Medina Valley ISD Trustees Board of

Medina Valley ISD Board of Trustees
Regular Meeting
{{Date }} at 6:30 PM
Medina Valley ISD Central Office Board Room, 8449 FM 471 S, Castroville, TX 78009

Notice is hereby given that on **February 17, 2020** the **Board of Trustees of the Medina Valley Independent School District** will hold a **Regular Board Meeting at 6:30 PM at {{Location: Meeting Location.}}** The subjects to be discussed are listed on the agenda which is attached to and made part of this notice.

Members of the public who desire to address the Board during Public Comments will need to sign up to speak prior to the start of the meeting by providing their name, and the topic they wish to address to the Board on the sign in sheet provided. At Regular Board Meetings the Board of Trustees shall permit public comment on any topic. At all other Board Meetings public comments will be limited to items on the agenda posted with the notice of the meeting. All public comments are limited to 5 minutes.

If it is determined that during the meeting an item on the agenda that can be legally discussed in closed session be removed from the open session and discussed in closed session, the board may elect to discuss such agenda item in closed session in accordance with the Texas Open Meetings Act, Government Code, Chapter 551, Subchapters D and E. Before convening into Closed Meeting the Presiding Officer will announce the time and identify the section or sections of this chapter under which the closed meeting is held. All final votes, actions, or decisions shall be taken in open meeting. The Presiding Officer will announce the date and time for the end of the Closed Meeting before resuming the Open Meeting.

If you have a disability, please advise the school district about special arrangements that may allow you to fully participate in this meeting by calling Medina Valley ISD at 830-931-2243.

For Medina Valley ISD Board of Trustees:

Emily Lorenz, Superintendent of Schools

Medina Valley ISD
Regular
February 17, 2020

I. **First Order of Business**

A Establish a Quorum

B Pledge of Allegiance to the Flag followed by a moment of silence

II. Public Hearing on Texas Academic Performance Report (TAPR) 5

III. **Announcements/Communications/Presentations**

A Staff Recognition - MVISD Cafeteria Managers

B Construction Update 29

C **Financial Briefing**

1 Monthly Financial Report 55

2 Quarterly Investment Report 73

3 Preliminary Budget Projections for 20-21 School Year 74

D Superintendent Briefing 88

IV. Hear from Patrons and/ or Staff

V. **Discussion and Possible Action Items**

A **Consent Agenda Items**

1 MVISD Regular Board Meeting Minutes for January 21, 2020 93

2 **Donation(s)**

a Castroville Elementary PTO 96

3 **Student Out of State Travel**

a MVHS BPA National Leadership Conference 98

B Board Policy Update 114 effecting Local Board Policies BE, BED, CDA, CH, CKC, CKE, CQ, CQB, DFFA, DH, EHBB, FDE, FFAA, FFB, FFBA, FL, GBAA and GKA 99

C Order of Appointment for Election Judge and Alternates 1063

D Consider Petition Requesting Annexation to City of LaCoste 1065

E Consider Naming Elementary #5 1067

F Consider Board and Superintendent Goals for 2020 1068

G Consider Superintendent Evaluation Instrument for 2020 1070

H Budget Amendment(s)

VI. **Closed Session**

A **Consider Personnel Matters (TX Govt. Code Section 551.074).**

1 Appointment, Employment, Evaluation, Reassignment, Duties, Discipline, and Dismissal of a Public Officer or Employee

B Consider Real Property – Land (TX Govt. Code Section 551.072)

VII. **Action as Appropriate After Closed Session**

A Consider and take possible action regarding proposal for nonrenewal of term contract held by Susan Ardila

B Consider and take possible action on new professional contracts

C Consideration of future meeting dates

VIII. Adjournment

Texas Academic Performance Report (TAPR)

2018-2019

Medina Valley ISD

2019 Texas Education Agency Rating = A

2019 Postsecondary Readiness Texas Education Agency Distinction Designation **Earned**

2019 TEA Campus Distinction Designations (27). : MATH, SCIENCE, ELA, SOCIAL STUDIES, ACADEMIC GROWTH, CLOSING THE GAPS, POSTSECONDARY READINESS

