought to exclude from the workplace from those it did not, and the distinctive nature of anti-gay prejudice." 883 F. 3d, at 162 (dissenting opinion).

The majority opinion insists that it is not rewriting or updating Title VII, but instead is just humbly reading the text of the statute as written. But that assertion is tough to accept. Most everyone familiar with the use of the English language in America understands that the ordinary meaning of sexual orientation discrimination is distinct from the ordinary meaning of sex discrimination. Federal law distinguishes the two. State law distinguishes the two. This Court's cases distinguish the two. Statistics on discrimination distinguish the two. History distinguishes the two. Psychology distinguishes the two. Sociology distinguishes the two. Human resources departments all over America distinguish the two. Sports leagues distinguish the two. Political groups distinguish the two. Advocacy groups distinguish the two. Common parlance distinguishes the two. Common sense distinguishes the two.

As a result, many Americans will not buy the novel interpretation unearthed and advanced by the Court today. Many will no doubt believe that the Court has unilaterally rewritten American vocabulary and American law—a "statutory amendment courtesy of unelected judges." *Hively*, 853 F. 3d, at 360 (Sykes, J., dissenting). Some will surmise that the Court succumbed to "the natural desire that beguiles judges along with other human beings into imposing their own views of goodness, truth, and justice upon others."

Furman v. *Georgia*, 408 U. S. 238, 467 (1972) (Rehnquist, J., dissenting).

I have the greatest, and unyielding, respect for my colleagues and for their good faith. But when this Court usurps the role of Congress, as it does today, the public understandably becomes confused about who the policymakers really are in our system of separated powers, and inevitably becomes cynical about the oft-repeated aspiration that judges base their decisions on law rather than on personal preference. The best way for judges to demonstrate that we are deciding cases based on the ordinary meaning of the law is to walk the walk, even in the hard cases when we might prefer a different policy outcome.

* * *

In judicially rewriting Title VII, the Court today cashiers an ongoing legislative process, at a time when a new law to prohibit sexual orientation discrimination was probably close at hand. After all, even back in 2007—a veritable lifetime ago in American attitudes about sexual orientation—the House voted 235 to 184 to prohibit sexual orientation discrimination in employment. H. R. 3685, 110th Cong., 1st Sess. In 2013, the Senate overwhelmingly approved a similar bill, 64 to 32. S. 815, 113th Cong., 1st Sess. In 2019, the House voted 236 to 173 to amend Title VII to prohibit employment discrimination on the basis of sexual orientation. H. R. 5, 116th Cong., 1st Sess. It was therefore easy to envision a day, likely just in the next few years, when the House and Senate took historic votes on a bill that would prohibit employment discrimination on the basis of sexual orientation. It was easy to picture a massive and celebratory Presidential signing ceremony in the East Room or on the South Lawn.

It is true that meaningful legislative action takes time—often too much time, especially in the unwieldy morass on

Capitol Hill. But the Constitution does not put the Legislative Branch in the "position of a television quiz show contestant so that when a given period of time has elapsed and a problem remains unsolved by them, the federal judiciary may press a buzzer and take its turn at fashioning a solution." Rehnquist, The Notion of a Living Constitution, 54 Texas L. Rev. 693, 700 (1976). The proper role of the Judiciary in statutory interpretation cases is "to apply, not amend, the work of the People's representatives," even when the judges might think that "Congress should reenter the field and alter the judgments it made in the past." *Henson*, 582 U. S., at ___–___ (slip op., at 10–11).

Instead of a hard-earned victory won through the democratic process, today's victory is brought about by judicial dictate—judges latching on to a novel form of living literalism to rewrite ordinary meaning and remake American law. Under the Constitution and laws of the United States, this Court is the wrong body to change American law in that way. The Court's ruling "comes at a great cost to representative self-government." *Hively*, 853 F. 3d, at 360 (Sykes, J., dissenting). And the implications of this Court's usurpation of the legislative process will likely reverberate in unpredictable ways for years to come.

Notwithstanding my concern about the Court's transgression of the Constitution's separation of powers, it is appropriate to acknowledge the important victory achieved today by gay and lesbian Americans. Millions of gay and lesbian Americans have worked hard for many decades to achieve equal treatment in fact and in law. They have exhibited extraordinary vision, tenacity, and grit—battling often steep odds in the legislative and judicial arenas, not to mention in their daily lives. They have advanced powerful policy arguments and can take pride in today's result. Under the Constitution's separation of powers, however, I believe that it was Congress's role, not this Court's, to amend Title VII. I therefore must respectfully dissent from the

Court's judgment.

490 U.S. 228
109 S.Ct. 1775
104 L.Ed.2d 268
PRICE WATERHOUSE, Petitioner

v.

Ann B. HOPKINS.

No. 87-1167.

Argued Oct. 31, 1988.
Decided May 1, 1989.

Syllabus

Respondent was a senior manager in an office of petitioner professional accounting partnership when she was proposed for partnership in 1982. She was neither offered nor denied partnership but instead her candidacy was held for reconsideration the following year. When the partners in her office later refused to repropose her for partnership, she sued petitioner in Federal District Court under Title VII of the Civil Rights Act of 1964, charging that it had discriminated against her on the basis of sex in its partnership decisions. The District Court ruled in respondent's favor on the question of liability, holding that petitioner had unlawfully discriminated against her on the basis of sex by consciously giving credence and effect to partners' comments about her that resulted from sex stereotyping. The Court of Appeals affirmed. Both courts held that an employer who has allowed a discriminatory motive to play a part in an employment decision must prove by clear and convincing evidence that it would have made the same decision in the absence of discrimination, and that petitioner had not carried this burden.

Held: The judgment is reversed, and the case is remanded.

263 U.S.App.D.C. 321, 825 F.2d 458 (1987), reversed and remanded.

Justice BRENNAN, joined by Justice MARSHALL, Justice BLACKMUN, and Justice STEVENS, concluded that when a plaintiff in a Title VII case proves that her gender played a part in an employment decision, the defendant may avoid a finding of liability by proving by a preponderance of the evidence that it would have made the same decision even if it had not taken the plaintiff's gender into account. The courts below erred by requiring petitioner to make its proof by clear and convincing evidence. Pp. 237-258.

(a) The balance between employee rights and employer prerogatives established by Title VII by eliminating certain bases for distinguishing among employees while otherwise preserving employers' freedom of choice is decisive in this case. The words "because of" in § 703(a)(1) of the Act, which forbids an employer to make an adverse decision against an employee "because of such individual's . . . sex," requires looking at *all* of the reasons, both legitimate and illegitimate, contributing to the decision *at the time it is made*. The preservation of employers' freedom of choice means that an employer will not be liable if it can prove that, if

Page 229

it had not taken gender into account, it would have come to the same decision. This Court's prior decisions demonstrate that the plaintiff who shows that an impermissible motive played a motivating part in an adverse employment decision thereby places the burden on the defendant to show that it would have made the same decision in the absence of the unlawful motive. Here, petitioner may not meet its burden by merely showing that respondent's interpersonal problems—abrasiveness with staff members—constituted a legitimate reason for denying her partnership; instead, petitioner must show that its legitimate reason, standing alone, would have induced petitioner to deny respondent partnership. Pp. 239-252.

(b) Conventional rules of civil litigation generally apply in Title VII cases, and one of these rules is that the parties need only prove their case by a preponderance of the evidence. Pp. 252-255.

(c) The District Court's finding that sex stereotyping was permitted to play a part in evaluating respondent as a candidate for partnership was not clearly erroneous. This finding is not undermined by the fact that many of the suspect comments made about respondent were made by partners who were supporters rather than detractors. Pp. 255-258.

Justice WHITE, although concluding that the Court of Appeals erred in requiring petitioner to prove by clear and convincing evidence that it would have reached the same employment decision in the absence of the improper motive, rather than merely requiring proof by a preponderance of the evidence as in *Mt. Healthy City Bd. of Ed. v. Doyle,* 429 U.S. 274, 97 S.Ct. 568, 50 L.Ed.2d 471, which sets forth the proper approach to causation in this case, also concluded that the plurality here errs in seeming to require, at least in most cases, that the employer carry its burden by submitting objective evidence that the same result would have occurred absent the unlawful motivation. In a mixed-motives case, where the legitimate motive found would have been ample grounds for the action taken, and the employer credibly testifies that the action would have been taken for the legitimate reasons alone, this should be ample proof, and there is no special requirement of objective evidence. This would even more plainly be the case where the employer denies any illegitimate motive in the first place but the court finds that illegitimate, as well as legitimate, factors motivated the adverse action. Pp. 258-261.

Justice O'CONNOR, although agreeing that on the facts of this case, the burden of persuasion should shift to petitioner to demonstrate by a preponderance of the evidence that it would have reached the same decision absent consideration of respondent's gender, and that this burden shift is properly part of the liability phase of the litigation, concluded that the plurality misreads Title VII's substantive causation requirement to *command* burden shifting if the employer's decisional process is

Page 230

"tainted" by awareness of sex or race in any way, and thereby effectively eliminates the requirement. Justice O'CONNOR also concluded that the burden shifting rule should be limited to cases such as the present in which the employer has created uncertainty as to causation by knowingly giving substantial weight to an impermissible criterion. Pp. 261-279.

(a) Contrary to the plurality's conclusion, Title VII's plain language making it unlawful for an employer to undertake an adverse employment action "because of" prohibited factors and the statute's legislative history demonstrate that a substantive violation only occurs when consideration of an illegitimate criterion is the "but-for" cause of the adverse action. However, nothing in the language, history, or purpose of the statute prohibits adoption of an evidentiary rule which places the burden of persuasion on the defendant to demonstrate that legitimate concerns would have justified an adverse employment action where the plaintiff has convinced the factfinder that a forbidden factor played a substantial role in the employment decision. Such a rule has been adopted in tort and other analogous types of cases, where leaving the burden of proof on the plaintiff to prove "but-for" causation would be unfair or contrary to the deterrent purposes embodied in the concept of duty of care. Pp. 262-269.

(b) Although the burden shifting rule adopted here departs from the careful framework established by *McDonnell*

Douglas Corp. v. Green, 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668, and *Texas Dept. of Community Affairs v. Burdine,* 450 U.S. 248, 101 S.Ct. 1089, 67 L.Ed.2d 207—which clearly contemplate that an individual disparate treatment plaintiff bears the burden of persuasion throughout the litigation—that departure is justified in cases such as the present where the plaintiff, having presented direct evidence that the employer placed substantial, though unquantifiable, reliance on a forbidden factor in making an employment decision, has taken her proof as far as it could go, such that it is appropriate to require the defendant, which has created the uncertainty as to causation by considering the illegitimate criterion, to show that its decision would have been justified by wholly legitimate concerns. Moreover, a rule shifting the burden in these circumstances will not conflict with other Title VII policies, particularly its prohibition on preferential treatment based on prohibited factors. *Watson v. Fort Worth Bank & Trust,* 487 U.S. 977, 108 S.Ct. 2777, 101 L.Ed.2d 827, distinguished. Pp. 270-276.

(c) Thus, in order to justify shifting the burden on the causation issue to the defendant, a disparate treatment plaintiff must show by direct evidence that decisionmakers placed substantial negative reliance on an illegitimate criterion in reaching their decision. Such a showing entitles the factfinder to presume that the employer's discriminatory animus made a difference in the outcome, and, if the employer fails to carry its burden of persuasion, to conclude that the employer's decision was made "because of" consideration of the illegitimate factor, thereby satisfying

Page 231

the substantive standard for liability under Title VII. This burden shifting rule supplements the *McDonnell Douglas-Burdine* framework, which continues to apply where the plaintiff has failed to satisfy the threshold standard set forth herein. Pp. 276-279.

BRENNAN, J., announced the judgment of the Court and delivered an opinion, in which MARSHALL, BLACKMUN, and STEVENS, JJ., joined. WHITE, J., *post,* p. ----, and O'CONNOR, J., *post,* p. ----, filed opinions concurring in the judgment. KENNEDY, J., filed a dissenting opinion, in which REHNQUIST, C.J., and SCALIA, J., joined, *post,* p. ----.

Kathryn A. Oberly, Washington, D.C., for petitioner.

James H. Heller, Washington, D.C., for respondent.

Justice BRENNAN announced the judgment of the Court and delivered an opinion, in which Justice MARSHALL, Justice BLACKMUN, and Justice STEVENS join.

Ann Hopkins was a senior manager in an office of Price Waterhouse when she was proposed for partnership in 1982. She was neither offered nor denied admission to the partnership; instead, her candidacy was held for reconsideration the following year. When the partners in her office later re-

Page 232

fused to repropose her for partnership, she sued Price Waterhouse unde Title VII of the Civil Rights Act of 1964, 78 Stat. 253, as amended, 42 U.S.C. § 2000e *et seq.,* charging that the firm had discriminated against her on the basis of sex in its decisions regarding partnership. Judge Gesell in the Federal District Court for the District of Columbia ruled in her favor on the question of liability, 618 F.Supp. 1109 (1985), and the Court of Appeals for the District of Columbia Circuit affirmed. 263 U.S.App.D.C. 321, 825 F.2d 458 (1987). We granted certiorari to resolve a conflict among the Courts of Appeals

concerning the respective burdens of proof of a defendant and plaintiff in a suit under Title VII when it has been shown that an employment decision resulted from a mixture of legitimate and illegitimate motives. 485 U.S. 933, 108 S.Ct. 1106, 99 L.Ed.2d 268 (1988).

I

At Price Waterhouse, a nationwide professional accounting partnership, a senior manager becomes a candidate for partnership when the partners in her local office submit her name as a candidate. All of the other partners in the firm are then invited to submit written comments on each candidate—either on a "long" or a "short" form, depending on the partner's degree of exposure to the candidate. Not every partner in the firm submits comments on every candidate. After reviewing the comments and interviewing the partners who submitted them, the firm's Admissions Committee makes a recommendation to the Policy Board. This recommendation will be either that the firm accept the candidate for partnership, put her application on "hold," or deny her the promotion outright. The Policy Board then decides whether to submit the candidate's name to the entire partnership for a vote, to "hold" her candidacy, or to reject her. The recommendation of the Admissions Committee, and the decision of the Policy Board, are not controlled by fixed guidelines: a certain number of positive comments from partners will not guarantee a candidate's admission to the partnership, nor will a specific

Page 233

quantity of negative comments necessarily defeat her application. Price Waterhouse places no limit on the number of persons whom it will admit to the partnership in any given year.

Ann Hopkins had worked at Price Waterhouse's Office of Government Services in Washington, D.C., for five years when the partners in that office proposed her as a candidate for partnership. Of the 662 partners at the firm at that time, 7 were women. Of the 88 persons proposed for partnership that year, only 1—Hopkins—was a woman. Forty-seven of these candidates were admitted to the partnership, 21 were rejected, and 20—including Hopkins—were "held" for reconsideration the following year.[1] Thirteen of the 32 partners who had submitted comments on Hopkins supported her bid for partnership. Three partners recommended that her candidacy be placed on hold, eight stated that they did not have an informed opinion about her, and eight recommended that she be denied partnership.

In a jointly prepared statement supporting her candidacy, the partners in Hopkins' office showcased her successful 2-year effort to secure a $25 million contract with the Department of State, labeling it "an outstanding performance" and one that Hopkins carried out "virtually at the partner level." Plaintiff's Exh. 15. Despite Price Waterhouse's attempt at trial to minimize her contribution to this project, Judge Ge-

Page 234

sell specifically found that Hopkins had "played a key role in Price Waterhouse's successful effort to win a multi-million dollar contract with the Department of State." 618 F.Supp., at 1112. Indeed, he went on, "[n]one of the other partnership candidates at Price Waterhouse that year had a comparable record in terms of successfully securing major contracts for the partnership." *Ibid.*

The partners in Hopkins' office praised her character as well as her accomplishments, describing her in their joint statement as "an outstanding professional" who had a "deft touch," a "strong character, independence and integrity." Plaintiff's Exh. 15. Clients

appear to have agreed with these assessments. At trial, one official from the State Department described her as "extremely competent, intelligent," "strong and forthright, very productive, energetic and creative." Tr. 150. Another high-ranking official praised Hopkins' decisiveness, broadmindedness, and "intellectual clarity"; she was, in his words, "a stimulating conversationalist." *Id.,* at 156-157. Evaluations such as these led Judge Gesell to conclude that Hopkins "had no difficulty dealing with clients and her clients appear to have been very pleased with her work" and that she "was generally viewed as a highly competent project leader who worked long hours, pushed vigorously to meet deadlines and demanded much from the multidisciplinary staffs with which she worked." 618 F.Supp., at 1112-1113.

On too many occasions, however, Hopkins' aggressiveness apparently spilled over into abrasiveness. Staff members seem to have borne the brunt of Hopkins' brusqueness. Long before her bid for partnership, partners evaluating her work had counseled her to improve her relations with staff members. Although later evaluations indicate an improvement, Hopkins' perceived shortcomings in this important area eventually doomed her bid for partnership. Virtually all of the partners' negative remarks about Hopkins—even those of partners supporting her—had to do with her "inter-

Page 235

personal skills." Both "[s]upporters and opponents of her candidacy," stressed Judge Gesell, "indicated that she was sometimes overly aggressive, unduly harsh, difficult to work with and impatient with staff." *Id.,* at 1113.

There were clear signs, though, that some of the partners reacted negatively to Hopkins' personality because she was a woman. One partner described her as "macho" (Defendant's Exh. 30); another suggested that she "overcompensated for being a woman" (Defendant's Exh. 31); a third advised her to take "a course at charm school" (Defendant's Exh. 27). Several partners criticized her use of profanity; in response, one partner suggested that those partners objected to her swearing only "because it's a lady using foul language." Tr. 321. Another supporter explained that Hopkins "ha[d] matured from a tough-talking somewhat masculine hard-nosed mgr to an authoritative, formidable, but much more appealing lady ptr candidate." Defendant's Exh. 27. But it was the man who, as Judge Gesell found, bore responsibility for explaining to Hopkins the reasons for the Policy Board's decision to place her candidacy on hold who delivered the *coup de grace:* in order to improve her chances for partnership, Thomas Beyer advised, Hopkins should "walk more femininely, talk more femininely, dress more femininely, wear make-up, have her hair styled, and wear jewelry." 618 F.Supp., at 1117.

Dr. Susan Fiske, a social psychologist and Associate Professor of Psychology at Carnegie-Mellon University, testified at trial that the partnership selection process at Price Waterhouse was likely influenced by sex stereotyping. Her testimony focused not only on the ove tly sex-based comments of partners but also on gender-neutral remarks, made by partners who knew Hopkins only slightly, that were intensely critical of her. One partner, for example, baldly stated that Hopkins was "universally disliked" by staff (Defendant's Exh. 27), and another described her as "consistently annoying and irritating" (*ibid.*); yet these were people who had had very little contact with Hopkins. According to

Page 236

Fiske, Hopkins' uniqueness (as the only woman in the pool of candidates) and the subjectivity of the evaluations made it likely

that sharply critical remarks such as these were the product of sex stereotyping—although Fiske admitted that she could not say with certainty whether any particular comment was the result of stereotyping. Fiske based her opinion on a review of the submitted comments, explaining that it was commonly accepted practice for social psychologists to reach this kind of conclusion without having met any of the people involved in the decisionmaking process.

In previous years, other female candidates for partnership also had been evaluated in sex-based terms. As a general matter, Judge Gesell concluded, "[c]andidates were viewed favorably if partners believed they maintained their femin[in]ity while becoming effective professional managers"; in this environment, "[t]o be identified as a 'women's lib[b]er' was regarded as [a] negative comment." 618 F.Supp., at 1117. In fact, the judge found that in previous years "[o]ne partner repeatedly commented that he could not consider any woman seriously as a partnership candidate and believed that women were not even capable of functioning as senior managers—yet the firm took no action to discourage his comments and recorded his vote in the overall summary of the evaluations." *Ibid.*

Judge Gesell found that Price Waterhouse legitimately emphasized interpersonal skills in its partnership decisions, and also found that the firm had not fabricated its complaints about Hopkins' interpersonal skills as a pretext for discrimination. Moreover, he concluded, the firm did not give decisive emphasis to such traits only because Hopkins was a woman; although there were male candidates who lacked these skills but who were admitted to partnership, the judge found that these candidates possessed other, positive traits that Hopkins lacked.

The judge went on to decide, however, that some of the partners' remarks about Hopkins stemmed from an imper-

Page 237

missibly cabined view of the proper behavior of women, and that Price Waterhouse had done nothing to disavow reliance on such comments. He held that Price Waterhouse had unlawfully discriminated against Hopkins on the basis of sex by consciously giving credence and effect to partners' comments that resulted from sex stereotyping. Noting that Price Waterhouse could avoid equitable relief by proving by clear and convincing evidence that it would have placed Hopkins' candidacy on hold even absent this discrimination, the judge decided that the firm had not carried this heavy burden.

The Court of Appeals affirmed the District Court's ultimate conclusion, but departed from its analysis in one particular: it held that even if a plaintiff proves that discrimination played a role in an employment decision, the defendant will not be found liable if it proves, by clear and convincing evidence, that it would have made the same decision in the absence of discrimination. 263 U.S.App.D.C., at 333-334, 825 F.2d, at 470-471. Under this approach, an employer is not deemed to have violated Title VII if it proves that it would have made the same decision in the absence of an impermissible motive, whereas under the District Court's approach, the employer's proof in that respect only avoids equitable relief. We decide today that the Court of Appeals had the better approach, but that both courts erred in requiring the employer to make its proof by clear and convincing evidence.

II

The specification of the standard of causation under Title VII is a decision about

the kind of conduct that violates that statute. According to Price Waterhouse, an employer violates Title VII only if it gives decisive consideration to an employee's gender, race, national origin, or religion in making a decision that affects that employee. On Price Waterhouse's theory, even if a plaintiff shows that her gender played a part in an employment decision, it is still her burden to show that the decision would have been different if the employer had

Page 238

not discriminated. In Hopkins' view, on the other hand, an employer violates the statute whenever it allows one of these attributes to play any part in an employment decision. Once a plaintiff shows that this occurred, according to Hopkins, the employer's proof that it would have made the same decision in the absence of discrimination can serve to limit equitable relief but not to avoid a finding of liability.[2] We conclude that, as often happens, the truth lies somewhere in between.

Page 239

A

In assessing Title VII, Congress made the simple but momentous announcement that sex, race, religion, and national origin are not relevant to the selection, evaluation, or compensation of employees.[3] Yet, the statute does not purport to limit the other qualities and characteristics that employers *may* take into account in making employment decisions. The converse, therefore, of "for cause" legislation,[4] Title VII eliminates certain bases for distinguishing among employees while otherwise preserving employers' freedom of choice. This balance between employee rights and employer prerogatives turns out to be decisive in the case before us.

Congress' intent to forbid employers to take gender into account in making employment decisions appears on the face of the statute. In now-familiar language, the statute forbids

Page 240

an employer to "fail or refuse to hire or to discharge any individual, or otherwise to discriminate with respect to his compensation, terms, conditions, or privileges of employment," or to "limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, *because of* such individual's . . . sex." 42 U.S.C. §§ 2000e-2(a)(1), (2) (emphasis added).[5] We take these words to mean that gender must be irrelevant to employment decisions. To construe the words "because of" as colloquial shorthand for "but-for causation," as does Price Waterhouse, is to misunderstand them.[6]

But-for causation is a hypothetical construct. In determining whether a particular factor was a but-for cause of a given event, we begin by assuming that that factor was present at the time of the event, and then ask whether, even if tha factor had been absent, the event nevertheless would have transpired in the same way. The present, active tense of the operative verbs of § 703(a)(1) ("to fail or refuse"), in contrast, turns our attention to the actual moment of the

Page 241

event in question, the adverse employment decision. The critical inquiry, the one commanded by the words of § 703(a)(1), is whether gender was a factor in the employment decision *at the moment it was made.* Moreover, since we know that the words "because of" do not mean "*solely*

because of," [7] we also know that Title VII meant to condemn even those decisions based on a mixture of legitimate and illegitimate considerations. When, therefore, an employer considers both gender and legitimate factors at the time of making a decision, that decision was "because of" sex and the other, legitimate considerations—even if we may say later, in the context of litigation, that the decision would have been the same if gender had not been taken into account.

To attribute this meaning to the words "because of" does not, as the dissent asserts, *post,* at 282, divest them of causal significance. A simple example illustrates the point. Suppose two physical forces act upon and move an object, and suppose that either force acting alone would have moved the object. As the dissent would have it, *neither* physical force was a "cause" of the motion unless we can show that but for one or both of them, the object would not have moved; apparently both forces were simply "in the air" unless we can identify at least one of them as a but-for cause of the object's movement. *Ibid.* Events that are causally overdetermined, in other words, may not have any "cause" at all. This cannot be so.

We need not leave our common sense at the doorstep when we interpret a statute. It is difficult for us to imagine that, in the simple words "because of," Congress meant to obligate a plaintiff to identify the precise causal role played by legitimate and illegitimate motivations in the employment decision she challenges. We conclude, instead, that Congress meant

Page 242

to obligate her to prove that the employer relied upon sex-based considerations in coming to its decision.

Our interpretation of the words "because of" also is supported by the fact that Title VII does identify one circumstance in which an employer may take gender into account in making an employment decision, namely, when gender is a "bona fide occupational qualification [(BFOQ)] reasonably necessary to the normal operation of th[e] particular business or enterprise." 42 U.S.C. § 2000e-2(e). The only plausible inference to draw from this provision is that, in all other circumstances, a person's gender may not be considered in making decisions that affect her. Indeed, Title VII even forbids employers to make gender an indirect stumbling block to employment opportunities. An employer may not, we have held, condition employment opportunities on the satisfaction of facially neutral tests or qualifications that have a disproportionate, adverse impact on members of protected groups when those tests or qualifications are not required for performance of the job. See *Watson v. Fort Worth Bank & Trust,* 487 U.S. 977, 108 S.Ct. 2777, 101 L.Ed.2d 827 (1988); *Griggs v. Duke Power Co.,* 401 U.S. 424, 91 S.Ct. 849, 28 L.Ed.2d 158 (1971).

To say that an employer may not take gender into account is not, however, the end of the matter, for that describes only one aspect of Title VII. The other important aspect of the statute is its preservation of an employer's remaining freedom of choice. We conclude that the preservation of this freedom means that an employer shall not be liable if it can prove that, even if it had not taken gender into account, it would have come to the same decision regarding a pa ticular person. The statute's maintenance of employer prerogatives is evident from the statute itself and from its history, both in Congress and in this Court.

To begin with, the existence of the BFOQ exception shows Congress' unwillingness to require employers to change the very nature of their operations in response to the statute. And our emphasis on "business necessity" in disparate-

Page 243

impact cases, see *Watson* and *Griggs,* and on "legitimate, nondiscriminatory reason[s]" in disparate-treatment cases, see *McDonnell Douglas Corp. v. Green,* 411 U.S. 792, 802, 93 S.Ct. 1817, 1824, 36 L.Ed.2d 668 (1973); *Texas Dept. of Community Affairs v. Burdine,* 450 U.S. 248, 101 S.Ct. 1089, 67 L.Ed.2d 207 (1981), results from our awareness of Title VII's balance between employee rights and employer prerogatives. In *McDonnell Douglas,* we described as follows Title VII's goal to eradicate discrimination while preserving workplace efficiency: "The broad, overriding interest, shared by employer, employee, and consumer, is efficient and trustworthy workmanship assured through fair and racially neutral employment and personnel decisions. In the implementation of such decisions, it is abundantly clear that Title VII tolerates no racial discrimination, subtle or otherwise." 411 U.S., at 801, 93 S.Ct., at 1823-1824.

When an employer ignored the attributes enumerated in the statute, Congress hoped, it naturally would focus on the qualifications of the applicant or employee. The intent to drive employers to focus on qualifications rather than on race, religion, sex, or national origin is the theme of a good deal of the statute's legislative history. An interpretive memorandum entered into the Congressional Record by Senators Case and Clark, comanagers of the bill in the Senate, is representative of this general theme.[8] According to their memorandum, Title VII " 'expressly protects the employer's right to insist that any prospective applicant, Negro or white, must meet the applicable job qualifications. Indeed, the very purpose of Title VII is to promote hiring on the basis of job qualifications, rather than on the basis of race or color.' " [9] 110 Cong.Rec. 7247 (1964), quoted in *Griggs v.*

Page 244

Duke Power Co., supra, 401 U.S., at 434, 91 S.Ct., at 855. The memorandum went on: "To discriminate is to make a distinction, to make a difference in treatment or favor, and those distinctions or differences in treatment or favor which are prohibited by section 704 are those which are based on any five of the forbidden criteria: race, color, religion, sex, and national origin. Any other criterion or qualification for employment is not affected by this title." 110 Cong.Rec. 7213 (1964).

Many other legislators made statements to a similar effect; we see no need to set out each remark in full here. The central point is this: while an employer may not take gender into account in making an employment decision (except in those very narrow circumstances in which gender is a BFOQ), it is free to decide against a woman for other reasons. We think these principles require that, once a plaintiff in a Title VII case shows that gender played a motivating part in an employment decision, the defendant may avoid a finding of liability [10] only by proving that it would have made the same

Page 245

decision even if it had not allowed gender to play such a role. This balance of burdens is the direct result of Title VII's balance of rights.

Our holding casts no shadow on *Burdine,* in which we decided that, even after a plaintiff has made out a prima facie case of discrimination under Title VII, the burden of persuasion does not shift to the employer to show that its stated legitimate reason for the employment decision was the true reason. 450 U.S., at 256-258, 101 S.Ct., at 1095-1096. We stress, first, that nei-

Page 246

ther court below shifted the burden of persuasion to Price Waterhouse on this question, and in fact, the District Court found

that Hopkins had not shown that the firm's stated reason for its decision was pretextual. 618 F.Supp., at 1114-1115. Moreover, since we hold that the plaintiff retains the burden of persuasion on the issue whether gender played a part in the employment decision, the situation before us is not the one of "shifting burdens" that we addressed in *Burdine*. Instead, the employer's burden is most appropriately deemed an affirmative defense: the plaintiff must persuade the factfinder on one point, and then the employer, if it wishes to prevail, must persuade it on another. See *NLRB v. Transportation Management Corp.,* 462 U.S. 393, 400, 103 S.Ct. 2469, 2473, 76 L.Ed.2d 667 (1983).[11]

Price Waterhouse's claim that the employer does not bear any burden of proof (if it bears one at all) until the plaintiff has shown "substantial evidence that Price Waterhouse's explanation for failing to promote Hopkins was not the 'true reason' for its action" (Brief for Petitioner 20) merely restates its argument that the plaintiff in a mixed-motives case

Page 247

must squeeze her proof into *Burdine's* framework. Where a decision was the product of a mixture of legitimate and illegitimate motives, however, it simply makes no sense to ask whether the legitimate reason was "*the* 'true reason' " (Brief for Petitioner 20 (emphasis added)) for the decision—which is the question asked by *Burdine*. See *Transportation Management, supra,* at 400, n. 5, 103 S.Ct., at 2473, n. 5.[12] Oblivious to this last point, the dissent would insist that *Burdine's* framework perform work that it was never intended to perform. It would require a plaintiff who challenges an adverse employment decision in which both legitimate and illegitimate considerations played a part to pretend that the decision, in fact, stemmed from a single source—for the premise of *Burdine* is that *either* a legitimate *or* an illegitimate set of considerations led to the challenged decision. To say that *Burdine's* evidentiary scheme will not help us decide a case admittedly involving *both* kinds of considerations is not to cast aspersions on the utility of that scheme in the circumstances for which it was designed.

Page 248

B

In deciding as we do today, we do not traverse new ground. We have in the past confronted Title VII cases in which an employer has used an illegitimate criterion to distinguish among employees, and have held that it is the employer's burden to justify decisions resulting from that practice. When an employer has asserted that gender is a BFOQ within the meaning of § 703(e), for example, we have assumed that it is the employer who must show why it must use gender as a criterion in employment. See *Dothard v. Rawlinson,* 433 U.S. 321, 332-337, 97 S.Ct. 2720, 2728-2730, 53 L.Ed.2d 786 (1977). In a related context, although the Equal Pay Act expressly permits employers to pay different wages to women where disparate pay is the result of a "factor other than sex," see 29 U.S.C. § 206(d)(1), we have decided that it is the employer, not the employee, who must prove that the actual disparity is not sex linked. See *Corning Glass Works v. Brennan,* 417 U.S. 188, 196, 94 S.Ct. 2223, 2229, 41 L.Ed.2d 1 (1974). Finally, some courts have held that, under Title VII as amended by the Pregnancy Discrimination Act, it is the employer who has the burden of showing that its limitations on the work that it allows a pregnant woman to perform are necessary in light of her pregnancy. See, *e.g., Hayes v. Shelby Memorial Hospital,* 726 F.2d 1543, 1548 (CA11 1984); *Wright v. Olin Corp.,* 697 F.2d 1172, 1187 (CA4 1982). As these examples demonstrate, our assumption always has been that if an employer allows gender to affect its decisionmaking process, then it must carry the burden of justifying its ultimate decision. We have not in the past

required women whose gender has proved relevant to an employment decision to establish the negative proposition that they would not have been subject to that decision had they been men, and we do not do so today.

We have reached a similar conclusion in other contexts where the law announces that a certain characteristic is irrelevant to the allocation of burdens and benefits. In *Mt. Healthy City Bd. of Ed. v. Doyle,* 429 U.S. 274, 97 S.Ct. 568, 50 L.Ed.2d 471 (1977), the

Page 249

plaintiff claimed that he had been discharged as a public school teacher for exercising his free-speech rights under the First Amendment. Because we did not wish to "place an employee in a better position as a result of the exercise of constitutionally protected conduct than he would have occupied had he done nothing," *id.,* at 285, 97 S.Ct., at 575, we concluded that such an employee "ought not to be able, by engaging in such conduct, to prevent his employer from assessing his performance record and reaching a decision not to rehire on the basis of that record." *Id.,* at 286, 97 S.Ct. at 575. We therefore held that once the plaintiff had shown that his constitutionally protected speech was a "substantial" or "motivating factor" in the adverse treatment of him by his employer, the employer was obligated to prove "by a preponderance of the evidence that it would have reached the same decision as to [the plaintiff] even in the absence of the protected conduct." *Id.,* at 287, 97 S.Ct., at 576. A court that finds for a plaintiff under this standard has effectively concluded that an illegitimate motive was a "but-for" cause of the employment decision. See *Givhan v. Western Line Consolidated School Dist.,* 439 U.S. 410, 417, 99 S.Ct. 693, 697, 58 L.Ed.2d 619 (1979). See also*Arlington Heights v. Metropolitan Housing Development Corp.,* 429 U.S. 252, 270-271, n. 21, 97 S.Ct. 555, 566, n. 21, 50 L.Ed.2d 450 (1977) (applying*Mt. Healthy* standard where plaintiff alleged that unconstitutional motive had contributed to enactment of legislation); *Hunter v. Underwood,* 471 U.S. 222, 228, 105 S.Ct. 1916, 1920, 85 L.Ed.2d 222 (1985) (same).

In *Transportation Management,* we upheld the NLRB's interpretation of § 10(c) of the National Labor Relations Act, which forbids a court to order affirmative relief for discriminatory conduct against a union member "if such individual was suspended or discharged for cause." 29 U.S.C. § 160(c). The Board had decided that this provision meant that once an employee had shown that his suspension or discharge was based in part on hostility to unions, it was up to the employer to prove by a preponderance of the evidence that it would have made the same decision in the absence of this impermissible motive. In such a situation, we empha-

Page 250

sized, "[t]he employer is a wrongdoer; he has acted out of a motive that is declared illegitimate by the statute. It is fair that he bear the risk that the influence of legal and illegal motives cannot be separated, because he knowingly created the risk and because the risk was created not by innocent activity but by his own wrongdoing." 462 U.S., at 403, 103 S.Ct., at 2475.

We have, in short, been here before. Each time, we have concluded that the plaintiff who shows that an impermissible motive played a motivating part in an adverse employment decision has thereby placed upon the defendant the burden to show that it would have made the same decision in the absence of the unlawful motive. Our decision today treads this well-worn path.

C

In saying that gender played a motivating part in an employment decision,

we mean that, if we asked the employer at the moment of the decision what its reasons were and if we received a truthful response, one of those reasons would be that the applicant or employee was a woman.[13] In the specific context of sex stereotyping, an employer who acts on the basis of a belief that a woman cannot be aggressive, or that she must not be, has acted on the basis of gender.

Although the parties do not overtly dispute this last proposition, the placement by Price Waterhouse of "sex stereotyping" in quotation marks throughout its brief seems to us an insinuation either that such stereotyping was not present in this case or that it lacks legal relevance. We r ject both pos-

Page 251

sibilities. As to the existence of sex stereotyping in this case, we are not inclined to quarrel with the District Court's conclusion that a number of the partners' comments showed sex stereotyping at work. See *infra,* at 255-256. As for the legal relevance of sex stereotyping, we are beyond the day when an employer could evaluate employees by assuming or insisting that they matched the stereotype associated with their group, for " '[i]n forbidding employers to discriminate against individuals because of their sex, Congress intended to strike at the entire spectrum of disparate treatment of men and women resulting from sex stereotypes.' " *Los Angeles Dept. of Water and Power v. Manhart,* 435 U.S. 702, 707, n. 13, 98 S.Ct. 1370, 1375, n. 13, 55 L.Ed.2d 657 (1978), quoting *Sprogis v. United Air Lines, Inc.,* 444 F.2d 1194, 1198 (CA7 1971). An employer who objects to aggressiveness in women but whose positions require this trait places women in an intolerable and impermissible catch 22: out of a job if they behave aggressively and out of a job if they do not. Title VII lifts women out of this bind.

Remarks at work that are based on sex stereotypes do not inevitably prove that gender played a part in a particular employment decision. The plaintiff must show that the employer actually relied on her gender in making its decision. In making this showing, stereotyped remarks can certainly be *evidence* that gender played a part. In any event, the stereotyping in this case did not simply consist of stray remarks. On the contrary, Hopkins proved that Price Waterhouse invited partners to submit comments; that some of the comments stemmed from sex stereotypes; that an important part of the Policy Board's decision on Hopkins was an assessment of the submitted comments; and that Price Waterhouse in no way disclaimed reliance on the sex-linked evaluations. This is not, as Price Waterhouse suggests, "discrimination in the air"; rather, it is, as Hopkins puts it, "discrimination brought to ground and visited upon" an employee. Brief for Respondent 30. By focusing on Hopkins' specific proof, however, we do not suggest a limitation on the possible ways

Page 252

of proving that stereotyping played a motivating role in an employment decision, and we refrain from deciding here which specific facts, "standing alone," would or would not establish a plaintiff's case, since such a decision is unnecessary in this case. But see *post,* at 277 (O'CONNOR, J., concurring in judgment).

As to the employer's proof, in most cases, the employer should be able to present some objective evidence as to its probable decision in the absence of an impermissible motive.[14] Moreover, proving " 'that the same decision would have been justified . . . is not the same as proving that the same decision would have been made.' " *Givhan,* 439 U.S., at 416, 99 S.Ct., at 697, quoting *Ayers v. Western Line Consolidated School District,* 555 F.2d 1309, 1315 (CA5 1977). An employer

may not, in other words, prevail in a mixed-motives case by offering a legitimate and sufficient reason for its decision if that reason did not motivate it at the time of the decision. Finally, an employer may not meet its burden in such a case by merely showing that at the time of the decision it was motivated only in part by a legitimate reason. The very premise of a mixed-motives case is that a legitimate reason was present, and indeed, in this case, Price Waterhouse already has made this showing by convincing Judge Gesell that Hopkins' interpersonal problems were a legitimate concern. The employer instead must show that its legitimate reason, standing alone, would have induced it to make the same decision.

III

The courts below held that an employer who has allowed a discriminatory impulse to play a motivating part in an employment decision must prove by clear and convincing evidence that it would have made the same decision in the ab-

Page 253

sence of discrimination. We are persuaded that the better rule is that the employer must make this showing by a preponderance of the evidence.

Conventional rules of civil litigation generally apply in Title VII cases, see, *e.g., United States Postal Service Bd. of Governors v. Aikens,* 460 U.S. 711, 716, 103 S.Ct. 1478, 1482, 75 L.Ed.2d 403 (1983) (discrimination not to be "treat[ed] . . . differently from other ultimate questions of fact"), and one of these rules is that parties to civil litigation need only prove their case by a preponderance of the evidence. See, *e.g., Herman & MacLean v. Huddleston,* 459 U.S. 375, 390, 103 S.Ct. 683, 691, 74 L.Ed.2d 548 (1983). Exceptions to this standard are uncommon, and in fact are ordinarily recognized only when the government seeks to take unusual coercive action—action more dramatic than entering an award of money damages or other conventional relief—against an individual. See *Santosky v. Kramer,* 455 U.S. 745, 756, 102 S.Ct. 1388, 1396, 71 L.Ed.2d 599 (1982) (termination of parental rights); *Addington v. Texas,* 441 U.S. 418, 427, 99 S.Ct. 1804, 1810, 60 L.Ed.2d 323 (1979) (involuntary commitment); *Woodby v. INS,* 385 U.S. 276, 87 S.Ct. 483, 17 L.Ed.2d 362 (1966) (deportation); *Schneiderman v. United States,* 320 U.S. 118, 122, 125, 63 S.Ct. 1333, 1335, 1336, 87 L.Ed.2d 1796 (1943) (denaturalization). Only rarely have we required clear and convincing proof where the action defended against seeks only conventional relief, see, *e.g., Gertz v. Robert Welch, Inc.,* 418 U.S. 323, 342, 94 S.Ct. 2997, 3008, 41 L.Ed.2d 789 (1974) (defamation), and we find it significant that in such cases it was the defendant rather than the plaintiff who sought the elevated standard of proof—suggesting that this standard ordinarily serves as a shield rather than, as Hopkins seeks to use it, as a sword.

It is true, as Hopkins emphasizes, that we have noted the "clear distinction between the measure of proof necessary to establish the fact that petitioner had sustained some damage and the measure of proof necessary to enable the jury to fix the amount." *Story Parchment Co. v. Paterson Parchment Paper Co.,* 282 U.S. 555, 562, 51 S.Ct. 248, 250, 75 L.Ed. 544 (1931). Likewise, an Equal Employment Opportunity Commission (EEOC) regulation does require federal agencies proved to have violated

Page 254

Title VII to show by clear and convincing evidence that an individual employee is not entitled to relief. See 29 CFR § 1613.271(c)(2) (1988). And finally, it is true that we have emphasized the importance of make-whole relief for victims of discrimination. See *Albemarle Paper Co. v. Moody,* 422 U.S. 405, 95 S.Ct. 2362, 45 L.Ed.2d 280 (1975). Yet

each of these sources deals with the proper determination of relief rather than with the initial finding of liability. This is seen most easily in the EEOC's regulation, which operates only after an agency or the EEOC has found that "an employee of the agency was discriminated against." See 29 CFR § 1613.271(c) (1988). Because we have held that, by proving that it would have made the same decision in the absence of discrimination, the employer may avoid a finding of liability altogether and not simply avoid certain equitable relief, these authorities do not help Hopkins to show why we should elevate the standard of proof for an employer in this position.