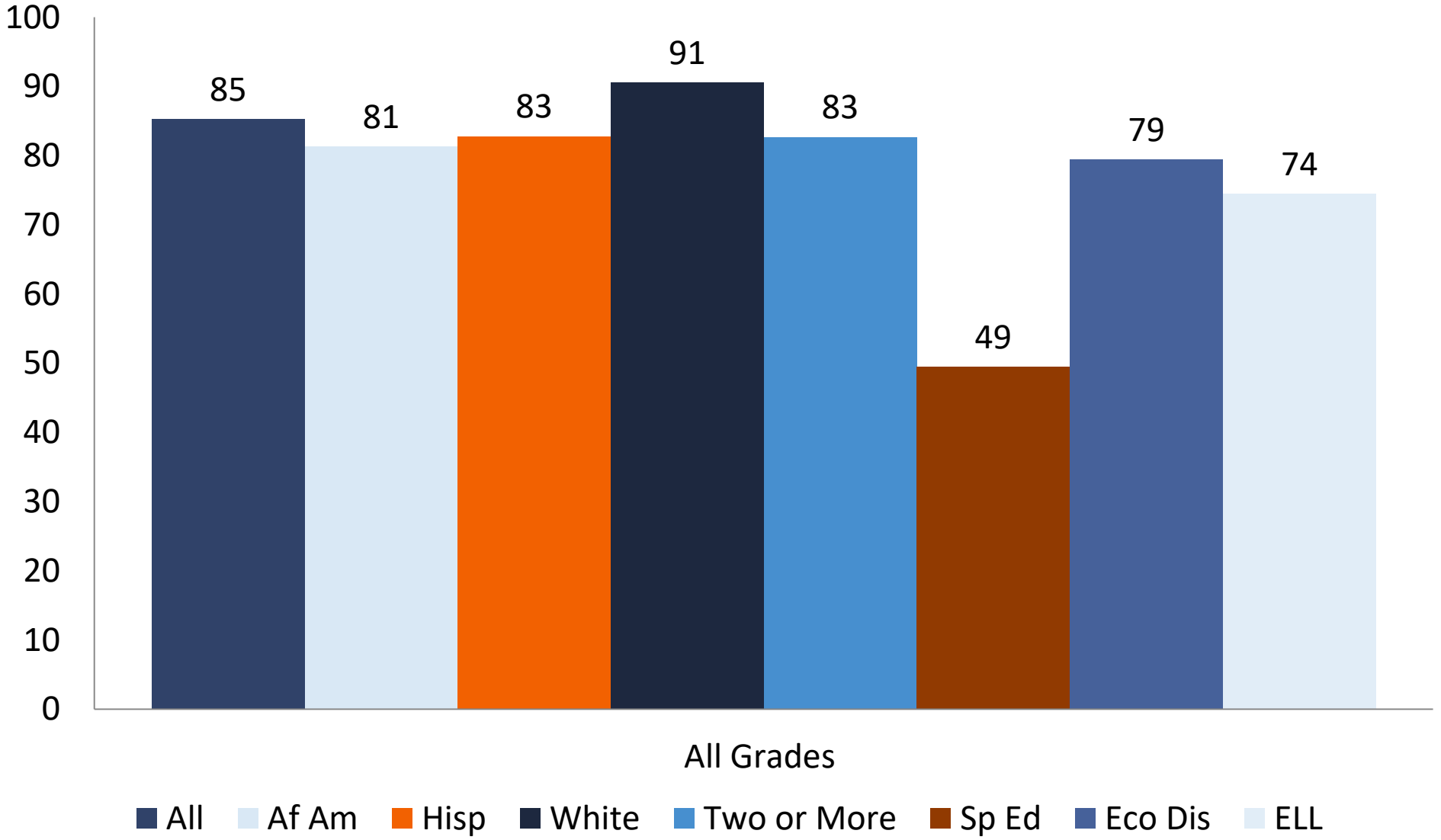
Campus TAPR Reports

- Medina Valley ISD
- Medina Valley High School
- Medina Valley Middle School
- Loma Alta Middle School
- Castroville Elementary
- LaCoste Elementary
- Potranco Elementary
- Luckey Ranch Elementary