Significantly, the cases from this Court that most resemble this one, *Mt. Healthy* and *Transportation Management,* did not require clear and convincing proof. *Mt. Healthy,* 429 U.S., at 287, 97 S.Ct., at 576; *Transportation Management,* 462 U.S., at 400, 403, 103 S.Ct., at 2473, 2475. We are not inclined to say that the public polic against firing employees because they spoke out on issues of public concern or because they affiliated with a union is less important than the policy against discharging employees on the basis of their gender. Each of these policies is vitally important, and each is adequately served by requiring proof by a preponderance of the evidence.

Although Price Waterhouse does not concretely tell us how its proof was preponderant even if it was not clear and convincing, this general claim is implicit in its request for the less stringent standard. Since the lower courts required Price Waterhouse to make its proof by clear and convincing evidence, they did not determine whether Price Waterhouse had proved by *a preponderance of the evidence* that it would have placed Hopkins' candidacy on hold even if it had not per-

Page 255

mitted sex-linked evaluations to play a part in the decision-making process. Thus, we shall remand this case so that that determination can be made.

IV

The District Court found that sex stereotyping "was permitted to play a part" in the evaluation of Hopkins as a candidate for partnership. 618 F.Supp., at 1120. Price Waterhouse disputes both that stereotyping occurred and that it played any part in the decision to place Hopkins' candidacy on hold. In the firm's view, in other words, the District Court's factual conclusions are clearly erroneous. We do not agree.

In finding that some of the partners' comments reflected sex stereotyping, the District Court relied in part on Dr. Fiske's expert testimony. Without directly impugning Dr. Fiske's credentials or qualifications, Price Waterhouse insinuates that a social psychologist is unable to identify sex stereotyping in evaluations without investigating whether those evaluations have a basis in reality. This argument comes too late. At trial, counsel for Price Waterhouse twice assured the court that he did not question Dr. Fiske's expertise (App. 25) and failed to challenge the legitimacy of her discipline. Without contradiction from Price Waterhouse, Fiske testified that she discerned sex stereotyping in the partners' evaluations of Hopkins and she further explained that it was part of her business to identify stereotyping in written documents. *Id.,* at 64. We are not inclined to accept petitioner's belated and unsubstantiated characterization of Dr. Fiske's testimony as "gossamer evidence" (Brief for Petitioner 20) based only on "intuitive hunches" (*id.,* at 44) and of her detection of sex stereotyping as "intuitively divined" (*id.,* at 43). Nor are we disposed to adopt the dissent's dismissive attitude toward Dr. Fiske's field of study and toward her own professional integrity, see *post,* at 294, n. 5.

Page 256

Indeed, we are tempted to say that Dr. Fiske's expert testimony was merely icing on Hopkins' cake. It takes no special training to discern sex stereotyping in a description of an aggressive female employee as requiring "a course at charm school." Nor, turning to Thomas Beyer's memorable advice to Hopkins, does it require expertise in psychology to know that, if an employee's flawed "interpersonal skills" can be corrected by a soft-hued suit or a new shade of lipstick, perhaps it is the employee's sex and not her interpersonal skills that has drawn the criticism.[15]

Price Waterhouse also charges that Hopkins produced no evidence that sex ster otyping played a role in the decision to place her candidacy on hold. As we have stressed, however, Hopkins showed that the partnership solicited evaluations from all of the firm's partners; that it generally relied very heavily on such evaluations in making its decision; that some of the partners' comments were the product of stereotyping; and that the firm in no way disclaimed reliance on those particular comments, either in Hopkins' case or in the past. Certainly a plausible and, one might say, inevitable—conclusion to draw from this set of circumstances is that the Policy Board in making its decision did in fact take into account all of the partners' comments, including the comments that were motivated by stereotypical notions about women's proper deportment.[16]

Page 257

Price Waterhouse concedes that the proof in *Transportation Management,* adequately showed that the employer there had relied on an impermissible motivation in firing the plaintiff. Brief for Petitioner 45. But the only evidence in that case that a discriminatory motive contributed to the plaintiff's discharge was that the employer harbored a grudge toward the plaintiff on account of his union activity; there was, contrary to Price Waterhouse's suggestion, no direct evidence that that grudge had played a role in the decision, and, in fact, the employer had given other reasons in explaining the plaintiff's discharge. See 462 U.S., at 396, 103 S.Ct., at 2471. If the partnership considers that proof sufficient, we do not know why it takes such vehement issue with Hopkins' proof.

Nor is the finding that sex stereotyping played a part in the Policy Board's decision undermined by the fact that many of the suspect comments were made by supporters rather than detractors of Hopkins. A negative comment, even when made in the context of a generally favorable review, nevertheless may influence the decisionmaker to think less highly of the candidate; the Policy Board, in fact, did not simply tally the "yeses" and "noes" regarding a candidate, but carefully reviewed the content of the submitted comments. The additional suggestion that the comments were made by "persons outside the decisionmaking chain" (Brief for Petitioner 48)—and therefore could not have harmed Hopkins—simply ignores the critical role that partners' comments played in the Policy Board's partnership decisions.

Price Waterhouse appears to think that we cannot affirm the factual findings of the trial court without deciding that, instead of being overbearing and aggressive and curt, Hopkins is, in fact, kind and considerate and patient. If this is indeed its impression, petitioner misunderstands the theory

Page 258

on which Hopkins prevailed. The District Judge acknowledged that Hopkins' conduct justified complaints about her behavior as a senior manager. But he also concluded that the reactions of at least some of the partners were reactions to her as a *woman* manager. Where an evaluation is based on a subjective

assessment of a person's strengths and weaknesses, it is simply not true that each evaluator will focus on, or even mention, the same weaknesses. Thus, even if we knew that Hopkins had "personality problems," this would not tell us that the partners who cast their evaluations of Hopkins in sex-based terms would have criticized her as sharply (or criticized her at all) if she had been a man. It is not our job to review the evidence and decide that the negative reactions to Hopkins were based on reality; our perception of Hopkins' character is irrelevant. We si not to determine whether Ms. Hopkins is nice, but to decide whether the partners reacted negatively to her personality because she is a woman.

V

We hold that when a plaintiff in a Title VII case proves that her gender played a motivating part in an employment decision, the defendant may avoid a finding of liability only by proving by a preponderance of the evidence that it would have made the same decision even if it had not taken the plaintiff's gender into account. Because the courts below erred by deciding that the defendant must make this proof by clear and convincing evidence, we reverse the Court of Appeals' judgment against Price Waterhouse on liability and remand the case to that court for further proceedings.

It is so ordered.

Justice WHITE, concurring in the judgment.

In my view, to determine the proper approach to causation in this case, we need look only to the Court's opinion in *Mt. Healthy City Bd. of Ed. v. Doyle,* 429 U.S. 274, 97 S.Ct. 568, 50 L.Ed.2d 471 (1977). In *Mt. Healthy,* a public employee was not rehired, in part because of his exercise of First Amendment rights and in part because of permissible considerations. The Court rejected a rule of causation that focused "solely on whether protected conduct played a part, 'substantial' or otherwise, in a decision not to rehire," on the grounds that such a rule could make the employee better off by exercising his constitutional rights than by doing nothing at all. *Id.,* at 285, 97 S.Ct., at 575. Instead, the Court outlined the following approach:

"Initially, in this case, the burden was properly placed upon respondent to show that his conduct was constitutionally protected, and that his conduct was a 'substantial factor' or, to put it in other words, that it was a 'motivating factor' in the Board's decision not to rehire him. Respondent having carried that burden, however, the District Court should have gone on to determine whether the Board had shown by a preponderance of the evidence that it would have reached the same decision as to respondent's reemployment even in the absence of the protected conduct." *Id.,* at 287, 97 S.Ct., at 576 (footnote omitted).

It is not necessary to get into semantic discussions on whether the *Mt. Healthy* approach is "but-for" causation in another guise or creates an affirmative defense on the part of the employer to see its clear application to the issues before us in this case. As in *Mt. Healthy,* the District Court found that the employer was motivated by both legitimate and illegitimate factors. And here, as in *Mt. Healthy,* and as the Court now holds, Hopkins was not required to prove that the illegitimate factor was the only, principal, or true reason for petitioner's action. Rather, as Justice O'CONNOR states, her burden was to show that the unlawful motive was a *substantial* factor in the adverse employment action. The District Court, as its opinion was construed by the Court of Appeals, so found, 263 U.S.App.D.C. 321, 333, 334, 825 F.2d 458, 470, 471 (1987), and I agree that the

finding was supported by the record. The burden of persuasion then

Page 260

should have shifted to Price Waterhouse to prove "by a preponderance of the evidence that it would have reached the same decision . . . in the absence of" the unlawful motive. *Mt. Healthy, supra,* 429 U.S., at 287, 97 S.Ct., at 576.

I agree with Justice BRENNAN that applying this approach to causation in Title VII cases is not a departure from, and does not require modification of, the Court's holdings in *Texas Dept. of Community Affairs v. Burdine,* 450 U.S. 248, 101 S.Ct. 1089, 67 L.Ed.2d 207 (1981), and *McDonnell Douglas Corp. v. Green,* 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973). The Court has made clear that "mixed-motives" cases, such as the present one, are different from pretext cases such as *McDonnell Douglas* and *Burdine.* In pretext cases, "the issue is whether either illegal or legal motives, but not both, were the 'true' motives behind the decision." *NLRB v. Transportation Management Corp.,* 462 U.S. 393, 400, n. 5, 103 S.Ct. 2469, 2473, n. 5, 76 L.Ed.2d 667 (1983). In mixed-motives cases, however, there is no one "true" motive behind the decision. Instead, the decision is a result of multiple factors, at least one of which is legitimate. It can hardly be said that our decision in this case is a departure from cases that are "inapposite." *Ibid.* I also disagree with the dissent's assertion that this approach to causation is inconsistent with our statement in *Burdine* that "[t]he ultimate burden of persuading the trier of fact that the defendant intentionally discriminated against the plaintiff remains at all times with the plaintiff." 450 U.S., at 253, 101 S.Ct., at 1093. As we indicated in *Transportation Management Corp.,* the showing required by *Mt. Healthy* does not improperly shift from the plaintiff the ultimate burden of persuasion on whether the defendant intentionally discriminated against him or her. See 462 U.S., at 400, n. 5, 103 S.Ct., at 2473, n. 5.

Because the Court of Appeals required Price Waterhouse to prove by clear and convincing evidence that it would have reached the same employment decision in the absence of the improper motive, rather than merely requiring proof by a preponderance of the evidence as in *Mt. Healthy,* I concur in the judgment reversing this case in part and remanding.

Page 261

With respect to the employer's burden, however, the plurality seems to require, at least in most cases, that the employer submit objective evidence that the same result would have occurred absent the unlawful motivation. *Ante,* at 252. In my view, however, there is no special requirement that the employer carry its burden by objective evidence. In a mixed-motives case, where the legitimate motive found would have been ample grounds for the action taken, and the employer credibly testifies that the action would have been taken for the legitimate reasons alone, this should be ample proof. This would even more plainly be the case where the employer denies any illegitimate motive in the first place but the court finds that illegitimate, as well as legitimate, factors motivated the adverse action.*

Justice O'CONNOR, concurring in the judgment.

I agree with the plurality that, on the facts presented in this case, the burden of persuasion should shift to the employer to demonstrate by a preponderance of the evidence that it would have reached the same decision concerning Ann Hopkins' candidacy absent consideration of her gender. I further agree that this burden shift is properly part of the liability phase of the litigation. I thus concur in the judgment of the Court. My

disagreement stems from the plurality's conclusions concerning the substantive requirement of causation under the statute and its broad statements regarding the applicability of the allocation of the burden of proof applied in this case. The evidentiary rule the Court adopts today should be viewed as a supplement to the careful framework established by our unanimous decisions in *McDonnell Douglas Corp. v. Green,* 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973), and *Texas Dept. of Community Affairs v. Burdine,* 450 U.S. 248, 101 S.Ct. 1089, 67 L.Ed.2d 207 (1981), for use in cases such as this one where the employer has created uncertainty as to causation by knowingly giving

Page 262

substantial weight to an impermissible criterion. I write separately to explain why I believe such a departure from the *McDonnell Douglas* standard is justified in the circumstances presented by this and like cases, and to express my views as to when and how the strong medicine of requiring the employer to bear the burden of persuasion on the issue of causation should be administered.

I

Title VII provides in pertinent part: "It shall be an unla ful employment practice for an employer . . . to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, *because of* such individual's race, color, religion, sex, or national origin." 42 U.S.C. § 2000e-2(a) (emphasis added). The legislative history of Title VII bears out what its plain language suggests: a substantive violation of the statute only occurs when consideration of an illegitimate criterion is the "but-for" cause of an adverse employment action. The legislative history makes it clear that Congress was attempting to eradicate discriminatory actions in the employment setting, not mere discriminatory thoughts. Critics of the bill that became Title VII labeled it a "thought control bill," and argued that it created a "punishable crime that does not require an illegal external act as a basis for judgment." 100 Cong.Rec. 7254 (1964) (remarks of Sen. Ervin). Senator Case, whose views the plurality finds so persuasive elsewhere, responded:

"The man must do or fail to do something in regard to employment. There must be some specific external act, more than a mental act. Only if he does the act because of the grounds stated in the bill would there be any legal consequences." *Ibid.*

Thus, I disagree with the plurality's dictum that the words "because of" do not mean "but-for" causation; manifestly they

Page 263

do. See *Sheet Metal Workers v. EEOC,* 478 U.S. 421, 499, 106 S.Ct. 3019, 3062, 92 L.Ed.2d 344 (1986) (WHITE, J., dissenting) ("[T]he general policy under Title VII is to limit relief for racial discrimination in employment practices to actual victims of the discrimination"). We should not, and need not, deviate from that policy today. The question for decision in this case is what allocation of the burden of persuasion on the issue of causation best conforms with the intent of Congress and the purposes behind Title VII.

The evidence of congressional intent as to which party should bear the burden of proof on the issue of causation is considerably less clear. No doubt, as a general matter, Congress assumed that the plaintiff in a Title VII action would bear the burden of proof on the elements critical to his or her case. As the dissent points out, *post,* at 287, n. 3, the interpretative memorandum submitted by sponsors of Title VII indicates that "the plaintiff, *as in any civil case,* would have the

burden of proving that discrimination had occurred." 110 Cong.Rec. 7214 (1964) (emphasis added). But in the area of tort liability, from whence the dissent's "but-for" standard of causation is derived, see *post,* at 282, the law has long recognized that in certain "civil cases" leaving the burden of persuasion on the plaintiff to prove "but-for" causation would be both unfair and destructive of the deterrent purposes embodied in the concept of duty of care. Thus, in multiple causation cases, where a breach of duty has been established, the common law of torts has long shifted the burden of proof to multiple defendants to prove that their negligent actions were not the "but-for" cause of the plaintiff's injury. See *e.g., Summers v. Tice,* 33 Cal.2d 80, 84-87, 199 P.2d 1, 3-4 (1948). The same rule has been applied where the effect of a defendant's tortious conduct combines with a force of unknown or innocent origin to produce the harm to the plaintiff. See *Kingston v. Chicago & N.W.R. Co.,* 191 Wis. 610, 616, 211 N.W. 913, 915 (1927) ("Granting that the union of that fire [caused by defendant's

Page 264

negligence] with another of natural origin, or with another of much greater proportions, is available as a defense, the burden is on the defendant to show that . . . the fire set by him was not the proximate cause of the damage"). See also 2 J. Wigmore, Select Cases on the Law of Torts § 153, p. 865 (1912) ("When two or more persons by their acts are possibly the sole cause of a harm, or when two or more acts of the same person are possibly the sole cause, and the plaintiff has introduced evidence that one of the two persons, or one of the same person's two acts, is culpable, then the defendant has the burden of proving that the other person, or his other act, was the sole cause of the harm").

While requiring that the plaintiff in a tort suit or a Title VII action prove that the defendant's "breach of duty" was the "but-for" cause of an injury does not generally hamper effective enforcement of the policies behind those causes of action,

"at other times the [but-for] test demands the impossible. It challenges the imagination of the trier to probe into a purely fanciful and unknowable state of affairs. He is invited to make an estimate concerning facts that concededly never existed. The very uncertainty as to what *might* have happened opens the door wide for conjecture. But when conjecture is demanded it can be given a direction that is consistent with the policy considerations that underlie the controversy." Malone, Ruminations on Cause-In-Fact, 9 Stan.L.Rev. 60, 67 (1956).

Like the common law of torts, the statutory employment "tort" created by Title VII has two basic purposes. The first is to deter conduct which has been identified as contrary to public policy and harmful to society as a whole. As we have noted in the past, the award of backpay to a Title VII plaintiff provides "the spur or catalyst which causes employers and unions to self-examine and to self-evaluate their employment practices and to endeavor to eliminate, so far as

Page 265

possible, the last vestiges" of discrimination in employment. *Albemarle Paper Co. v. Moody,* 422 U.S. 405, 417-418, 95 S.Ct. 2362, 2371-2372, 45 L.Ed.2d 280 (1975) (citation omitted). The second goal of Title VII is "to make persons whole for injuries suffered on account of unlawful employment discrimination." *Id.,* at 418, 95 S.Ct., at 2372.

Both these goals are reflected in the elements of a disparate treatment action. There is no doubt that Congress considered reliance on gender or race in making employment decisions an evil in itself. As Senator Clark put it, "[t]he bill simply eliminates consideration of color [or other

forbidden criteria] from the decision to hire or promote." 110 Cong.Rec. 7218 (1964). See also *id.,* at 13088 (remarks of Sen. Humphrey) ("What the bill does . . . is simply to make it an illegal practice to use race as a factor in denying employment"). Reliance on such factors is exactly what the threat of Title VII liability was meant to deter. While the main concern of the statute was with employment opportunity, Congress was certainly not blind to the stigmatic harm which comes from being evaluated by a process which treats one as an inferior by reason of one's race or sex. This Court's decisions under the Equal Protection Clause have long recognized that whatever the final outcome of a decisional process, the inclusion of race or sex as a consideration within it harms both society and the individual. See *Richmond v. J.A. Croson Co.,* 488 U.S. 469, 109 S.Ct. 706, 102 L.Ed.2d 854 (1989). At the same time, Congress clearly conditioned legal liability on a determination that the consideration of an illegitimate factor *caused* a tangible employment injury of some kind.

Where an individual disparate treatment plaintiff has shown by a preponderance of the evidence that an illegitimate criterion was a *substantial* factor in an adverse employment decision, the deterrent purpose of the statute has clearly been triggered. More importantly, as an evidentiary matter, a reasonable factfinder could conclude that absent further explanation, the employer's discriminatory motivation "caused" the employment decision. The employer has

Page 266

not yet been shown to be a violator, but neither is it entitled to the same presumption of good faith concerning its employment decisions which is accorded employers facing only circumstan ial evidence of discrimination. Both the policies behind the statute, and the evidentiary principles developed in the analogous area of causation in the law of torts, suggest that at this point the employer may be required to convince the factfinder that, despite the smoke, there is no fire.

We have given recognition to these principles in our cases which have discussed the "remedial phase" of class action disparate treatment cases. Once the class has established that discrimination against a protected group was essentially the employer's "standard practice," there has been harm to the group and injunctive relief is appropriate. But as to the individual members of the class, the liability phase of the litigation is not complete. See *Dillon v. Coles,* 746 F.2d 998, 1004 (CA3 1984) ("It is misleading to speak of the additional proof required by an individual class member for relief as being a part of the damage phase, that evidence is actually an element of the liability portion of the case") (footnote omitted). Because the class has already demonstrated that, as a rule, illegitimate factors were considered in the employer's decisions, the burden shifts to the employer "to demonstrate that the individual applicant was denied an employment opportunity for legitimate reasons." *Teamsters v. United States,* 431 U.S. 324, 362, 97 S.Ct. 1843, 1868, 52 L.Ed.2d 396 (1977). See also *Franks v. Bowman Transportation Co.,* 424 U.S. 747, 772, 96 S.Ct. 1251, 1268, 47 L.Ed.2d 444 (1976).

The individual members of a class action disparate treatment case stand in much the same position as Ann Hopkins here. There has been a strong showing that the employer has done exactly what Title VII forbids, but the connection between the employer's illegitimate motivation and any injury to the individual plaintiff is unclear. At this point calling upon the employer to show that despite consideration of illegitimate factors the individual plaintiff would not have been hired or promoted in any event hardly seems "unfair" or

Page 267

contrary to the substantive command of the statute. In fact, an individual plaintiff who has shown that an illegitimate factor played a substantial role in the decision in his or her case has proved *more* than the class member in a *Teamsters* type action. The latter receives the benefit of a burden shift to the defendant based on the *likelihood* that an illegitimate criterion was a factor in the individual employment decision.

There is a tension between the *Franks* and *Teamsters* line of decisions and the individual disparate treatment cases cited by the dissent. See *post,* at 286-289. Logically, under the dissent's view, each member of a disparate treatment class action would have to show "but-for" causation as to his or her individual employment decision, since it is not an element of the pattern or practice proof of the entire class and it is statutorily mandated that the plaintiff bear the burden of proof on this issue throughout the litigation. While the Court has properly drawn a distinction between the elements of a class action claim and an individual disparate treatment claim, see *Cooper v. Federal Reserve Bank of Richmond,* 467 U.S. 867, 873-878, 104 S.Ct. 2794, 2798-2801, 81 L.Ed.2d 718 (1984), and I do not suggest the wholesale transposition of rules from one setting to the other, our decisions in *Teamsters* and *Franks* do indicate a recognition that presumptions shifting the burden of persuasion based on evidentiary probabilities and the policies behind the statute are not alien to our Title VII jurisprudence.

Moreover, placing the burden on the defendant in this case to prove that the same decision would have been justified by legitimate reasons is consistent with our interpretation of the constitutional guarantee of equal protection. Like a disparate treatment plaintiff, one who asserts that governmental action violates the Equal Protection Clause must show that he or she is "the victim of intentional discrimination." *Burdine,* 450 U.S., at 256, 101 S.Ct., at 1095. Compare *post,* at 286, 289. (KENNEDY, J., dissenting), with *Washington v. Davis,* 426 U.S. 229, 240, 96 S.Ct. 2040, 2047, 48 L.Ed.2d 597 (1976). In *Alexander v. Louisiana,* 405 U.S. 625, 92 S.Ct. 1221, 31 L.Ed.2d 536 (1972), we dealt with a criminal defendant's allegation that

Page 268

members of his race had been invidiously excluded from the grand jury which indicted him in violation of the Equal Protection Clause. In addition to the statistical evidence presented by petitioner in that case, we noted that the State's "selection procedures themselves were not racially neutral." *Id.,* at 630, 92 S.Ct., at 1225. Once the consideration of race in the decisional process had been established, we held that "the burden of proof shifts to the State to rebut the presumption of unconstitutional action by showing that permissible racially neutral selection criteria and procedures have produced the monochromatic result." *Id.,* at 632, 92 S.Ct., at 1226.

We adhered to similar principles in *Arlington Heights v. Metropolitan Housing Development Corp.,* 429 U.S. 252, 97 S.Ct. 555, 50 L.Ed.2d 450 (1977), a case which, like this one, presented the problems of motivation and causation in the context of a multimember decisionmaking body authorized to consider a wide range of factors in arriving at its decisions. In *Arlington Heights* a group of minority plaintiffs claimed that a municipal governing body's refusal to rezone a plot of land to allow for the construction of low-income integrated housing was racially motivated. On the issue of causation, we indicated that the plaintiff was not required

"to prove that the challenged action rested solely on racially discriminatory

purposes. Rarely can it be said that a legislature or administrative body operating under a broad mandate made a decision motivated solely by a single concern, or even that a particular purpose was the 'dominant' or 'primary' one. In fact, it is because legislators and administrators are properly concerned with balancing numerous competing considerations that courts refrain from reviewing the merits of their decisions, absent a showing of arbitrariness or irrationality. But racial discrimination is not just another competing consideration. When there is a proof that a discriminatory purpose has been a motivating factor in the deci-

Page 269

sion, this judicial deference is no longer justified." *Id.,* at 265-266, 97 S.Ct., at 563 (citation omitted).

If the strong presumption of regularity and rationality of legislative decisionmaking must give way in the face of evidence that race has played a significant part in a legislative decision, I simply cannot believe that Congress intended Title VII to accord *more* deference to a private employer in the face of evidence that its decisional process has been substantially infected by discrimination. Indeed, where a public employee brings a "disparate treatment" claim under 42 U.S.C. § 1983 and the Equal Protection Clause the employee is entitled to the favorable evidentiary framework of *Arlington Heights*. See, *e.g., Hervey v. Little Rock,* 787 F.2d 1223, 1233-1234 (CA8 1986) (applying *Arlington Heights* to public employee's claim of sex discrimination in promotion decision); *Lee v. Russell County Bd. of Education,* 684 F.2d 769, 773-774 (CA11 1982) (applying *Arlington Heights* to public employees' claims of race discrimination in discharge case). Under the dissent's reading of Title VII, Congress' extension of the coverage of the statute to public employers in 1972 has placed these employees under a less favorable evidentiary regime. In my view, nothing in the language, history, or purpose of Title VII prohibits adoption of an evidentiary rule which places the burden of persuasion on the defendant to demonstrate that legitimate concerns would have justified an adverse employment action where the plaintiff has convinced the factfinder that a forbidden factor played a substant al role in the employment decision. Even the dissenting judge below "[had] no quarrel with [the] principle" that "a party with one permissible motive and one unlawful one may prevail only by affirmatively proving that it would have acted as it did even if the forbidden motive were absent." 263 U.S.App.D.C. 321, 341, 825 F.2d 458, 478 (1987) (Williams, J. dissenting).

Page 270

II

The dissent's summary of our individual disparate treatment cases to date is fair and accurate, and amply demonstrates that the rule we adopt today is at least a change in direction from some of our prior precedents. See *post,* at 286-289 We have indeed emphasized in the past that in an individual disparate treatment action the plaintiff bears the burden of persuasion throughout the litigation. Nor have we confined the word "pretext" to the narrow definition which the plurality attempts to pin on it today. See *ante,* at 244-247. *McDonnell Douglas* and *Burdine* clearly contemplated that a disparate treatment plaintiff could show that the employer's proffered explanation for an event was not "the true reason" either because it *never* motivated the employer in its employment decisions or because it did not do so in a particular case. *McDonnell Douglas* and *Burdine* assumed that the plaintiff would bear the burden of persuasion as to both these attacks, and we clearly depart from that framework today. Such a departure requires justification, and its outlines should be carefully drawn.

First, *McDonnell Douglas* itself dealt with a situation where the plaintiff presented no direct evidence that the employer had relied on a forbidden factor under Title VII in making an employment decision. The prima facie case established there was not difficult to prove, and was based only on the statistical probability that when a number of potential causes for an employment decision are eliminated an inference arises that an illegitimate factor was in fact the motivation behind the decision. See *Teamsters,* 431 U.S., at 358, n. 44, 97 S.Ct., at 1866, n. 44. ("[T]he *McDonnell Douglas* formula does not require direct proof of discrimination"). In the face of this inferential proof, the employer's burden was deemed to be only one of production; the employer must articulate a legitimate reason for the adverse employment action. See *Furnco Construction Corp. v. Waters,* 438 U.S. 567, 577, 98 S.Ct. 2943, 2949, 57 L.Ed.2d 957 (1978). The plaintiff must then be given an "opportunity to demonstrate

Page 271

by competent evidence that the presumptively valid reasons for his rejection were in fact a coverup for a racially discriminatory decision." *McDonnell Douglas,* 411 U.S., at 805, 93 S.Ct., at 1826. Our decision in *Texas Dept. of Community Affairs v. Burdine,* 450 U.S. 248, 101 S.Ct. 1089, 67 L.Ed.2d 207 (1981), also involved the "narrow question" whether, after a plaintiff had carried the "not onerous" burden of establishing the prima facie case under *McDonnell Douglas,* the burden of persuasion should be shifted to the employer to prove that a legitimate reason for the adverse employment action existed. 450 U.S., at 250, 101 S.Ct., at 1092. As the discussion of *Teamsters* and *Arlington Heights* indicates, I do not think that the employer is entitled to the same presumption of good faith where there is direct evidence that it has placed substantial reliance on factors whose consideration is forbidden by Title VII.

The only individual disparate treatment case cited by the dissent which involved the kind of direct evidence of discriminatory animus with which we are confronted here is *United States Postal Service Bd. of Governors v. Aikens,* 460 U.S. 711, 713-714, n. 2, 103 S.Ct. 1478, 1481, n. 2, 75 L.Ed.2d 403 (1983). The question presented to the Court in that case involved only a challenge to the elements of the prima facie case under *McDonnell Douglas* and *Burdine,* see Pet. for Cert. in *United States Postal Service Bd. of Gov rnors v. Aikens,* O.T.1981, No. 81-1044, and the question we confront today was neither briefed nor argued to the Court. As should be apparent, the entire purpose of the *McDonnell Douglas* prima facie case is to compensate for the fact that direct evidence of intentional discrimination is hard to come by. That the employer's burden in rebutting such an inferential case of discrimination is only one of production does not mean that the scales should be weighted in the same manner where there *is* direct evidence of intentional discrimination. Indeed, in one Age Discrimination in Employment Act case, the Court seemed to indicate that "the *McDonnell Douglas* test is inapplicable where the plaintiff presents direct evidence of discrimination." *Trans World*

Page 272

Airlines, Inc. v. Thurston, 469 U.S. 111, 121, 105 S.Ct. 613, 621-622, 83 L.Ed.2d 523 (1985). See also *East Texas Motor Freight System, Inc. v. Rodriguez,* 431 U.S. 395, 403-404, n. 9, 97 S.Ct. 1891, 1897, n. 9, 52 L.Ed.2d 453 (1977).

Second, the facts of this case, and a growing number like it decided by the Courts of Appeals, convince me that the evidentiary standard I propose is necessary to make real the promise of *McDonnell Douglas* that "[i]n the implementation of [employment] decisions, it is abundantly clear that Title VII tolerates no . . . discrimination, subtle or otherwise." 411 U.S., at 801, 93 S.Ct., at 1823-

1824. In this case, the District Court found that a number of the evaluations of Ann Hopkins submitted by partners in the firm overtly referred to her failure to conform to certain gender stereotypes as a factor militating against her election to the partnership. 618 F.Supp. 1109, 1116-1117 (DC 1985). The District Court further found that these evaluations were given "great weight" by the decisionmakers at Price Waterhouse. *Id.,* at 1118. In addition, the District Court found that the partner responsible for informing Hopkins of the factors which caused her candidacy to be placed on hold, indicated that her "professional" problems would be solved if she would "walk more femininely, talk more femininely, wear make-up, have her hair styled, and wear jewelry." *Id.,* at 1117 (footnote omitted). As the Court of Appeals characterized it, Ann Hopkins proved that Price Waterhouse "permitt[ed] stereotypical attitudes towards women to play a significant, though unquantifiable, role in its decision not to invite her to become a partner." 263 U.S.App.D.C., at 324, 825 F.2d, at 461.

At this point Ann Hopkins had taken her proof as far as it could go. She had proved discriminatory input into the decisional process, and had proved that participants in the process considered her failure to conform to the stereotypes credited by a number of the decisionmakers had been a substantial factor in the decision. It is as if Ann Hopkins were sitting in the hall outside the room where partnership decisions were being made. As the partners filed in to consider

Page 273

her candidacy, she heard several of them make sexist remarks in discussing her suitability for partnership. As the decisionmakers exited the room, she was *told* by one of those privy to the decisionmaking process that her gender was a major reason for the rejection of her partnership bid. If, as we noted in *Teamsters,* "[p]resumptions shifting the burden of proof are often created to reflect judicial evaluations of probabilities and to conform with a party's superior access to the proof," 431 U.S., at 359, n. 45, 97 S.Ct., at 1867, n. 45, one would be hard pressed to think of a situation where it would be more appropriate to require the defendant to show that its decision would have been justified by wholly legitimate concerns.

Moreover, there is mounting evidence in the decisions of the lower courts that respondent here is not alone in her inability to pinpoint discrimination as the precise cause of her injury, despite having shown that it played a significant role in the decisional process. Many of hese courts, which deal with the evidentiary issues in Title VII cases on a regular basis, have concluded that placing the risk of nonpersuasion on the defendant in a situation where uncertainty as to causation has been created by its consideration of an illegitimate criterion makes sense as a rule of evidence and furthers the substantive command of Title VII. See, *e.g., Bell v. Birmingham Linen Service,* 715 F.2d 1552, 1556 (CA11 1983) (Tjoflat, J.) ("It would be illogical, indeed ironic, to hold a Title VII plaintiff presenting direct evidence of a defendant's intent to discriminate to a more stringent burden of proof, or to allow a defendant to meet that direct proof by merely articulating, but not proving, legitimate, nondiscriminatory reasons for its action"). Particularly in the context of the professional world, where decisions are often made by collegial bodies on the basis of largely subjective criteria, requiring the plaintiff to prove that *any* one factor was the definitive cause of the decisionmakers' action may be tantamount to declaring Title VII inapplicable to such decisions. See, *e.g., Fields v. Clark University,* 817 F.2d 931, 935-937

Page 274

(CA1 1987) (where plaintiff produced "strong evidence" that sexist attitudes infected faculty tenure decision, burden properly shifted to

defendant to show that it would have reached the same decision absent discrimination); *Thompkins v. Morris Brown College,* 752 F.2d 558, 563 (CA11 1985) (direct evidence of discriminatory animus in decision to discharge college professor shifted burden of persuasion to defendant).

Finally, I am convinced that a rule shifting the burden to the defendant where the plaintiff has shown that an illegitimate criterion was a "substantial factor" in the employment decision will not conflict with other congressional policies embodied in Title VII. Title VII expressly provides that an employer need not give preferential treatment to employees or applicants of any race, color, religion, sex, or national origin in order to maintain a work force in balance with the general population. See 42 U.S.C. § 2000e-2(j). The interpretive memorandum, whose authoritative force is noted by the plurality, see *ante,* at 243, n. 8, specifically provides: "There is no requirement in title VII that an employer maintain a racial balance in his work force. On the contrary, any deliberate attempt to maintain a racial balance, whatever such a balance may be, would involve a violation of title VII because maintaining such a balance would require an employer to hire or refuse to hire on the basis of race." 110 Cong.Rec. 7213 (1964).

Last Term, in *Watson v. Fort Worth Bank & Trust,* 487 U.S. 977, 108 S.Ct. 2777, 101 L.Ed.2d 827 (1988), the Court unanimously concluded that the disparate impact analysis first enunciated in *Griggs v. Duke Power Co.,* 401 U.S. 424, 91 S.Ct. 849, 28 L.Ed.2d 158 (1971), should be extended to subjective or discretionary selection processes. At the same time a plurality of the Court indicated concern that the focus on bare statistics in the disparate impact setting could force employers to adopt "inappropriate prophylactic measures" in violation of § 2000e-2(j). The plurality went on to emphasize that in a disparate impact case, the plaintiff may not simply

Page 275

point to a statistical disparity in the employer's work force. Instead, the plaintiff must identify a particular employment practice and "must offer statistical evidence of a kind and degree sufficient to show that the practice in question has caused the exclusion of applicants for jobs or promotions because of their membership in a protected group." 487 U.S., at 994, 108 S.Ct., at 2789. The plurality indicated that "the ultimate burden of proving that discrimination against a protected group has been caused by a specific employment practice remains with the plaintiff at all times." *Id.,* at 997, 108 S.Ct., at 2790.

I believe there are significant differences between shifting the b rden of persuasion to the employer in a case resting purely on statistical proof as in the disparate impact setting and shifting the burden of persuasion in a case like this one, where an employee has demonstrated by direct evidence that an illegitimate factor played a substantial role in a particular employment decision. First, the explicit consideration of race, color, religion, sex, or national origin in making employment decisions "was the most obvious evil Congress had in mind when it enacted Title VII." *Teamsters,* 431 U.S., at 335, n. 15, 97 S.Ct., at 1854-1855, n. 15. While the prima facie case under *McDonnell Douglas* and the statistical showing of imbalance involved in a disparate impact case may both be indicators of discrimination or its "functional equivalent," they are not, in and of themselves, the evils Congress sought to eradicate from the employment setting. Second, shifting the burden of persuasion to the employer in a situation like this one creates no incentive to preferential treatment in violation of § 2000e-2(j). To avoid bearing the burden of justifying its decision, the employer need not seek racial or sexual balance in its work force; rather, all it need do is avoid substantial reliance on forbidden criteria in making its employment decisions.

While the danger of forcing employers to engage in unwarranted preferential treatment is thus less dramatic in this setting than in the situation the Court faced in *Watson,* it is far from wholly illusory. Based on its misreading of

Page 276

the words "because of" in the statute, see *ante,* at 240-242, the plurality appears to conclude that if a decisional process is "tainted" by awareness of sex or race in any way, the employer has violated the statute, and Title VII thus *commands* that the burden shift to the employer to justify its decision. *Ante,* at 250-252. The plurality thus effectively reads the causation requirement out of the statute, and then replaces it with an "affirmative defense." *Ante,* at 244-247.

In my view, in order to justify shifting the burden on the issue of causation to the defendant, a disparate treatment plaintiff must show by direct evidence that an illegitimate criterion was a substantial factor in the decision. As the Court of Appeals noted below: "While most circuits have not confronted the question squarely, the consensus among those that have is that once a Title VII plaintiff has demonstrated by direct evidence that discriminatory animus played a significant or substantial role in the employment decision, the burden shifts to the employer to show that the decision would have been the same absent discrimination." 263 U.S.App.D.C., at 333-334, 825 F.2d, at 470-471. Requiring that the plaintiff demonstrate that an illegitimate factor played a substantial role in the employment decision identifies those employment situations where the deterrent purpose of Title VII is most clearly implicated. As an evidentiary matter, where a plaintiff has made this type of strong showing of illicit motivation, the factfinder is entitled to presume that the employer's discriminatory animus made a difference to the outcome, absent proof to the contrary from the employer. Where a disparate treatment plaintiff has made such a showing, the burden then rests with the employer to convince the trier of fact that it is more likely than not that the decision would have been the same absent consideration of the illegitimate factor. The employer need not isolate the sole cause for the decision; rather it must demonstrate that with the illegitimate factor removed from the calculus, sufficient business reasons would have induced it to take the same employment

Page 277

action. This evidentiary scheme essentially requires the employer to place the employee in the same position he or she would have occupied absent discrimination. Cf. *Mt. Healthy City Bd. of Ed. v. Doyle,* 429 U.S. 274, 286, 97 S.Ct. 568, 575, 50 L.Ed.2d 471 (1977). If the employer fails to carry this burden, the factfinder is justified in concluding that the decision was made "because of" consideration of the illegitimate factor and the substantive standard for liability under the statute is satisfied.

Thus, stray remarks in the workplace, while perhaps probative of sexual harassment, see *Meritor Savings Bank v. Vinson,* 477 U.S. 57, 63-69, 106 S.Ct. 2399, 2404-2407, 91 L.Ed.2d 49 (1986), cannot justify requiring the employer to prove that its hiring or promotion decisions were based on legitimate criteria. Nor can statements by nondecisionmakers, or statements by decisionmakers unrelated to the decisional process itself, suffice to satisfy the plaintiff's burden in this regard. In addition, in my view testimony such as Dr. Fiske's in this case, standing alone, would not justify shifting the burden of persuasion to the employer. Race and gender always "play a role" in an employment decision in the benign sense that these are human characteristics of which decisionmakers are aware and about which they may comment in a perfectly neutral and nondiscriminatory fashion. For example, in the context of this case, a mere reference to "a

lady candidate" might show that gender "played a role" in the decision, but by no means could support a rational factfinder's inference that the decision was made "because of" sex. What is required is what Ann Hopkins showed here: direct evidence that decisionmakers placed substantial negative reliance on an illegitimate criterion in reaching their decision.

It should be obvious that the threshold standard I would adopt for shifting the burden of persuasion to the defendant differs substantially from that proposed by the plurality, the plurality's suggestion to the contrary notwithstanding. See *ante,* at 250, n. 13. The plurality proceeds from the premise that the words "because of" in the statute do not embody any

Page 278

causal requirement at all. Under my approach, the plaintiff must produce evidence sufficient to show that an illegitimate criterion was a substantial factor in the particular employment decision such that a reasonable factfinder could draw an inference that the decision was made "because of" the plaintiff's protected status. Only then would the burden of proof shift to the defendant to prove that the decision would have been justified by other, wholly legitimate considerations. See also *ante,* at 259-260 (WHITE, J., concurring in judgment).

In sum, because of the concerns outlined above, and because I believe that the deterrent purpose of Title VII is disserved by a rule which places the burden of proof on plaintiffs on the issue of causation in all circumstances, I would retain but supplement the framework we established in *McDonnell Douglas* and subsequent cases. The structure of the presentation of evidence in an individual disparate treatment case should conform to the general outlines we established in *McDonnell Douglas* and *Burdine*. First, the plaintiff must establish the *McDonnell Douglas* prima facie case by showing membership in a protected group, qualification for the job, rejection for the position, and that after rejection the employer continued to seek applicants of complainant's general qualifications. *McDonnell Douglas,* 411 U.S., at 802, 93 S.Ct., at 1824. The plaintiff should also present any direct evidence of discriminatory animus in the decisional process. The defendant should then present its case, including its evidence as to legitimate, nondiscriminatory reasons for the employment decision. As the dissent notes, under this framework, the employer "has every incentive to convince the trier of fact that the decision was lawful." *Post,* at 292, citing *Burdine,* 450 U.S., at 258, 101 S.Ct., at 1096. Once all the evidence has been received, the court should determine whether the *McDonnell Douglas* or *Price Waterhouse* framework properly applies to the evidence before it. If the plaintiff has failed to satisfy the *Price Waterhouse* threshold, the case should be decided under the principles enunciated in *McDonnell Douglas* and *Burdine,*

Page 279

with the plaintiff bearing the burden of persuasion on the ultimate issue whether the employment action was taken because of discrimination. In my view, such a system is both fair and workable, and it calibrates the evidentiary requirements demanded of the parties to the goals behind the statute itself.

I agree with the dissent, see *post,* at 293, n. 4, that the evidentiary framework I propose should be available to all disparate treatment plaintiffs where an illegitimate consideration played a substantial role in an adverse employment decision. The Court's allocation of the burden of proof in *Johnson v. Transportation Agency, Santa Clara County,* 480 U.S. 616, 626-627, 107 S.Ct. 1442, 1449, 94 L.Ed.2d 615 (1987), rested squarely on "the analytical framework set forth in *McDonnell Douglas,*" *id.,* at 626, 107 S.Ct., at

1449, which we alter today. It would be odd to say the least if the evidentiary rules applicable to Title VII actions were themselves dependent on the gender or the skin color of the litigants. But see *ante,* at 239, n. 3.

In this case, I agree with the plurality that petitioner should be called upon to show that the outcome would have been the same if respondent's professional merit had been its only concern. On remand, the District Court should determine whether Price Waterhouse has shown by a preponderance of the evidence that if gender had not been part of the process, its employment decision concerning Ann Hopkins would nonetheless have been the same.

Justice KENNEDY, with whom the Chief Justice and Justice SCALIA join, dissenting.

Today the Court manipulates existing and complex rules for employment discrimination cases in a way certain to result in confusion. Continued adherence to the evidentiary scheme established in *McDonnell Douglas Corp. v. Green,* 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973), and *Texas Dept. of Community Affairs v. Burdine,* 450 U.S. 248, 101 S.Ct. 1089, 67 L.Ed.2d 207 (1981), is a wiser course than creation of more disarray in an area of the law already difficult for the bench and bar, and so I must dissent.

Page 280

Before turning to my reasons for disagreement with the Court's disposition of the case, it is important to review the actual holding of today's decision. I read the opinions as establishing that in a limited number of cases Title VII plaintiffs, by presenting direct and substantial evidence of discriminatory animus, may shift the burden of persuasion to the defendant to show that an adverse employment decision would have been supported by legitimate reasons. The shift in the burden of persuasion occurs only where a plaintiff proves by direct evidence that an unlawful motive was a substantial factor actually relied upon in making the decision. *Ante,* at 276-277 (opinion of O'CONNOR, J.); *ante,* at 259-260 (opinion of WHITE, J.). As the opinions make plain, the evidentiary scheme created today is not for every case in which a plaintiff produces evidence of stray remarks in the workplace. *Ante,* at 251 (opinion of BRENNAN, J.); *ante,* at 277 (opinion of O'CONNOR, J.).

Where the plaintiff makes the requisite showing, the burden that shifts to the employer is to show that legitimate employment considerations would have justified the decision without reference to any impermissible motive. *Ante,* at 260-261 (opinion of WHITE, J.); *ante,* at 278 (opinion of O'CONNOR, J.). The employer's proof on the point is to be presented and reviewed just as with any other evidentiary question: the Court does not accept the plurality's suggestion that an employer's evidence need be "objective" or otherwise out of the ordinary. *Ante,* at 261 (opinion of WHITE, J.).

In sum, the Court alters the evidentiary framework of *McDonnell Douglas* and *Burdine* for a closely defined set of cases. Although Justice O'CONNOR advances some thoughtfu arguments for this change, I remain convinced that it is unnecessary and unwise. More troubling is the plurality's rationale for today's decision, which includes a number of unfortunate pronouncements on both causation and methods of proof in employment discrimination cases. To demonstrate the defects in the plurality's reasoning, it is nec-

Page 281

essary to discuss, first, the standard of causation in Title VII cases, and, second, the burden of proof.

I

The plurality describes this as a case about the standard of *causation* under Title VII, *ante,* at 237, but I respectfully suggest that the description is misleading. Much of the plurality's rhetoric is spent denouncing a "but-for" standard of causation. The theory of Title VII liability the plurality adopts, however, essentially incorporates the but-for standard. The importance of today's decision is not the standard of causation it employs, but its shift to the defendant of the burden of proof. The plurality's causation analysis is misdirected, for it is clear that, whoever bears the burden of proof on the issue, Title VII liability requires a finding of but-for causation. See also *ante,* at 261, and n. (opinion of WHITE, J.); *ante,* at 262-263 (opinion of O'CONNOR, J.).

The words of Title VII are not obscure. The part of the statute relevant to this case provides:

"It shall be an unlawful employment practice for an employer—

"(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, *because of* such individual's race, color, religion, sex, or national origin." 42 U.S.C. § 2000e-2(a)(1) (emphasis added).

By any normal understanding, the phrase "because of" conveys the idea that the motive in question made a difference to the outcome. We use the words this way in everyday speech. And assuming, as the plurality does, that we ought to consider the interpretive memorandum prepared by the statute's drafters, we find that this is what the words meant to them as well. "To discriminate is to make a distinction, to make a difference in treatment or favor." 110 Cong.Rec. 7213 (1964). Congress could not have chosen a clearer way

Page 282

to indicate that proof of liability under Title VII requires a showing that race, color, religion, sex, or national origin caused the decision at issue.

Our decisions confirm that Title VII is not concerned with the mere presence of impermissible motives; it is directed to employment decisions that result from those motives. The verbal formulae we have used in our precedents are synonymous with but-for causation. Thus we have said that providing different insurance coverage to male and female employees violates the statute by treating the employee " 'in a manner which but-for that person's sex would be different.' " *Newport News Shipbuilding & Dry Dock Co. v. EEOC,* 462 U.S. 669, 683, 103 S.Ct. 2622, 2631, 77 L.Ed.2d 89 (1983), quoting *Los Angeles Dept. of Water and Power v. Manhart,* 435 U.S. 702, 711, 98 S.Ct. 1370, 1377, 55 L.Ed.2d 657 (1978). We have described the relevant question as whether the employment decision was "based on" a discriminatory criterion, *Teamsters v. United States,* 431 U.S. 324, 358, 97 S.Ct. 1843, 1866, 52 L.Ed.2d 396 (1977), or whether the particular employment decision at issue was "made on the basis of" an impermissible factor, *Cooper v. Federal Reserve Bank of Richmond,* 467 U.S. 867, 875, 104 S.Ct. 2794, 2799, 81 L.Ed.2d 718 (1984).

What we term "but-for" cause is the least rigorous standard that is consistent with the approach to causation our precedents describe. If a motive is not a but-for cause of an event, then by definition it did not make a difference to the outcome. The event would have occurred just the same without it. Common-law approaches to causation often require proof of but-for cause as a starting point toward proof of legal cause. The law may require more than but-for cause, for instance proximate cause, before imposing liability. Any standard less than but-for, however, simply represents a decision to

impose liability without causation. As Dean Prosser puts it, "[a]n act or omission is not regarded as a cause of an event if the particular event would have occurred without it." W. Keeton, D. Dobbs, R. Keeton, & D. Owen, Prosser and Keeton on Law of Torts 265 (5th ed. 1984).

Page 283

One of the principal reasons the plurality decision may sow confusion is that it claims Title VII liability is unrelated to but-for causation, yet it adopts a but-for standard once it has placed the burden of proof as to causation upon the employer. This approach conflates the question whether causation must be shown with the question of how it is to be shown. Because the plurality's theory of Title VII causation is ultimately consistent with a but-for standard, it might be said that my disagreement with the plurality's comments on but-for cause is simply academic. See *ante,* at 259 (opinion of WHITE, J.). But since those comments seem to influence the decision, I turn now to that part of the plurality's analysis.

The plurality begins by noting the quite unremarkable fact that Title VII is written in the present tense. *Ante,* at 240-241. It is unlawful "to fail" or "to refuse" to provide employment benefits on the basis of sex, not "to have failed" or "to have refused" to have done so. The plurality claims that the present tense excludes a but-for inquiry as the relevant standard because but-for causation is necessarily concerned with a hypothetical inquiry into how a past event would have occurred absent the contested motivation. This observation, however, tells us nothing of particular relevance to Title VII or the cause of action it creates. I am unaware of any federal prohibitory statute that is written in the past tense. Every liability determination, including the novel one constructed by the plurality, necessarily is concerned with the examination of a past event.[1] The plurality's analysis of verb tense serves only to divert attention from the causation requirement that is made part of the statute by the "because

Page 284

of" phrase. That phrase, I respectfully submit, embodies a rather simple concept that the plurality labors to ignore.[2]

We are told next that but-for cause is not required, since the words "because of" do not mean "*solely* because of." *Ante,* at 241. No one contends, however, that sex must be the sole cause of a decision before there is a Title VII violation. This is a separate question from whether consideration of sex must be *a* cause of the decision. Under the accepted approach to causation that I have discussed, sex is a cause for the employment decision whenever, either by itself or in combination with other factors it made a difference to the decision. Discrimination need not be the sole cause in order for liability to arise, but merely a necessary element of the set of factors that caused the decision, *i.e.,* a but-for cause. See *McDonald v. Santa Fe Trail Transportation Co.,* 427 U.S. 273, 282, n. 10, 96 S.Ct. 2574, 2580, n. 10, 49 L.Ed.2d 493 (1976). The plurality seems to say that since we know the words "because of" do not mean "solely because of," they must not mean "because of" at all. This does not follow, as a matter of either semantics or logic.

The plurality's reliance on the "bona fide occupational qualification" (BFOQ) provisions of Title VII, 42 U.S.C. § 2000e-2(e), is particularly inapt. The BFOQ provisions allow an employer, in certain cases, to make an employment decision of which it is conceded that sex is the cause. That sex may be the legitimate cause of an employment decision where gender is a BFOQ is consistent with the opposite com-

Page 285

mand that a decision caused by sex in any other case justifies the imposition of Title VII

liability. This principle does not support, however, the novel assertion that a violation has occurred where sex made no difference to the outcome.

The most confusing aspect of the plurality's analysis of causation and liability is its internal inconsistency. The plurality begins by saying: "When . . . an employer considers both gender and legitimate factors at the time of making a decision, that decision was 'because of' sex and the other, legitimate considerations—even if we may say later, in the context of litigation, that the decision would have been the same if gender had not been taken into account." *Ante,* at 241. Yet it goes on to state that "an employer shall not be liable if it can prove that, even if it had not taken gender into account, it would have come to the same decision." *Ante,* at 242.

Given the language of the statute, these statements cannot both be true. Title VII unambiguously states that an employer who makes decisions "because of" sex has violated the statute. The plurality's first statement therefore appears to indicate that an employer who considers illegitimate reasons when making a decision is a violator. But the opinion then tells us that the employer who shows that the same decision would have been made absent consideration of sex is *not* a violator. If the second statement is to be reconciled with the language of Title VII, it must be that a decision that would have been the same absent consideration of sex was not made "because of" sex. In other words, there is no violation of the statute absent but-for causation. The plurality's description of the "same decision" test it adopts supports this view. The opinion states that "[a] court that finds for a plaintiff under this standard has effectively concluded that an illegitimate motive was a 'but-for' cause of the employment decision," *ante,* at 249, and that this "is not an imposition of liability 'where sex made no difference to the outcome,' " *ante,* at 246, n. 11.

Page 286

The plurality attempts to reconcile its internal inconsistency on the causation issue by describing the employer's showing as an "affirmative defense." This is nothing more than a label, and one not found in the language or legislative history of Title VII. Section 703(a)(1) is the statutory basis of the cause of action, and the Court is obligated to explain how its disparate-treatment decisions are consistent with the terms of § 703(a)(1), not with general themes of legislative history or with other parts of the statute that are plainly inapposite. While the test ultimately adopted by the plurality may not be inconsistent with the terms of § 703(a)(1), see *infra,* at 292, the same cannot be said of the plurality's reasoning with respect to causation. As Justice O'CONNOR describes it, the plurality "reads the causation requirement out of the statute, and then replaces it with an 'affirmative defense.' " *Ante,* at 276. Labels aside, the import of today's decision is not that Title VII liability can arise without but-for causation, but that in certain cases it is not the plaintiff who must prove the presence of causation, but the defendant who must prove its absence.

II

We established the order of proof for individual Title VII disparate-treatment cases in *McDonnell Douglas Corp. v. Green,* 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973), and reaffirmed this allocation in *Texas Dept. of Community Affairs v. Burdine,* 450 U.S. 248, 101 S.Ct. 1089, 67 L.Ed.2d 207 (1981). Under *Burdine,* once the plaintiff presents a prima facie case, an inference of discrimination arises. The employer must rebut the inference by articulating a legitimate nondiscriminatory reason for its action. The final burden of persuasion, however, belongs to the plaintiff. *Burdine* makes clear that the "ultimate burden of persuading the trier of fact that the defendant intentionally discriminated against the

plaintiff remains at all times with the plaintiff." *Id.,* at 253, 101 S.Ct., at 1093. See also *Board of Trustees of Keene State College v.*

Page 287

Sweeney, 439 U.S. 24, 29, 99 S.Ct. 295, 297, 58 L.Ed.2d 216 (1978) (STEVENS, J., dissenting).[3] I would adhere to this established evidentiary framework, which provides the appropriate standard for this and other individual disparate-treatment cases. Today's creation of a new set of rules for "mixed-motives" cases is not mandated by the statute itself. The Court's attempt at refinement provides limited practical benefits at the cost of confusion and complexity, with the attendant risk that the trier of fact will misapprehend the controlling legal principles and reach an incorrect decision.

In view of the plurality's treatment of *Burdine* and our other disparate-treatment cases, it is important first to state why those cases are dispositive here. The plurality tries to reconcile its approach with *Burdine* by announcing that it applies only to a "pretext" case, which it defines as a case in which the plaintiff attempts to prove that the employer's proffered explanation is itself false. *Ante,* at 245-247, and n. 11. This ignores the language of *Burdine,* which states that a plaintiff may succeed in meeting her ultimate burden of persuasion "*either* directly by persuading the court that a discriminatory reason more likely motivated the employer or indirectly by showing that the employer's proffered explanation is unworthy of credence." 450 U.S., at 256, 101 S.Ct., at 1095 (emphasis added). Under the first of these two alternative methods, a plaintiff meets her burden if she can "persuade the court that the employment decision more likely than not was motivated by a discriminatory reason." *United States Postal Service Bd. of Governors v. Aikens,* 460 U.S. 711, 717-718, 103 S.Ct. 1478, 1483, 75 L.Ed.2d 403 (1983)

Page 288

(BLACKMUN, J., concurring). The plurality makes no attempt to address this aspect of our cases.

Our opinions make plain that *Burdine* applies to all individual disparate-treatment cases, whether the plaintiff offers direct proof that discrimination motivated the employer's actions or chooses the indirect method of showing that the employer's proffered justification is false, that is to say, a pretext. See *Aikens, supra,* at 714, n. 3, 103 S.Ct., at 1481, n. 3 ("As in any lawsuit, the plaintiff may prove his case by direct or circumstantial evidence"). The lurality is mistaken in suggesting that the plaintiff in a so-called "mixed-motives" case will be disadvantaged by having to "squeeze her proof into *Burdine's* framework." *Ante,* at 247. As we acknowledged in *McDonnell Douglas,* "[t]he facts necessarily will vary in Title VII cases," and the specification of the prima facie case set forth there "is not necessarily applicable in every respect to differing factual situations." 411 U.S., at 802, n. 13, 93 S.Ct., at 1824, n. 13. The framework was "never intended to be rigid, mechanized, or ritualistic." *Aikens, supra,* 460 U.S., at 715, 103 S.Ct., at 1482. *Burdine* compels the employer to come forward with its explanation of the decision and permits the plaintiff to offer evidence under either of the logical methods for proof of discrimination. This is hardly a framework that confines the plaintiff; still less is it a justification for saying that the ultimate burden of proof must be on the employer in a mixed-motives case. *Burdine* provides an orderly and adequate way to place both inferential and direct proof before the factfinder for a determination whether intentional discrimination has caused the employment decision. Regardless of the character of the evidence presented, we have consistently held that the ultimate burden "remains at all times with the plaintiff." *Burdine, supra,* 450 U.S., at 253, 101 S.Ct., at 1093.

Aikens illustrates the point. There, the evidence showed that the plaintiff, a black man, was far more qualified than any of the white applicants promoted ahead of him. More important, the testimony showed that "the person responsible for the promotion decisions at issue had made numerous

Page 289

derogatory comments about blacks in general and Aikens in particular." 460 U.S., at 713-714, n. 2, 103 S.Ct., at 1481, n. 2. Yet the Court in *Aikens* reiterated that the case was to be tried under the proof scheme of *Burdine*. Justice BRENNAN and Justice BLACKMUN concurred to stress that the plaintiff could prevail under the *Burdine* scheme in either of two ways, one of which was directly to persuade the court that the employment decision was motivated by discrimination. 460 U.S., at 718, 103 S.Ct., at 1483. *Aikens* leaves no doubt that the so-called "pretext" framework of *Burdine* has been considered to provide a flexible means of addressing all individual disparate-treatment claims.

Downplaying the novelty of its opinion, the plurality claims to have followed a "well-worn path" from our prior cases. The path may be well worn, but it is in the wrong forest. The plurality again relies on Title VII's BFOQ provisions, under which an employer bears the burden of justifying the use of a sex-based employment qualification. See *Dothard v. Rawlinson,* 433 U.S. 321, 332-337, 97 S.Ct. 2720, 2728-2730, 53 L.Ed.2d 786 (1977). In the BFOQ context this is a sensible, indeed necessary, allocation of the burden, for there by definition sex is the but-for cause of the employment decision and the only question remaining is how the employer can justify it. The same is true of the plurality's citations to Pregnancy Discrimination Act cases, *ante,* at 248. In such cases there is no question that pregnancy was the cause of the disputed action. The Pregnancy Discrimination Act and BFOQ cases tell us nothing about the case where the employer claims not that a sex-based decision was justified, but that the decision was not sex-based at all.

Closer analogies to the plurality's new approach are found in *Mt. Healthy City Bd. of Ed. v. Doyle,* 429 U.S. 274, 97 S.Ct. 568, 50 L.Ed.2d 471 (1977), and *NLRB v. Transportation Management Corp.,* 462 U.S. 393, 103 S.Ct. 2469, 76 L.Ed.2d 667 (1983), but these cases were decided in different contexts. *Mt. Healthy* was a First Amendment case involving the firing of a teacher, and *Transportation Management* involved review of the NLRB's interpretation of the National Labor Re-

Page 290

lations Act. The *Transpo tation Management* decision was based on the deference that the Court traditionally accords NLRB interpretations of the statutes it administers. See 462 U.S., at 402-403, 103 S.Ct., at 2474-2475. Neither case therefore tells us why the established *Burdine* framework should not continue to govern the order of proof under Title VII.

In contrast to the plurality, Justice O'CONNOR acknowledges that the approach adopted today is a "departure from the *McDonnell Douglas* standard." *Ante,* at 262. Although her reasons for supporting this departure are not without force, they are not dispositive. As Justice O'CONNOR states, the most that can be said with respect to the Title VII itself is that "nothing in the language, history, or purpose of Title VII *prohibits* adoption" of the new approach. *Ante,* at 269 (emphasis added). Justice O'CONNOR also relies on analogies from the common law of torts, other types of Title VII litigation, and our equal protection cases. These analogies demonstrate that shifts in the burden of proof are not unprecedented in the law of torts or employment discrimination. Nonetheless, I believe continued adherence to the *Burdine* framework is more consistent with the statutory mandate. Congress' manifest

concern with preventing imposition of liability in cases where discriminatory animus did not actually cause an adverse action, see *ante,* at 262 (opinion of O'CONNOR, J.), suggests to me that an affirmative showing of causation should be required. And the most relevant portion of the legislative history supports just this view. See n. 3, *supra*. The limited benefits that are likely to be produced by today's innovation come at the sacrifice of clarity and practical application.

The potential benefits of the new approach, in my view, are overstated. First, the Court makes clear that the *Price Waterhouse* scheme is applicable only in those cases where the plaintiff has produced direct and substantial proof that an impermissible motive was relied upon in making the decision at issue. The burden shift properly will be found to apply in

Page 291

only a limited number of employment discrimination cases. The application of the new scheme, furthermore, will make a difference only in a smaller subset of cases. The practical importance of the burden of proof is the "risk of nonpersuasion," and the new system will make a difference only where the evidence is so evenly balanced that the factfinder cannot say that either side's explanation of the case is "more likely" true. This category will not include cases in which the allocation of the burden of proof will be dispositive because of a complete lack of evidence on the causation issue. Cf. *Summers v. Tice,* 33 Cal.2d 80, 199 P.2d 1 (1948) (allocation of burden dispositive because no evidence of which of two negligently fired shots hit plaintiff). Rather, *Price Waterhouse* will apply only to cases in which there is substantial evidence of reliance on an impermissible motive, as well as evidence from the employer that legitimate reasons supported its action.

Although the *Price Waterhouse* system is not for every case, almost every plaintiff is certain to ask for a *Price Waterhouse* instruction, perhaps on the basis of "stray remarks" or other evidence of discriminatory animus. Trial and appellate courts will therefore be saddled with the task of developing standards for determining when to apply the burden shift. One of their new tasks will be the generation of a jurisprudence of the meaning of "substantial factor." Courts will also be required to make the often subtle and difficult distinction between "direct" and "indirect" or "circumstantial" evidence. Lower courts long have had difficulty applying *McDonnell Douglas* and *Burdine*. Addition of a second burden-shifting mechanism, the application of which itself depends on assessment of credibility and a determination whether evidence is sufficiently direct and substantial, is not likely t lend clarity to the process. The presence of an existing burden-shifting mechanism distinguishes the individual disparate-treatment case from the tort, class-action discrimination, and equal protection cases on which

Page 292

Justice O'CONNOR relies. The distinction makes Justice WHITE'S assertions that one "need look only to" *Mt. Healthy* and *Transportation Management* to resolve this case, and that our Title VII cases in this area are "inapposite," *ante,* at 258-260, at best hard to understand.

Confusion in the application of dual burden-shifting mechanisms will be most acute in cases brought under 42 U.S.C. § 1981 or the Age Discrimination in Employment Act (ADEA), where courts borrow the Title VII order of proof for the conduct of jury trials. See, *e.g.,* Note, The Age Discrimination in Employment Act of 1967 and Trial by Jury: Proposals for Change, 73 Va.L.Rev. 601 (1987) (noting high reversal rate caused by use of Title VII burden shifting in a jury setting). Perhaps such cases in the future will

require a bifurcated trial, with the jury retiring first to make the credibility findings necessary to determine whether the plaintiff has proved that an impermissible factor played a substantial part in the decision, and later hearing evidence on the "same decision" or "pretext" issues. Alternatively, perhaps the trial judge will have the unenviable task of formulating a single instruction for the jury on all of the various burdens potentially involved in the case.

I do not believe the minor refinement in Title VII procedures accomplished by today's holding can justify the difficulties that will accompany it. Rather, I "remain confident that the *McDonnell Douglas* framework permits the plaintiff meriting relief to demonstrate intentional discrimination." *Burdine,* 450 U.S., at 258, 101 S.Ct., at 1096. Although the employer does not bear the burden of persuasion under *Burdine,* it must offer clear and reasonably specific reasons for the contested decision, and has every incentive to persuade the trier of fact that the decision was lawful. *Ibid.* Further, the suggestion that the employer should bear the burden of persuasion due to superior access to evidence has little force in the Title VII context, where the liberal discovery rules available to all litigants are supplemented by EEOC investigatory files. *Ibid.*

Page 293

In sum, the *Burdine* framework provides a "sensible, orderly way to evaluate the evidence in light of common experience as it bears on the critical question of discrimination," *Aikens,* 460 U.S., at 715, 103 S.Ct., at 1482, and it should continue to govern the order of proof in Title VII disparate-treatment cases.[4]

III

The ultimate question in every individual disparate-treatment case is whether discrimination caused the par icular decision at issue. Some of the plurality's comments with respect to the District Court's findings in this case, however, are potentially misleading. As the plurality notes, the District Court based its liability determination on expert evidence that some evaluations of respondent Hopkins were based on unconscious sex stereotypes,[5] and on the fact that

Page 294

Price Waterhouse failed to disclaim reliance on these comments when it conducted the partnership review. The District Court also based liability on Price Waterhouse's failure to "make partners sensitive to the dangers [of stereotyping], to discourage comments tainted by sexism, or to investigate comments to determine whether they were influenced by stereotypes." 618 F.Supp. 1109, 1119 (DC 1985).

Although the District Court's version of Title VII liability is improper under any of today's opinions, I think it important to stress that Title VII creates no independent cause of action for sex stereotyping. Evidence of use by decisionmakers of sex stereotypes is, of course, quite relevant to the question of discriminatory intent. The ultimate question, however, is whether discrimination caused the plaintiff's harm. Our cases do not support the suggestion that failure to "disclaim reliance" on stereotypical comments itself violates Title VII. Neither do they support creation of a "duty to sensitize." As the dissenting judge in the Court of Appeals observed, acceptance of such theories would turn Title VII "from a prohibition of discriminatory conduct into an engine for rooting out sexist thoughts." 263 U.S.App.D.C. 321, 340, 825 F.2d 458, 477 (1987) (Williams, J., dissenting).

Employment discrimination claims require factfinders to make difficult and sensitive decisions. Sometimes this may mean that no finding of discrimination is justified

even though a qualified employee is passed over by a less than admirable employer. In other cases, Title VII's protections properly extend to plaintiffs who are by no means model employees. As Justice BRENNAN notes, *ante,* at 258, courts do not sit to determine whether litigants are nice. In this

Page 295

case, Hopkins plainly presented a strong case both of her own professional qualifications and of the presence of discrimination in Price Waterhouse's partnership process. Had the District Court found on this record that sex discrimination caused the adverse decision, I doubt it would have been reversible error. Cf. *Aikens, supra,* 460 U.S., at 714, n. 2, 103 S.Ct., at 1481, n. 2. That decision was for the finder of fact, however, and the District Court made plain that sex discrimination was not a but-for cause of the decision to place Hopkins' partnership candidacy on hold. Attempts to evade tough decisions by erecting novel theories of liability or multitiered systems of shifting burdens are misguided.

IV

The language of Title VII and our well-considered precedents require this plaintiff to establish that the decision to place her candidacy on hold was made "because of" sex. Here the District Court found that the "comments of the individual partners and the expert evidence of Dr. Fiske do not prove an intentional discriminatory motive or purpose," 618 F.Supp., at 1118, and that "[b]ecause plaintiff has considerable problems dealing with staff and peers, the Court cannot say that she would have been elected to partnership if the Policy Board's decision had not been tainted by sexually based evaluations," *id.,* at 1120. Hopkins thus failed to meet the requisite standard of proof after a full trial. I would remand the case for entry of judgment in favor of Price Waterhouse.

[1.] Before the time for reconsideration came, two of the partners in Hopkins' office withdrew their support for her, and the office informed her that she would not be reconsidered for partnership. Hopkins then resigned. Price Waterhouse does not challenge the Court of Appeals' conclusion that the refusal to repropose her for partnership amounted to a constructive discharge. That court remanded the case to the District Court for further proceedings to determine appropriate relief, and those proceedings have been stayed pending our decision. Brief for Petitioner 15, n. 3. We are concerned today only with Price Waterhouse's decision to place Hopkins' candidacy on hold. Decisions pertaining to advancement to partnership are, of course, subject to challenge under Title VII. *Hishon v. King & Spalding,* 467 U.S. 69, 104 S.Ct. 2229, 81 L.Ed.2d 59 (1984).

[2.] This question has, to say the least, left the Circuits in disarray. The Third, Fourth, Fifth, and Seventh Circuits require a plaintiff challenging an adverse employment decision to show that, but for her gender (or race or religion or national origin), the decision would have been in her favor. See, *e.g., Bellissimo v. Westinghouse Electric Corp.,* 764 F.2d 175, 179 (CA3 1985), cert. denied, 475 U.S. 1035, 106 S.Ct. 1244, 89 L.Ed.2d 353 (1986); *Ross v. Communications Satellite Corp.,* 759 F.2d 355, 365-366 (CA4 1985); *Peters v. Shreveport,* 818 F.2d 1148, 1161 (CA5 1987); *McQuillen v. Wisconsin Education Assn. Council,* 830 F.2d 659, 664-665 (CA7 1987). The First, Second, Sixth, and Eleventh Circuits, on the other hand, hold that once the plaintiff has shown that a discriminatory motive was a "substantial" or "motivating" factor in an employment decision, the employer may avoid a finding of liability only by proving that it would have made the same decision even in the absence of discrimination. These courts have either specified that the employer must prove its case by a preponderance of the evidence or

have not mentioned the proper standard of proof. See, *e.g., Fields v. Clark University,* 817 F.2d 931, 936-937 (CA1 1987) ("motivating factor"); *Berl v. Westchester County,* 849 F.2d 712, 714-715 (CA2 1988) ("substantial part"); *Terbovitz v. Fiscal Court of Adair County, Ky.,* 825 F.2d 111, 115 (CA6 1987) ("motivating factor"); *Bell v. Birmingham Linen Service,* 715 F.2d 1552, 1557 (CA11 1983). The Court of Appeals for the District of Columbia Circuit, as shown in this case, follows the same rule except that it requires that the employer's proof be clear and convincing rather than merely preponderant. 263 U.S.App.D.C. 321, 333-334, 825 F.2d 458, 470-471 (1987); see also *Toney v. Block,* 227 U.S.App.D.C. 273, 275, 705 F.2d 1364, 1366 (1983) (Scalia, J.) (it would be "destructive of the purposes of [Title VII] to require the plaintiff to establish . . . the difficult hypothetical proposition that, had there been no discrimination, the employment decision would have been made in his favor"). The Court of Appeals for the Ninth Circuit also requires clear and convincing proof, but it goes further by holding that a Title VII violation is made out as soon as the plaintiff shows that an impermissible motivation played a part in an employment decision—at which point the employer may avoid reinstatement and an award of backpay by proving that it would have made the same decision in the absence of the unlawful motive. See, *e.g. Fadhl v. City and County of San Francisco,* 741 F.2d 1163, 1165-1166 (1984) (Kennedy, J.) ("significant factor"). Last, the Court of Appeals for the Eighth Circuit draws the same distinction as the Ninth between the liability and remedial phases of Title VII litigation, but requires only a preponderance of the evidence from the employer. See, *e.g., Bibbs v. Block,* 778 F.2d 1318, 1320-1324 (1985) (en banc) ("discernible factor").

3. We disregard, for purposes of this discussion, the special context of affirmative action.

4. Congress specifically declined to require that an employment decision have been "for cause" in order to escape an affirmative penalty (such as reinstatement or backpay) from a court. As introduced in the House, the bill that became Title VII forbade such affirmative relief if an "individual was . . . refused employment or advancement, or was suspended or discharged *for cause*." H.R.Rep. No. 7152, 88th Cong., 1st Sess., 77 (1963) (emphasis added). The phrase "for cause" eventually was deleted in favor of the phrase "for any reason other than" one of the enumerated characteristics. See 110 Cong.Rec. 2567-2571 (1964). Representative Celler explained that this substitution "specif[ied] cause"; in his view, a court "cannot find any violation of the act which is based on facts other . . . than discrimination on the grounds of race, color, religion, or national origin." *Id.,* at 2567.

5. In this Court, Hopkins for the first time argues that Price Waterhouse violated § 703(a)(2) when it subjected her to a biased decisionmaking process that "tended to deprive" a woman of partnership on the basis of her sex. Since Hopkins did not make this argument below, we do not address it.

6. We made passing reference to a similar question in *McDonald v. Santa Fe Trail Transportation Co.,* 427 U.S. 273, 282, n. 10, 96 S.Ct. 2574, 2580, n. 10, 49 L.Ed.2d 493 (1976), where we stated that when a Title VII plaintiff seeks to show that an employer's explanation for a challenged employment decision is pretextual, "no more is required to be shown than that race was a 'but for' cause." This passage, however, does not suggest that the plaintiff *must* show but-for cause; it indicates only that if she does so, she prevails. More important, *McDonald* dealt with the question whether the employer's stated reason for its decision was *the* reason for its action; unlike the case before us today, therefore, *McDonald* did not involve mixed motives. This difference is decisive in

distinguishing this case from those involving "pretext." See *infra,* at 247, n. 12.

7. Congress specifically rejected an amendment that would have placed the word "solely" in front of the words "because of." 110 Cong.Rec. 2728, 13837 (1964).

8. We have in the past acknowledged the authoritativeness of this interpretive memorandum, written by the two bipartisan "captains" of Title VII. See, *e.g., Firefighters v. Stotts,* 467 U.S. 561, 581, n. 14, 104 S.Ct. 2576, 2589, n. 14, 81 L.Ed.2d 483 (1984).

9. Many of the legislators' statements, such as the memorandum quoted in text, focused specifically on race rather than on gender or religion or national origin. We do not, however, limit their statements to the context of race, but instead we take them as general statements on the meaning of Title VII. The somewhat bizarre path by which "sex" came to be included as a forbidden criterion for employment—it was included in an attempt to *defeat* the bill, see C. & B. Whalen, The Longest Debate: A Legislative History of the 1964 Civil Rights Act 115-117 (1985)—does not persuade us that the legislators' statements pertaining to race are irrelevant to cases alleging gender discrimination. The amendment that added "sex" as one of the forbidden criteria for employment was passed, of course, and the statute on its face treats each of the enumerated categories exactly the same.

By the same token, our specific references to gender throughout this opinion, and the principles we announce, apply with qual force to discrimination based on race, religion, or national origin.

10. Hopkins argues that once she made this showing, she was entitled to a finding that Price Waterhouse had discriminated against her on the basis of sex; as a consequence, she says, the partnership's proof could only limit the relief she received. She relies on Title VII's § 706(g), which permits a court to award affirmative relief when it finds that an employer "has intentionally engaged in or is intentionally engaging in an unlawful employment practice," and yet forbids a court to order reinstatement of, or backpay to, "an individual . . . if such individual was refused . . . employment or advancement or was suspended or discharged *for any reason other than* discrimination on account of race, color, religion, sex, or national origin." 42 U.S.C. § 2000e-5(g) (emphasis added). We do not take this provision to mean that a court inevitably can find a violation of the statute without having considered whether the employment decision would have been the same absent the impermissible motive. That would be to interpret § 706(g)—a provision defining *remedies* to influence the substantive commands of the statute. We think that this provision merely limits courts' authority to award affirmative relief in those circumstances in which a violation of the statute is not dependent upon the effect of the employer's discriminatory practices on a particular employee,

as in pattern-or-practice suits and class actions. "The crucial difference between an individual's claim of discrimination and a class action alleging a general pattern or practice of discrimination is manifest. The inquiry regarding an individual's claim is the reason for a particular employment decision, while 'at the liability stage of a pattern-or-practice trial the focus often will not be on individual hiring decisions, but on a pattern of discriminatory decisionmaking.' " *Cooper v. Federal Reserve Bank of Richmond,* 467 U.S. 867, 876, 104 S.Ct. 2794, 2799-2800, 81 L.Ed.2d 718 (1984), quoting *Teamsters v. United States,* 431 U.S. 324, 360, n. 46, 97 S.Ct. 1843, 1867, n. 46, 52 L.Ed.2d 396 (1977).

Without explicitly mentioning this portion of § 706(g), we have in the past held that Title VII does not authorize affirmative relief for

individuals as to whom, the employer shows, the existence of systemic discrimination had no effect. See *Franks v. Bowman Transportation Co.,* 424 U.S. 747, 772, 96 S.Ct. 1251, 1268, 47 L.Ed.2d 444 (1976); *Teamsters v. United States, supra,* 431 U.S., at 324, 367-371, 97 S.Ct., at 1870-1873; *East Texas Motor Freight System, Inc. v. Rodriguez,* 431 U.S. 395, 404, n. 9, 97 S.Ct. 1891, 1897, n. 9, 52 L.Ed.2d 453 (1977). These decisions suggest that the proper focus of § 706(g) is on claims of systemic discrimination, not on charges of individual discrimination. Cf. *NLRB v. Transportation Management Corp.,* 462 U.S. 393, 103 S.Ct. 2469, 76 L.Ed.2d 667 (1983) (upholding the National Labor Relations Board's identical interpretation of § 10(c) of the National Labor Relations Act, 29 U.S.C. § 160(c), which contains language almost identical to § 706(g)). would have made the same decision even if it had not discriminated, this is not an imposition of liability "whe

[11.] Given that both the plaintiff and defendant bear a burden of proof in cases such as this one, it is surprising that the dissent insists that our approach requires the employer to bear "the ultimate burden of proof." *Post,* at 288. It is, moreover, perfectly consistent to say *both* that gender was a factor in a particular decision when it was made *and* that, when the situation is viewed hypothetically and after the fact, the same decision would have been made even in the absence of discrimination. Thus, we do not see the "internal inconsistency" in our opinion that the dissent perceives. See *post,* at 285-286. Finally, where liability is imposed because an employer is unable to prove that it would have made the same decision even if it had not discriminated, this is not an imposition of liability "where sex made no difference to the outcome." *Post,* at 285. In our adversary system, where a party has the burden of proving a particular assertion and where that party is unable to meet its burden, we assume that that assertion is inaccurate. Thus, where an employer is unable to prove its claim that it would have made the same decision in the absence of discrimination, we are entitled to conclude that gender *did* make a difference to the outcome.

[12.] Nothing in this opinion should be taken to suggest that a case must be correctly labele as either a "pretext" case or a "mixed-motives" case from the beginning in the District Court; indeed, we expect that plaintiffs often will allege, in the alternative, that their cases are both. Discovery often will be necessary before the plaintiff can know whether both legitimate and illegitimate considerations played a part in the decision against her. At some point in the proceedings, of course, the District Court must decide whether a particular case involves mixed motives. If the plaintiff fails to satisfy the factfinder that it is more likely than not that a forbidden characteristic played a part in the employment decision, then she may prevail only if she proves, following *Burdine,* that the employer's stated reason for its decision is pretextual. The dissent need not worry that this evidentiary scheme, if used during a jury trial, will be so impossibly confused and complex as it imagines. See, *e.g., post,* at 292. Juries long have decided cases in which defendants raised affirmative defenses. The dissent fails, moreover, to explain why the evidentiary scheme that we endorsed over 10 years ago in *Mt. Healthy City Bd. of Ed. v. Doyle,* 429 U.S. 274, 97 S.Ct. 568, 50 L.Ed.2d 471 (1977), has not proved unworkable in that context but would be hopelessly complicated in a case brought under federal antidiscrimination statutes.

[13.] After comparing this description of the plaintiff's proof to that offered by Justice O'Connor's opinion, concurring in the judgment, *post,* at 276-277, we do not understand why the concurrence suggests that they are meaningfully different from each other, see *post,* at 275, 277-279. Nor do we see how the inquiry that we have described is

"hypothetical," see *post,* at 283, n. 1. It seeks to determine the content of the entire set of reasons for a decision, rather than shaving off one reason in an attempt to determine what the decision would have been in the absence of that consideration. The inquiry that we describe thus strikes us as a distinctly nonhypothetical one.

14. Justice WHITE's suggestion, *post,* at 261, that the employer's own testimony as to the probable decision in the absence of discrimination is due special credence where the court has, contrary to the employer's testimony, found that an illegitimate factor played a part in the decision, is baffling.

15. We reject the claim, advanced by Price Waterhouse here and by the dissenting judge below, that the District Court clearly erred in finding that Beyer was "responsible for telling [Hopkins] what problems the Policy Board had identified with her candidacy." 618 F.Supp., at 1117. This conclusion was reasonable in light of the testimony at trial of a member of both the Policy Board and the Admissions Committee, who stated that he had "no doubt" that Beyer would discuss with Hopkins the reasons for placing her candidacy on hold and that Beyer "knew exactly where the problems were" regarding Hopkins. Tr. 316.

16. We do not understand the dissenters' dissatisfaction with the District Judge's statements regarding the failure of Price Waterhouse to "sensitize" partners to the dangers of sexism. *Post,* at 294. Made in the context of determining that Price Waterhouse had not disclaimed reliance on sex-based evaluations, and following the judge's description of the firm's history of condoning such evaluations, the judge's remarks seem to us justified.

* I agree with the plurality that if the employer carries this burden, there has been no violation of Title VII.

1. The plurality's description of its own standard is both hypothetical and retrospective. The inquiry seeks to determine whether "if we asked the employer at the moment of decision what its reasons were and if we received a truthful response, one of those reasons would be that the applicant or employee was a woman." *Ante,* at 250.

2. The plurality's discussion of overdetermined causes only highlights the error of its insistence that but-for is not the substantive standard of causation under Title VII. The opinion discusses the situation where two physical forces move an object, and either force acting alone would have moved the object. *Ante,* at 241. Translated to the context of Title VII, this situation would arise where an employer took an adverse action in reliance both on sex and on legitimate reasons, and *either* the illegitimate or the legitimate reason standing alone would have produced the action. If this state of affairs is proved to the factfinder, there will be no liability under the plurality's own test, for the same decision would have been made had the illegitimate reason never been considered.

3. The interpretive memorandum on which the plurality relies makes plain that "the plaintiff, as in any civil case, would have the burden of proving that discrimination had occurred." 110 Cong.Rec. 7214 (1964). Coupled with its earlier definition of discrimination, the memorandum tells us that the plaintiff bears the burden of showing that an impermissible motive "made a difference" in the treatment of the plaintiff. This is none other than the traditional requirement that the plaintiff show but-for cause.

4. The plurality states that it disregards the special context of affirmative action. *Ante,* at 239, n. 3. It is not clear that this is possible. Some courts have held that in a suit challenging an affirmative-action plan, the question of the plan's validity need not be reached unless the plaintiff shows that the

plan was a but-for cause of the adverse decision. See *McQuillen v. Wisconsin Education Association Council,* 830 F.2d 659, 665 (CA7 1987), cert. denied, 485 U.S. 914, 108 S.Ct. 1068, 99 L.Ed.2d 248 (1988). Presumably it will be easier for a plaintiff to show that consideration of race or sex pursuant to an affirmative-action plan was a substantial factor in a decision, and the court will need to move on to the question of a plan's validity. Moreover, if the structure of the burdens of proof in Title VII suits is to be consistent, as might be expected given the identical statutory language involved, today's decision suggests that plaintiffs should no longer bear the burden of showing that affirmative-action plans are illegal. See *Johnson v. Transportation Agency, Santa Clara County,* 480 U.S. 616, 626-627, 107 S.Ct. 1442, 1449, 94 L.Ed.2d 615 (1987).

5. The plaintiff who engages the services of Dr. Susan Fiske should have no trouble showing that sex discrimination played a part in any decision. Price Waterhouse chose not to object to Fiske's testimony, and at this late stage we are constrained to accept it, but I think the plurality's enthusiasm for Fiske's conclusions unwarranted. Fiske purported to discern stereotyping in comments that were gender neutral—*e.g.,* "overbearing and abrasive"—without any knowledge of the comments' basis in reality and without having met the speaker or subject. "To an expert of Dr. Fiske's qualifications, it seems plain that no woman could *be* overbearing, arrogant, or abrasive: any observations to that effect would necessarily be discounted as the product of stereotyping. If analysis like this is to prevail in federal courts, no employer can base any adverse action as to a woman on such attributes." 263 U.S.App.D.C. 321, 340, 825 F.2d 458, 477 (1987) (Williams, J., dissenting). Today's opinions cannot be read as requiring factfinders to credit testimony based on this type of analysis. See also *ante,* at 277 (opinion of O'CONNOR, J.).

Note: This policy addresses discrimination, harassment, and retaliation against~~involving~~ District employees. For Title IX and other provisions regarding~~For~~ discrimination, harassment, and retaliation against~~involving~~ students, see FFH. For reporting requirements related to child abuse and neglect, see FFG.

Definitions

Solely for purposes of this policy, the term "employee" includes former employees, applicants for employment, and unpaid interns.

Statement of Nondiscrimination

The District prohibits discrimination, including harassment, against any employee on the basis of race, color, religion, sex, national origin, age, disability, armed forces service, genetic information, pregnancy~~, sex~~, or any other basis prohibited by law. Retaliation against anyone involved in the complaint process is a violation of District policy and is prohibited.

Discrimination

Discrimination against an employee is defined as conduct directed at an employee by another employee or a third party under the District's disciplinary authority on the basis of race, color, religion, sex, national origin, age, disability, armed forces service, genetic information, pregnancy~~, sex~~, or any other basis prohibited by law, that adversely affects the employee's employment.

In accordance with law, discrimination on the basis of sex includes discrimination on the basis of biological sex, gender identity, sexual orientation, gender stereotypes, or any other prohibited basis related to sex.

Prohibited Conduct

In this policy, the term "prohibited conduct" includes discrimination, harassment, and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.