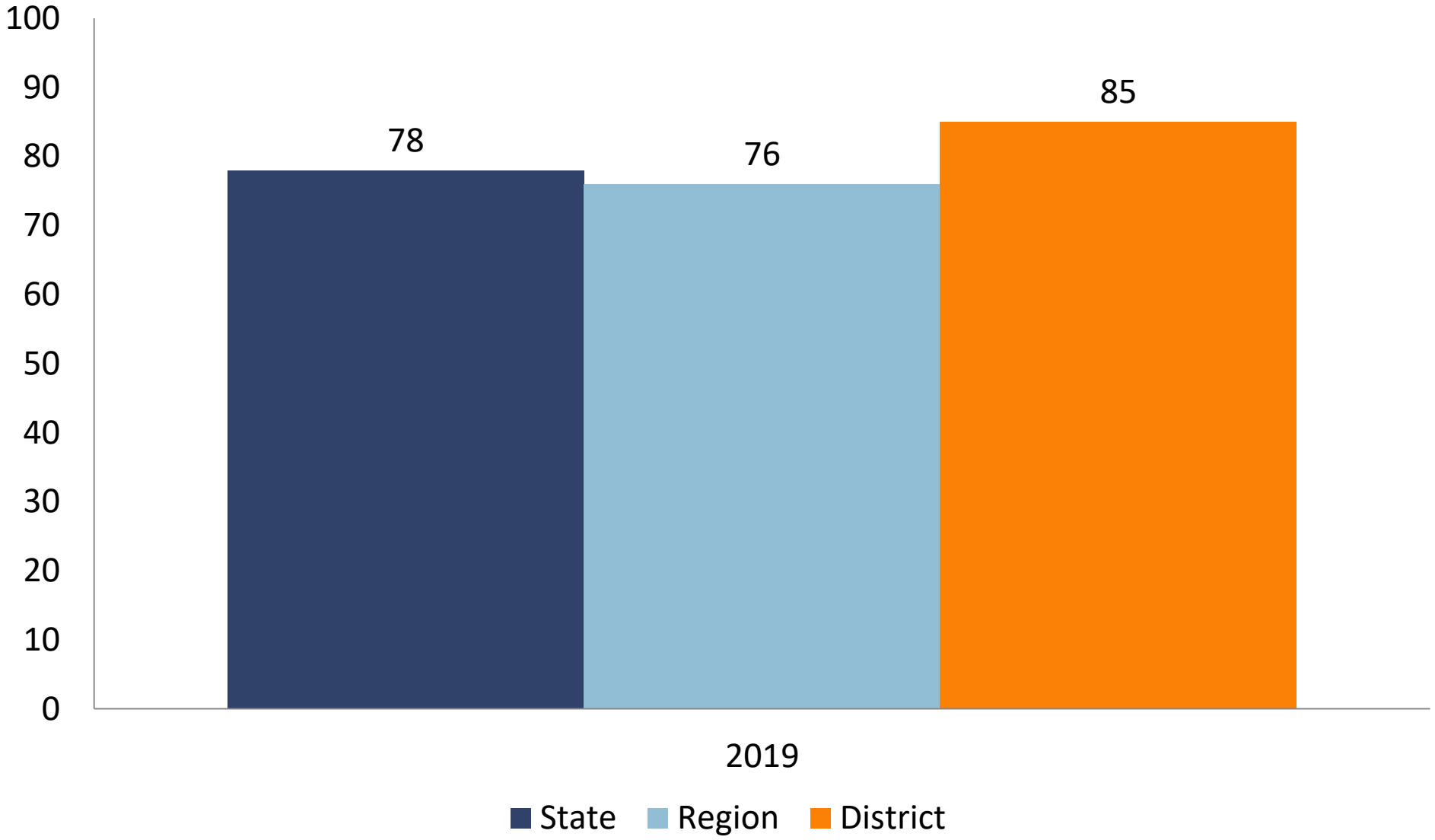
Campus Performance Objective Progress Monitoring

- Medina Valley High School
- Medina Valley Middle School
- Loma Alta Middle School
- Castroville Elementary
- LaCoste Elementary
- Potranco Elementary
- Luckey Ranch Elementary