Prohibited conduct also includes sexual harassment as defined by Title IX. [See FFH(LEGAL)]

Prohibited Harassment

Prohibited harassment of an employee is defined as physical, verbal, or nonverbal conduct based on an employee's race, color, religion, sex, national origin, age, disability, armed forces service, genetic information, pregnancy~~, sex~~, or any other basis prohibited by law, when the conduct is so severe, persistent, or pervasive that the conduct:

1. Has the purpose or effect of unreasonably interfering with the employee's work performance;

2. Creates an intimidating, threatening, hostile, or offensive work environment; or

3. Otherwise adversely affects the employee's performance, environment, or employment opportunities.

Examples

Examples of prohibited harassment may include offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, gender identity, or need for workplace accommodation; threatening or intimidating conduct; offensive jokes, name calling, slurs, or rumors; cyberharassment; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other negative stereotypes; or other kindstypes of aggressive conduct such as theft or damage to property.

Sex-Based Harassment

As required by law, the District shall follow the procedures below at Response to Sexual Harassment—Title IX upon a report of sex-based harassment, including sexual harassment, when such allegations, if proved, would meet the definition of sexual harassment under Title IX. [See FFH(LEGAL)]

Sexual Harassment

Sexual harassment is a form of sex discrimination defined as unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

1. Submission to the conduct is either explicitly or implicitly a condition of an employee's employment, or when submission to or rejection of the conduct is the basis for an employment action affecting the employee; or

2. The conduct is so severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with the employee's work performance or creates an intimidating, threatening, hostile, or offensive work environment.

Examples

Examples of sexual harassment may include sexual advances; touching intimate body parts; coercing or forcing a sexual act on another; jokes or conversations of a sexual nature; and other sexually motivated conduct, contact, or communication, including electronic communicationor contact.

~~**Retaliation**~~

~~The District prohibits retaliation against an employee who makes a claim alleging to have experienced discrimination or harassment, or another employee who, in good faith, makes a report, serves as a witness, or otherwise participates in an investigation. The District shall investigate allegations of retaliation and take action against those found to have retaliated.~~

~~Examples~~

~~Examples of retaliation may include termination, refusal to hire, demotion, and denial of promotion. Retaliation may also include threats, unjustified negative evaluations, unjustified negative references, or increased surveillance.~~

~~**Prohibited Conduct**~~ ~~In this policy, the term "prohibited conduct" includes discrimination, harassment, and retaliation as defined by this policy, even if the behavior does not rise to the level of unlawful conduct.~~

Reporting Procedures

Any~~An~~ employee who believes that he or she has experienced prohibited conduct or believes that another employee has experienced prohibited conduct should immediately report the alleged acts. The employee may report the alleged acts to his or her supervisor or campus principal. The employee may also submit an incident form available on the District's internal website.

Alternatively, the employee may report the alleged acts to one of the District officials below.

Definition of District Officials

For the purposes of this policy, District officials are the Title IX coordinator, the ADA/Section 504 coordinator, and the Superintendent.

Title IX Coordinator

Reports of discrimination based on sex, including sexual harassment, may be directed to the designated Title IX coordinator. [See DIA(EXHIBIT)]

ADA / Section 504 Coordinator

Reports of discrimination based on disability may be directed to the designated ADA/Section 504 coordinator. [See DIA(EXHIBIT)]

Superintendent

The Superintendent shall serve as coordinator for purposes of District compliance with all other nondiscrimination~~antidiscrimination~~ laws.

Alternative Reporting Procedures

An employee shall not be required to report prohibited conduct to the person alleged to have committed the conduct~~it~~. Reports concerning prohibited conduct, including reports against the Title IX coordinator or ADA/Section 504 coordinator, may be directed to the Superintendent.

A report against the Superintendent may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.

Timely Reporting

To ensure the District's prompt investigation, reports~~Reports~~ of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. ~~A failure to promptly report may impair the District's ability to investigate and address the prohibited conduct.~~

Notice of Report

Any District supervisor who receives a report of prohibited conduct shall immediately notify the appropriate District official listed above and take any other steps required by this policy.

Any District employee who receives a report of prohibited conduct based on sex, including sexual harassment, shall immediately notify the Title IX coordinator.

Investigation of Reports Other Than Title IX~~the Report~~

The following procedures apply to all allegations of prohibited conduct other than allegations of harassment prohibited by Title IX. [See FFH(LEGAL)] For allegations of sex-based harassment that, if proved, would meet the definition of sexual harassment under Title IX, see the procedures below at Response to Sexual Harassment—Title IX.

The District may request, but shall not require~~insist upon~~, a written report. If a report is made orally, the District official shall reduce the report to written form.

Initial Assessment

Upon receipt or notice of a report, the District official shall determine whether the allegations, if proved~~proven~~, would constitute prohibited conduct as defined by this policy. If so, the District ~~official~~ shall immediately authorize or undertake an adequate, reliable, and impartial investigation, regardless of whether a criminal or regulatory investigation regarding the same or similar allegations is pending.

Interim Action

If appropriate, the District shall promptly take interim action calculated to prevent prohibited conduct during the course of an investigation.

District Investigation

The investigation may be conducted by the District official or a designee, such as the campus principal, or by a third party designated by the District, such as an attorney. When appropriate, the ~~campus~~ principal or supervisor shall be involved in or informed of the investigation.

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The parties shall have the opportunity, as appropriate, to identify witnesses and evidence that will assist in the investigation. The investigation may also include analysis of other information or documents related to the allegations.

Concluding the Investigation

Absent extenuating circumstances, the investigation should be completed within ten District business days from the date of the report; however, the investigator shall take additional time if necessary to complete a thorough investigation.

The investigator shall prepare a written report of the investigation. The report shall be filed with the District official overseeing the in-

vestigation. Written notice of the findings shall be given to the parties involved in the complaint investigated, as appropriate, and in accordance with confidentiality and privacy laws, including FERPA.

District Action

If the results of an investigation indicate that prohibited conduct occurred, the District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct. The District shall enforce its policies and regulations to prevent a recurrence of any discrimination and to correct its effects on those involved in the investigation. [See Retaliation, below~~above~~]

The District may take action based on the results of an investigation, even if the conduct did not rise to the level of prohibited or unlawful conduct.

Confidentiality

To the greatest extent possible, the District shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.

Appeal

A complainant who is dissatisfied with the outcome of the investigation may appeal through DGBA(LOCAL), beginning at the appropriate level.

The complainant may have a right to file a complaint with appropriate state or federal agencies.

Response to Sexual Harassment—Title IX

General Response

For purposes of the District's response to reports of harassment prohibited by Title IX, definitions can be found in FFH(LEGAL).

When the District receives notice or an allegation of conduct that, if proved, would meet the definition of sexual harassment under Title IX, the Title IX coordinator shall promptly contact the complainant to:

- Discuss the availability of supportive measures and inform the complainant that they are available, with or without the filing of a formal complaint;
- Consider the complainant's wishes with respect to supportive measures; and
- Explain to the complainant the option and process for filing a formal complaint.

The District's response to sexual harassment shall treat complainants and respondents equitably by offering supportive measures to both parties, as appropriate, and by following the Title IX formal complaint process before imposing disciplinary sanctions or other actions that are not supportive measures against a respondent.

If a formal complaint is not filed, the District reserves the right to investigate and respond to prohibited conduct in accordance with Board policies and administrative procedures.

Title IX Formal Complaint Process

To distinguish the process described below from the District's general grievance policies [see DGBA, FNG, and GF], this policy refers to the grievance process required by Title IX regulations for responding to formal complaints of sexual harassment as the District's "Title IX formal complaint process."

The Superintendent shall ensure the development of a Title IX formal complaint process that complies with legal requirements. [See FFH(LEGAL)] The formal complaint process shall be posted on the District's website. In compliance with Title IX regulations, the District's Title IX formal complaint process shall address the following basic requirements:

1. Equitable treatment of complainants and respondents;
2. An objective evaluation of all relevant evidence;
3. A requirement that the Title IX coordinator, investigator, decision-maker, or any person designated to facilitate an informal resolution process not have a conflict of interest or bias;
4. A presumption that the respondent is not responsible for the alleged sexual harassment until a determination is made at the conclusion of the Title IX formal complaint process;
5. Time frames that provide for a reasonably prompt conclusion of the Title IX formal complaint process, including time frames for appeals and any informal resolution process, and that allow for temporary delays or the limited extension of time frames with good cause and written notice as required by law;
6. A description of the possible disciplinary sanctions and remedies that may be implemented following a determination of responsibility for the alleged sexual harassment;
7. A statement of the standard of evidence to be used to determine responsibility for all Title IX formal complaints of sexual harassment;
8. Procedures and permissible bases for the complainant and respondent to appeal a determination of responsibility or a dismissal of a Title IX formal complaint or any allegations therein;
9. A description of the supportive measures available to the complainant and respondent;

10. A prohibition on using or seeking information protected under a legally recognized privilege unless the individual holding the privilege has waived the privilege;

11. Additional formal complaint procedures in 34 C.F.R. 106.45(b), including written notice of a formal complaint, consolidation of formal complaints, recordkeeping, and investigation procedures; and

12. Other local procedures as determined by the Superintendent.

Standard of Evidence

The standard of evidence used to determine responsibility in a Title IX formal complaint of sexual harassment shall be the preponderance of the evidence.

Retaliation

The District prohibits retaliation against an employee who makes a claim alleging to have experienced discrimination or harassment, or another employee who, in good faith, makes a report of harassment or discrimination, files a complaint of harassment or discrimination, serves as a witness, or otherwise participates or refuses to participate in an investigation. The District shall investigate allegations of retaliation and take action against those found to have retaliated.

Examples

Examples of retaliation may include termination, refusal to hire, demotion, and denial of promotion. Retaliation may also include threats, intimidation, coercion, unjustified negative evaluations, unjustified negative references, or increased surveillance.

Records Retention

The District shall retain copies of allegations~~Copies of reports alleging prohibited conduct~~, investigation reports, and related records regarding any prohibited conduct in accordance with ~~shall be maintained by~~ the District's records control schedules, but ~~District~~ for no less than the minimum amount~~a period~~ of time required by law.~~at least three years.~~ [See CPC]

[For Title IX recordkeeping and retention provisions, see FFH(LEGAL) and the District's Title IX formal complaint process.]

Access to Policy and Procedures

Information regarding this~~This~~ policy and any accompanying procedures shall be distributed annually to District employees. Copies of the policy and procedures shall be posted on the District's website, to the extent practicable, and readily available at each campus and the District's~~District~~ administrative offices.

UIL Activities

State Board and UIL rules shall govern interscholastic activities; however, Board policies and District rules may supplement State Board and UIL rules.

No event shall be scheduled and no student allowed to participate in any UIL event unless all pertinent rules and regulations are strictly enforced. The Superintendent or designee shall maintain all necessary records and reports. Sponsors and coaches are responsible for knowledge of and compliance with rules for eligibility and participation. [See FM]

Athletic Program

A well-rounded program of interscholastic athletics shall be maintained in the District secondary schools. The operation of the total program, including the starting and ending dates for each sport, shall be in accordance with regulations set by the UIL and the Board.

Supervision of the program shall be the responsibility of the Superintendent, but certain responsibilities may be delegated to other staff members. In each school, the principal shall have direct responsibility to maintain the athletic program as an integral part of the educational program of that school.

Interschool competitive athletics shall not be part of the elementary grades' program. To the extent practicable, a program of intraschool sports activities for elementary students shall be maintained as part of the physical education program.

Non-UIL Activities

Contests and competitive activities that are sponsored by outside organizations shall not be recommended to students unless the activities supplement and do not interfere with the regular school program. Contests and competitive activities shall have the prior approval of the Superintendent or designee, who shall develop the necessary rules and regulations to implement this policy. [See FM]

Overnight Trips

Students involved in UIL competition above the UIL-district level that requires an overnight trip shall have their expenses paid by the District. [See also FM, FMG]

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, November 5, 2020

Agenda Item:	District and Campus Improvement Plans Report
Purpose (this meeting):	☒ Discussion Item/Report Only ☐ Action Requested
Action Requested (future meeting):	Thursday, November 19, 2020
Administrator Responsible:	Sarah Grissom
Attachments:	District and Campus Improvement Plans Presentation District and Campus Goals and Objectives

Background Information:

Each year the administrative team provides the Board of Trustees a presentation on the District Improvement Plan (DIP) and Campus Improvement Plans (CIPs). Due to the absence of a state accountability report for 2020, some campuses were required by the Texas Education Agency (TEA) to continue to address the performance of certain student groups or a specific domain through a Targeted Improvement Plan (TIP) or through their Campus Improvement Plan (CIP). More information regarding Targeted Improvement Plans will be provided during the presentation.

In addition to the presentation, a document containing the district and campus goals and objectives is attached. The complete District Improvement Plan and Campus Improvement Plans are available to the Board of Trustees at this link.

Administrative Recommendation:

The Administration recommends that the Board approve the district and campus goals, objectives, and associated Targeted Improvement Plans as presented.

Sample Motion:

I move that the Board approve the district and campus goals, objectives, and associated Targeted Improvement Plans as presented.

DISTRICT AND CAMPUS IMPROVEMENT PLANS REPORT

November 5, 2020

PURPOSE

Provide an overview of the improvement process and the alignment of the district goals, performance objectives, District Improvement Plan, and the Campus Improvement Plans.

341

LEANDER ISD

Leander ISD District Improvement Plan

Maximize academic growth for each student.

Prepare each student for college and career success.

Inspire the whole child.

Engage every child in relevant learning.

Engage, Inspire, and Achieve for Life-Long Success

Ensure a world class workforce focused on student achievement.

Manage district resources effectively.

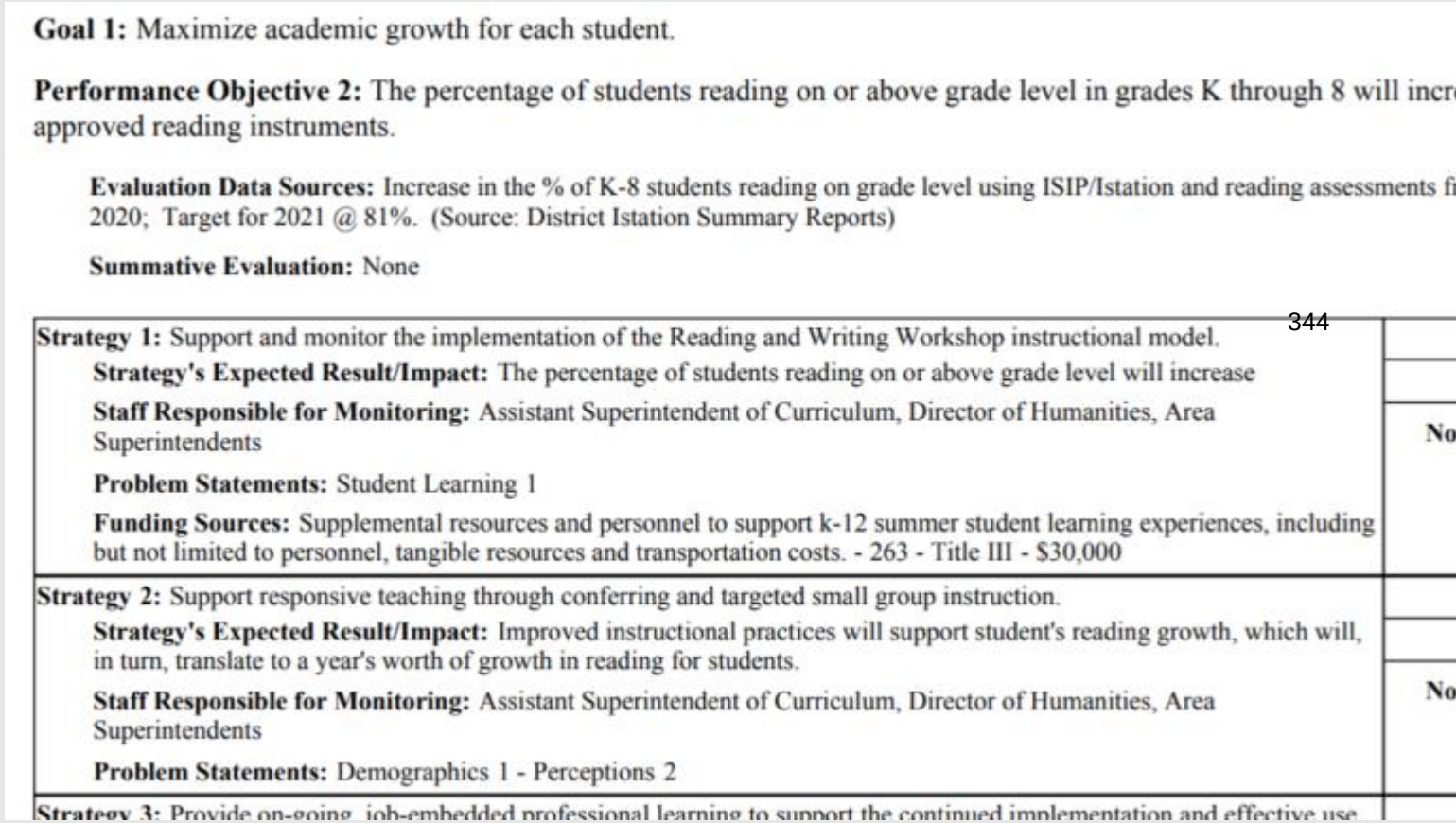
Communicate effectively with our community to build relationships.

IMPROVEMENT PROCESS



DISTRICT, CAMPUS AND TARGETED IMPROVEMENT PLANS

- Goals
- Objectives
- Strategies
- Expected Result/Impact
- Monitor
- Addendum - Targeted Improvement Plans (TIP)



Goal 1: Maximize academic growth for each student.

Performance Objective 2: The percentage of students reading on or above grade level in grades K through 8 will incr
approved reading instruments.

Evaluation Data Sources: Increase in the % of K-8 students reading on grade level using ISIP/Istation and reading assessments f
2020; Target for 2021 @ 81%. (Source: District Istation Summary Reports)

Summative Evaluation: None

344

Strategy 1: Support and monitor the implementation of the Reading and Writing Workshop instructional model.
Strategy's Expected Result/Impact: The percentage of students reading on or above grade level will increase
Staff Responsible for Monitoring: Assistant Superintendent of Curriculum, Director of Humanities, Area Superintendents
Problem Statements: Student Learning 1
Funding Sources: Supplemental resources and personnel to support k-12 summer student learning experiences, including but not limited to personnel, tangible resources and transportation costs. - 263 - Title III - $30,000

Strategy 2: Support responsive teaching through conferring and targeted small group instruction.
Strategy's Expected Result/Impact: Improved instructional practices will support student's reading growth, which will, in turn, translate to a year's worth of growth in reading for students.
Staff Responsible for Monitoring: Assistant Superintendent of Curriculum, Director of Humanities, Area Superintendents
Problem Statements: Demographics 1 - Perceptions 2

Strategy 3: Provide on-going, job-embedded professional learning to support the continued implementation and effective use

DISCUSSION

Leander Independent School District

District Improvement Plan

Goals/Performance Objectives

2020-2021



346

Table of Contents

District Improvement Plan Goals 2020-2021 4
Akin Elementary Goals 2020-2021 7
Bagdad Elementary Goals 2020-2021 8
Block House Creek Elementary Goals 2020-2021 10
Camacho Elementary Goals 2020-2021 12
Canyon Ridge Middle School Goals 2020-2021 14
Cedar Park High School Goals 2020-2021 16
Cedar Park Middle School Goals 2020-2021 18
Cox Elementary Goals 2020-2021 20
Cypress Elementary Goals 2020-2021 23
Danielson Middle School Goals 2020-2021 25
Deer Creek Elementary Goals 2020-2021 27
Faubion Elementary Goals 2020-2021 29
Four Points Middle School Goals 2020-2021 31
Giddens Elementary Goals 2020-2021 33
Glenn High School Goals 2020-2021 347 35
Grandview Hills Elementary Goals 2020-2021 37
Henry Middle School Goals 2020-2021 39
Knowles Elementary Goals 2020-2021 41
Larkspur Elementary Goals 2020-2021 43
Laura Welch Bush Elementary Goals 2020-2021 45
Leander Extended Opportunity Center (LEO) Goals 2020-2021 47
Leander High School Goals 2020-2021 48
Leander Middle School Goals 2020-2021 50
Mason Elementary Goals 2020-2021 52
Naumann Elementary Goals 2020-2021 54
New Hope High School Goals 2020-2021 56
Parkside Elementary Goals 2020-2021 58
Plain Elementary Goals 2020-2021 59
Pleasant Hill Elementary Goals 2020-2021 61
Reagan Elementary Goals 2020-2021 63
Reed Elementary Goals 2020-2021 65
River Place Elementary Goals 2020-2021 68
River Ridge Elementary Goals 2020-2021 70
Rouse High School Goals 2020-2021 72
Running Brushy Middle School Goals 2020-2021 74
Rutledge Elementary Goals 2020-2021 75
Steiner Ranch Elementary Goals 2020-2021 78

Stiles Middle School Goals 2020-2021 79
Vandegrift High School Goals 2020-2021 81
Vista Ridge High School Goals 2020-2021 83
Westside Elementary Goals 2020-2021 84
Whitestone Elementary Goals 2020-2021 86
Wiley Middle School Goals 2020-2021 88
Winkley Elementary Goals 2020-2021 89

348

District Improvement Plan Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: The percentage of students across all student groups who demonstrate academic growth will increase in both Reading and Math as measured by state accountability (STAAR Progress Measure) and other district growth measures.

Performance Objective 2: The percentage of students reading on or above grade level in grades K through 8 will increase as measured by the district approved reading instruments.

Performance Objective 3: Decrease the performance gaps between students who are identified as economically disadvantaged, Black, Hispanic, ELL, and receiving Special Education services and the "all" student group on STAAR while maintaining or increasing current academic performance levels as measured by the STAAR assessment in reading, writing, and math.

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Increase the percent of students who are College, Career, or Military Ready upon graduation as measured by state and local accountability CCMR indicators.

Performance Objective 2: Ensure equitable access and participation to our advanced pathway courses (Advanced, AP, IB) by increasing the percentage of underrepresented, including Black, Hispanic and Economically Disadvantaged students participating in and successfully completing advanced courses in LISD through a strong system of support structures and recruitment efforts.

Performance Objective 3: Provide increased choices for students by expanding course offerings while increasing the number of middle school students participating in courses to earn high school credits prior to entering 9th grade.

Performance Objective 4: Increase the percent of 3rd-grade students who meet grade-level standards on the STAAR Reading by 2% to reach the 5-year goal of 66%.

Performance Objective 5: Provide curriculum revisions, resources, and support by implementing the district's HB 3 action plan in order to increase the percent of 3rd-grade students who meet the grade-level standards on the STAAR Math by 2% to reach the 5-year goal of 65%.

Goal 3: Inspire the whole child.

Performance Objective 1: Students in Leander ISD will self-report high levels of social emotional and physical wellness.

Performance Objective 2: All student groups will have less than two percent of students with one or more disciplinary incidents within five years.

Performance Objective 3: LISD students will identify a sense of belonging within their school.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Focus on the student experience (voice, choice, and ability to pursue passions and interests) by expanding participation in relevant, meaningful learning opportunities for students. 850

Performance Objective 2: Expand the effective use of digital content, resources, and technology-enabled instructional practices that promote engagement in authentic learning tasks as measured by the Technology and Learning Survey.

Goal 5: Ensure a world-class workforce focused on student achievement.

Performance Objective 1: Leander ISD will expand targeted professional learning programs to increase leadership capacity/effectiveness for employees.

Performance Objective 2: Enhance the LISD comprehensive professional learning framework and specifically, the role-based plans with a focus on culturally responsive practices.

Performance Objective 3: Implement and support high-functioning collaborative teams so that LISD functions as a Professional Learning Community at all levels of the organization.

Performance Objective 4: Review and enhance recruiting practices that will increase the diversity of the LISD teachers to more closely represent the make-up of the student population.

Performance Objective 5: Build capacity for all LISD staff to feel empowered to make decisions based on district core values and vision.

Goal 6: Manage district resources effectively.

Performance Objective 1: Leander ISD will develop a budget policy with the Board of Trustees to guide the development of the budget and provide a measurement for compliance.

Performance Objective 2: Leander ISD will ensure budgets align with educational priorities by developing a system guided by program evaluation.

Performance Objective 3: Leander ISD will maintain strong fiscal management by:
1) Maintaining a minimum of three months of operating funds in reserve.
2) Maintaining at least 20 percent of the next fiscal year's debt requirement.
3) Achieve a reserve fund of 30 percent of the next fiscal year's debt requirement.

Goal 7: Communicate effectively with our community to build relationships.

Performance Objective 1: Increase the percent of stakeholders who feel engaged with and connected to the schools, the district and the Board of Trustees.

We believe that community engagement is maximized when it occurs at every level of our district, led by the Board of Trustees. Measuring a variety of platforms that facilitate interactions among the Board of Trustees, district leaders, individual campuses, and the community will reflect the clearest picture of our connection strategies.

Akin Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase the percentage of students who meet or exceed Texas Education Agency (TEA) STAAR Performance Table measure for STAAR in Reading and Math by 2%. (Baseline from TEA Accountability Report: Reading 72%, Math 66%)

Performance Objective 2: Increase the percentage of students meeting masters level on STAAR Reading and Math by 2%.

Goal 2: Prepare each student for College and Career Success.

Performance Objective 1: The percentage of students reading on or above grade level will increase as measured by Istation from BOY to EOY.

Goal 3: Inspire the whole child.

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

352

Performance Objective 2: All student groups will have less than 2% of students with one or more disciplinary incidents this school year.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Expand and maintain the effective use of digital content, resources and technology-enabled instructional practices that promote engagement in authentic learning tasks as measured by the Technology and Learning Trends Survey (2019 results-increase to the next level and/or maintain proficient, advanced and exemplary status.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Implement and support high-functioning collaborative teams to support teacher and student learning at all levels.

Performance Objective 2: Build and increase by 2% the capacity for staff to feel empowered to make decisions based on core values and vision.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Increase communications with our families to enhance our relationships within our community.

Performance Objective 2: Increase the percent of stakeholders who feel engaged with and connected to Akin Elementary.

Bagdad Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase the percent of students reading on or above grade level in grades K through 5th by 3%.
2019: 70% K-5 tier 1 in Istation

Performance Objective 2: We will increase the percentage of students scoring at the level of the Meets on STAAR across all grades and content tested by 2%. (Aligned to the targeted support area for Academic Achievement-white student group.)
2019 Reading 41% (combined 3rd-5th)
2019 Math 50% (combined 3rd-5th)
2019 Writing 27% (4th Grade)
2019 Science 35% (5th grade)

Goal 2: Prepare each student for college and career success.

Performance Objective 1: 90% of all students K-5 will gain a year's growth or more in reading. (73% of students had at least a year's growth in the 2018-19 school year.)

Performance Objective 2: 47% of our third-grade students will meet or exceed expected progress on the 2020-2021 Reading STAAR.
From 2019: 44% of all third-grade students met or exceeded progress on the 2018-2019 Reading STAAR.

Goal 3: Inspire the whole child.

Performance Objective 1: Students responding to "I use coping skills/strategies to handle my strong emotions." will increase 5% in the all of the time or most of the time range. (BOY Survey: 54% rated themselves in the range of all of the time or most of the time.)
Students responding to "I can make and keep friends," will increase 5% in the all of the time or most of the time range. (BOY Survey: 82% rated themselves in the range of all of the time or most of the time.)

Performance Objective 2: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: 90% of students will be engaged in learning activities that align with the learning target. (Aligned to targeted support area for Student Success-white student group.) 85% of students in 2019 were engaged in learning activities aligned with the learning target.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Increase the overall level of implementation of the LISD PLC Collective Commitments for each collaborative team by at least one level from the Fall 2020 baseline as measured on the LISD Collaborative PLC Rubric. (At the beginning of the year 2020, the seven grade level teams' average was 4 out of 7. This rating is between Implementing and Developing.)

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Increase the percentage of respondents on the Community Engagement survey that mark agree or strongly agree to the following question by 3%:

"The campus provides me with adequate and timely communication" (2019 84% to 87%)

354

Block House Creek Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase the academic growth score in the accountability school progress domain in Reading and Math combined by 1% (specifically addressing: white-Reading and EcoDis-math). (Reading 73% Math 75%== 74% combined average 2019)

Performance Objective 2: Maintain a <5% achievement gap Reading and Math combined between students who are economically disadvantaged and all students as measured by STAAR . (Reading gap 5% Math gap 6% == 6% combined average 2019)

Goal 2: Prepare each student for college and career success.

Performance Objective 1: At least 90% of students K-5 will show at least a years growth from BOY to EOY reading levels as measured by running records.

(Kinder 83%, First 90%, Second 94%, Third 89%, Fourth 93% Fifth 88%==average 90% of students made at least a year's growth in reading May 2019)

Performance Objective 2: At least 36% of students will meet "Masters" level on STAAR in Reading and Math combined (Reading 34% Math 35% == 35% combined average 2019)

Goal 3: Inspire the whole child.

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Performance Objective 2: All student groups will have less than 2% of students with one or more disciplinary incidents for 20-21 school year.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: At least 90% or more of classroom teachers will score proficient or higher on Dimension 2.1 (supports all learners in their pursuit of high levels of academic and social emotional success) during formal observations.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Increase the leadership capacity/effectiveness of new classroom teachers by participating in PLC collaborative structures focused on student achievement. (baseline 2021)

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Increase communications with our families to enhance our relationships within our community.

356

Camacho Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase the percent of students at Tier 1 in each grade level (K - 5th) from September to May as measured by IStation and increase the percent of students On Track in DreamBox to 65% in each grade level.

Performance Objective 2: Increase the percentage of students in the All Students, Hispanic, White, Eco Dis, ELL and SPED student groups by 3% on the Meets level on STAAR in Reading and Math as measured by TEA's Closing the Gaps (Domain 3).

Performance Objective 3: Increase the percentage of students performing at the Approaches level in reading, math, writing, and science by 3% as measured by STAAR (Accountability Reports - All Students; STAAR Summary Report - By Grade Level).

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Increase the percentage of students performing at the Meets level in reading, math, writing, and science by 3% as measured by STAAR (Accountability Reports - All Students; STAAR Summary Report - By Grade Level). 357

Performance Objective 2: Increase the percentage of students performing at Masters level in reading, math, writing, and science by 3% as measured by STAAR. (Accountability Reports - All Students; STAAR Summary Report - By Grade Level).

Goal 3: Inspire the whole child.

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Performance Objective 2: 100% of students will receive two positive office referrals "Cosmo Kudos" for modeling behaviors that represent the Tribes 5 Agreements. Baseline to be established in 20-21.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: 90% of students will be engaged in learning activities that align with the learning target. Baseline to be established in 20-21.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Increase the level PLC implementation for each collaborative team by at least one level from Fall baseline to Spring as measured by the LISD Collaborative PLC Rubric.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Increase the percentage of parents that feel the campus provides them with adequate and timely communication from 68% to 71%.

358

Canyon Ridge Middle School Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: The percentage of students across all student groups who demonstrate academic growth will increase in both Reading and Math as measured by state accountability (STAAR Progress Measure) and other district growth measures.

Performance Objective 2: Decrease the performance gaps between students who are identified as Economically Disadvantaged, African American, Hispanic, Two or More Races, English Learners, and served through Special Education services and the "all" student group on STAAR, while maintaining or increasing current academic performance levels as measured by the STAAR assessment in reading, writing, and math.

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Provide increased choices for students by expanding course offerings while increasing the number of middle school students participating in courses to earn high school credits prior to entering 9th grade.

Goal 3: Inspire the whole child. 359

Performance Objective 1: During the 2020-2021 school year, CRMS will continue to implement a coordinated approach to school health that creates a healthy school environment and promotes physical activity, health, and wellness, as well as the success of the whole child.

Performance Objective 2: Create a more inclusive and equitable learning environment for all students so that all CRMS students will identify a sense of belonging within their school.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Through blended and virtual empowered learning, we will expand the effective use of digital content, resources and technology-enabled instructional practices to promote engagement in authentic learning tasks as measured by the Technology and Learning Survey.

Performance Objective 2: On the student survey, students will respond with "agree" or "strongly agree" to the statement "My teachers show me how lessons relate to life outside the classroom."

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: At least 95% of CRMS teachers will demonstrate growth in their professional goals utilizing new technology strategies in the blended learning model.

Performance Objective 2: Increase the effectiveness of campus-based Professional Learning Communities and support high-functioning collaborative

teams.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: We will enhance positive communication with our community during the 2020-2021 school year to increase the percent of stakeholders who feel engaged with and connected to the school.

360

Cedar Park High School Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Narrow the achievement gap in overall ELA course passing rates between African American students and Hispanic students compared to "All Students" by 5%.
2020 passing rates - All Students = 92%; African American = 83%; Hispanic students = 86%
Target = African American students - 88%; Hispanic students - 91%

Performance Objective 2: CPHS will demonstrate at least a 5% increase in in STAAR academic growth measure from the accountability school progress domain.

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Students in all grade levels will develop and be able to articulate a post secondary plan.

Performance Objective 2: We will improve the overall performance of all students on AP exams to increase the percentage of students earning college credit by 3%. We will improve the performance of students identified as economically disadvantaged on AP exams to increase the percentage of students earning college credit by 3%.
Baselines - All students = 74% Target = 77%; Economically disadvantaged = 64% Target = 67%

Performance Objective 3: We will increase the percentage of students who have met requirements for TSI college readiness indicator.

Goal 3: Inspire the whole child.

Performance Objective 1: By the end of the 2021 school year, we will have supports in place to ensure that all students and staff have mechanisms for communicating and discussing concerns related to equity and racism.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: A minimum of 60% of students will feel that they understand how lessons in their classes are related to life outside of school.

Performance Objective 2: Increase the percentage of graduates who complete a coherent sequence of CTE courses.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Teachers will develop proficiency in implementing technology based instructional strategies for virtual and in-person

learners.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Create transparent, two-way communication with students and parents implemented by all teaching, administrative and counseling staff at their individual level.

362

Cedar Park Middle School Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase in percentage of students across all student groups who demonstrate academic growth in both reading and math as measured by state accountability (STAAR Progress Measure) and other district growth measures.

Performance Objective 2: Decrease the performance gaps between students who are economically disadvantaged, Black, Hispanic, 2 or more races, English Language Learners, and Special Education, and the "all" student group on STAAR while maintaining or increasing current academic performance levels as measured by the STAAR assessment in reading, writing, and math.

Goal 2: Prepare each student for college and career success.

363

Performance Objective 1: The percentage of students scoring masters on the Algebra 1 EOC will be at or above 90%.

Performance Objective 2: Increase the percentage of AVID students enrolled in more than one advanced course.

Goal 3: Inspire the whole child.

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Performance Objective 2: Create a more inclusive and equitable learning environment so that all CPMS students will identify a sense of belonging within their school.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Increase the percentage of students that feel their teachers relate lessons to real world applications..

Performance Objective 2: Teachers will increase the use of the 4-C's during classroom instruction as measured by the Bright Bytes data moving CPMS from Emerging (900-999) to Proficient (1000-1099) in the teacher use of the 4-C reporting category.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: CPMS staff will work together to continue to create a safe, inclusive, and loving learning environment for every student (in-person or virtual learning).

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Enhance positive and effective communication with our community as shown on Climate Survey data.

364

Cox Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase overall performance levels in Reading: Approaches from 91% to 92%, Meets from 65% to 67%.
Increase overall performance levels in Math: Approaches from 93% to 94%, Meets from 69% to 70%, and Masters from 50% to 51 %.
Increase overall performance levels in Writing: Approaches from 82% to 83%, Meets from 54% to 55%, and Masters from 21% to 22%.
Increase overall performance levels in Science: Approaches from 94% to 95%, Meets 71% to 72%, and Masters 46% to 47%.

Performance Objective 2: Increase overall Approaches and Meets percentages in economically disadvantaged students on Reading and Math STAAR by 2% points. Reading: Approaches from 80% to 82%, Meets from 50% to 52%. Math: Approaches from 86% to 88%, Meets from 61% to 63%.

Performance Objective 3: Increase the percentage of all special education students reaching Approaches on STAAR or Satisfactory on STAAR ALT2 in all subjects by 2% . Math will increase from 95% to 97% and Reading will increase from 83% to 85%

Performance Objective 4: Increase the percentage of students in Tier 1 from 83% to 86%, as measured by the 2021 End- of- Year data. 365

Performance Objective 5: Increase the number of points of students meeting or exceeding growth expectations as measured by the STAAR Progress Measure from 86 to 88 in Math and from 75 to 77 in Reading.

Performance Objective 6: Increase Writing Approaches from 82% to 84%, Meets from 54% to 56% and Masters from 21% to 23%

Performance Objective 7: Increase academic achievement and growth for all student groups while closely monitoring specific groups for gains and/or decreases addressing the additional targets Asian at the Meets level. We need to ensure that we increase scores on ELA/Reading at the Meets level from 69% to the state target of 75% for this student group.

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Increase the percentage of students scoring at the Approaches, Meets and Masters grade level standard on STAAR (all subject/all tests combined measure) from 91% to 93% approaches, and 66% 78% meets and 43% to 45% masters

Performance Objective 2: Increase overall Masters level performance in Reading from 43% to 45%.
Increase overall Masters level performance in Math from 50% to 52%.
Increase Masters level in Writing from 20% to 23%.
Increase performance in Science from 40% to 43%.

Goal 3: Inspire the whole child.

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment that promotes physical activity, health, wellness, and the success of the whole child. Ensure to have many synchronous and asynchronous lessons with the Counselor especially now due to COVID and what our students are facing.

Performance Objective 2: Implement the Second Step program to support the social-emotional skills for all students.

Performance Objective 3: Students at Cox will identify a sense of belonging within their school.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Increase from 86% to 88%, the percentage of students who strongly agree or agree on the student survey responses regarding feeling actively engaged in class learning activities on a regular basis.

Performance Objective 2: Increase from 81% to 84% the percentage of students who strongly agree or agree on the student survey responses regarding students feeling challenged in their classroom. 366

Performance Objective 3: Focus on the student experience (voice, choice, and ability to pursue passions and interests) by expanding participation in relevant, meaningful learning opportunities for students.

Performance Objective 4: Expand the effective use of digital content, resources, and technology-enabled instructional practices that promote engagement in authentic learning tasks as measured by the digital survey.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: We will increase the overall level of implementation of the Leander I.S.D. professional learning community collective team by at least one level from Fall 2020 baseline, as measured by the Leander I.S.D. collaborative team professional learning community rubric.

Performance Objective 2: Provide targeted staff development focused on student achievement based on the needs of each collaborative team.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Understand the status of our communications to enhance our relationship with our community. Increase climate survey responses concerning communications and community engagement by 3%. (Climate Survey Data)

Performance Objective 2: Continue to utilize Remind to communicate with families

Performance Objective 3: Continue to utilize a weekly SMORE to communicate with families.

367

Cypress Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Cypress will maintain or increase the % at each proficiency level (Approaches, Meets, Masters) on STAAR, in reading and math for grades 3-5, to achieve or surpass the state goals of 90% at Approaches; 60% at Meets; and 30% at Masters.
Baseline 2019 STAAR 3rd grade math: Approaches 86%; 59% Meets; 34% Masters
3rd grade reading: Approaches 89%; 67% Meets; 46% Masters
4th grade math: Approaches 85%; 61% Meets; 44% Masters
4th grade reading: Approaches 90%; 61% Meets; 35% Masters
5th grade math: (1st admin) Approaches 96%; 64% Meets; 46% Masters
5th grade reading: (1st Admin) Approaches 95%; 78% Meets; 54% Masters

368

Performance Objective 2: Increase the percentage of students in the economically disadvantaged student group achieving the Approaches level by 5% or greater in all content areas. (2019 Acct. Domain 1: Reading: 84% Math: 80% Science: 59% Writing: 75%)

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Cypress students K-5 will make a year's growth in reading by the end of the 20-21 school year. (Baseline BOY 20-21 to EOY)

Goal 3: Inspire the whole child.

Performance Objective 1: Cypress students will identify a sense of belonging within their school

Performance Objective 2: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Focus on the student experience (voice, choice, and ability to pursue passions and interests) by expanding participation in relevant, meaningful learning opportunities for students.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Increase the teacher knowledge and understanding of collaborative structures focused on student expectations.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Understand the status of our communications to enhance our relationship with our community.

Danielson Middle School Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: The percentage of students across all student groups who demonstrate academic growth will increase in both Reading and Math as measured by state accountability (STAAR Progress Measure) and other campus growth measures. (A DMS baseline to be established in 2020-2021)

Performance Objective 2: The percentage of students reading on or above grade level in grades 6 through 8 will increase as measured by SRA and QRI from BOY to EOY.

Goal 2: Prepare each student for college and career success.

370

Performance Objective 1: Provide increased choices for students by expanding course offerings while increasing the number of middle school students participating in courses to earn high school credits prior to entering 9th grade.

Performance Objective 2: The percentage of students scoring masters on the Algebra 1 EOC will be at or/above 90%.

Goal 3: Inspire the whole child.

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Performance Objective 2: Accomplish three campus-wide mandatory No Place For Hate activities as outlined by the Anti-Defamation League to become a certified 2020-2021 No Place For Hate campus by the end of the 2020-2021 school year.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Danielson Middle school will provide the amount of dedicated cross-curricular collaboration in grade level Professional Learning Community meetings to at least once a week.

Performance Objective 2: Each teacher or teacher team in 6th grade will adopt, adapt, or design a curriculum based on the PBL/PrBL models in the New Tech Network Curriculum Frameworks. Each PLC will meet monthly to review projects and provide feedback based on the NTN Learner-

Centered Rubrics.

Performance Objective 3: Each Dual Language teacher or team of teachers in 6th grade will adopt, adapt, or design a curriculum, based on the Gomez and Gomez Dual Language model for secondary education and meet monthly with teachers at Henry Middle School to compare classroom achievement data, classroom culture practices, and curriculum-based common assessments.

Goal 5: Ensure a world-class workforce focused on student achievement.

Performance Objective 1: 95% of Danielson Middle School teachers will demonstrate growth in their professional LEADS goals. (DMS baseline will be established MOY and EOY of 2020-2021 school year)

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: 85% of our Danielson Middle School parents surveyed will answer "agree" or "strongly agree" when asked if, "The campus provides me with adequate and timely communication," according to the 2020-2021 Campus Climate Survey. (The baseline year is 2020-2021)

Deer Creek Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: The percentage of students reading across all student groups who demonstrate academic growth will increase in Reading as measured by state accountability (STAAR Progress Measure) and other district growth measures. (Baseline 66%)

Performance Objective 2: Increase the overall percentage of students receiving Special Education support that perform at the approaches level or above on STAAR Reading and STAAR Math in each grade level by 10% in each content area.

Performance Objective 3: We will increase the percentage of 5th grade students who meet or exceed yearly growth on STAAR (or other campus/district EOY assessment) in math by 4% as compared to the same cohort. (Baseline 66%)

Goal 2: Prepare each student for college and career success.

Performance Objective 1: All students in grades K-5 will make at least one year's growth in reading. (Baseline to be established in 2020-2021 BOY ISIP)

372

Performance Objective 2: We will increase campus teacher collective understanding of digital citizenship from "proficient" to "advanced"

Performance Objective 3: 80% of surveyed students will state that they feel challenged by their school work.

Goal 3: Inspire the whole child.

Performance Objective 1: Implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Performance Objective 2: We will increase the percentage of surveyed students who agree that other students in the school are friendly by 5% (2018-2019 survey 83%).

Goal 4: Engage every student in relevant learning.

Performance Objective 1: 100% of campus teachers will present UDL lessons to engage all students in lessons which provide multiple means of engagement, representation and action and expression.

Performance Objective 2: Teachers will routinely incorporate technology into their lessons, resulting in lessons with increased student voice and choice.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Campus Professional Learning Plan will have a comprehensive focus on Universal Design for Learning (UDL) to support LEADS Professional Goals in dimensions 1.4 (Activities) and 2.4 (Differentiation)

Performance Objective 2: We will increase the percentage on the Employment Engagement Survey who state "there is a real feeling of teamwork" by 8%.(Baseline: 2019-2020 survey 68%).

Performance Objective 3: We will increase the percentage on the Employment Engagement Survey who state "the organization works to attract, develop, and retain people with diverse backgrounds" by 7%. (2019-2020 63%)

Performance Objective 4: We will increase the percentage on the Employment Engagement Survey who state "their supervisor recognizes outstanding work" by 12% (2019-2020 58%)

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Understand the status of our communications to enhance our relationship with our community.

Faubion Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase the overall percentage of students meeting or exceeding expected progress as measured by TEA's progress measure for STAAR in Math by 3% points.

Performance Objective 2: Increase the overall percentage of students exceeding grade level expectations in Math through curriculum revisions, professional learning, and improving instructional practice, with an intensive focus on data analysis and action planning.

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Increase the percentage of students reading on or above grade level from beginning of the year to end of the year in kindergarten through 5th grade by 3% by June 2021.

Goal 3: Inspire the whole child.

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child as measured by improvement in Spring 2021 Fitness Gram results.

Performance Objective 2: Improve the social and emotional wellness of students as measured by the Spring 2021 Student Climate Survey score for the Safety and Behavior Dimensions.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: 90% of the students will agree/strongly agree that their teacher show them how the lesson related to life outside of school as measured by the Spring 2021 Student Climate Survey.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Faubion teachers and staff will report improved social and emotional wellness as reported the Wellness Program Survey.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Increase parent satisfaction with campus communication efforts by continuing to partner with our school community and all stakeholders through the use of Remind, newsletters, and social media to keep lines of communication open and transparent.

375

Four Points Middle School Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase academic performance of Mastery by 3 percent in reading and math for 6th, 7th, and 8th grade as measured by STAAR 20-21. Baseline 2019-20 STAAR: 6R:40%, 6M:34%, 7R:49%, 7M:15% , 8R:51%, 8M:35%

Performance Objective 2: Increase the Approaches level of Special Education performance in Math and Reading STAAR by 6% in 6th, 7th, and 8th grade as measured by STAAR 20-21. STAAR 2019 Baseline: 6R:24%, 6M:62%, 7R:41%, 7M:38%, 8R:40%, 8M:43%

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Increase the Approaches, Meets, and Masters grade level percentage on the reading, non-algebra math, writing, science, and social studies STAAR by 2% using the 2019 STAAR data as a baseline(reading and math averaged across all three grade levels). STAAR 2019 baseline - Reading - 89, Non-Algebra Math - 91, Writing - 81, Science - 96, Social Studies - 86.

Goal 3: Inspire the whole child. 376

Performance Objective 1: Address the social-emotional needs of all students and create a thriving culture of inclusiveness and sense of belonging for all through formation of cultural committee and instructional design team to focus on three areas: Safety, Instructional Adjustments, Inclusivity. We will measure through student feedback from student collaborative groups and student surveys (Baseline to be established 20-21 school year.)

Performance Objective 2: Creating teacher groups involved in 'Classroom Tours" utilizing a problem of practice and instructional rounds. (Problem of Practice - How do we include student ownership and discourse through the blended model of instruction (in-person, virtual)

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Increase the number of students who are engaged in and find relevance in their learning. Goals:
1) Roughly 70% Agree or Strongly Agree (My teachers show me how our lessons relate to life outside of school.)
2) Just below 90% Agree or Strongly Agree (Classroom activities keep me actively engaged in my learning.)

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Increase the effectiveness of teacher instruction in the blended environment by focusing on inclusiveness and student ownership of learning. We will measure effectiveness by the number of coaching cycles completed, number of PLC focuses on cycles, and a summative evaluation at the end of the cycle observation through reflection utilizing the LEADS evaluation document, lesson reflection, and Region 13 feedback form.

Performance Objective 2: Retain and continue to develop teachers above the proficient performance level of LEADS in Domain 2.1-2.5. Currently, 2.1 -39%, 2.2-44%, 2.3-56%, 2.4-25%, 2.5-47%. FPMS lost 17 teachers to transfers and resignations.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Enhance community relationship through effective and ongoing communication. Parent response rate from 2019 - 2020 69%.

Performance Objective 2: Refine Communication into 3 distinct formats: Falcon Flyer, FPMS One-pager, and Grade Level Newsletter.

377

Giddens Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase the percentage of all 4th grade students meeting APPROACHES level by 3% points in Writing, currently the 2019 APPROACHES level is 59%

Performance Objective 2: Increase the percentage of all students meeting APPROACHES level by 3% points in Math . Baseline on Accountability 2019 STAAR Performance Data Table- all students is 71%.

Performance Objective 3: Increase the percentage of all 5th grade students meeting APPROACHES level by 3% points in Science (Baseline: Acct 2019 STAAR Performance Data Table- All Students at 63%.)

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Increase the percentage of students reading on or above grade level from beginning of the year to end of the year in Kindergarten through 5th grade by 5%.

Performance Objective 2: Increase the percentage of All Students reaching Meets grade level standard or above in Reading on STAAR by 5% points. (Baseline: Acct 2019 STAAR Performance Data Table- All Students at 45%

Goal 3: Inspire the whole child.

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Performance Objective 2: 90% of students in grades 3-5 will be able to identify at least 3 strategies to utilize in order to self-regulate emotions.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Increase the percentage of students who respond "Strongly Agree" or "Agree" by 3% to the question on the student survey: "Classroom activities keep me challenged in my learning" (Currently at 78%)

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Develop and implement specific strategies utilizing the PLC structures and processes.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Increase the percentage of parents who respond "Agree" or "Strongly Agree" on the question on the engagement survey "I am provided with adequate and timely communication" from 81% to 84%

379

Glenn High School Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: 80% of students will "approach grade level" or higher in English I and English II STAAR EOCs.

85% of students will "approach grade level" or higher in Algebra I STAAR EOC.

We will recognize a 5 %. increase in students who "approach grade level" or higher in Biology and US History STAAR EOCs.

Performance Objective 2: 10 % increase in students in special education who "approach grade level" or higher in English I, English II, and Algebra I STAAR EOC.

Performance Objective 3: Increase percent of English Learners (Current and Monitored) reaching Meets Grade Level standard on English I and English II STAAR EOCs from 27% to 35%, based on Accountability Closing the Gaps Domain.

*Aligned to the Target Support area: Academic Achievement in Math and Reading - White and English Learners.

380

Performance Objective 4: Increase percent of White students reaching Meets Grade Level standard on English I and English II STAAR EOCs from 59% to 64% and Algebra I STAAR EOC from 57% to 62%, based on Accountability Closing the Gaps Domain.

*Aligned to the Target Support area: Academic Achievement in Math and Reading - White and English Learners.

Goal 2: Prepare each student for college and career success.

Performance Objective 1: 53% of current 12th grade students will be TSI complete in Math by the end of the year.

70% of current 12th grade students will be TSI complete in English by the end of the year.

51% of current 12th grade students will be TSI complete in all by the end of the year.

Performance Objective 2: Increase the percentage of students passing Industry Based Certifications.

CareerSafe- StartSafe.StaySafe - 93%
Microsoft Office Specialist PowerPoint- 25%
Microsoft Office Specialist Word - 30%
OSHA 10 Hour General (Welding, Construction, Electrical) -83%

ServSafe Food Handler -100%
Texas State Floral Association Floral Skills Knowledge Based - 100%

Performance Objective 3: Increase the percentage of students scoring a 3-5 on AP exams from 43% to 53%

Goal 3: Inspire the whole child.

Performance Objective 1: 10% decrease in discipline infractions across all student groups.

Performance Objective 2: Increase overall attendance rate from 94.9% to 97.0%.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: All staff will move a minimum of 1 level higher on LEADS Rubric for Dimension 2.4 Differentiation.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: All staff will utilize WICOR strategies with fidelity as seen in lesson design and execution of lessons in the classroom.

381

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Increase the percentage of positive climate survey responses concerning communications and community engagement.
95% of parents will indicate GHS encourages parent and community involvement.
90% of parents will indicate GHS provides them with adequate and timely communication.
90% of parents will indicate GHS keeps them informed about their child's academic progress.
90% of parents will indicate GHS teachers and staff makes them feel informed, included, and welcome to participate in campus parent teacher groups.

Grandview Hills Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Reading - We will increase by 10% the percentage of our K-5 students who are reading on or above grade level on ISIP by End of Year.

Performance Objective 2: Math - We will increase by 10% the percentage of our K-5 students who are thinking mathematically (Computation, Problem Solving, Relational Thinking, Flexible Thinking, Base Ten Fluency) on or above grade level on Dreambox by End of Year.

Performance Objective 3: Maintain the difference in academic performance between students who are economically disadvantaged and those who are not economically disadvantaged in all subject areas as tested by STAAR. Baseline: On the STAAR the gap between students who are Eco. Dis. and Non-Eco. Dis. was reduced from 2017 in math by 32 percentage points, in reading by 33.5 percentage points, in writing by 42.4 percentage points and in science by 31 percentage points! 17-18 Eco Dis/Non Eco Dis Gap: math .6%, reading .6%, science .3%, and writing .9% - WE MAINTAINED THAT!!!! (18-19 Eco Dis/Non Eco Dis Gap: math .5%, reading .3%, science .6%, and writing 1.0%.)

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Provide choices for students by expanding authentic relevance of IB Curriculum. (Establish Baseline in 20-21)

Goal 3: Inspire the whole child.

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Performance Objective 2: Students at GHE will report high levels of socio-emotional wellness. (Baseline to be established 20-21)

Performance Objective 3: Students at GHE will identify a sense of belonging within Grandview Hills. (Baseline to be established 20-21)

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Focus on the student experience (voice, choice, and the ability to pursue passions and interests) by expanding participation in relevant, meaningful, learning opportunities for students.

Goal 5: Ensure a world-class workforce focused on student achievement.

Performance Objective 1: Implement and support high-functioning collaborative teams so that IB and the EUS will be blended purposefully for student achievement.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: We will increase communication about GHE with parents and community.

Henry Middle School Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase the percentage of students who make expected or accelerated progress on the 6th-8th reading and math STAAR (excluding Algebra I) by an average of 2% (2019 STAAR Data: reading 72%, math 66%).

Performance Objective 2: Student Economic Disadvantaged (Econdis), Hispanic (Hisp), & African American (AA) sub-group gaps on STAAR Approaches level at 5% or less compared to the overall campus performance for all subjects tested or reduce by one-fourth all tests with gaps greater than 10%.

2019 STAAR levels: Science (Econdis 9%, Hisp 9%, AA 21%); Social Studies (all gaps greater than 10%); Writing (all gaps greater than 10%); Reading (all gaps greater or equal to 10% except Hisp (5%) & Econdis (6%) in 8th grade); Reading (all gaps greater or equal to 10% except Hisp (7%) in 8th grade math).

Goal 2: Prepare each student for college and career success.

384

Performance Objective 1: Increase the Meets grade level percentage on the reading, non-algebra math, writing, science, and social studies STAAR by 2% (reading and math averaged across all three grade levels).

2019 STAAR levels: Reading-65%, Math-74%, Writing-60%, Social Studies-64%, Science-76%

Goal 3: Inspire the whole child.

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Performance Objective 2: At least 90% of students will respond strongly agree/agree to the student survey question, "There are adults on campus who will listen to me and respond to my needs and concerns."

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Increase the percent of students responding strongly agree/agree to the question, "Classroom activities keep me actively engaged in my learning" by 3%.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Increase the effectiveness of campus-based Professional Learning Communities (PLC)

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Henry Middle School will score above the district middle school average on the percentage of parents who respond strongly agree or agree to the question, "The campus provides me with adequate and timely communication." In 2019, HMS scored 3% above the district middle school average.

385

Knowles Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase the percent of students achieving expected and accelerated growth by 5%. (2019 Combined 4th and 5th: Reading 59% and Math 73% achieving expected or accelerated growth. Current 5th Grade students: Reading 43% and Math 72% achieving expected or accelerated growth.) ***Addresses the Targeted Support of: Domain 1 for Hispanic and White student groups.

Performance Objective 2: Increase meets percentage and masters percentage on STAAR in each content area to meet or exceed the state target in Domain 3. (2019 Performance: Reading: Meets 39%, Masters 20%; Math: Meets 42%, Masters 26%; Writing: Meets 30%, Masters 7%; Science: Meets 44%, Masters 16%)
***Addresses the Targeted Support of: Academic Achievement for Hispanic and White student groups.

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Decrease the gap between economically disadvantaged students and non-economically disadvantaged students by: Reading 2%, Math 2%, Writing 10%, Science 10%. (Current Gaps based on STAAR 2019: Reading 7%, Math 6%, Writing 23%, Science 34%)

Performance Objective 2: Increase the percent of students reading on or above grade level by 5% as measured by iStation/iSIP across K-5 combined. (March 2020: 64% of students testing in English and 49% of students testing in Spanish scored at Tier 1.) ***Addresses the Targeted Support of: Domain 1 for Hispanic and White student groups.

Goal 3: Inspire the whole child.

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Performance Objective 2: Decrease the number of office referrals by 15%. (2019-2020 Referrals: 122)

Performance Objective 3: Increase average daily attendance (ADA) by 0.2%. (2019-2020 ADA: 96.43%)

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Decrease the gap between special education students and non-special education students by 10% in each content area. (Current Gaps based on 2019-2020 STAAR: Reading 54%, Math 43%, Writing 47%, Science 61%)

Performance Objective 2: Decrease the gap between English language learners and non-English language learners by: Reading maintain at 3% or less, Math 2%, Writing 10%, Science 10%. (Current Gaps based on 2019-2020 STAAR: Reading 8%, Math 6%, Writing 23%, Science 34%)

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Professional Learning Communities (PLCs) will increase collaboration opportunities to ensure student performance increases by 10% or more across all content areas. (2019 Accountability Reports: Reading 71%, Math 73%, Writing 59%, Science71%, All Subjects 70%) (March 2020 iSIP: English 64% and Spanish 49%)

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Increase the percentage of respondents on the Community Engagement survey that mark agree or strongly agree to the following question by 5%: The campus provides me with adequate and timely communication. (2019 Survey - 81% agree or strongly agree)

Larkspur Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: All 3rd grade students will collectively score 53% meets expectations on the Reading STAAR and 55% meets expectations on Math STAAR. Baseline to be established in 20-21.

Goal 2: Prepare each student for college and career success.

Performance Objective 1: We will increase our percentage of students reading at or above grade level (Tier 1) to 80% as measured by Istation.
Baseline: 74% (19-20)
1st: 74%
2nd: 65%
3rd: 77%
4th: 82%
5th: 72%

388

Goal 3: Inspire the whole child.

Performance Objective 1: We will score a minimum of "developing" on our EPIC rubric (rubric created to monitor campus vision).
Baseline: Basic

Performance Objective 2: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child (CATCH) through the completion of our strategies.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: As teachers plan and implement intentional intervention and challenge to meet each student's needs, we will move toward "sustaining" as measured by our LISD PLC Survey by May 2021.
Baseline: "Initiating"

Performance Objective 2: We will maintain a 90% or higher response on the following questions from the staff survey (questions 7 & 9)
#7: We develop services to meet the needs of those we serve. (100% agreement)

#8: I have a good understanding of our mission, vision, and strategic plan. (92% agreement)

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: We will acquire or maintain a 90% or higher response on the following questions from the staff survey (questions 1, 2 & 4)

#1: My work group cooperates to get the job done. (94% agreement)
#2: In my work group, my opinions and ideas count. (92% agreement)
#4: In my work group, there is a real feeling of teamwork. (85% agreement).

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: We will have 25% of our community enroll in a PTA membership. Baseline from 19-20 was 117 memberships, ~20%)

Performance Objective 2: We will maintain 90% agreement in responses through our parent survey.
Baseline: This will be established in the 20-21 school year.

Laura Welch Bush Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: We will increase the percentage of 5th grade students receiving Special Education services scoring at the Approaches level by 3-5% in both reading and math when compared to the same cohort.

Performance Objective 2: We will increase the percentage of 4th grade students who meet or exceed progress in Reading as measured by the STAAR growth indicator by 3-5%.

Goal 2: Prepare each student for college and career success.

Performance Objective 1: We will increase the overall percentage of students scoring Tier 1 in Reading on Istation by 2-3% as measured by our MOY 2019-2020 data (Kinder- 87%, 1st- 87%, 2nd- 95%, 3rd- 90%, 4th- 95%, 5th-94%).

Goal 3: Inspire the whole child.

390

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Performance Objective 2: We will increase the percentage of students who Strongly Agree or Agree that threatening and bullying is not a problem to 70% as measured by the Campus Climate Survey.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: We will increase the percentage of students who feel challenged by their school work by 5% as measured by the Campus Climate Survey.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: As we increase our staff's ownership in PLC's , each grade-level team will move towards "Sustaining" (Level 7) for 3.5 (Use reflective practice to promote continuous improvement in every classroom) under the LISD Collaborative Team PLC Reflection Tool Continuum (Baseline: September BOY Data. Kinder- Level 3; 1st-Level 6; 2nd- Level 3; 3rd- Level 0; 4th- Level 5; 5th-Level 5)

Performance Objective 2: We will increase the comfort level of teachers utilizing technology as a tool for student learning, intervention and enrichment.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: We will increase the percentage of parents responding that students do not threaten or bully each other in our school by 5%.

391

Leander Extended Opportunity Center (LEO) Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: 85% of students who enter LEO with a core subject grade below a 75 will exit LEO successfully on track for graduation through improving all core grades during their LEO assignment. (80% currently)

Performance Objective 2: 100% of all eligible students will exit LEO with knowledge and access to start/continue progress on credit recovery and/or JIT.

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Decrease recidivism by 3%

Goal 3: Inspire the whole child.

Performance Objective 1: LEO de-escalation staff provide individual SEL instruction to 100% of students who are served by behavior programs/have a current BIP while they are assigned to LEO.

392

Goal 4: Engage every student in relevant learning.

Performance Objective 1: 100% of high school students assigned to LEO will exit LEO with an understanding of viable pathways to graduation and relevance of coursework.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: 100% of LEO teachers will participate in staff development and Professional Learning Communities focused on student achievement.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Understand the status of our communications to enhance our relationship with our community.

Leander High School Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: For First Time Tested students, narrow the achievement gap between Economically Disadvantaged students and Non-Economically Disadvantaged students at the Meets level by an average of 4% as measured by STAAR tested subjects. (2019: English 1 - 16%, English 2 - 32%, Biology - 21%, Algebra 1 - 5%, US History - 16%)

Performance Objective 2: For First Time Tested students, narrow the achievement gap between Special Education students and Non-Special Education students at the Meets level by an average of 4% as measured by STAAR tested subjects. (2019: English 1 - 40%, English 2 - 55%, Biology - 57%, Algebra 1 - 42%, US History - 54%)

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Increase the number of students graduating with industry-based certification to 282 (269 in 2021).

Performance Objective 2: Increase the percentage of students entering a 2- or 4-year institution by 1.5%. (59% in 2019, 62.5% 2011-18) 393

Performance Objective 3: Improve performance on AP exams (3+) and IB exams (4+) by 2%. (2020: AP - 69%, IB - 93%)

Performance Objective 4: Increase the percentage of student retention in AP by 1%. (2020: 95.3% from end of 1st grading cycle to end of the year)

Goal 3: Inspire the whole child.

Performance Objective 1: Increase the school's overall attendance rate to 95.5% (19-20 Goal: 95.2%).

Performance Objective 2: Student safety perceptions will increase from 83% to 86% of students feeling safe on campus according to the student climate survey results.

Performance Objective 3: Student discipline incident numbers will decrease by 2% in each student population category in 2020-21 school year.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Increase student completion of an LISD program of study to earn an endorsement in the area of interest selected by the student to 92.1% (18-19 92%, 19-20 91.4%)

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Implement and support high-functioning collaborative teams so that LHS functions as a Professional Learning Community at all levels of the organization.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Understand the status of our communications to enhance our relationship with our community.

Leander Middle School Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase percentage of 7th grade students who are Hispanic scoring approaches on reading STAAR by 2% (2019 65%)

Performance Objective 2: Decrease the gap between those receiving SPED supports and all students in STAAR reading for all grade levels by an average of 5%. (2019 49% gap)

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Increase the access to high school credit courses for students who are economically disadvantaged by 3% (currently 27.4%)

Goal 3: Inspire the whole child.

Performance Objective 1: Leander Middle School will accomplish three campus-wide mandatory No Place For Hate activities as outlined by the Anti Defamation League to become a certified 2020-2021 No Place For Hate campus by the end of the 2020-2021 school year. 395

Performance Objective 2: Create a more inclusive and equitable learning environment for all students demonstrated by increasing the percentage of parents responding that students at my child's school are treated fairly regardless of their backgrounds and differences by 2%. (84% in 2018-19)

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Increase participation and meaningful learning experiences through Virtual and Integrated Empowered Learning. Baseline to be established 2020-21 school year.

Performance Objective 2: All PLCs will focus on designing high quality lessons using the workshop model and AVID strategies (WICOR) as measured by classroom and PLC walkthroughs. Baseline to be established 2020-21 school year.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: 95% of Leander Middle School teachers will demonstrate growth in their professional LEADS goals.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Leander Middle School will increase the percentage of parents answering "agree" or "strongly agree" when asked if, "The campus provides me with adequate and timely communication," according to the Campus Climate Survey by 2%.

2019 84%, 2018 82%

396

Mason Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase the academic growth score of all student groups in math and reading to meet or exceed the state target. ***Addresses the Targeted Support: Academic Achievement in Reading and Math and Domain 1 STAAR Component for white students.

Performance Objective 2:
Increase the % of students, in grade K-5, reading on or above grade level as measured on istation and running record data (reported on report cards). Establish baseline BOY to be compared to EOY using combination of istation and running record data. ***Addresses the Targeted Support: Academic Achievement in Reading and Domain 1 STAAR Component.

Goal 2: Prepare each student for college and career success.

Performance Objective 1:
Increase the % of students who achieve the meets proficiency level or above on 2020 STAAR Writing to 43% or higher. (Baseline: STAAR 2019 Writing: Meets at 36%)

Goal 3: Inspire the whole child.

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Performance Objective 2: Increase the % of students who strongly agree/agree that threatening or bullying is not a problem at our school from 50% to 60%.

Performance Objective 3: Increase the attendance rate for all students to achieve the goal of quartile 3 or below in the Distinction Designation data within state accountability.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Increase the % of teachers in agreement that their students set learning goals and track their progress throughout the year from 72% to 82% as measured on the UT Employment Engagement Survey. ***Addresses the Target Support: Academic Achievement in Reading and Math and Domain 1 STAAR Component.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1:

Increase the rating for PLC Commitment 3.3 (We purposely identify and support students who need enrichment.) from 1.5 (Initiating/Implementing) to 3.0 (Implementing) as measured by the Leander ISD Collaborative Team PLC Reflection Tool.

Performance Objective 2: Increase the administrative presence, visibility, and engagement.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Understand the status of our communications to enhance our relationship with our community.

Naumann Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase by 2% the overall percentage of students who receive special education services scoring Approaches or above in STAAR Reading and Math.

Performance Objective 2: Increase by 2% students reading on or above grade level (Tier 1) from the previous year using Istation data. The overall Istation average in spring 2019 was 80%.

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Increase the number of students scoring Masters on STAAR in all subjects tested by at least 3%.

Performance Objective 2: Increase the number of 3rd grade students scoring Meets or better on Reading STAAR from 50% to 52% by May 2021.

399

Performance Objective 3: Increase the number of 3rd grade students scoring Meets or better on Math STAAR from 46% to 48% by May 2021.

Goal 3: Inspire the whole child.

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Performance Objective 2: Advance the culture of student ownership of learning and leadership.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Increase the % of students responding "strongly agree" or "agree" to the climate survey question, "My teachers show me how lessons relate to life outside of school" by 9%. 2018-19 survey was 73%.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Reduce the gap by 5% between teachers and non-teachers on the percent responding "agree or strongly agree" that they are recognized for outstanding work.

18-19 Survey results:
Teachers - 93%
Non-teachers - 75%
17-18 Survey results:
Teachers - 89%
Non-teachers - 76%

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Increase the percentage of respondents on the parent climate survey that mark agree or strong agree to the following question by 2%:
"The campus provides me with adequate and timely communication."

400

New Hope High School Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Maintain prior year Student Achievement score of at least 94, on the alternative education accountability scale, of tested students passing the required state STAAR performance, college, career, and military readiness, and graduation rates with no appreciable difference in accountability student groups by July 2021.

Goal 2: Prepare each student for college and career success.

Performance Objective 1: A minimum of two percent growth to 71% of four-year cohort seniors will be Texas Success Initiative, TSI, eligible in at least one area by any applicable measure, as well as, 55% of four-year cohort seniors will meet college, career and military readiness state standards by July 2021.

401

Goal 3: Inspire the whole child.

Performance Objective 1: Student safety perceptions will maintain 94% or greater of students feeling safe on campus according to the student climate survey results by June 2021.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Align online curriculum to LISD course curriculum guides and provide opportunity for blended learning within courses by June 2021.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Teachers will commit to focusing on and improving within one instructional area as measured by professional development attendance and evidence of implementation in the classroom by June 2021.

Goal 6: Manage district resources effectively.

Performance Objective 1: Manage budget within allocation to ensure students have all resources to learn effectively and to prepare and supply staff to deliver high quality learning in a safe and secure environment, providing physical and emotional safety, as measured by perceptive survey data and

balance sheet by June 2021.

Goal 7: Communicate effectively with our community to build relationships.

Performance Objective 1: Understand the perception of needed services for at-risk secondary students in the district through a comprehensive survey by February 2021.

402

Parkside Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase the percentage of students meeting standard on the Reading STAAR across all grade levels by 2%. (2019 92%)

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Increase the percentage of students scoring at the Masters level on STAAR, across all grades and content tested by 2%. (2019 44%)

Goal 3: Inspire the whole child.

Performance Objective 1: By May 2021, 100% of students asked will be able to identify at least two strategies to deescalate themselves when experiencing heightened emotion. (Baseline established 2019-2020)

Performance Objective 2: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

403

Goal 4: Engage every student in relevant learning.

Performance Objective 1: By the end of 2020-2021 school year, the percentage of Parkside students who responded "agree" or "strongly agree" to the question, "Classroom activities keep me actively engaged in my learning," will increase by 2%. (2019 93%)

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Increase the percentage of Parkside teachers on-cycle earning a summative LEADS rating of Proficient or higher on Rubric 2.4 Differentiation by 2% (2020 88%).

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: As measured by the Parent Climate Survey, we will increase the percentage of parents responding "agree" or "strongly agree" to the question, "The campus provides me with adequate and timely communication", to 92%. (2019 90%)

Plain Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase the percent of tests for all students that reach the "Meets" proficiency level of STAAR in Reading from 51% to 53%.
Evaluation Source: STAAR Performance Data Tables Reading - Student Achievement All Students, White, Special Education

Performance Objective 2: Increase the percent of tests for all student groups that reach the "Meets" proficiency level of STAAR in Math from 45% to 47%.
Evaluation Source: STAAR Performance Data Table- Math; All Students, White, Special Education

Performance Objective 3: Increase the percent of tests for fourth grade students that reach the "Meets" proficiency level of STAAR in Writing from 34%to 36%.
Evaluation Source: State Accountability Data Tables - Student Achievement

Performance Objective 4: Increase the percent of tests for fifth grade students that reach the "Meets" proficiency level of STAAR in Science from 43% to 45%.
Evaluation Source: State Accountability Data Tables - Student Achievement

404

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Increase percent of students reading on or above grade level in grades K through 5th by 3%.
Evaluation Source: Running Records

Performance Objective 2: Increase the number of tests for Jim Plain students that reach the "Masters" proficiency level from 24% to 26% across all content areas and grades as reported by the 2020 State Accountability Tables for Student Achievement
Evaluation source: State Accountability Data Tables - Domain 1

Performance Objective 3: Increase percent of students reading on or above grade level in third grade by 2%.

Performance Objective 4: Increase percent of students performing on or above grade level in math in third grade by 2%.
Evaluation Source: CBAs, STAAR data

Goal 3: Inspire the whole child.

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Performance Objective 2: Improve behavior as evidenced by reduced office referrals.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Focus on the student experience (voice, choice, and ability to pursue passions and interests) by expanding participation in relevant, meaningful, learning opportunities for students.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Follow PLC commitments with teams led by PLC Facilitators to ensure growth along the continuum.

Performance Objective 2: Provide professional learning to increase effectiveness of employees as measured by LEADS walkthroughs showing implementation of PL.

405

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Communicate with our stakeholders to enhance our relationship with our community using Remind campus-wide.

Pleasant Hill Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase accountability academic growth score from school progress domain in MATH.
Math 2019 score=
72%
Math 2020- no STAAR administered

Performance Objective 2: Increase accountability academic growth score from school progress domain in READING.
Reading 2019 score=
58%
Reading 2020 scores= no STAAR administered

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Close the achievement gap by engaging every student in relevant learning that will lead to narrowing of the gap between students who are economically disadvantaged and all students according to the accountability academic achievement score from school progress domain one.
For MATH- Exceed the target of 36%.
For READING- Exceed the target of 33%.
No 2020 STAAR data due to Covid-19.

Performance Objective 2: Increase our percentage of students at the approaches level in fourth grade writing on the STAAR test.
Increase to 70% at approaches and increase the number of students at masters to 10%.

Performance Objective 3: Increase the overall number of students reaching the meets and masters level on 5th grade STAAR MATH, READING, and SCIENCE.
2019 STAAR Results (% of students at meets and masters):
Math-
Meets- 43%
Masters- 18%
Reading-
Meets- 49%
Masters- 20%
Science-
Meets- 27%

Masters-6%

NO STAAR data for 2020

Goal 3: Inspire the whole child.

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Increase the number of opportunities students at Pleasant Hill have to experience an extracurricular activity, while also being mindful of Covid-19 safety protocols and restrictions.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Each grade level professional learning community (PLC) will implement and analyze 2-3 common assessment in math and reading per nine weeks. 407

Performance Objective 2: We will implement vertical committees involving all teams and staff with 100% participation.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Understand the status of our communications to enhance our relationship with our community.

Reagan Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase STAAR Math scores at the Approaches Level for all students by 4% (2018/2019 - 78%).

Performance Objective 2: Increase STAAR reading scores at the Approaches level or higher in 3rd grade by 1% (Currently 65% to 66%)

Goal 2: Prepare each student for college and career success.

Performance Objective 1: 90% of students will end the year reading on or above grade level measured by ISIP and Running Records. (2019 - 1/2020 - 80% 2018-19 86%; 2017-2018 83%)

408

Goal 3: Inspire the whole child.

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Performance Objective 2: Reagan staff will recognize and celebrate the unique needs and aspirations of all students. Through the use of positive office referrals and recognition of our students we will see a 1% (10) decrease in negative student behavior as measured through our 20-21 student referrals. (19-20: 3% (35 referrals))

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Decrease the gap between All students and ELL students performing at Approaches or higher on STAAR Reading from 9% (2019) to 6%. As well as our Curriculum Based Assessments (Population 2019-2020 3rd grade students - all students performance of 67% and ELL population 58%).

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: At least 95% of grade level teachers participate in virtual instructional rounds/learning walks , with a focus on LEADS Domain 2 (Instruction).

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: 94% of parents will answer Agree and Strongly Agree to the statement "The campus provides me with adequate and timely communication." (2019- 92%)

409

Reed Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase the percentage of tests meeting or exceeding approaches-level standards as measured by TEA for STAAR Accountability in all subject areas.
Reading: 79 to 85 or higher
Math: 78 to 85 or higher
Science: 72 to 82 or higher
Writing: 74 to 84 or higher ***Addresses the Targeted Support of: Student Success/Dom. 1 for Eco Dis and Sped

Performance Objective 2: Increase the percentage of tests scoring "Masters" as measured by TEA for STAAR in Reading and Math (All students 3rd-5th on STAAR 2021 Accountability) to 30% or more.
Reading: 25 to 30 or more
Math: 30 to 31 or more ***Addresses the Targeted Support : Academic Achievement for Eco Dis and Sped in Reading and Math

410

Performance Objective 3: Grow STAAR Progress Measure (% of students with expected or accelerated growth) to 80% or more.
Reading 4th: 64 to 80 or higher
Reading 5th: 70 to 80 or higher
Math 4th: 84 to 85 or higher
Math 5th: 76 to 80 or higher ***Addresses the Targeted Support: Academic Achievement for Eco Dis and Sped in Reading and Math and Student Success Domain 1

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Increase the percentage of students reading on or above grade level by 10% or more.
Tier 1 Reading ISIP: 67 to 77 or higher (All students K-5 English and Spanish) *** Addresses the Targeted Support for Academic Achievement in reading and math for Eco Dis and Sped and Student Success Domain 1

Performance Objective 2: Increase the percentage of students in economically disadvantaged population approaching state standards by 10% or more in all content areas (English and Spanish).
Reading: 68 to 78 or higher
Math: 67 to 77 or higher
Science: 62 to 72 or higher
Writing: 59 to 69 or higher

Performance Objective 3: Increase the percentage of students receiving special education services approaching state standards by 10% or more in all

content areas (English and Spanish).
Reading: 41 to 51 or higher
Math: 43 to 53 or higher
Science: 36 to 46 or higher
Writing: 32 to 43 = score of 2 or higher

Performance Objective 4: Increase the percentage of English language learners approaching state standards by 5% or more in all content areas (English and Spanish).
Reading: 70 to 80 or higher
Math: 72 to 82 or higher
Science: 65 to 75 or higher
Writing: 63 to 73 or higher

Goal 3: Inspire the whole child.

Performance Objective 1: Increase school-wide attendance to 97% or more.
(From 96 to 97 or more)

411

Performance Objective 2: Decrease office referrals from 90 to 80 or less with implementation of Positive Behavior Intervention and Support (PBIS).

Performance Objective 3: Advance our culture of student ownership of learning and leadership through Leader in Me Student Lighthouse Leadership Team, Campus Lighthouse Team, and C2 club.

Performance Objective 4: Explicitly teach social skills to all students at Reed Elementary.

Performance Objective 5: Implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Increase % of students and parents that Agree/Strongly agree that students belong and have connections to school. Increase from 75% to 80% of students agree/strongly agree that they are challenged in school.

Performance Objective 2: Increase % of students and parents that Agree/Strongly agree that there are opportunities to collaborate with community groups for enrichment and learning.

Performance Objective 3: Grow Technology implementation to improve student learning.
Increase to 80% or higher:
Student perception data: 75% I am challenged by my schoolwork.
Staff perception data: 67% My students seek additional challenge to learn as much as they can in class.

Increase to 80% or higher:
Parent perception data: 72% Excellent/Good Number of classroom computers

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Increase the overall level of implementation of the LISD PLC Collective Commitments for each collaborative team by at least one level from the Fall 2019 baseline as measured on the LISD Collaborative PLC Rubric.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Understand the status of our communications to enhance our relationship with our community.

River Place Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase the percentage of students achieving Approaches/Meets/Masters for STAAR in Reading and Math by 2 percentage points (including special education students & economically disadvantaged sub populations).

2019 Data from Eduphoria (Approaches/Meets/Masters):

3rd Math (80%/60.77%/40%)
Eco. Dis. (59.38%/34.38%/21.88%)
Sp. Ed. (45.45%/27.27%/9.09%)

3rd Reading (83.85%/59.23%/42.31%)
Eco. Dis. (71.88%/37.50%/28.12%)
Sp. Ed. (45.45%/36.36%/27.27%)

413

4th Math (78.57%/51.43%/30.71%)
Eco. Dis. (50%/16.67%/4.17%)
Sp. Ed. (23.53%/5.88%/0%)

4th Reading (84.40% /60.99%/34.75%)
Eco. Dis. (50%/33.33%/0%)
Sp. Ed. (35.29%/11.76%/5.88%)

5th Math (94.12%/61.76%/44.85%)
Eco. Dis. (87.88%/45.45%/24.24%)
Sp. Ed. (66.67%/16.67%/16.67%)

5th Reading (94.29%/67.14%/50%)
Eco. Dis. (90.91%/51.52%/36.36%)
Sp. Ed. (58.33%/16.67%/8.33%)

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Istation Data will show a 2% point increase in the percentage of students scoring Tier 1 in each grade level from beginning of the year to the end of the year (April 2020).

Goal 3: Inspire the whole child.

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Performance Objective 2: 70% of students will respond agree or strongly agree to the statement, "Threatening and bullying is not a problem in my school" on the 2020-2021 Campus Climate Student Survey.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: We will increase teachers' ability to target instruction through unpacking TEKS and monitoring student progress during weekly PLC meetings as measured by achieving a "sustaining" rating on commitment 3.2 on the 2020-2021 PLC survey (purposefully identify and support students who require intervention to master essential outcomes). Baseline data from the 2019-2020 survey showed PLCs to be in the "implementing" range for commitment 3.2.

Goal 5: Ensure a world class workforce focused on student achievement.

414

Performance Objective 1: Our campus will provide opportunities for embedded learning and leadership opportunities for all staff. Employee Engagement Survey will reflect this in responses to question 37 (Learning opportunities/staff development is made available to me so that I can do my job better.) showing an increase in positive responses from a baseline of 74% to our goal of 85%.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Maximize efforts to help strengthen parent-school relationships within the RPE community. Increase Campus Climate Parent Survey response to 90% for agrees/strongly agrees (baseline 87%) to the question regarding whether the campus encourages parent and community involvement.

River Ridge Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: 79% of our third grade students will meet grade level or better on the 2020-2021 Reading STAAR.

From 2019: 78% of all third grade students received "Meets Grade Level" or better on the 2018-2019 Reading STAAR.

Performance Objective 2: 85% of our third grade students will meet grade level or better on the 2020-2021 Math STAAR.

From 2019: 84% of all third grade students received "Meets Grade Level" or better on the 2018-2019 Math STAAR.

415

Goal 2: Prepare each student for college and career success.

Performance Objective 1: All students in grades K-5 will make at least one year's growth in reading (baseline to be established 2020-2021).

Goal 3: Inspire the whole child.

Performance Objective 1: Increase the student response of "Agree" or "Strongly Agree" to the survey question "Threatening and bullying is not a problem at school" by 11%.

From 2019 -2020: 64% "Agree" or "Strongly Agree"
2021 Goal: 75% "Agree" or "Strongly Agree"

Performance Objective 2: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Beginning with the second semester, 20% of fifth grade students will participate in the FreshINCedu program during library rotations.

Performance Objective 2: Focus on the student experience (voice, choice, and ability to pursue passions and interests) by expanding participation in relevant, meaningful learning opportunities for students.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: All teachers will rate "proficient" or higher for the school-wide LEADS goal - 2.4 (Differentiation): The teacher differentiates instruction, aligning methods and techniques to diverse student needs.

Performance Objective 2: 80% of staff surveyed will agree that "in my work group there is a real feeling of teamwork."

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: 96% of parents will respond with "Agree" or "Strongly Agree" to the statement "the campus provides me with adequate and timely communication."

416

From 2018-19 Campus Climate Parent Survey: 94% of parents responded that "the campus provides me with adequate and timely communication."

Rouse High School Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase the percentage of students meeting or exceeding progress as measured by TEA progress measure for STAAR in Reading and Math by 3%.

Performance Objective 2: Raise percentage of students who received special education scoring "Approaches" by 3% in Reading.

Performance Objective 3: Raise percentage of students who received special education services scoring "Approaches" by 2% in mathematics.

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Improve percentage of students that meet the CCR benchmark in reading from 76.4% to 79%. For Math from 47.4% to 50%.

Performance Objective 2: Continue to increase the percentage of students scoring a 3, 4, or 5 on College Board AP exams by 3%. RHS was at 70% for 2020 testing.

Performance Objective 3: Increase the percentage of seniors that are TSI complete by 7%, students who are economically disadvantaged by 10% . Class of 2020 was 52% for all students and 27% for economically disadvantaged students.

Goal 3: Inspire the whole child.

Performance Objective 1: 100% of all students in Grades 9-12 will have a post-secondary plan.

Performance Objective 2: Increase number of students at Rouse connected to UIL or club activities from 84% in 2019-2020 to 90%.

Goal 4: Engage every student in relevant learning as observed by an overall increase in common assessment data.

Performance Objective 1: Increase cognitive demand through implementation of WICOR strategies incorporated in TEKS based Lesson Design.

Performance Objective 2: Increase training and implementation of well designed common assessments through PLCs.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Increase percentage of teachers who score "Proficient" or above on LEADS 1.2 from 95% to 98%.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Understand the status of our communications to enhance our relationship with our community.

Performance Objective 2: Through newly formed Equity and Diversity Student/Staff Task Force, partner with PTSA to promote family connections.

Running Brushy Middle School Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Running Brushy will increase the Academic Growth Score as reported on the 2021 Accountability Tables from 70 to 73 in ELA/Reading and Math combined.
Evaluation Data Source(s) :STAAR Academic Growth Measure (Domain II A- School Progress/Academic Growth)

Performance Objective 2: Running Brushy will increase the percentage of all STAAR tests to increase by 3% (from 83% to 86% @ Approaches; from 58% to 61% @ Meets; and from 27% to 30% @ Masters) as reported by the STAAR Accountability Data Tables.

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Increase the access to advanced courses to all underrepresented student groups on campus.

Goal 3: Inspire the whole child.

419

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Performance Objective 2: Increase opportunities for parental involvement on campus to foster a healthy, safe, and engaged school environment.

Performance Objective 3: Restorative practices practiced throughout campus classroom to a decrease in student discipline infractions by 15% annually.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Continue to align the cognitive demand of student activities according to expectations in TEKS.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: 95% of RBMS teachers will demonstrate growth in their professional LEADS goals

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Understand the status of our communications to enhance our relationship with our community.

Rutledge Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Performance Objective 1: The percentage of students across all student groups who meet grade level expectations on STAAR in reading and math will increase.
Reading Grade 3 - from 67% in 2019 to 68% in 2021
Math Grade 3 - from 67% in 2019 to 68% in 2021
All disaggregated populations will show 1% growth as well.

Performance Objective 2: The percentage of students reading on or above grade level in grades K through 5 will increase as measured by ISIP.

	September 2020	May 2021
K	78	80
1	77	79
2	83	85
3	83	85
4	91	93
5	92	94

420

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Decrease by 2% points the performance gaps in meeting grade level standards between students who are economically disadvantaged, or LEP and the "all" student group on STAAR while maintaining or increasing current academic performance levels as measured by the STAAR assessment in reading, and math.
Current Performance 2019 STAAR data:

	Reading	Math
Gr 3	All 68, ED 60, LEP 25	All 67, ED 58, LEP 63
Gr 4	All 75, ED 50, LEP 33	All 71, ED 50, LEP 42
Gr 5	All 83, ED 80, LEP 10	All 83, ED 86, LEP 64

Performance Objective 2: Increase the number of fourth and fifth grade students who report they are able to set their own academic goals and deadlines and are also capable of tracking their own progress and identifying steps they need to take to reach those goals from a score of 56 on the Leader in Me Measurable Results Assessment to 60.

Performance Objective 3: Through a focus on the Technology Applications TEKS, we will increase student use of technology to participate in the design of their learning process and goals. Current baseline is 11% do this weekly and 25% report doing this monthly (combined 36%). Goal is for 40% to report doing this weekly or monthly.

Goal 3: Inspire the whole child.

Performance Objective 1: Students at Rutledge Elementary will self-report high levels of social-emotional and physical wellness.

Performance Objective 2: Increase the average annual attendance percentage from 97.43% to 97.5% or move to quartile 1 in our comparison group.

Performance Objective 3: Increase staff understanding of the wide diversity of the Rutledge Elementary community and awareness of culturally and academically relevant practices.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Increase the number of fourth and fifth grade students who report they are active participants in the school community and are encouraged to make a difference, take on leadership roles, and contribute their voice to important decisions from 63 on the Leader in Me Measurable Results Assessment to 65.

Performance Objective 2: Through a focus on the Technology Applications TEKS, we will increase student use of technology to solve authentic problems. Current baseline is 11% do this weekly and 25% report doing this monthly (combined 36%). Goal is for 40% to report doing this weekly or monthly.

421

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Teachers will report high levels of teacher efficacy as measured by the Leader in Me Measurable Results Assessment on Teacher Efficacy. (Teachers are motivated through professional goals and are held accountable to meet those goals. In addition, the school sets academic goals and often achieves those annual improvement targets.) Current baseline is 81% to increase to 83%.

Performance Objective 2: Teacher use of the 4Cs of critical thinking will increase from emerging to proficient.

Performance Objective 3: Review and enhance recruiting practices that will increase the diversity of the Rutledge teachers to more closely represent the make-up of the student population.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: All teachers, grade levels and overall campus will have a clearly articulated system for communicating with families and receiving input from them.

Performance Objective 2: Provide 5 distinct types of learning opportunities to expand family knowledge and understanding of the core paradigms of the Leader in Me.

Performance Objective 3: Maintain or increase the response to our parent engagement survey.

Performance Objective 4: Pilot use of Virtual Volunteers within LISD so that each primary grade virtual classroom is able to utilize at least one volunteer during the course of the year.

422

Steiner Ranch Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Establish a baseline percentage of students in grades K-5 and maintain 85% of students showing expected Rate of Improvement on ISIP and other measures.

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Through a focus on the Technology Applications TEKS, we will increase student understanding of digital citizenship from emerging to proficient.

Goal 3: Inspire the whole child.

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

423

Performance Objective 2: By the conclusion of the 2020-2021 school year, we will increase the average annual attendance percentage from 96.3% to 96.8% .

Performance Objective 3: Incorporate embedded instruction and preventative measures to ensure each and every student's emotional well being.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Increase the percentage of students answering "Agree" or "Strongly Agree" to 95% or more on the 2020-2021 Student Perceptual Survey statement "Classroom activities keep me actively engaged in my learning".

Goal 5: Ensure a world-class workforce focused on student achievement.

Performance Objective 1: Provide "Just-in-Time" campus staff development to teachers and staff aligned to demonstrate needs of current students and patterns evident in 2018-2019 student performance data.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Understand the status of our communications to enhance our relationship with our community.

Stiles Middle School Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: The percentage of students across all student groups who demonstrate academic growth will increase in both Reading and Math as measured by state accountability (STAAR Progress Measure) and other district growth measures.

Performance Objective 2: Decrease the performance gaps between students who are economically disadvantaged, Black, Hispanic, 2 or more races, ELL and Special Education and the "all" student group on STAAR while maintaining or increasing current academic performance levels as measured by the STAAR assessment in reading, writing, and math.

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Provide increased choices for students by expanding course offerings while increasing the number of middle school students participating in courses to earn high school credits prior to entering 9th grade.

Goal 3: Inspire the whole child. 424

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Performance Objective 2: Create a more inclusive and equitable learning environment for all students so that all Stiles MS students will identify a sense of belonging within their school.

Performance Objective 3: At least 90% of students will respond strongly agree/agree to the student survey question, "There are adults on campus who will listen to me and respond to my needs and concerns."

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Increase the percentage of students reporting that they either "Agree or Strongly Agree" on the 2021 Student Survey that they are engaged in and find relevance in their learning by 3%. (2019 - 41%)

Performance Objective 2: Through blended and virtual empowered learning, we will expand the effective use of digital content, resources and technology-enabled instructional practices to promote engagement in authentic learning tasks as measured by the Technology and Learning Survey.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Based on the UT Staff Engagement survey, 75% of teachers will "agree" or "strongly agree" that learning

opportunities/staff development is made made available for personal growth and development (2019 - 68%)

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Provide timely and adequate communication to our community during the 2020-2021 school year to increase the percent of stakeholders who feel engaged with and connected to the school.

425

Vandegrift High School Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase Limited English proficient students STAAR performance at the approaches proficiency level STAAR scores in Algebra 1, English 1 and English 2 by 5% pts.
(Baseline: 2019 STAAR reports - Alg I = 57% ; Eng. I = 20%; and Eng. II = 36%)

Performance Objective 2: Increase the number of students scoring at the Masters level on all EOC exams by 2%.
(Baseline: 2019 STAAR reports - Alg I = 18% ; Eng. I = 33%; and Eng. II = 28%; Bio = 65%; USH = 73%)

Performance Objective 3: Narrow the achievement gap in Math between students receiving special education services and students not receiving Sped services by 5%.
(Baseline: 2019 Alg I EOC Special Ed performance at Approaches level = 40%; Non Special Ed = 89%. Current gap is 49%. Target for 2020 is 44% or lower.)

Performance Objective 4: Increase the percentage of students who are economically disadvantaged meeting or exceeding growth progress on STAAR in Reading (Eng II) and Math (Alg I) by 3% in each content.
(Baseline 2019: English II: 282 Eco Dis students. Accelerated Progress= 5 students (2%); Expected Progress = 181 students (64%); Limited Progress = 96 students (34%). Baseline 2019 Alg. I: 393 Eco Dis students. Accl. Progress = 62 students (16%); Expected Progress = 98 students (25%); and Limited Progress = 233 students (59%)

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Increase the number of students who are economically disadvantaged, taking AP and/or dual-credit classes by 2%.
(Baseline: AP = 4% of students taking 1+ AP Courses; Dual Credit = 12 eco dis of 538 total students = 2.2%)

Performance Objective 2: Improve performance of our students in AP/IB courses and dual-credit courses.
(Baseline: currently 81% of students score high enough to earn college-credit)

Performance Objective 3: Maintain at 87% or increase the percentage of students meeting College Readiness Standards (TSI).

Performance Objective 4: Increase the total number of CTE certifications earned by 5%.
(Baseline: VHS students earned 492 total certifications in 2018-19 according to the CTE Industry-Based Certification Report and 12 certifications according to State Accountability Report)

Performance Objective 5: Maintain 98% or increase the percentage of students pursuing post-secondary education (4-yr college, 2-yr college, technical school, military, etc.) as evidenced by Senior student survey.

Goal 3: Inspire the whole child.

Performance Objective 1: The school counseling team will deliver specific grade-level targets which address academic pathways, career and college options, and social emotional well-being.

Performance Objective 2: By the end of the 2021 school year, the campus average daily attendance rate will meet or exceed the current TEA Designation Distinction Quartile 1 threshold standard of 96.4%. (Ended 2018-19 at 96.1% and 2019-2020 at 97.6%)

Performance Objective 3: All student groups will have a decrease in the percent of students with one or more disciplinary incidents. (In 2019-2020, 2.98% of Asian students had two or more referrals, 13.85% of Black students had two or more referrals and 5.28% of White students had two or more referrals.)

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Introduce and implement AVID WICOR strategies school wide in order to support teacher continuous improvement/ professional development that leads to increased student success and performance.

Performance Objective 2: Increase campus global-mindedness, community involvement and overall 9th-12th enrollment in the International 427 Baccalaureate Diploma Program by 20% over prior year. (Fall 2020 enrollment shows 47 seniors and 22 Juniors.)

Performance Objective 3: Implement the Viper Campus Alliance, with the mission of creating an all-inclusive and welcoming campus environment by cultivating success through collaboration, celebration and conversation.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: 100% of VHS teachers will commit to supporting the PLC commitments with a focus on a common instructional performance goal that is aligned to the team's LEADs Student learning Objective/outcome (SLO) using common assessments as a measure.

Performance Objective 2: Campus admin will work collaboratively to enhance campus culture and work with HR to recruit, support, and retain high quality teachers as evidenced by a reduction in the 2020-2021 voluntary separation rate and maintain or increase by 5% in level of "Employee Engagement" on the Survey of Employee Engagement. (In 2020 66% of respondents were Highly Engaged or Engaged.)

Performance Objective 3: Campus Leaders will share experiences with apps, extentions and tech tools during A Team Meetings.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Understand the status of our communications to enhance our relationship with our community.

Vista Ridge High School Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase the percentage of economically disadvantaged students engaged in online learning (defined as 80% of assignments attempted OR earning a passing grade) for core content areas to 75%.

Performance Objective 2: Close the first-semester passage rate gap for economically disadvantaged students in core classes by .5% to 8.9%.

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Increase the number of seniors who met standard in English and Math on the ACT, SAT, and/or TSI by 1% from 75% to 76%, and increase the juniors' end of year overall TSI pass rate by 5% from 55% to 60%.

Performance Objective 2: Increase the percent of African American students taking an AP exam by 2% from 81% to 83%. Increase the percent of African American students who pass (3-5 on exam) an AP exam from 27% to 28%.

428

Goal 3: Inspire the whole child.

Performance Objective 1: Implement proven Culturally Relevant Teaching strategies in classrooms that will raise attendance rate by 1% to 97.5 % and lower discipline referrals for African American/Black students by 5 % , from 22%, and Hispanic students by 5% from 33%.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: Continue to offer 14 certification tests and increase the passing rate from 78% to 81% through more effective and deliberate communication and recognition.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Increase the percentage of students that indicate comfort and efficacy in the proper use of technology to promote active student engagement by 10%.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: A focus on communicating effectively with a positive spin including a larger student voice in planning and feedback. Increase average monthly social media impressions by 10%

Westside Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: We will increase our Writing STAAR scores, at the approaches level or above, by 3%, 2019: 69%.

Performance Objective 2: We will increase our overall Master's performance score by 1% on STAAR Assessments, across all grades and content tested, 2019: 38%.

Goal 2: Prepare each student for college and career success.

Performance Objective 1: At least 80% of students K-5 will show at least a year's growth from BOY to EOY Reading Levels as measured by a running record, Baseline 2021, 19/20: 91% at three-fourths of a year's growth.

Goal 3: Inspire the whole child.

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Performance Objective 2: As students utilize strategies to increase social skills and leadership skills, we will maintain an overall "mature" status and increase growth in Student Led Learning to move toward "mature," as measured by the Lighthouse Rubric, 2020 Student Led Learning: Developing.

Performance Objective 3: We will maintain the number of students involved in a campus sponsored club/extracurricular activity or hold a leadership role on campus, 2020: 78%.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: As teachers plan and implement intentional intervention and challenge to meet each student's needs we will maintain a "Developing" status as measured by Learning by Doing Continuum: providing student with systematic interventions and extensions, 2020: Developing.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: As we implement a targeted training program to increase leadership capacity, we will move toward "Sustaining" on the LISD Collaborative Team PLC Reflection Tool Continuum, 2019: Developing to Fall 2019: Implementing.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Increase positive communications with our families by aligning grade level and campus wide communication systems.

430

Whitestone Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Increase the percentage of students reading on or above grade level from beginning of the year to end of the year in kindergarten through 5th grade by 5% by May 2021.

Performance Objective 2: Increase the percentage of special education students that perform at the approaches level or above on the STAAR reading and STAAR math assessment in each grade level cohort by 10%. points in each content area.

Performance Objective 3: Increase the percentage of students that perform at the approaches level or above on the STAAR Spanish reading in each grade level cohort by 10%. points.

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Increase the % of students achieving at the "Meets" level on reading and math STAAR to 60% by June 2021.

431

Goal 3: Inspire the whole child.

Performance Objective 1: 100% of students will receive two positive referrals for modeling behaviors that represent the Whitestone Elementary vision and mission.

Performance Objective 2: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: 90% of students reading a text at their instructional level will be able to answer questions about the text, within the text, and beyond the text .

Goal 5: Ensure a world class workforce focused on student achievement

Performance Objective 1: 90% or more of certified instructional staff will score proficient or higher on dimension 1.4 Activities that the teacher plans

engaging, flexible lessons that encourage higher-order thinking, persistence, and achievement.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: Increase the percentage of respondents on the Community Engagement survey that mark agree or strongly agree to the following question by 3%:

"The campus provides me with adequate and timely communication"

Wiley Middle School Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Decrease the performance gaps between students who are economically disadvantaged and the "all" student group on STAAR while maintaining or increasing current academic performance levels as measured by the STAAR assessment in reading, writing, and math.

Goal 2: Prepare each student for college and career success.

Performance Objective 1: Ensure equitable access and participation to our advanced pathway courses (Pre-AP, AP and High School Credit courses) by increasing the percentage of underrepresented students participating in and successfully completing advanced courses in LISD through a strong system of support structures and recruitment efforts.

Goal 3: Inspire the whole child.

Performance Objective 1: Continue to implement a coordinated approach to school health that creates a healthy school environment which promotes physical activity, health, wellness, and the success of the whole child.

Performance Objective 2: Continue to increase opportunities for parental involvement on campus to foster a healthy, safe, and engaged school environment. (Baseline 18-19 PTA 215 members, 30 parents for literacy and math nights)

Performance Objective 3: LISD students will identify a sense of belonging within their school.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: We will increase the overall average of indicators related to academic support from 89% to 91% in the Climate Survey/Students.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Increase knowledge and understanding in a variety of campus focus areas - PLC, AVID, Restorative Practices, mLISD, etc.

Goal 6: Communicate effectively with our community to build relationships.

Performance Objective 1: We will enhance positive communication with our community during 2020-2021 school year through newsletters, parental engagement and community forums.

Winkley Elementary Goals 2020-2021

Goal 1: Maximize academic growth for each student.

Performance Objective 1: Students will demonstrate reading improvement by scoring in the moderate and high categories, as measured on the Rate of Improvement Report in IStation.

Performance Objective 2: We will increase the percentage of students achieving the "Meets" performance level on the Reading STAAR from 61% to 64% as measured by the Domain 1 state accountability data tables (as STAAR data is available).

Performance Objective 3: We will increase the percentage of students meeting the "Approaches" level on the Writing STAAR test from 83% to 86% as measured by the Domain 1 state accountability data tables (as STAAR data is available).

Performance Objective 4: We will increase the percentage of students achieving the "Meets" performance level on Math STAAR from 64% to 67%, as measured by the Domain 1 state accountability data tables (as STAAR data is available).

Goal 2: Prepare each student for college and career success. 434

Performance Objective 1: We will increase the percentage of students meeting the "Masters" level from 34% to 37% across all subjects as measured by Domain 1 state accountability data tables (as STAAR data is available).

Goal 3: Inspire the whole child.

Performance Objective 1: We will increase the percent of students who strongly agree or agree in the Student Climate Survey to the following response:

Threatening and bullying are not a problem at my school from 67% to 70% (as data is available).

Performance Objective 2: We will promote the physical activity, health, wellness, and success of all Winkley students.

Performance Objective 3: Winkley students will self-report high levels of engagement in core content classes.

Performance Objective 4: Winkley students will identify a sense of belonging within their school.

Goal 4: Engage every student in relevant learning.

Performance Objective 1: We will increase the percent of students who strongly agree or agree in the Student Climate Survey to the following question:

My teachers show me how lessons relate to life outside of school. (80% to 83%)

Performance Objective 2: Focus on the student experience (voice, choice, and ability to pursue passions and interests) by expanding participation in relevant, meaningful learning opportunities for students.

Performance Objective 3: Expand the effective use of digital content, resources, and technology-enabled instructional practices that promote engagement in authentic learning tasks as measured by the Technology and Learning Survey.

Goal 5: Ensure a world class workforce focused on student achievement.

Performance Objective 1: Winkley will expand targeted professional learning opportunities to increase leadership capacity/effectiveness/cultural responsiveness for Winkley staff.

Performance Objective 2: Build capacity for all Winkley staff to feel empowered to make decisions based on campus core values and vision.

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, November 5, 2020

Agenda Item:	Innovative Courses Proposal
Purpose (this meeting):	☒ Discussion Item/Report Only ☐ Action Requested
Action Requested (future meeting):	Thursday, November 19, 2020
Administrator Responsible:	Chrysta Carlin
Attachments:	Innovative Course Proposals for 2021-2022

Background Information:

The Texas Education Agency is using the innovative course process to add Career and Technical Education Courses in areas of need identified in a recent Programs of Study review. With the approval of the local board of trustees, school districts may offer any state-approved innovative course for state elective credit only. A district does not need to apply to TEA in order to offer an approved innovative course. Innovative courses are approved to meet certain endorsement requirements on the Foundation High School Program.

As TEA continues to develop courses, we anticipate the need to bring additional courses to the board over the next couple of years to fully finalize individual Programs of Study. It is important to note that fully developed Programs of Study are critical for TEA accountability.

Administrative Recommendation:

The administration recommends that the Board approve the proposed list of innovative courses for the 2021-2022 school year.

Sample Motion:

I move that the Board approve the proposed list of innovative courses for the 2021-2022 school year.

Innovative Course Proposals for 2021-2022

Student to Industry Connection
PEIMS Code: N1270154
Grade Level(s): 11–12
Award of Credit: 1.0

The Student to Industry Connection course provides students with the opportunity to develop professional relationships with experienced individuals within the student's chosen program of study and to demonstrate necessary skills for an online virtual workplace. Students will learn acceptable virtual etiquette and professionalism for a teleworking environment. The central focus of this course is to prepare students to be 21st century career ready through interaction with a seasoned workplace mentor. The course may include a work-based learning component. Instruction will support students with marketable skills attainment. The course is recommended for students 16 years of age or older.

Kinesiology I
PEIMS Code: N1302104
Grade Level(s): 9–10
Award of Credit: 1.0

This course is designed to introduce students to the basic concepts of kinesiology. Students will gain an understanding of body mechanics, physiological functions of muscles and movements, the history of kinesiology, and the psychological impact of sports and athletic performance. Students will also explore careers within the kinesiology field and be able to explain the societal demand for kinesiology-related jobs. Students will develop a foundation in Kinesiology I that will prepare them for upper-level courses that will dive deeper into the anatomical and physiological functions of the body and provide opportunities for an industry-certified exam such as a certified personal trainer.

LISD Recommended Sequence - Exercise Science and Wellness Program of Study

- Level 1: Lifetime Nutrition and Wellness/Interpersonal Studies
- Level 2: Kinesiology I
- Level 3 Anatomy and Physiology/Kinesiology II (TBD)
- Level 4: Project-Based Research

Applied Nutrition and Dietetics
PEIMS Code: N1302541
Grade Level(s): 10–12
Award of Credit: 1.0

The Applied Nutrition and Dietetics course builds on the fundamental nutritional knowledge gained from the Lifetime Nutrition and Wellness course by reinforcing professional standards, food safety and sanitation, food service and management, and nutrition care for individuals and groups at a deeper level. The course also introduces and applies career focused and real-world topics related to nutrition such as the nutrition care process, types of nutrition education and counseling, development of nutrition programs, and nutrition industry related research. Students will research requirements necessary to become a professional in the nutrition and dietetics field such as a registered dietitian, licensed nutritionist, or clinical dietitian.

LISD Recommended Sequence- Health and Wellness Program of Study

- Level 1: Principles of Human Services
- Level 2: Lifetime Nutrition and Wellness/Interpersonal Studies/Human Growth and Development
- Level 3: Applied Nutrition and Dietetics
- Level 4: Practicum in Human Services Advanced Nutrition and Dietetics (TBD)

Entrepreneurship II
PEIMS Code: N1303423
Grade Level(s): 11–12
Award of Credit: 1.0

The purpose of the course is to prepare students with the knowledge and skills needed to become a successful entrepreneur within an innovative marketplace. The goal and outcome of the course is for students to have their business launched by the end of the course or have the tools necessary to launch and operate their business. Students are encouraged to work in close cooperation with local industry leaders, community members, and educators to develop ideas and objectives, complete a business model canvas, pitch to potential investors, register with governmental agencies, develop their brand identity, and participate in local chamber of commerce meetings and events. The recommended participants are students in the CTE Entrepreneurship program of study, students in grades 11-12, and those interested in starting a business.

LISD Recommended Sequence- Entrepreneurship Program of Study

- Level 1: Principles of Business, Marketing, and Finance

- Level 2: Business Information Management or Any CTE Course
- Level 3: Entrepreneurship /INCubatoredu
- Level 4: Entrepreneurship II/Practicum of Business Management or Marketing//ACCELeratoredu

Marketing
PEIMS Code: N1303424
Grade Level(s): 10–12
Award of Credit: 1.0

Marketing explores the seven core functions of marketing which include: marketing planning – why target market and industry affect businesses; marketing-information management – why market research is important; pricing – how prices maximize profit and affect the perceived value; product/service management – why products live and die; promotion – how to inform customers about products; channel management – how products reach the final user; and selling – how to convince a customer that a product is the best choice. Students will demonstrate knowledge in hands-on projects which may include conducting research, creating a promotional plan, pitching a sales presentation, and introducing an idea for a new product/service.

LISD Recommended Sequence- Marketing and Sales Program of Study
- Level 1: Level 1: Principles of Business, Marketing, and Finance
- Level 2: Marketing
- Level 3: Social Media Marketing/Advertising
- Level 4: Practicum in Marketing

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, November 5, 2020

Agenda Item:	Special Programs and Services Update
Purpose (this meeting):	☒ Discussion Item/Report Only ☐ Action Requested
Administrator Responsible:	Kimberly Waltmon
Attachments:	Special Programs and Services Update Presentation

Background Information:

The COPIA report was initiated in the 2019-2020 school year. Focus groups comprised of parents met with COPIA consulting to provide feedback and identify areas for improvement in the Special Education department. The report was provided to LISD in Spring of 2020 and LISD adopted all 7 recommendations outlined in the report.

The Leander ISD Special Programs and Services department would like to update the Board on the work being done that aligns with the recommendations from the COPIA report.

Administrative Recommendation:

N/A

Sample Motion:

N/A



Special Programs Update

November 5, 2020 | Board of Trustees Meeting

PURPOSE

Share updates of the work of the Special Programs team and actions aligned with the COPIA report.

1. COPIA Report Recap
2. Immediate Action Steps
3. Recommendation Teams
4. Process Feedback
5. Next Steps

442

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LEADING TO A BRIGHT FUTURE

COPIA REPORT AND RECOMMENDATIONS

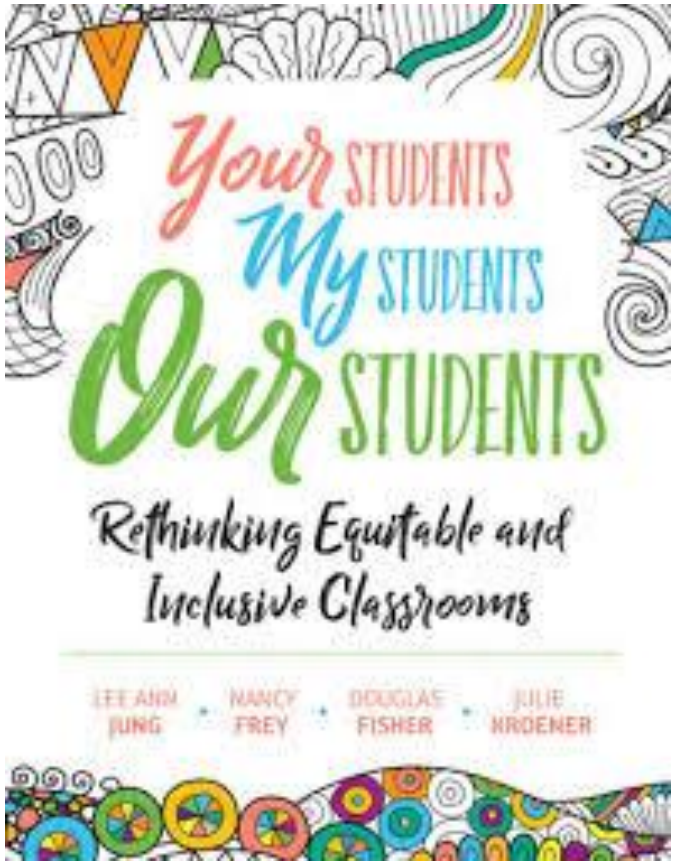


- COPIA Report Purpose
- LISD Adopted all 7 recommendations
- Recommendations
  - forging relationships with parents
  - improving communication
  - training general education teachers on special education services
  - creating materials for parents and teachers to inform about special education services
  - establishing a Pre-ARD process
  - redesigning the ARD process
  - create a parent group exclusively for special education parents

443

IMMEDIATE ACTIONS

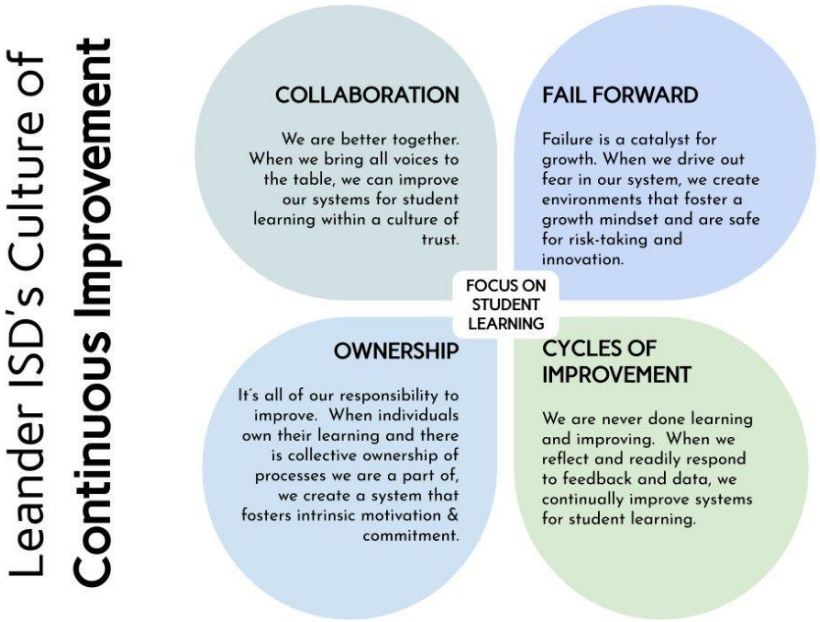
- Shared Learning
  - Your Students, My Students, Our Students
- Professional learning Opportunities
  - Required staff training
  - Co-Teaching
- Partnership with Parents
  - Parent Education Nights
  - Special Education PTA
  - Parent Liaison
- Improved Communication
  - SPROG Website
  - Newsletter
  - Remind



444

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RECOMMENDATION TEAMS

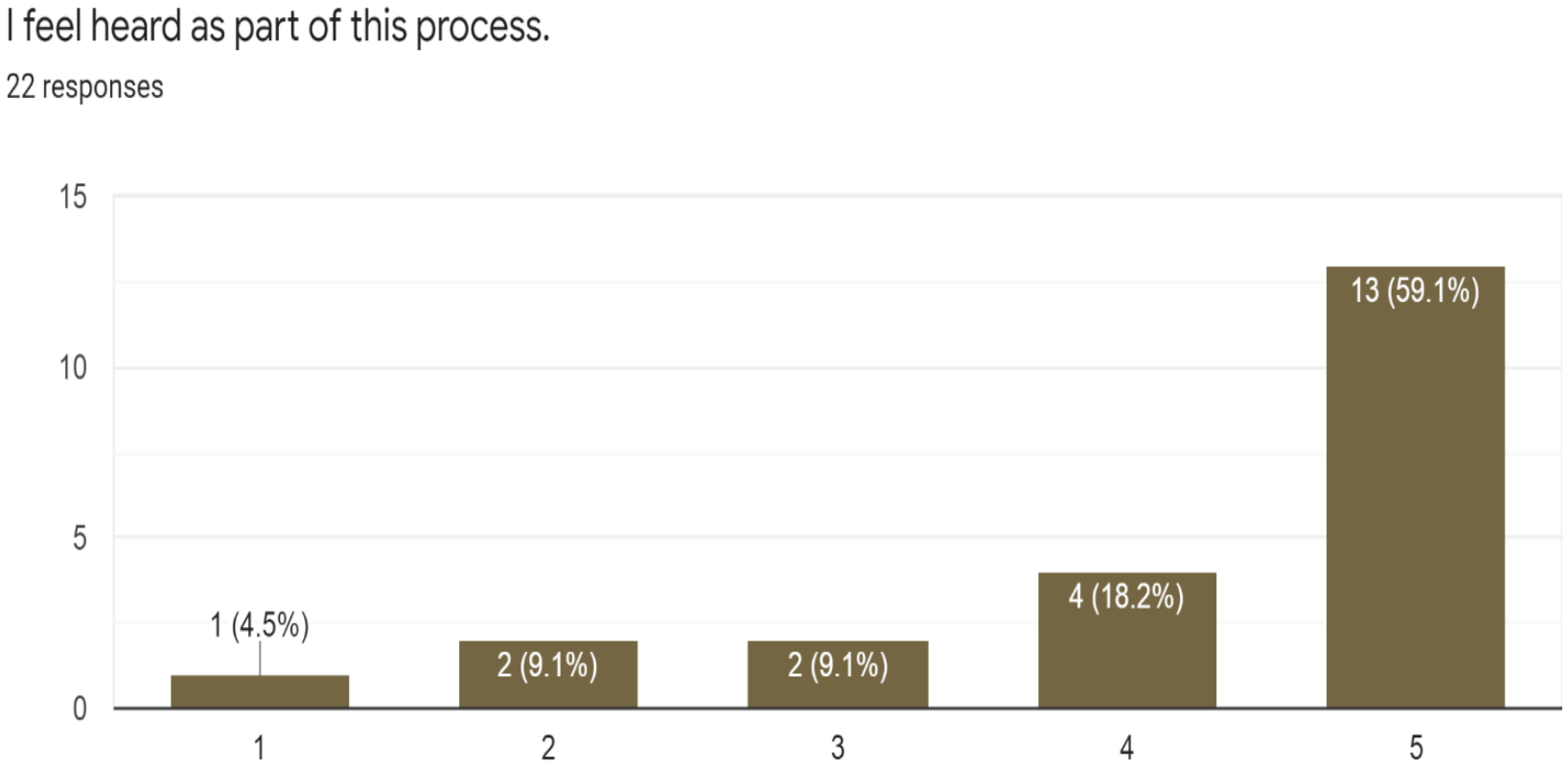


- Aligned to COPIA recommendations
- Led by Continuous Improvement Facilitators
- Include parents, staff and students
- Goal:
  - Unpack recommendation
  - Utilize continuous improvement tools to guide discussions
  - Generate specific recommendations for improvement by the department

445

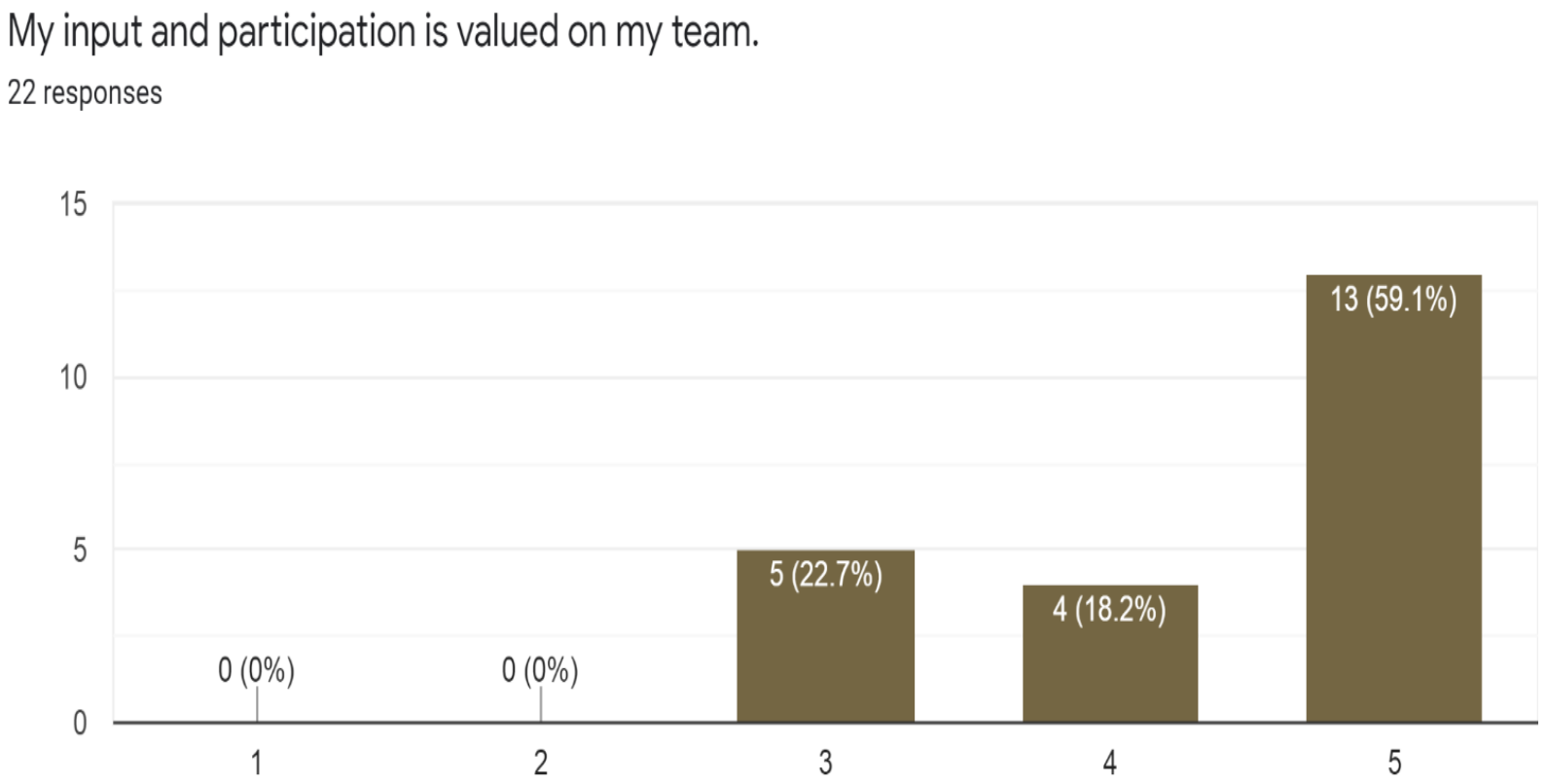
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PROCESS FEEDBACK



446

PROCESS FEEDBACK

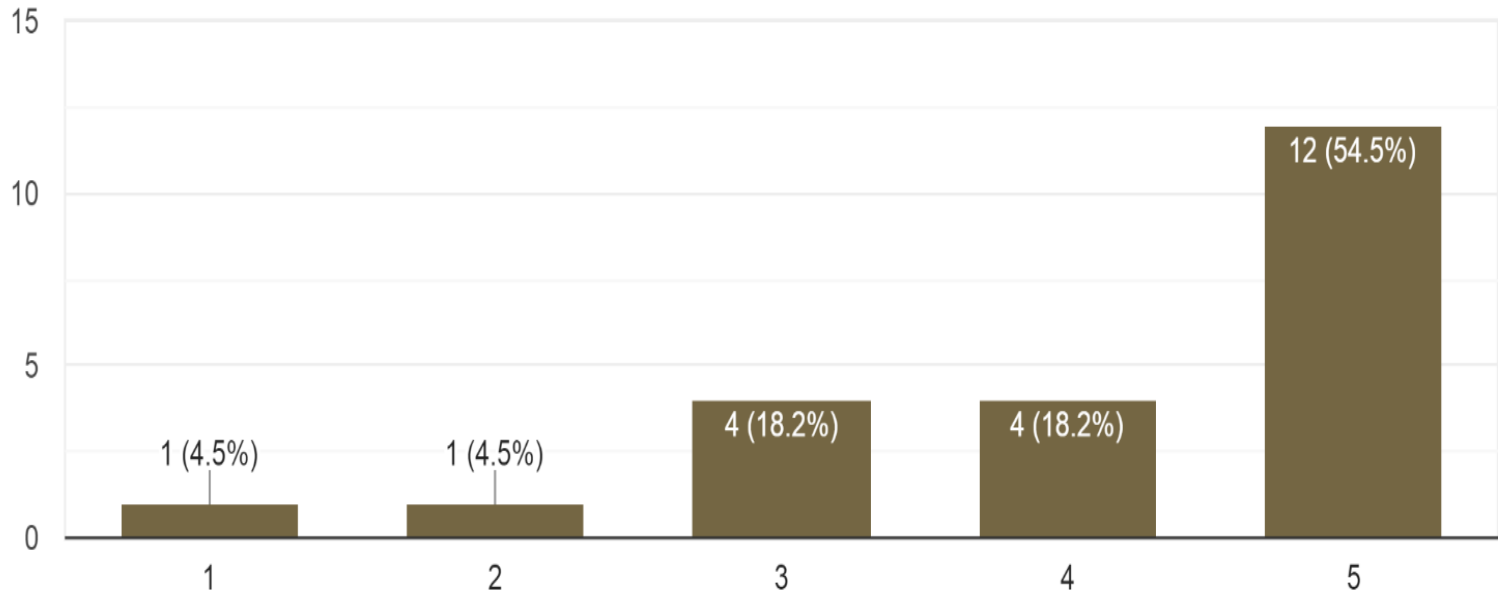


447

PROCESS FEEDBACK

The work of my team is headed in the right direction in order to make recommendations for improvement in LISD SPED.

22 responses



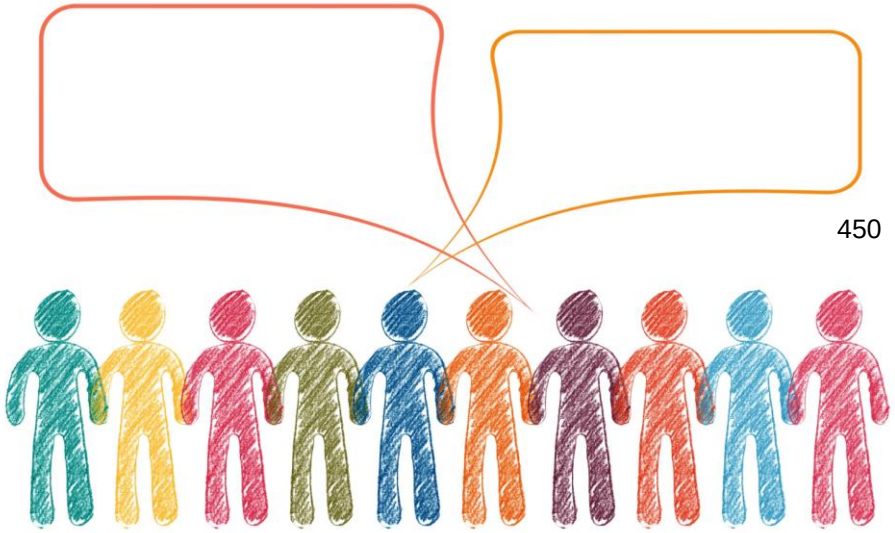
448

PROCESS FEEDBACK

- I really appreciate that it is a process. That has helped all of us not rush to solving things, but instead, focusing on the needs in front of us and letting the process guide us. I love that it has a path and that the path guides/informs us.
- Our group is listening to the student contributor and truly valuing her insight. It is eye-opening and absolutely great to forge that positive communication. 449
- Time, More time and more variety. Parents from ele and secondary.
- I know there are other parents with similar stories and my hope would be for their participation in this very meaningful process.

NEXT STEPS

- REVIEW RECOMMENDATIONS
- DETERMINE SYSTEMS TO IMPLEMENT RECOMMENDATIONS AND UPDATE DEPT. PLAN
- DEVISE FEEDBACK LOOPS TO MONITOR PROGRESS
- FOLLOW UP MEETING WITH OUR PARENT GROUP TO SHARE PROGRESS AND OUTCOMES



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451

QUESTIONS

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, November 5, 2020

Agenda Item:	Class Size Waivers	
Purpose (this meeting):	☒ Discussion Item/Report Only	☐ Action Requested
Action Requested (future meeting):	Thursday, November 19, 2020	
Administrator Responsible:	Karie Lynn McSpadden	
Attachments:	Over Limit Report	

Background Information:

At the beginning of the school year, each school district in Texas is required to review its class size enrollment to determine whether its class sizes for grades kindergarten (K) through four meet the requirements of TEC §25.112. If the review indicates that any class for grades K-4 exceeds the allowable class size limit of 22 students per class (22:1), the district must submit a request to TEA for a class size exception. The district's board of trustees must approve this request within 30 days after the class size was exceeded. Note: class size limits do not apply to physical education classes or fine arts classes. Due to the effects of COVID-19 on remote and in-person instruction during the 2020-21 school year, TEA has extended the deadline for Class Size Exceptions to December 1, 2020. No exceptions have been made for virtual class size for the 2020-21 school year.

As of 10/26/20, 107 K-4 classes exceeded the 22:1 ratio, all of which are Virtual Learning classes. All elementary classes being taught on campus are within the 22:1 ratio. Detailed information on classes exceeding the 22:1 ratio as of 11/9/20 in K-4 sections will be available for the November 19 Regular Board meeting.

Administrative Recommendation:

It is recommended that you approve the waiver as presented.

Sample Motion:

I move that the Board approve the Class Size Compliance Plan and submit an application to the Texas Education Agency with class size waivers at the elementary campuses as presented.

OVER LIMIT REPORT
10/26/20

Building Name	Course Name	Staff Name	Last Entry Dt	Stu Cnt	Notes
Whitestone Elementary	Attendance 02	Irwin, Mary	09/21/2020	23	SC
					1
Faubion Elementary	Attendance 01	Pritchard, Elizabeth	09/22/2020	28	SC
Faubion Elementary	Attendance 02	Summers, Elizabeth	10/14/2020	30	SC
Faubion Elementary	Attendance 03	Mehlow, Annemarie	10/19/2020	23	SC
Faubion Elementary	Attendance 04	Bisbee, Patricia	10/14/2020	26	SC
					4
Block House Creek Elem	Attendance 01	Hood, Anne	09/28/2020	23	SC
					1
Cypress Elementary	Attendance 01	Miller, Jennifer	10/14/2020	29	SC
Cypress Elementary	Attendance 04	Ruano, Melissa	10/02/2020	24	SC
					2
Mason Elementary	Attendance KG	Marble, Cory	10/19/2020	26	SC
Mason Elementary	Attendance 02	Denny, Kirsten	10/01/2020	23	SC/WFH
Mason Elementary	Attendance 02	Smith, Sarah	10/14/2020	23	SC
Mason Elementary	Attendance 04	Bond, Allison	10/05/2020	25	SC/WFH
Mason Elementary	Attendance 04	Harvey, Kathryn	10/05/2020	25	SC
					5
Giddens Elementary	Attendance 03	Moore, Rachel	10/16/2020	23	SC
Giddens Elementary	Attendance 04	Murphy, Ryan	10/05/2020	25	SC
					2
Steiner Ranch Elementary	Attendance KG	Romero, Laura	10/16/2020	24	SC
Steiner Ranch Elementary	Attendance 02	Westergren, Jo-anna	09/22/2020	24	SC/WFH
					2
Cox Elementary	Attendance KG	Lyons, Lindsey	10/14/2020	25	SC
Cox Elementary	Attendance 01	Maloney, Amanda	08/13/2020	23	SC/WFH
Cox Elementary	Attendance 03	Miears, Carol	10/26/2020	27	SC/WFH
Cox Elementary	Attendance 04	Holmes, Rosanna	08/14/2020	24	TT
Cox Elementary	Attendance 04	Marak, Angela	10/26/2020	23	TT
					5
Bush Elementary	Attendance KG	Kwiecienski, Kathy	08/13/2020	27	SC
Bush Elementary	Attendance 02	Brown, Landa	08/13/2020	23	SC
Bush Elementary	Attendance 03	Geer, Olivia	09/08/2020	23	TT
Bush Elementary	Attendance 04	Nichols, Lisa	09/11/2020	23	TT
					4
Knowles Elementary	Attendance 03	Leger Belland, Tangy	10/14/2020	23	SC
					1
Deer Creek Elementary	Attendance 01	Price, Robbi	08/13/2020	23	SC
~~Deer Creek Elementary~~	~~Attendance 02~~	~~Carney, Crystalyn~~	~~10/14/2020~~	~~31~~	position released 10/27/20 for hire to alleviate

OVER LIMIT REPORT
10/26/20

~~Deer Creek Elementary~~	~~Attendance 02~~	~~Niestradt, Teresa~~	~~10/14/2020~~	~~30~~	virtual numbers
Deer Creek Elementary	Attendance 03	Edison, Jeremiah	10/14/2020	24	TT
Deer Creek Elementary	Attendance 03	Huff, Lisa	10/14/2020	23	TT
Deer Creek Elementary	Attendance 04	Ciernia, Charles	08/13/2020	23	TT
					4
Pleasant Hill Elementary	Attendance KG	Narup, Ashley	10/21/2020	26	SC
Pleasant Hill Elementary	Attendance 03	Norris, Sarah	09/30/2020	23	TT
Pleasant Hill Elementary	Attendance 04	Fujawa, Brandin	10/14/2020	25	TT
Pleasant Hill Elementary	Attendance 04	Wegrzyn, Melissa	10/26/2020	23	TT
					4
Rutledge Elementary	Attendance KG	Huddleston, Kimberly	10/14/2020	24	SC
Rutledge Elementary	Attendance KG	Keller, Kristy	10/14/2020	23	SC
Rutledge Elementary	Attendance KG	Simons, Marie	10/26/2020	24	SC
Rutledge Elementary	Attendance 01	Donnelly, Leezeyda	09/08/2020	26	SC
Rutledge Elementary	Attendance 02	Camp-chandler, Jodi	08/13/2020	24	SC/WFH
Rutledge Elementary	Attendance 02	Holleyman, Amanda	08/13/2020	24	SC
Rutledge Elementary	Attendance 03	Froelich, Samantha	08/24/2020	24	TT
Rutledge Elementary	Attendance 03	Moody, Karen	08/13/2020	25	TT
Rutledge Elementary	Attendance 04	Buckler, Sarah	09/15/2020	26	TT
Rutledge Elementary	Attendance 04	Eppinette, Carolyn	08/13/2020	23	TT
Rutledge Elementary	Attendance 04	Massingill, Rebecca	08/13/2020	24	TT
					11
Plain Elementary	Attendance 02	Coffee, Jessica	10/20/2020	25	SC
Plain Elementary	Attendance 04	Dock, Kaia	10/20/2020	30	TT
					2
Winkley Elementary	Attendance 03	Whiteis, Julia	09/29/2020	25	TT
					1
River Place Elementary	Attendance 01	Partridge, Shawn	10/14/2020	24	SC
River Place Elementary	Attendance 01	Torres, Nicole	10/14/2020	25	SC
River Place Elementary	Attendance 02	Gros, Lindsay	09/23/2020	24	SC
River Place Elementary	Attendance 03	Hoffart, Kayleigh	08/27/2020	27	TT
River Place Elementary	Attendance 03	Veve, Kelsey	09/29/2020	27	TT/WFH
River Place Elementary	Attendance 04	Bombra, Jessica	10/19/2020	33	SC
River Place Elementary	Attendance 04	Keilberg, Brittany	10/14/2020	27	SC
					7
Grandview Hills Elementary	Attendance KG	Barden, Coryna	10/19/2020	26	SC
Grandview Hills Elementary	Attendance 02	Laird, Ashley	10/14/2020	23	SC
					2
Parkside Elementary	Attendance KG	Mull, Lindsey	08/13/2020	25	SC

OVER LIMIT REPORT
10/26/20

Parkside Elementary	Attendance KG	Williams, Amy	09/11/2020	25	SC
Parkside Elementary	Attendance 01	Flores, Ina	09/08/2020	27	SC
Parkside Elementary	Attendance 01	Markus, Jill	10/15/2020	29	SC
Parkside Elementary	Attendance 01	Rose, Alyson	10/14/2020	28	SC
Parkside Elementary	Attendance 02	Armstrong, Sarah	08/13/2020	27	SC
Parkside Elementary	Attendance 02	Martinez, Melissa	09/14/2020	28	SC
Parkside Elementary	Attendance 03	Churchill, Ann Marie	10/15/2020	23	SC
Parkside Elementary	Attendance 03	Forward, Allison	10/14/2020	23	SC
Parkside Elementary	Attendance 03	Patrick, Gracie	10/21/2020	24	SC
Parkside Elementary	Attendance 03	Strickland, Madeline	10/20/2020	24	SC
Parkside Elementary	Attendance 04	Rodriguez, Denise	10/02/2020	25	SC
Parkside Elementary	Attendance 04	Whaley, Lindsay	08/20/2020	26	SC
					13
Westside Elementary	Attendance 04	Walker Shuler, Crystal	10/05/2020	34	TT
					1
Reagan Elementary	Attendance KG	Hrabal Reinert, Charity	09/08/2020	23	SC
Reagan Elementary	Attendance 01	Holley, Amber	09/14/2020	24	SC
Reagan Elementary	Attendance 01	Weiland, Andrea	09/08/2020	23	SC
Reagan Elementary	Attendance 02	Cook, Julissa	09/08/2020	24	SC
Reagan Elementary	Attendance 02	Foux, Christina	10/14/2020	25	SC
Reagan Elementary	Attendance 02	Freeman, Gina	09/08/2020	30	SC
Reagan Elementary	Attendance 03	Esparza, Adriana	10/14/2020	29	TT
Reagan Elementary	Attendance 03	Serphillips, Colby	10/14/2020	30	TT
Reagan Elementary	Attendance 03	Venner, Gloria	10/14/2020	29	TT
Reagan Elementary	Attendance 04	Bleakley, Adam	10/14/2020	24	TT
Reagan Elementary	Attendance 04	Moran, Jennifer	09/28/2020	27	TT
Reagan Elementary	Attendance 04	Sivells, Melanie	10/14/2020	28	TT
					12
Reed Elementary	Attendance KG	Monroig Velez, Amaryll	10/19/2020	30	IA hired to support/SC - 6 taught ELA by another tchr
Reed Elementary	Attendance 02	Putnam, Melissa	10/06/2020	24	SC
Reed Elementary	Attendance 03	Harvey, Sandra	10/20/2020	28	SC
Reed Elementary	Attendance 03	Santana, Olga	09/28/2020	24	SC
Reed Elementary	Attendance 04	Jones, Alison	09/16/2020	24	SC
					5
Camacho Elementary	Attendance 01	Wroblewski, Jaclyn	08/28/2020	24	SC
Camacho Elementary	Attendance 03	Elliott, Abigail	08/20/2020	23	TT
Camacho Elementary	Attendance 04	Miller, Katie	10/15/2020	24	TT/WFH
Camacho Elementary	Attendance 04	Perkins, Amanda	09/01/2020	28	TT

OVER LIMIT REPORT
10/26/20

					4
Akin Elementary	Attendance 01	Gunn, Mary	09/08/2020	23	SC
Akin Elementary	Attendance 01	Kincaid, Jennifer	09/08/2020	26	SC
Akin Elementary	Attendance 01	Wright, Christine	09/10/2020	25	SC
Akin Elementary	Attendance 02	Hodgson, Tara	09/21/2020	23	SC
Akin Elementary	Attendance 02	Middleton, Jennifer	09/08/2020	23	SC
Akin Elementary	Attendance 03	Behrs, Wendy	09/29/2020	26	SC
Akin Elementary	Attendance 03	Clemons, Christine	08/13/2020	24	SC
Akin Elementary	Attendance 03	Meleck, Jessica	08/13/2020	25	SC
Akin Elementary	Attendance 04	Kodra, Sahira	08/13/2020	23	SC
Akin Elementary	Attendance 04	Ramsey, Laura	08/13/2020	23	SC
					10
Larkspur Elementary	Attendance KG	Brown, Liana	10/14/2020	29	SC
Larkspur Elementary	Attendance 01	Hall, Emily	10/14/2020	24	SC
Larkspur Elementary	Attendance 02	Gillis, Erin	08/13/2020	25	SC
Larkspur Elementary	Attendance 04	Rister, Angela	10/14/2020	29	SC
					4
			TOTAL WAIVERS :		**107**

456

SC = self contained
WFH = work from home
TT = Team Teacher

Cost to reduce all virtual classes to 22:1 or below: 70 teachers @ $ 55,784	$3,904,880

OVER LIMIT REPORT
10/26/20

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, November 5, 2020

Agenda Item:	Call for High School Language Arts Literature Comprehensive Review Process
Purpose (this meeting):	☒ Discussion Item/Report Only ☐ Action Requested
Administrator Responsible:	Matt Bentz, Jennifer Collins
Attachments:	Call for High School Language Arts Literature Comprehensive Review Process Presentation *(To be loaded to BoardBook prior to the meeting.)*

Background Information:

Based on feedback from parents, teachers, and administrators, it has become apparent that some of the literature within the collections in the new high school language arts adoption merit a thorough and comprehensive review. The purpose of this presentation is to provide the Board up-to-date information about the actions being taken to resolve this situation.

Administrative Recommendation:

N/A

Sample Motion:

N/A

CALL FOR HIGH SCHOOL LANGUAGE ARTS LITERATURE COMPREHENSIVE REVIEW PROCESS

November 5, 2020 Board Meeting

PURPOSE

Address concerns about some of the new book club titles recently added to high school language arts curriculum.

The following information will be provided:

462

- High school ELA adoption process - Spring 2020
- Comprehensive review being undertaken of book club titles within the adopted collections
- Classic literature in LISD curriculum

HISTORY

High School ELA adoption process - Spring 2020

- Technology Instructional Materials Adoption-TIMA
- Curriculum Design Committee: teachers & district staff
- Jan/Feb - Materials from various publishers considered 463
    - Reviewed by parents, staff, community members
        - Districtwide Educational Improvement Council
        - Citizen's Curriculum Advisory Committee
    - Displayed for public (30 days): RHS, VHS

BOOK SELECTION PROCESS

- March, April, May 2020
- Work done remotely - Curriculum Design Committee
- New TEKS incorporate diversity - genre, theme, author
- Challenge - distributing 100's of physical books for review
- Over-reliance on online reviews/recommendations
- Past processes: more intense scrutiny, analysis, debate

464

COMPREHENSIVE REVIEW

- Continuous Improvement Cycle
- Process improvement facilitator
- 50+ parents, teachers, staff
- Citizen's Curriculum Advisory Committee
- Thorough vetting of each book club title
- Begin with graphic novels book club unit



465

LITERACY CLASSICS

- 100's of Classic titles utilized & available - LISD classrooms
- Classics remain an important part of LISD curriculum - represented in the new digital HS ELA textbook, Study Sync
- Curriculum contains many resources:
    - Traditional, classic book sets - whole-class text study ex. *To Kill a Mockingbird , Animal Farm, Macbeth*
    - Traditional textbooks - remain on campuses
    - Non-fiction & Historical, Primary Documents present
    - Scholastic Magazines - paper & digital access

466

DISCUSSION

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, November 5, 2020

Agenda Item:	Legislative Update	
Purpose (this meeting):	☒ Discussion Item/Report Only	☐ Action Requested
Administrator Responsible:	Colby Nichols (with Underwood)	
Attachments:	N/A	

Background Information:
Colby Nichols with Underwood will be present at the September 17 Agenda Review meeting to discuss legislative updates.

Administrative Recommendation:
N/A

Sample Motion:
N/A

JOHN HAVENSTRITE
506 BROOKHAVEN TRAIL
AUSTIN, TEXAS 78746
John.Havenstrite@yahoo.com

Leander ISD Board of Trustees
% Trish Bode
Board President, Place 1
204 W. South Street
Leander, Texas 78646

via electronic mail: trish.bode@Leanderisd.org

Re: Travis Central Appraisal District
Board of Directors Election

November 5, 2020

Dear Ms. Bode,

Thank you and your fellow Trustees for nominating me for the Travis Central Appraisal District's (TCAD) Western Travis County Board Position. By way of follow-up, I would like to briefly explain why I believe it is important to have a School Board Member on the TCAD Board, and why I believe such a representative would benefit all of Western Travis County.

Early in my career I spent 14 years representing taxing units, and in that capacity regularly worked directly with urban, suburban, and rural appraisal districts. I became expertly familiar with their varying responsibilities, operations, and how critically important a well-run appraisal district is to taxing units, their budgets and the services they provide.

I would like to bring that experience, as well as my perspective as a School Board Member to the TCAD Board. It is my belief that a School Board Member instinctively understands the very sensitive relationship between the appraisal function, municipal finance, and community service.

One quick example: A School Board Member would not have permitted the TCAD / Austin Board of Realtors (ABoR) dispute to remain concealed from the entities whose budgets, operations and services were directly impacted by the fallout. Why? Because an ISD's budget, operations, and services support children. TCAD's inability to reappraise cost the region's taxing entities millions, it cost their teachers their jobs, and it hurt kids.

It's my belief that a more sensitive perspective is needed. I believe that perspective will benefit the entire region regardless of a municipality's size, or function. And I would like to bring that to the TCAD Board.

Thank you again for your and your Board's support. I hope you will consider casting your votes for me when the item rolls forward on your agenda. I have attached my bio for your review. Please do not hesitate to let me know if you, or any member of your Board, have questions.

Sincerely,

John Havenstrite

Attachment: (1) Havenstrite Bio

JOHN HAVENSTRITE
506 BROOKHAVEN TRAIL
AUSTIN, TEXAS 78746
John.havenstrite@yahoo.com

RE: Travis Central Appraisal District
Board of Directors Candidacy

September 23, 2020

John Havenstrite is a Principal Account Manager for the Lower Colorado River Authority (LCRA) where he works to enhance emergency communication among first responders throughout Central Texas. Specifically, John helps elected officials and policy makers solve problems that impede first responder interoperability.

John began his career in municipal governance and finance. For fourteen years, he served as the Tax Assessor Collector for dozens of municipalities serving countless commercial and residential property owners scattered across four urban and rural Texas counties. In that capacity, John became expertly familiar with the varying functions, responsibilities, and operations of the region's appraisal districts, the tax assessment and collection cycle, and the relationship each has with municipal finance and economic development.

Prior to moving to Austin in 2004, John was a partner and vice president of a Houston-based urban planning firm. Here he gained experience creating, managing, and monitoring the myriad public/private economic development tools available to municipalities in Texas - all of which are dependent upon a reliable, well-functioning appraisal district, and tax assessment collection team.

John is currently the Vice President of the Eanes Independent School District (EISD) Board of Trustees. He was elected to the Board in 2017, and will serve a second term beginning in November 2020. John has served as the Secretary of the Central Texas School Board Association (CTSBA) for the past two years and is a 2020 graduate of Leadership-TASB (L-TASB). John also serves on advisory committees related to public safety, telecommunications, and the utility industry.

John grew up in New Orleans, and graduated from Louisiana State University (LSU) with degrees in History, Political Science, and Journalism. He volunteers regularly at his church and in his community whenever he can. However, more important than any of the foregoing, John has been married for 20 years, is the proud father of two Westlake High School students, and is the unwitting owner of two dogs, two cats, and three chickens.

###

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, November 5, 2020

Agenda Item:	Travis County Appraisal District (TCAD) Board of Directors Election
Purpose (this meeting):	☒ Discussion Item/Report Only ☐ Action Requested
Action Requested (future meeting):	Thursday, November 19, 2020
Administrator Responsible:	Elaine Cogburn
Attachments:	Ballot – TCAD Board of Directors Bios - TCAD Board of Directors Nominees Resolution of the Travis Central Appraisal District Regarding Board Membership and Selection

Background Information:

The Travis Central Appraisal District has distributed the ballot for casting votes for a board member representing Leander ISD. The Leander ISD Board of Trustees submitted nominations for Tom Buckle and John Havenstrite. The ballot reflects an additional nominee, Randy Strader, submitted by another taxing entity.

Per the Resolution Regarding Board Membership and Selection executed in 2013, Leander ISD gets one member who represents a total of 21 taxing entities. Each of the 21 taxing units will have the ability to cast a vote for the member to represent the group.

The District must submit its ballot by December 2, 2020. The nominee with the most votes will serve a two-year term beginning January 1, 2021. The district gets one vote and according should allocate that vote to one of the three nominees reflected on the ballot.

Administrative Recommendation:

The administration recommends the Board of Trustees cast a ballot for a nominee to be elected to the TCAD Board of Directors.

Sample Motion:

I move the Board of Trustees cast a ballot for _____ to be elected to the TCAD Board of Directors.

TRAVIS CENTRAL APPRAISAL DISTRICT

BOARD OFFICERS
JAMES VALADEZ
CHAIRPERSON
BRUCE GRUBE
VICE CHAIRPERSON
THERESA BASTIAN
SECRETARY/TREASURER

BOARD MEMBERS
TOM BUCKLE
BRUCE ELFANT
ANTHONY NGUYEN
ELEANOR POWELL
RYAN STEGLICH
FELIPE ULLOA
BLANCA ZAMORA-GARCIA

MARYA CRIGLER
CHIEF APPRAISER

LEANDER ISD
AARON JOHNSON, PRESIDENT
C/O SUPERINTENDENTS OFFICE
PO BOX 218
LEANDER, TX 78646-0218

October 23, 2020

The deadline has passed for the jurisdictions in the western part of Travis County to make nominations for their representative member of the Board of Directors of the Travis Central Appraisal District. The term for the prospective member's service will be two years, starting in January 1, 2021. The following are the nominations and sponsoring jurisdictions for the Western Travis County member for our Board:

BALLOT

_____	**Tom Buckle**	**City of Jonestown, City of Lakeway, Leander ISD**
_____	**John Havenstrite**	**City of Rollingwood, Eanes ISD, Leander ISD**
_____	**Randy Stader**	**City of Cedar Park**

This letter serves as a ballot, and is being sent to the presiding officer of each city and school district in Western Travis County. **On or before December 2, 2020 your jurisdiction should vote and return the ballot to the Chief Appraiser of the appraisal district at the following mailing address or email address**:

Marya Crigler
Travis Central Appraisal District
P.O. Box 149012
Austin, TX 78714-9012
mcrigler@tcadcentral.org

On or before December 15, 2020, I will inform you of the results of the election and send you a complete list of the Board members. If you have any questions, please feel free to call me at (512) 834-9317, ext. 337.

Sincerely,

Marya Crigler
Chief Appraiser
Travis Central Appraisal District

P.O. BOX 149012 8314 CROSS PARK DRIVE AUSTIN, TEXAS 78714-9012 (512) 834 9317 TDD (512) 836-3328
WWW.TRAVISCAD.ORG

W.THOMAS BUCKLE

EXPERIENCE

2019-present **Scanlan, Buckle & Young, P.C** **Austin, TX**

Of Counsel

- Primary Areas of Practice: Commercial and Residential Real Estate, including all aspects of land use controls; Wills, Trusts and Estate Planning, Probate and Guardianship and the creation and representation of various business entities.

1995-2019 **Scanlan Buckle and Young, P.C.** Austin, TX

Principal

- Primary Areas of Practice: Litigation, Municipal Law, Commercial and Residential Real Estate, including all aspects of land use controls; Wills, Trusts and Estate Planning, Probate and Guardianship and the creation and representation of various business entities.

1988-1995 **Scanlan & Buckle, P.C.**

Principal

- Primary Areas of Practice: Litigation, Commercial and Residential Real Estate; Muncipal Law; and Wills, Trusts and Estate Planning; Probate and Guardianship; and, the creation and representation of various business entities.

1978-1987 **Scanlan, Buckle & Fleckman** Austin, TX

Partner

- Primary Areas of Practice: Litigation, Environmental law, Commercial and Residential Real Estate. Highly active in the State Bar's Environmental Law Section and also lecturing at a number of continuing legal education seminars concerning environmental matters.

1975–1978 **Office of the Attorney General** Austin, TX

Assistant Attorney General

- Primary Areas of Practice: Environmental Protection Division of the Attorney General's office representing the state's environmental agencies advising them on air pollution matters. Litigated cases throughout the State of Texas and was directly involved with the congressional revisions to the Clean Air Act. Worked closely with Senator Lloyd Bentsen's staff and various congressmen from Houston's area.

1973-1975 **Texas Air Control Board** Austin, TX

Staff Attorney

- Primary Areas of Practice: Staff attorney for agency responsible for

controlling air pollution in the State of Texas.

1970–1973 **Legal Aid Society of Travis County** Austin, TX

Staff Attorney/Executive Director

- Primary Areas of Practice: Staff Attorney from 1970-1972 before serving on the Board of Directors. As Acting Director in 1971-1972, supervised 20 employees and was responsible for administering six grants which funded the Legal Aid program.

EDUCATION

1970 **University of Texas School of Law** Austin, TX

- Doctor of Juriprudence degree.

1967 **Rice University** Houston, TX

- B. A., Political Science

LICENSES/ADMISSIONS/MEMBERSHIPS

Licenses: State Bar License for State of Texas (1970)

Admissions: United States District Court, Western District of Texas, (1980); Southern District of Texas, (1985)

Professional Memberships: State Bar of Texas, 1970 to present; Travis County Bar Association, 1972 to present; Texas Bar Foundation, 1987 to present; Austin Bar Foundation, 2004 to present.

Memberships: State Bar District 9 Grievance Committee Member 1986 to 1993; City of Jonestown Planning & Zoning Commission Member 1998 to 2005; City of Jonestown City Council Member 2005-2006; 2007 to 2013; 2015 to present.

Board of Directors: State Bar of Texas, Environmental Law Section, 1979 to 1982; Chair 1981-1982; Legal Aid Society of Central Texas, 1974-1978, President, 1978; Travis County Bar Association 1974; Twilight Concerts, 2005 to present, Family Eldercare, 2006 to 2012; Travis Central Appraisal District, 2010 to present.

Officer: Treasurer, State Bar of Texas, Environmental Law Section, 1982 to 1983; Vice Chair, Environmental Section of State Bar, 1984; Chair Elect, Environmental Section of State Bar, 1985; Chair, Environmental Section of State Bar, 1986; Chair, State Bar District 9 Grievance Committee, January 1992 to June 1993; Chair, City of Jonestown Planning & Zoning Commission 2000 to 2005; Mayor Pro Tem, City of Jonestown, 2007 to 2013; 2015 to present; Treasurer, Family Eldercare 2008 and 2009; Chair Travis Central Apprasil District 2019.

Assistant City Attorney: City of Westlake Hills, Texas, 1979 to 1985; City of Lakeway, Texas, 1981 to 1990; City of Sunset Valley, Texas 1982 to 1990.

City Attorney: City of Jonestown, Texas, 1985 to 1995; City of Lakeway,

Texas, 1990 to 2007; City of Sunset Valley, Texas, 1990 to 2020; Village of Volente, Texas, 2004 to 2017.



JOHN HAVENSTRITE
506 BROOKHAVEN TRAIL
AUSTIN, TEXAS 78746
John.havenstrite@yahoo.com

RE: Travis Central Appraisal District
Board of Directors Candidacy

September 23, 2020

John Havenstrite is a Principal Account Manager for the Lower Colorado River Authority (LCRA) where he works to enhance emergency communication among first responders throughout Central Texas. Specifically, John helps elected officials and policy makers solve problems that impede first responder interoperability.

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John grew up in New Orleans, and graduated from Louisiana State University (LSU) with degrees in History, Political Science, and Journalism. He volunteers regularly at his church and in his community whenever he can. However, more important than any of the foregoing, John has been married for 20 years, is the proud father of two Westlake High School students, and is the unwitting owner of two dogs, two cats, and three chickens.



Public Service Biography

Randy Strader



Ralph E. Strader II ("Randy") is a 12-year resident of Cedar Park, Texas. Randy moved with his wife, Tessa, who works locally as an accountant, and three sons from his residence in Austin, where he had lived since 1997 to a subdivision in unincorporated Travis County.

Motivated to serve his neighbors, he joined the Deer Creek Ranch Homeowners Association as Treasurer in 2011, using his skills in finance and taxation to restore and maintain the association's balance sheet. Randy established ties with the City of Cedar Park in this capacity, helping the effort to bring the subdivision into the City when it was annexed.

Randy subsequently became President of the HOA and served in this role for four years. Through continuing dialogue on matters pertaining to the City, he was nominated and became a Commissioner on Cedar Park's Planning and Zoning Commission. Randy later served as its Chair and it presently serving as Place Seven and Vice Chair.

Having worked in finance and accounting for much of his career, which includes his work in taxation for one of the Big Four accounting firms, Randy brings tremendous knowledge of various forms of taxation within both the public and private sector.

Randy also holds an MBA with a concentration in Real Estate Finance from the University of Texas at Austin, an MA from Boston College, and a BA from the University of St. Thomas in Houston, Texas.

Randy Strader

2702 Rambler Valley Dr. • Cedar Park, Texas 78613
Mobile: (512) 767-5809 • E-Mail: mail@randystrader.com

Overview

Distinguished track record of managing and delivering enterprise software projects, supported by broad business knowledge with expertise in finance, tax, and international logistics. Progressive achievement in working with senior leadership to create strategies, implement business objectives, and track performance of corporate initiatives.

Experience

Program Manager, Apple Inc. **May 2020 - Present**

Program Manager with responsibility for overseeing a portfolio of finance and tax projects. Product Owner of Apple-internal finance system.

Tax Manager, Deloitte Tax LLP **2014 - 2020**

Tax project manager within Deloitte Tax's Enterprise Tax Integration (SAP) group, focused on implementing finance and tax requirements relating to corporate taxation (US and US-International), State and Local Taxes, VAT, Property Tax, and other forms of use tax.

Program Manager, Finance IT, Hewlett-Packard Company **2009 – 2014**

Chief-of-staff to the VP of Finance IT. Program and portfolio management for finance, tax, and global regulatory compliance applications at HP, including resource planning, financial analysis of IT projects, and project portfolio planning. Developed and communicated Finance IT strategy to internal stakeholders, including executives of HP's various lines-of-business. Configured and used financial management systems, including SAP Business Warehouse (SAP BW) and SAP Business Planning and Consolidation (SAP BPC) to communicate internal metrics and financial performance. Obtained HP Master Technologist level.

Tax Manager, Deloitte Tax LLP **2008 - 2009**

Client engagement manager on Deloitte's Global Trade Solutions team. Advised clients on international trade requirements, aligning the trade function with business objectives via software automation. Performed research and analysis of regulatory, statutory, and international trade rules for client compliance. Managed staff and seniors. Created project proposals, including project timeline, budget, and fees.

Director, Solution Management, SAP America, Inc. **2006 - 2008**

Led product management and solutions engineering teams for SAP's trade and customs software portfolio. Performed gap and market analysis to identify product features to implement. Managed direct reports in three regions – APA, EMEA, and Americas. Overall coordination of product definition, software development lifecycle (SDLC), and roll-out activities for products within the portfolio.

Manager, Product Management, SAP Labs LLC **2001 - 2006**

Led product management for the SAP Global Trade Services application. Line manager with 5 – 7 reports. Authored product requirements documents, market opportunity analysis, and software design specifications. Managed the overall software development lifecycle for SAP GTS releases 1.0 through 7.0 with SAP core development teams.

SAP Support Consultant, SAP America, Inc. **1996 – 2001**

Delivered on-site and remote services for SAP R/3, CRM, and SRM customers, including software configuration, performance tuning, and data analysis. SAP Certified Consultant in SAP R/3 Sales & Distribution, Logistics Execution, and Materials Management modules.

Education

MBA, The University of Texas at Austin **May 2008**

Texas Executive MBA. Elective coursework in Real Estate Finance.

MA, Philosophy, Boston College **May 1996**

BA, Philosophy, University of St. Thomas **May 1992**

Completed US Federal Taxation sequence at Austin Community College as a continuing education student.

Skills

Project Management (waterfall, Agile, and Scrum)
Financial Accounting
Excel Modeling
IT Portfolio Planning
Vendor Management

US Federal Income Tax
Regulatory Research
Tax Analysis
Customs Regulations
Global Trade
Software Development Lifecycle

SAP S/4HANA Finance
SAP ERP (ECC, S/4HANA)
SAP BPC & BW Reporting
SAP HANA Database
Enterprise Data Warehouse
Microsoft Office, Project & Visio

Community Service

Place 7 and Chair (2016-19),
Vice-Chair (2019-20)
Planning and Zoning Committee
City of Cedar Park

Director, Deer Creek Ranch HOA
President 2013-17
Treasurer 2011-13

20130002

RESOLUTION OF THE TRAVIS CENTRAL APPRAISAL DISTRICT REGARDING BOARD MEMBERSHIP AND SELECTION; REPEALING CONFLICTING ORDERS AND RESOLUTIONS; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in 1981, pursuant to the authority granted in Section 6.031(b) of the Tax Code, the taxing units within the boundaries of the Travis Central Appraisal District ("**District**"), by ¾ vote of all taxing units, increased the number of members on the District's Board of Directors ("**Board**") from five (5) to nine (9) and changed the procedure for appointing Board members to be as follows:

2 members –	appointed by the City of Austin
2 members –	appointed by Austin ISD
2 members –	appointed by Travis County (one from Precinct 1 or 4, and one from Precinct 2 or 3)
1 member –	appointed by City of Pflugerville, Pflugerville ISD, City of Manor, Manor ISD, Del Valle ISD, Coupland ISD, Round Rock ISD
1 member –	appointed by City of West Lake Hills, City of Rollingwood, City of Lakeway, City of Sunset Valley, Eanes ISD, Lago Vista ISD, Lake Travis ISD, Hays Consolidated ISD, Johnson City ISD
1 member –	appointed jointly by City of Austin and Austin ISD and confirmed by a majority of the other 8 members

WHEREAS, since 1981, the jurisdictional boundaries of the taxing units in the District have changed: some taxing unit boundaries have contracted such that they are no longer in the District, other taxing unit boundaries have expanded such that their boundaries are now within the District, and some new taxing units have been created.

WHEREAS, the new or expanded taxing units have been participating in the selection of Board members as follows (taxing units created or expanded into the District since 1981 are shown in *italics;* taxing units no longer in the District are shown in ~~strikethrough~~):

2 members –	appointed by the City of Austin
2 members –	appointed by Austin ISD
2 members –	appointed by Travis County (one from Precinct 1 or 4, and one from Precinct 2 or 3)
1 member –	appointed by City of Pflugerville, Pflugerville ISD, City of Manor, Manor ISD, Del Valle ISD, Coupland ISD, Round Rock ISD, *Village of San Leanna, Village of Creedmoor, City of Mustang Ridge, Village of Webberville, Elgin ISD, City of Elgin*
1 member –	appointed by City of West Lake Hills, City of Rollingwood, City of Lakeway, City of Sunset Valley, Eanes ISD, Lago Vista ISD, Lake Travis ISD, ~~Hays Consolidated ISD~~, Johnson City ISD; *Dripping Springs ISD, City of Lago Vista, City of Jonestown, Village of Briarcliff, Village of the Hills, Village of Pointe Venture, City of Bee Cave, Village of Volente, Marble Falls ISD, City of*

	Cedar Park, Leander ISD, City of Leander
1 member –	appointed jointly by Austin and Austin ISD and confirmed by a majority of the other 8 members

WHEREAS, SB 359 (Acts 2013, 83rd Leg., ch.___, Sec.____, eff. 6/14/2013; to be codified at Tax Code § 6.031(b)) states that any appraisal district which has increased the number of its board of directors or changed the method or procedure for appointing the members under the authority of Section 6.031 of the Tax Code:

> . . . . shall, by resolution, provide for the junior colleges districts that participate in the appraisal district to collectively participate in the selection of directors in the same manner as the school district that imposes the lowest total dollar amount of property taxes in the appraisal district amount all of the school districts with representation in the appraisal district. A resolution adopted under this section is not subject to rejection by resolution opposing the change filed with the board of directors by a taxing unit . . ..

WHEREAS, as of the date of this Resolution, there is one junior college district located within the boundaries of the District – the Austin Community College junior college district.

WHEREAS, as of the date of this Resolution, the school district that imposes the lowest total dollar amount of property taxes in the District is Coupland ISD.

WHEREAS, the Board desires to memorialize the participation of the taxing units in District to include all current taxing units, and to recognize the right of junior college districts to participate in Board member selection in the manner prescribed by SB 359 (to be codified at Tax Code § 6.031(b)).

NOW THEREFORE, THE BOARD OF DIRECTORS OF THE TRAVIS CENTRAL APPRAISAL DISTRICT RESOLVES AS FOLLOWS:

Section 1: The foregoing recitals are found to be true and correct and are incorporated herein by reference as if set forth in full.

Section 2: The number of members on the Board of Directors of the Travis Central Appraisal District shall be nine (9) selected as follows:

2 members –	appointed by the City of Austin
2 members –	appointed by Austin ISD
2 members –	appointed by Travis County (one from Precinct 1 or 4, and one from Precinct 2 or 3)
1 member –	appointed by City of Pflugerville, Pflugerville ISD, City of Manor, Manor ISD, Del Valle ISD, Coupland ISD, Round Rock ISD, *Village of San Leanna, Village of Creedmoor, City of Mustang Ridge, Village of Webberville, Elgin ISD, City of Elgin; Austin Community College(and any future junior college district)*

1 member –	appointed by City of West Lake Hills, City of Rollingwood, City of Lakeway, City of Sunset Valley, Eanes ISD, Lago Vista ISD, Lake Travis ISD, Hays Consolidated ISD, Johnson City ISD; *Dripping Springs ISD, City of Lago Vista, City of Jonestown, Village of Briarcliff, Village of the Hills, Village of Pointe Venture, City of Bee Cave, Village of Volente, Marble Falls ISD, City of Cedar Park, Leander ISD, City of Leander*
1 member –	appointed jointly by Austin and Austin ISD and confirmed by a majority of the other 8 members

Section 3: The junior college districts that participate in the District are hereby authorized to collectively participate in the selection of Board members as set forth in Tax Code § 6.031(b-1) (providing that junior college districts may collectively participate in the selection of Board members on the same basis as the school district that imposes the lowest total dollar amount of property taxes in the appraisal district among all of the school districts with representation in the appraisal district). Per SB 359, the provisions of this Section shall become effective beginning with the selection of Board members for terms beginning on or after January 1, 2014.

Section 4: All actions, orders and resolutions, or parts of actions, orders and resolutions, in conflict with this Resolution are hereby repealed, and are no longer of any force and effect. If any provision of this Resolution conflicts with the Tax Code, the terms of the Tax Code shall prevail.

Section 5: If any provision of this Resolution or application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions, or application thereof, of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are hereby declared to be severable.

Section 6: The Board Chairperson is hereby authorized to sign this Resolution and the Board Secretary to attest.

Section 7: Except as otherwise provided in Section 3 of this Resolution, the provisions of this Resolution are effective immediately upon its passage.

PASSED AND APPROVED BY THE BOARD OF DIRECTORS OF THE TRAVIS CENTRAL APPRAISAL DISTRICT on the 9 day of July, 2013.

ATTEST: TRAVIS CENTRAL APPRAISAL DISTRICT

By: Ed Keller
Ed Keller
Board Secretary/Treasurer

By: Richard Lavine
Richard Lavine
Board Chairperson

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, November 5, 2020

Agenda Item:	Resolution Nominating an Individual to the Williamson Central Appraisal District (WCAD) Board of Directors
Purpose (this meeting):	☒ Discussion Item/Report Only ☐ Action Requested
Action Requested (future meeting):	Thursday, November 19, 2020
Administrator Responsible:	Elaine Cogburn
Attachments:	Resolution Nominating a Candidate to Fill a Vacancy on the WCAD Board of Directors WCAD Board of Directors Election General Information Sheet

Background Information:

The administration received notification from the Williamson Central Appraisal District (WCAD) on October 8, 2020, that one of their members of the Board of Directors is unable to complete their 2020-2021 term. The LISD Board may nominate, by resolution, a candidate to fill the vacancy.

For any nominee to be considered, there is a list of member requirements that must be met, and the LISD Board, along with the nominee, must sign that document and return it to WCAD, along with its Resolution. A resume also needs to accompany the Resolution and member requirements document, as the selection is left up to the WCAD Board of Directors.

The LISD Board must submit the name of its nominee to Alvin Lankford, the Chief Appraiser, within 45 days after notification of the existence of the vacancy. Should the Board wish to submit a nomination for the WCAD vacancy, a Board Resolution needs to be adopted by the November 19th Board meeting, in order to meet the nomination deadline. LISD may submit only one nomination via the required resolution.

Once the Chief Appraiser receives the nominations, a list will be prepared and delivered to the WCAD Board of Directors. The WCAD Board of Directors shall elect, by majority vote of its members, one of the nominees to fill the vacancy. Historically the WCAD Board has replaced vacancies with the nomination from the entity that originally nominated the vacating member. In this case, Mr. Honeycutt was originally nominated by the City of Round Rock as therefore, precedence would indicate a nomination for the vacancy from the City of Round Rock would carry more weight than a nomination from another entity.

Administrative Recommendation:

The administration recommends the Board of Trustees approve the Resolution Nominating an Individual to the Williamson Central Appraisal District (WCAD) Board of Directors.

Sample Motion:

I move the Board of Trustees approve the Resolution Nominating an Individual to the Williamson Central Approval District WCAD Board of Directors indicating a nomination for _____ .

RESOLUTION NO. _____

A RESOLUTION OF _____,
NOMINATING A CANDIDATE TO FILL A VACANCY ON THE WILLIAMSON CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS.

WHEREAS, due to an unexpected vacancy on the Williamson Central Appraisal District Board of Directors, the _____
(Entity)
wishes to nominate a candidate to fill said vacancy:

NOW THEREFORE BE IT RESOLVED BY _____
(Governing Body)
_____,

that the _____ hereby nominates
(Entity)

_____ as a candidate to fill a vacancy on the Williamson Central Appraisal District Board of Directors.

RESOLVED this _____ day of _____, 2020.

Signed _____
Presiding Officer

Attest: _____

625 F.M. 1460
Georgetown, Texas 78626

(512) 930-3787

www.wcad.org

Board of Directors

Charles Chadwell, Chairman

Harry Gibbs, Vice Chairman

Donald L. Hisle, Secretary

Rufus Honeycutt

Jon Lux

Larry Gaddes

Chief Appraiser

Alvin Lankford
(512) 930-3787

We will provide quality service with the highest standards of professionalism, integrity and respect. We will uphold these standards while providing an accurate, fair and cost-effective appraisal roll in compliance with the laws of the State of Texas."

Dear Taxing Unit:

Unfortunately, one of our Board of Director members, Rufus Honeycutt, will be unable to complete his 2020-2021 term.

The procedures to replace this member are found in Section 6.03(l) of the Texas Property Tax Code. Please find a copy of that section attached.

The Code requires that if a vacancy occurs on the Board of Directors, each taxing unit that is entitled to vote, may nominate, by resolution adopted by its governing body, a candidate to fill the vacancy. The unit shall submit the name of its nominee to the Chief Appraiser within 45 days after notification from the Board of Directors of the existence of the vacancy. The Chief Appraiser shall prepare and deliver to the Board of Directors within the next five days a list of the nominees. The Board of Directors shall elect, by majority vote of its members, one of the nominees to fill the vacancy. We've enclosed a sample resolution for your use when submitting your nomination.

Since the selection is left up to us, the Board requires a resume with your nomination. A listing of member requirements is enclosed; we ask that both your taxing unit and your nominee sign this document and return it to the District along with your nomination.

If you have any questions, please feel free to contact our Chief Appraiser, Alvin Lankford at the number listed above.

Sincerely,

Charles Chadwell, Chairman
Board of Directors
Williamson Central Appraisal District

Enclosures

BOARD OF DIRECTORS

The Williamson Central Appraisal District is governed by a Board of five Directors.

Eligibility

To be eligible to serve on the Board, an individual must be a resident of the district and must have resided in the district for at least two years immediately preceding the date of appointment.

Section 6.035 of the Property Tax Code states an individual is ineligible to serve on an appraisal district Board of Directors if the individual owns property on which delinquent taxes have been owed to a taxing unit for more than 60 days after the date the individual knew or should have known of the delinquency unless:

(a) the delinquent taxes and any penalties and interest are being paid under an installment payment agreement
(b) a suit to collect the delinquent taxes is deferred or abated

An employee of a taxing unit participating in the appraisal district is not eligible to serve unless the individual is also a member of the governing body or an elected official of a taxing unit participating in the district.

Section 6.035 of the Property Tax Code, effective September 1, 1989, bars a Board member from serving if the member is related to a person who operates for compensation as a tax agent or a property tax appraiser in the appraisal district.

Section 6.036 of the Property Tax Code, effective September 1, 1989, bars a person from serving on the Board if they contract with the appraisal district, or if they contract on a tax related matter with a taxing unit served by the appraisal district, or if they have a substantial interest in a business that contracts with the appraisal district or a taxing unit served by the appraisal district.

Term of Office

Members of the Board of Directors will serve two-year terms beginning in January of even numbered years.

Selection

Section 6.03 of the Property Tax Code establishes the selection process for Appraisal District Directors. Members of the Board are selected by certain taxing units participating in the district. An option of the Property Tax Code allows three-fourths of the voting units to increase the number of Directors. The taxing units of Williamson County have adopted a five member Board of Directors.

Vacancies on the Board

Section 6.03 of the Property Tax Code (Board of Directors) provides that in the event of a vacancy on the Board, the governing body of the taxing unit or units shall nominate a candidate. The Board of Directors shall elect by majority vote of its members one of the nominees to fill the vacancy.

Recall

Section 6.033 of the Property Tax Code (Recall of Director) provides that the governing body of a taxing unit that participated in the appointment of an individual to the Board may initiate the procedure for recall of its representative.

2020-2021
BOARD OF DIRECTORS ELECTION
GENERAL INFORMATION SHEET

Name: _____
(Please print name as you wish it to appear on nameplate, if elected)

***** Dear <u>Taxing Unit</u>: This document was created for your purposes and should be used to verify the qualifications of nominees.**

***** Dear <u>Applicant</u>: If you, for any reason, do NOT meet the qualifications listed in this document, please contact your nominating taxing unit immediately.**

Pursuant to Section 6.03 of the Texas Property Tax Code:

1. **Are you an employee of a taxing unit in Williamson County?** *(This includes part-time employment. If you need a list of taxing units, please contact the appraisal district office.)* **Yes** ☐ **No** ☐

***** Note: If you answered YES and do not meet the qualifications listed in #2 below, please contact the nominating taxing unit immediately.**

2. **If you answered YES, are you also a member of the governing body or elected official of that taxing unit?** **Yes** ☐ **No** ☐

   Note: An employee of a taxing unit that participates in the CAD is not eligible to serve on the Board of Directors, unless that individual is also a member of the governing body of the taxing unit or an elected official of a taxing unit.

Pursuant to Government Code Chapter 573:

3. **Is any relative of either you or your spouse employed by the Williamson Central Appraisal District in any capacity, or a member of the WCAD Appraisal Review Board?** **Yes** ☐ **No** ☐

   If yes:

   Relative's Name:_____

   Relative's Address:_____

   Degree of Relationship:_____

   WCAD Position:_____

   Note: An answer of "Yes" may disqualify you, depending on the relative's position and the degree of relationship. Please check with your nominating taxing unit.

Pursuant to Section 6.03 of the Texas Property Tax Code:

4. **Are you a resident of Williamson County?** **Yes** ☐ **No** ☐

5. **How long, in years, have you resided in Williamson County? _____**

   Note: To be eligible to serve on a Board of Directors, an individual must have resided in the CAD for at least two years immediately preceding the date of taking office. This requirement does not apply to a County TAC serving as a non-voting Director.

(Continued on next page)

6. **Have you appraised property for compensation for use in proceedings or represented property owners for compensation in proceedings in Williamson County at any time within the preceding three years?** **Yes** ☐ **No** ☐

   Note: A person who has appraised property for compensation for use in proceedings or represented property owners for compensation in proceedings in the CAD at any time within the preceding three years is ineligible to serve on the Board of Directors.

7. **Have you owned property on which delinquent taxes have been owed to a taxing unit for more than 60 days after the date you knew or should have known of the delinquency unless?**
   - **The delinquent taxes and any penalties and interest are being paid under an installment payment agreement**
   - **A suit to collect the delinquent taxes is deferred or abated**

   Yes ☐ **No** ☐

   Note: To be eligible to serve on the Board of Directors, a member must NOT own property on which delinquent taxes have been owned to a taxing unit for more than 60 days after the date the individual knew or should have known of the delinquency unless the individual meets one of the criteria listed above.

8. **Have you contracted with the appraisal district, or on a tax related matter with a taxing unit served by the appraisal district, or do you have a substantial interest in a business that contracts with the appraisal district or a taxing unit served by the appraisal district?**

   Yes ☐ **No** ☐

   Note: A person who contracts with the appraisal district or on a tax related matter with a taxing unit served by the appraisal district or who has a substantial interest in a business that contracts with either the appraisal district or a taxing unit served by the appraisal district is ineligible to serve on the Board of Directors.

*****IF YOU NOTED ANY REASON YOU MAY NOT MEET THE QUALIFICATIONS LISTED ABOVE, PLEASE CONTACT YOUR NOMINATING TAXING UNIT IMMEDIATELY.**

_____ _____

Signature of Applicant **Date**

(Continued on next page)

Applicant Information:

Home Address: _____

_____

Business Address: _____

_____

Home Phone: _____ **Email:** _____

Business Phone: _____

Cellular Phone: _____

Emergency Contact Name: _____

Phone: _____

Relationship: _____

IF ELECTED, where do you want to receive hand deliveries (when necessary)?

_____

IF ELECTED, where do you want to receive mail? _____

_____

IF ELECTED, do you want your address and phone number kept confidential?
Yes ☐ **No** ☐

_____ _____

Signature of Presiding Officer **Date**

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, November 5, 2020

Agenda Item:	New Position Recommendations	
Purpose (this meeting):	☒ Discussion Item/Report Only	☐ Action Requested
Action Requested (future meeting):	Thursday, November 19, 2020	
Administrator Responsible:	Elaine Cogburn, Jason Miller	
Attachments:	N/A	

Background Information:

The Chief Financial Officer and Chief Technology Officer have reviewed the current structure of their departments and are proposing restructures that upgrade and add positions and realign duties. These reviews were based on distribution of duties, needs within the departments, comparisons to like districts, and consideration of future needs brought about by district growth. The addition of new positions mid-year is requested to accommodate the growing needs of the district.

Human Resources has reviewed the recommendations and provided a cost estimate of the upgraded and new positions. The proposed restructure within Financial Services and Business Services adds one professional position and one clerical position and modifies seven existing positions at an annual payroll cost of $155,606 and would add to the 2020-2021 payroll budget $78,492. The proposed IT restructure adds five professional positions and includes several modifications at an annual cost of $461,511 and would add to the 2020-2021 payroll budget $227,517. Costs for the 2020-2021 budget would be covered by projected savings within the overall payroll budget due to vacancies.

Administrative Recommendation:

The administration recommends the Board of Trustees approve the addition of seven new positions within Financial/Business Services and IT Services and modifications within the departments necessary to realign responsibilities and meet district needs.

Sample Motion:

I move the Board approve the addition of seven new positions within Financial Services, Business Services, and IT and modifications of existing positions to meet the needs of the departments.

LEANDER INDEPENDENT SCHOOL DISTRICT
GENERAL FUND BUDGET OVERVIEW
FY 2020-2021

	Projected 2019-2020	Original Budget	August Amendment	September Amendment	Potential Future Amendments	
Beginning FB	**$ 150,539,909**	$ 190,473,477	$ 190,473,477	$ 190,473,477	$ 190,473,477	
Revenues	357,364,433	368,727,228	368,727,228	369,040,828	367,561,302	
PPE Inventory	0	0	313,600	0	0	
Golden Penny Adj	0	0	0	-1,479,526	0	
Prop Value Audit	0	0	0	0	-1,665,000	*Funds received in 19-20*
Local Revenues	0	0	0	0	-1,250,000	*Projecting lower local revenues*
Enrollment Decline	0	0	0	0	-12,190,238	*Impact of lower spring enrollment*
Revised Revenues	**357,364,433**	**368,727,228**	**369,040,828**	**367,561,302**	**352,456,064**	
Expenditures	317,430,865	379,845,079	379,778,829	388,310,351	388,310,351	
PO Rollover	0	0	8,217,922	0	0	
PPE Inventory	0	0	313,600	0	0	
Projected Savings	0	0	0	0	-17,553,258	*Estimate of unspent budgets*
Revised Expenditures	**317,430,865**	**379,845,079**	**388,310,351**	**388,310,351**	**370,757,093**	
Surplus/(Deficit)	**39,933,568**	**-11,117,851**	**-19,269,523**	**-20,749,049**	**-18,301,029**	
Transfers Out	0	-6,485,000	-6,551,250	-6,551,250	-6,571,250	
MM Transfers	0	-3,377,966	-3,377,966	-3,377,966	-8,556,496	
CNS Potential Deficit	0	0	0	0	-3,349,430	
Ending Fund Balance	**$ 190,473,477**	**$ 169,492,660**	**$ 161,274,738**	**$ 159,795,212**	**$ 153,695,272**	

LEANDER ISD
LEADING TO A BRIGHT FUTURE

2020-21

COMPENSATION PLAN

Amendment

COMPENSATION PLAN

LISD recommends amending the approved 2020-21 Compensation Plan as stated below. Once approved, the Board grants LISD administration the authority to make any administrative changes needed to meet the intent of what was presented and in compliance with district policy.

ONE-TIME PERSONAL PROTECTIVE EQUIPMENT (PPE) STIPEND AUTHORIZATION

The District will grant a one-time, lump sum $800 PPE Stipend to cover employee expenses for the PPE (personal protective equipment) that they have or will purchase over and above that which is provided by the district during the COVID-19 pandemic.

Employee Eligibility

If authorized by the Board of Trustees, in order to be eligible to receive the one-time, lump -sum employee PPE stipend payment detailed above, a district employee must meet the following eligibility parameters:

- Employee is employed by the district in a regular part or full-time position at the time the payment is authorized by the Board in November;
- Employee must be in an active status, or on approved medical leave, on November 20, 2020;
- Any employees hired after the date of the one-time lump sum PPE Stipend payment are ineligible for a lump sum payment.
- The one-time, lump sum payment is not eligible for TRS creditable service.
- An employee who is employed as a 0.5 FTE or less will receive half of the PPE stipend payment.

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, November 5, 2020

Agenda Item:	Amended Compensation Plan and Payment of a Personal Protective Equipment Stipend
Purpose (this meeting):	☒ Discussion Item/Report Only ☐ Action Requested
Action Requested (future meeting):	Thursday, November 19, 2020
Administrator Responsible:	Elaine Cogburn and Karie Lynn McSpadden
Attachments:	Amended LISD 20-21 Compensation Plan 2020-2021 Budget Overview

Background Information:

We are asking the Board of Trustees to approve a $800 Personal Protective Equipment Stipend (PPE) to cover employee expenses for the PPE that they have or will purchase over and above that which is provided by the district during this pandemic.

The Compensation Plan adopted by the Board in May 2020 outlined a 2% one-time payment to employees based on the criteria that student enrollment met or exceeded 41,300 as of the PEIMS snapshot date (October 30, 2020). At this time, enrollment is about 1,000 students short of this number therefore, the 2% one-time payment currently provided for in the Compensation Plan cannot be made. In order to honor employees' PPE expenses during the pandemic, the administration is recommending a PPE Stipend payment in lieu of the 2% one-time payment.
The budget currently includes $5.4 million dollars that would have covered the 2% one-time payment. This amount covers the recommendation of an $800 payment to all employees as well as the estimated cost of hiring a third party vendor to provide substitutes at a 100% fill rate. During the listening sessions held across the district, the administration heard many times the need for additional substitutes and disappointment that employees were not going to see the 2% one-time payment.

This one-time $800 PPE Stipend payment will be paid to our eligible full-time employees as outlined in the LISD Compensation Plan. An employee who is employed as a 0.5 FTE or less will receive ½ of the payment. It will be a separate check paid in December 2020 to all full-time/part-time employees who were employed by the District at the time the payment is authorized by the Board.

This payment is not considered salary; therefore, it is not eligible for credit in accordance with the Teacher Retirement System.

Administrative Recommendation:

The administration recommends the Board approve the amendment to the LISD 20-21 Compensation Plan and payment of one-time PPE Stipend payment.

Sample Motion:

(Action needed by 11/19/20) I move that the Board accept the recommendation to amend the LISD 20-21 Compensation Plan and approve the one-time PPE Stipend payment to all employees in December 2020 as outlined in the amended LISD 20-21 Compensation Plan.

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, November 5, 2020

Agenda Item:	Fleet Management Lease Purchase Option
Purpose (this meeting):	☒ Discussion Item/Report Only ☐ Action Requested
Action Requested (future meeting):	Thursday, November 19, 2020
Administrator Responsible:	Elaine Cogburn
Attachments:	10 Year Lease Analysis Lease Cashflow Analysis Enterprise Fleet Management Synopsis

Background Information:

The district administration has been reviewing the district's need for vehicles and the way the existing fleet is maintained and expanded as needs arise. Currently, vehicles for Plant Services are budgeted for under the 2017 bond program. Vehicle needs for Custodial Services, Warehouse, and student activities (special education, extra-curricular) are funded with General Fund budgets when funding exists. In an effort to provide for a true replacement plan and accommodate additional needs for vehicles, other financing options have been pursued.

Enterprise Fleet Management (EFM) offers an equity leasing program that could provide two vehicles over a ten-year period at nearly the same cost as purchasing and holding one vehicle for the same ten-year period. The leasing program would provide for a newer fleet with lower long-term costs than holding older vehicles. At this time, the administration is recommending this program for student vehicles with the possibility of expanding the program to vehicles used in Custodial and Warehouse services.

The EFM program takes advantage of the ability of governmental entities to purchase vehicles at lower prices. EFM then sells those vehicles at the opportune time – 4 or 5 years in order to access the equity available through the sale of the vehicle. The district would pay a $400 end of lease service charge and EFM would pay the district the difference between the balance due on the lease and the sales price. This equity payment can then be used towards the purchase of additional vehicles or returned to the district's general fund as a revenue source. In order to establish a true replacement cycle, the administration recommends using the equity towards replacement vehicles. Establishing a lease program provides a consistent, measurable amount for budgeting purposes versus the current process of allocating funds when available.

Last spring, the district ordered 10 suburbans for student use from budgeted funds. The district has not taken delivery of these vehicles and has the option to convert these to a lease through EFM rather than expending the $400,760 currently budgeted for the payment of the purchase order. This amount would cover the lease payments for the next five years if the 10 vehicles were leased and then sold at the end of five years. The estimated equity from the sale of the original 10 suburbans would then help offset the leasing of 10 new suburbans for five years and is projected to use $20,652 less cash than an initial outlay of $400,760 to purchase the vehicles. While the actual cost of leasing over a ten year period is about $12,000 more than an outright purchase, the benefits include providing newer vehicles for use in transporting students, savings in maintenance costs (not estimated) and potentially better fuel economy. The administrative burden of maintaining registrations and service records is also removed.

The district has several options to discontinue the lease program if so desired and can the lease can be terminated with 30-days' notice. An open-end lease means there are no early termination fees, no mileage restrictions, and no wear and tear penalties. Leases are written to a residual balance to preserve cash flow. The district would receive flexibility of ownership, as well as net equity from the sale at time of disposal.

Administrative Recommendation:

The administration recommends the Board of Trustees approve the administration negotiate a lease with Enterprise Fleet Management for ten suburbans ordered in the spring of 2020.

Sample Motion:
I move the Board approve the administration negotiate a lease of ten suburbans for student use through Enterprise Fleet Management.

Fleet Management

Enterprise Fleet Management Proposal
November 5, 2020

Need

- Plant Services (maintenance, construction) vehicles in 2017 bond
- Custodial vehicles ordered last spring
- Student use (special services, extra-curricular, CTE) purchased when funds are available
  - *Inconsistency in providing vehicles*
  - *No true replacement plan*

500

Equity Lease

501



Student Use Vehicles

Benefits of Leasing

- Newer vehicles at nearly the same cost
- Better fuel efficiency
- Lower maintenance costs
- Safer vehicles
- Access to EFM fuel program
- Access to EFM maintenance program
- Access to EFM vehicle management program

502

10 Vehicles on Order

- Ordered last spring before in contact with Enterprise
- EFM would purchase these 10
- LISD leases for 4-5 years
- Sale at opportune time
- Equity put into 10 **new** vehicles
- LISD leases for 4-5 years
- **20 vehicles over 10 year period vs. 10!**

Lease = $12,348 more but newer vehicles

Cash flow = $20,652 saved

enterprise FLEET MANAGEMENT

LEANDER ISD LEADING TO A BRIGHT FUTURE

503

Leander Independent School District
Enterprise Fleet Management
Lease Analysis

Vehicle Number:	1	2	3	4	5	6	7	8	9	10	Annual Cost
Year 1	$ 8,527	$ 8,527	$ 8,527	$ 8,527	$ 8,527	$ 8,527	$ 8,527	$ 8,527	$ 8,527	$ 8,527	$ 85,270
Year 2	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	85,270
Year 3	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	85,270
Year 4	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	85,270
Year 5	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	85,270
Total Equity Lease Payments	$42,635	$42,635	$42,635	$42,635	$42,635	$42,635	$42,635	$42,635	$42,635	$42,635	$ 426,348
SALE OF VEHICLES AFTER YEAR 5:											
Sales Fee	$ 400	$ 400	$ 400	$ 400	$ 400	$ 400	$ 400	$ 400	$ 400	$ 400	4,000
Sales Price	-28,500	-28,500	-28,500	-28,500	-28,500	-28,500	-28,500	-28,500	-28,500	-28,500	(285,000)
Lease Balance	4,008	4,008	4,008	4,008	4,008	4,008	4,008	4,008	4,008	4,008	40,080
Net From Sale	-$24,092	-$24,092	-$24,092	-$24,092	-$24,092	-$24,092	-$24,092	-$24,092	-$24,092	-$24,092	$ (240,920)

Vehicle Number:	11	12	13	14	15	16	17	18	19	20	
Year 6	$ 8,962	$ 8,962	$ 8,962	$ 8,962	$ 8,962	$ 8,962	$ 8,962	$ 8,962	$ 8,962	$ 8,962	$ 89,620
Year 7	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	89,620
Year 8	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	89,620
Year 9	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	89,620
Year 10	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	89,620
Total Equity Lease Payments	$44,810	$44,810	$44,810	$44,810	$44,810	$44,810	$44,810	$44,810	$44,810	$44,810	$ 448,100
SALE OF VEHICLES AFTER YEAR 10:											
	$ 400	$ 400	$ 400	$ 400	$ 400	$ 400	$ 400	$ 400	$ 400	$ 400	4,000
	-29,954	-29,954	-29,954	-29,954	-29,954	-29,954	-29,954	-29,954	-29,954	-29,954	(299,540)
	4,212	4,212	4,212	4,212	4,212	4,212	4,212	4,212	4,212	4,212	42,120
Net From Sale	-$25,342	-$25,342	-$25,342	-$25,342	-$25,342	-$25,342	-$25,342	-$25,342	-$25,342	-$25,342	$ (253,420)

LEASE ANALYSIS:

Lease Net Cost for a Total of 20 Vehicles over a 10 Year Period	$ 380,108

PURCHASE ANALYSIS:

Purchase of 10 Vehicles in Base Year and Held for 10 Years	$ 400,760
Sales Price at End of Ten Years	(33,000)
	$ 367,760

Net Difference Between Lease and Purchase **$ 12,348**

**Maintenance costs are potentially reduceds as vehicles are under warranty for 3 years leaving only two years of maintenance vs seven*

**Better fuel efficiency achieved with newer vehicles*

**Students are transported in newer/safer vehicles*

504

Leander Independent School District
Enterprise Fleet Management
Cash Outflow Analysis

Funds Currently Allocated to Purchase	**$**	**400,760**
Lease Payment Year 1	$	(85,270)
Lease Payment Year 2		(85,270)
Lease Payment Year 3		(85,270)
Lease Payment Year 4		(85,270)
Lease Payment Year 5		(85,270)
Cash on Hand after Lease Payments	$	(25,588)
SALE OF VEHICLES AFTER YEAR 5		
Sales Fee		(4,000)
Sales Price		285,000
Lease Balance		(40,080)
Cash on Hand after Sale of Vehicles	$	215,332
Lease Payment Year 6	$	(89,620)
Lease Payment Year 7		(89,620)
Lease Payment Year 8		(89,620)
Lease Payment Year 9		(89,620)
Lease Payment Year 10		(89,620)
Cash on Hand after Lease Payments	$	(232,768)
SALE OF VEHICLES AFTER YEAR 10		
Sales Fee		(4,000)
Sales Price		299,540
Lease Balance		(42,120)
Cash on Hand after Sale of Vehicles	$	20,652

**Leasing vehicles and selling after 5 years of use actually nets district $20,652 in cash.*

Questions

506

Leander Independent School District
Enterprise Fleet Management
Lease Analysis

Vehicle Number:	1	2	3	4	5	6	7	8	9	10	Annual Cost
Year 1	$ 8,527	$ 8,527	$ 8,527	$ 8,527	$ 8,527	$ 8,527	$ 8,527	$ 8,527	$ 8,527	$ 8,527	$ 85,270
Year 2	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	85,270
Year 3	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	85,270
Year 4	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	85,270
Year 5	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	8,527	85,270
Total Equity Lease Payments	$42,635	$42,635	$42,635	$42,635	$42,635	$42,635	$42,635	$42,635	$42,635	$42,635	$ 426,348
SALE OF VEHICLES AFTER YEAR 5:											
Sales Fee	$ 400	$ 400	$ 400	$ 400	$ 400	$ 400	$ 400	$ 400	$ 400	$ 400	4,000
Sales Price	-28,500	-28,500	-28,500	-28,500	-28,500	-28,500	-28,500	-28,500	-28,500	-28,500	(285,000)
Lease Balance	4,008	4,008	4,008	4,008	4,008	4,008	4,008	4,008	4,008	4,008	40,080
Net From Sale	-$24,092	-$24,092	-$24,092	-$24,092	-$24,092	-$24,092	-$24,092	-$24,092	-$24,092	-$24,092	$ (240,920)

Vehicle Number:	11	12	13	14	15	16	17	18	19	20	
Year 6	$ 8,962	$ 8,962	$ 8,962	$ 8,962	$ 8,962	$ 8,962	$ 8,962	$ 8,962	$ 8,962	$ 8,962	$ 89,620
Year 7	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	89,620
Year 8	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	89,620
Year 9	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	89,620
Year 10	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	8,962	89,620
Total Equity Lease Payments	$44,810	$44,810	$44,810	$44,810	$44,810	$44,810	$44,810	$44,810	$44,810	$44,810	$ 448,100
SALE OF VEHICLES AFTER YEAR 10:											
	$ 400	$ 400	$ 400	$ 400	$ 400	$ 400	$ 400	$ 400	$ 400	$ 400	4,000
	-29,954	-29,954	-29,954	-29,954	-29,954	-29,954	-29,954	-29,954	-29,954	-29,954	(299,540)
	4,212	4,212	4,212	4,212	4,212	4,212	4,212	4,212	4,212	4,212	42,120
Net From Sale	-$25,342	-$25,342	-$25,342	-$25,342	-$25,342	-$25,342	-$25,342	-$25,342	-$25,342	-$25,342	$ (253,420)

LEASE ANALYSIS:	
Lease Net Cost for a Total of 20 Vehicles over a 10 Year Period	**$ 380,108**
PURCHASE ANALYSIS:	
Purchase of 10 Vehicles in Base Year and Held for 10 Years	$ 400,760
Sales Price at End of Ten Years	(33,000)
	$ 367,760
Net Difference Between Lease and Purchase	**$ 12,348**

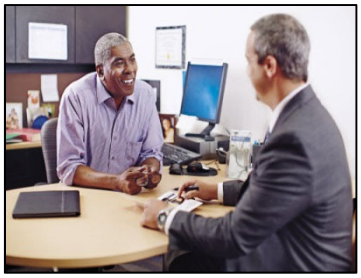
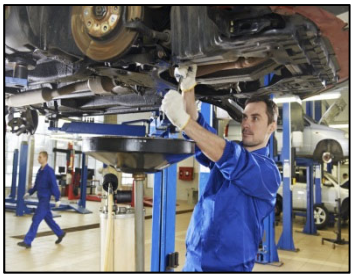
**Maintenance costs are potentially reduceds as vehicles are under warranty for 3 years leaving only two years of maintenance vs seven*

**Better fuel efficiency achieved with newer vehicles* **Students are transported in newer/safer vehicles*

Leander Independent School District
Enterprise Fleet Management
Cash Outflow Analysis

Funds Currently Allocated to Purchase	**$**	**400,760**
Lease Payment Year 1	$	(85,270)
Lease Payment Year 2		(85,270)
Lease Payment Year 3		(85,270)
Lease Payment Year 4		(85,270)
Lease Payment Year 5		(85,270)
Cash on Hand after Lease Payments	$	(25,588)
SALE OF VEHICLES AFTER YEAR 5		
Sales Fee		(4,000)
Sales Price		285,000
Lease Balance		(40,080)
Cash on Hand after Sale of Vehicles	$	215,332
Lease Payment Year 6	$	(89,620)
Lease Payment Year 7		(89,620)
Lease Payment Year 8		(89,620)
Lease Payment Year 9		(89,620)
Lease Payment Year 10		(89,620)
Cash on Hand after Lease Payments	$	(232,768)
SALE OF VEHICLES AFTER YEAR 10		
Sales Fee		(4,000)
Sales Price		299,540
Lease Balance		(42,120)
Cash on Hand after Sale of Vehicles	$	20,652

**Leasing vehicles and selling after 5 years of use actually nets district $20,652 in cash.*


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FLEET SYNOPSIS

LEANDER ISD
LEADING TO A BRIGHT FUTURE

Leander ISD
204 West South St.
Leander, TX 78646

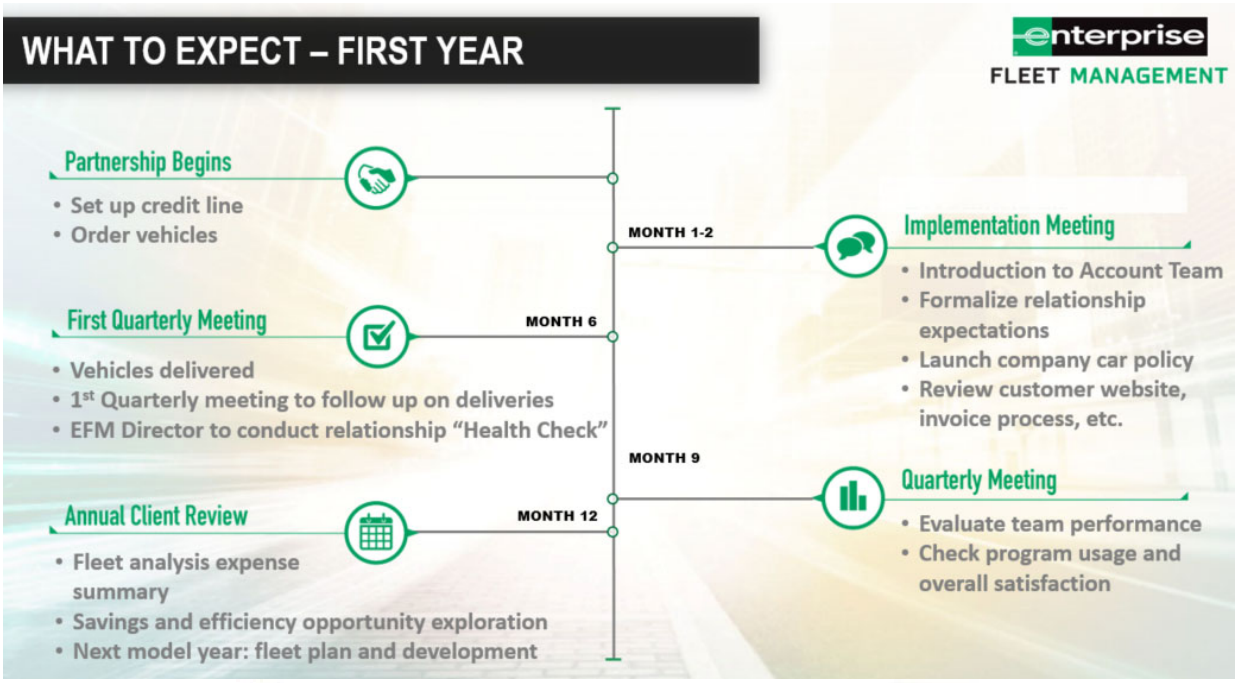
Enterprise Fleet Management, Inc.
600 Corporate Park Drive
St. Louis, MO 63105
314-512-5000 Main
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Bo Ashe
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4210 S. Congress Ave
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IMPLEMENTATION - PURCHASING DUE DILIGIENCE - LEANDER ISD





TIPS Purchasing Cooperative CONTRACT: **2072816**



Sourcewell Awarded Contract # #060618-EFM

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FLEET SYNOPSIS | LEANDER ISD

Impact of Partnership

BACKGROUND

Location: Leander, TX

Industry: Government-School District

THE SITUATION

Leander ISD is looking for a solution to better manage its aging fleet.

- 72% of the current light and medium duty fleet is over 10 years old.
- Older vehicles have higher fuel costs, maintenance costs, and tend to be unreliable.

THE OBJECTIVES

Enterprise Fleet Management's proposal is to save city resources and budget dollars through a managed vehicle program.

- Utilize an open-end lease* as a funding mechanism, allowing the ISD to acquire additional vehicles while avoiding a large capital budget outlay.
- Replace aged vehicles with newer models to increase fuel efficiency and reduce maintenance expense. Maintenance and repairs will be outsourced to local businesses to further stimulate economic growth and the integration of more fuel-efficient vehicles will reduce carbon footprint.
- Establish a proactive replacement plan that maximizes potential equity at time of resale, reduces operational expenses, and increases safety.

*An open-end lease means there are no early termination, no mileage, and no wear and tear penalties. Leases are written to a residual balance to preserve cash flow. The ISD receives flexibility of ownership, as well as net equity from sale at time of disposal. This is the opposite of the type of lease that you would incur at a dealership. The open-end equity lease is a flexible way to utilize a proactive vehicle replacement program.

CLIENT TESTIMONTIAL

"By partnering with Enterprise, we have strengthened focus on our students, maximized personnel utilization, and provided our employees with vehicles they are proud to drive."

– Pete Pape, Assistant Superintendent for Business Services

THE RESULTS

By partnering with Enterprise Fleet Management, Leander ISD can have newer, safer, more fuel-efficient vehicles that will have lower maintenance costs. LISD will receive a dedicated Account Manager with Enterprise Fleet Management to help LISD monitor and track all vehicles costs, help make recommendations on how to operate LISD vehicles at the lowest total cost of ownership. There is no contractual agreement that LISD is locked into. At the end of the lease, or at any time throughout the lease term you have the option to terminate the lease, pay if off and take title. Our goal of this program is to help LISD rotate these Suburbans out every 5 years and sell these vehicles while they still have a strong resale value. The equity in the vehicles belongs to LISD. If for any reason you wish to terminate the relationship with EFM we would only require a 30-day notice. EFM has a 95% customer retention rate and we are confident these initial 10 vehicles could lead to a long-lasting partnership like we have with hundreds of local governments in Texas.

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PROGRAM RESOURCES | LEANDER ISD – these programs are all included when acquiring vehicles from EFM

SAFETY

- **105** LISD vehicles do not contain the most up to date safety features, such as airbag standardization and anti-lock brake control or electronic stability control (ESC)

ACCOUNT MANAGEMENT

Leander ISD will have a dedicated, local account team to proactively manage and develop your fleet while delivering the highest level of customer service to facilitate your day-to-day needs.

- Meeting with you at minimum 4 times a year- 2 of those are financial planning meetings. These are an Annual Client Review and a Fleet Analysis Meeting.
- Your Account Manager will provide ongoing analysis, which can include best makes/models, cents per mile, total cost of ownership, and replacement analysis.
- Monthly management reports consisting of a single invoice with all charges

ANCILLIARIES

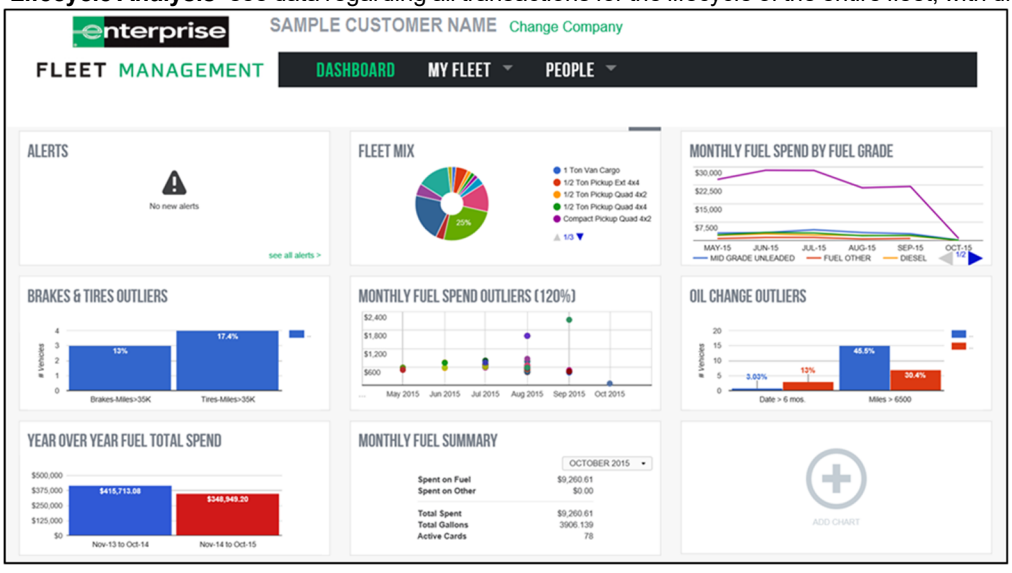
Enterprise Fleet Management can offer a total fleet solution should the ISD need further evaluation of the fleet. These can include:

- Fuel Card – free program to track mileage and odometers. Integrates with Maintenance program to automate maintenance reminders
- Maintenance Card – 62 Maintenance Facility locations within 10 miles of Leander. We can also help inhouse shop utilize the maintenance technology for tracking and better visibility on expense. This is optional and can be utilized on new vehicles from EFM as well as current owned LISD vehicles
- Telematics Device available for $17 per month to monitor utilization and driving behavior

TECHNOLOGY

Enterprise Fleet Management's website provides vehicle tracking, reporting, and metrics. Our website can be customized to view a wide range of data to have a comprehensive and detailed look at all aspects of your fleet and the services provided. Our *Mobile App* also allows drivers a wide range of functions.

- **Invoices**- to include lease, maintenance, and ancillaries- all in one invoice
- **Maintenance Utilization**- review the life-to-date maintenance per vehicle
- **Recall Information**- see which units that are approaching the lease term still have open recalls
- **License & Registration**- see which plate renewals are being processed by Enterprise; view status
- **Alerts**- set customizable alerts for oil changes, lease renewals, license renewals, and billing data
- **Lifecycle Analysis**- see data regarding all transactions for the lifecycle of the entire fleet, with drill-down capability



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SUPPORTING EVIDENCE | LEANDER ISD

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Leander ISD - White Fleet Menu Pricing

Total Annual Cost for 10 Suburbans - 5 Years	$85,270.80

Equity Lease Menu Pricing

Quote #	Vehicle Type	Year	Make	Model	Trim Level	Quantity	Term (months)	Monthly Cost (Lease Rate)*	Annual Cost Including Maintenance	Annual Cost by Quantity including Maintenance	Total Estimated Equity at Lease Term
4741482	Full Size SUV	2021	Chevrolet	Suburban	Commercial Fleet 4x2	10	60	$710.59	$8,527.08	$85,270.80	$240,920.00
					Total Vehicles	10					

LESSEE Leander Independent School District

BY TITLE DATE

REFERENCES | LEANDER ISD



REFERENCES

Below is a list of three (3) client/customer references including company name, contact person, and telephone number.

Company Name: Taylor ISD

Business Phone #: (512) 365-1391 Contact Person: Keith Brown – Superintendent

Company Name: Abilene ISD

Business Phone #: (325) 677-1444 Contact Person: Lisa Metcalf – Purchasing Director

Company Name: Lubbock Cooper ISD

Business Phone #: (806) 863-7100 Contact Person: Danny Davis – Asst. Superintendent

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CASE STUDY | DEER PARK INDEPENDENT SCHOOL DISTRICT

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School District finds savings and increased productivity with the Enterprise Fleet Management Program.



BACKGROUND

Location:	Deer Park, TX
Industry:	Government – School District
Total vehicles:	90 vehicles

THE CHALLENGE

Before partnering with Enterprise, Deer Park Independent School District (ISD) had 80+ vehicles ranging from 6 to 15 years of age, causing them to become less reliable and more expensive to maintain. Because vehicles were typically purchased with bond money, it created a pattern of a large number of vehicles needing to be repaired or replaced at the same time. District employees started complaining about the quality of the fleet, and mechanics were spending too much time working on the white fleet instead of buses.

THE SOLUTION

By partnering with Enterprise Fleet Management, Deer Park ISD will upgrade its fleet over a 4-year period by replacing its oldest vehicles first. Once the fleet has been updated, the vehicles will continue to be replaced every five years. A proactive replacement plan will allow the district to capitalize on maximum vehicle resale values. This process will also help streamline the annual transportation budget since the district will be able to predict most vehicle costs.

"By partnering with Enterprise, we have strengthened focus on our students, maximized personnel utilization, and provided our employees with vehicles they are proud to drive."

– Pete Pape, Assistant Superintendent for Business Services

The Deer Park ISD leverages Enterprise's maintenance program. All district vehicles are now repaired by a local service vendor. District mechanics can focus on buses to transport students. District employees have reported that they are more productive and are not waiting as long for repairs.

THE RESULTS

The Deer Park ISD and Enterprise have been partners for three years. Enterprise has yielded over $300,000 in revenue by selling the district's older vehicles. It has been able to maintain 58 vehicles for half the cost of a mechanic. Enterprise Fleet Management continues to help the district maximize its operations and reduce costs to meet strict budgetary requirements while keeping their vehicles on the road.

To learn more, visit efleets.com or call 877-23-FLEET.

Key Results

MORE THAN **$300,000** IN VEHICLE RESALE

9X FASTER AT REPLACING VEHICLES

REDUCED STAFF OVERHEAD

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CASE STUDY | MELISSA INDEPENDENT SCHOOL

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School District's Fleet Program Savings allows Reinvestment in Student Programs



BACKGROUND

Location: Melissa, TX
Industry: Government
Total vehicles: 20 vehicles

THE CHALLENGE

Melissa Independent School District (ISD) had 20-year-old vehicles that were unreliable and expensive to maintain. The district was rapidly growing, so capital budgets were tight and purchasing new vehicles did not make the cut. Ultimately, the district realized that they needed to find an alternative for the safety of their employees and students.

THE SOLUTION

Enterprise Fleet Management helped Melissa ISD select vehicles best suited for their district, and created a uniform fleet with new, white vehicles. The district has decided not to hold onto vehicles for ten or more years and instead, proactively replaces vehicles every 3-4 years. This change allows the district to build a sustainable vehicle strategy allowing for growth and fixed budgeting for all their fleet needs. Updated vehicles with the latest safety standards help the district offer the safest transportation possible for their employees and students.

"Working with Enterprise has allowed us to maximize our financial resources. Enterprise gives us buying power and expertise within the market to spend wisely, freeing up dollars to spend where it counts the most, on our students."

– Weston Bartlett, Director of Transportation.

Additionally, with the vehicle maintenance program the district can accrue for maintenance expenditures, eliminating the maintenance spend fluctuations previously felt by the aged fleet. The program helps drivers significantly reduce unexpected downtime and allowed the district employees to better focus on their students.

THE RESULTS

Enterprise Fleet Management helped the district make improvements to the uniformity and efficiency of their program. By implementing a sustainable replacement plan, the Melissa Independent School District's vehicles are now safer and more reliable than ever before. Since the partnership began over two years ago, the district has realized over $150,000 in savings for their total budget by selling the older vehicles. The Melissa ISD's newer vehicle fleet has helped reduce maintenance spend by 17%, annually. The ability to proactively plan for both replacement and growth needs allows the district to capitalize on resale values of the current fleet, while meeting budgetary requirements as the district continues to grow and pursue new initiatives.

Key Results

REDUCED THE AGE OF THEIR FLEET BY OVER **50%**

MORE THAN **$200,000** IN VEHICLE RESALE

MAINTENANCE LOWERED BY **17%**

To learn more, visit efleets.com or call 877-23-FLEET.

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Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, November 5, 2020

Agenda Item:	General Construction Update	
Purpose (this meeting):	☒ Discussion Item/Report Only	☐ Action Requested
Administrator Responsible:	Jimmy Disler	
Attachments:	General Construction Update Presentation	

Background Information:
Jimmy Disler will present information regarding the status of current or ongoing construction projects.

Administrative Recommendation:
N/A

Sample Motion:
N/A



LEANDER ISD

General Construction Update

November 5, 2020

Tarvin Elementary School (ES 28)

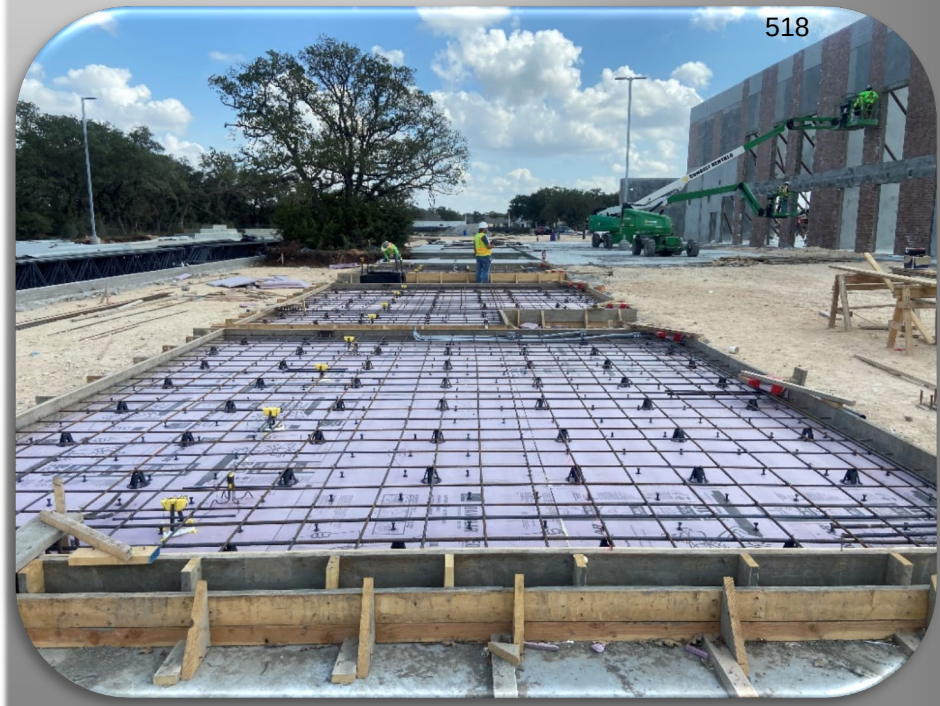
New Construction

Work happening in December

- Continue structural steel and tilt-wall panel erection in appropriate areas
- Continue tilt-wall forming and pouring
- Begin overhead mechanical, electrical and plumbing in appropriate areas
- Begin geothermal piping inside the building
- Begin wall framing in appropriate areas

GMP Summary		
	Approval Date	Amount
GMP 1	April 23, 2020	$11,142,202
GMP 2	May 21,2020	$20,499,886
	GMP Total	***$31,642,088***





Cedar Park MS

HVAC Update – HVAC, lights, paint, carpet and Security Upgrades

Work happening in the future

- Phase 3 (final phase) expected to begin Summer 2021

519

GMP Summary		
	Approval Date	Amount
GMP 1	February 21, 2019	$11,462,917
	GMP Total	***$11,462,917***

Steiner Ranch ES

HVAC Update – HVAC, lights, paint, carpet and Security Upgrades

Work happening in the future

- Phase 2 (final phase) expected to begin Summer 2021

520

GMP Summary		
	Approval Date	Amount
GMP 1	February 27, 2020	$1,634,800
GMP 2	April 23,2020	$6,460,189
	GMP Total	***$8,094,989***

Discussion