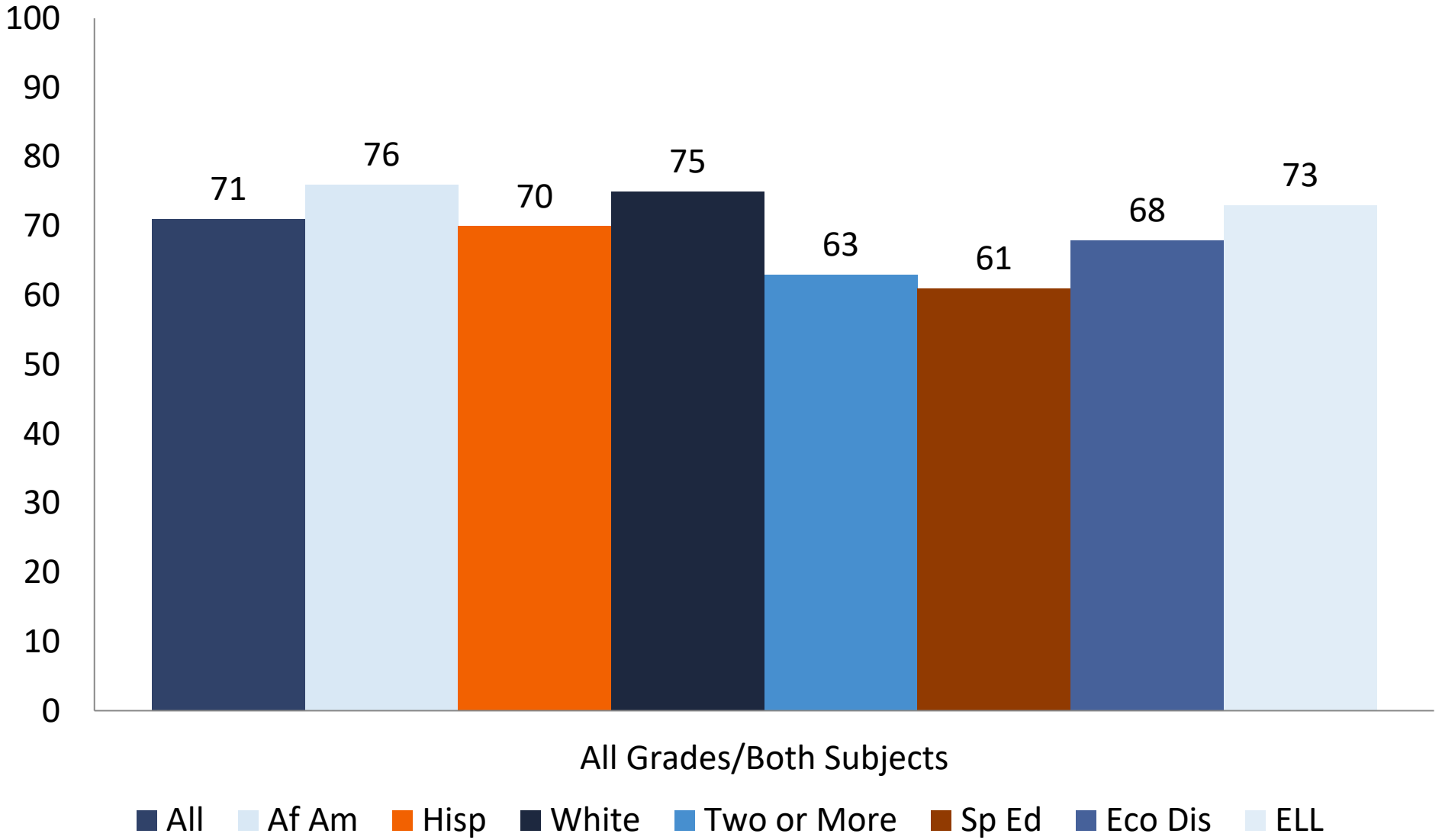
2019 STAAR All Grades / All Subjects Performance
Percent at Approaches Grade Level or Above



STAAR Percent at Approaches Grade Level or Above All Grades, All Subjects

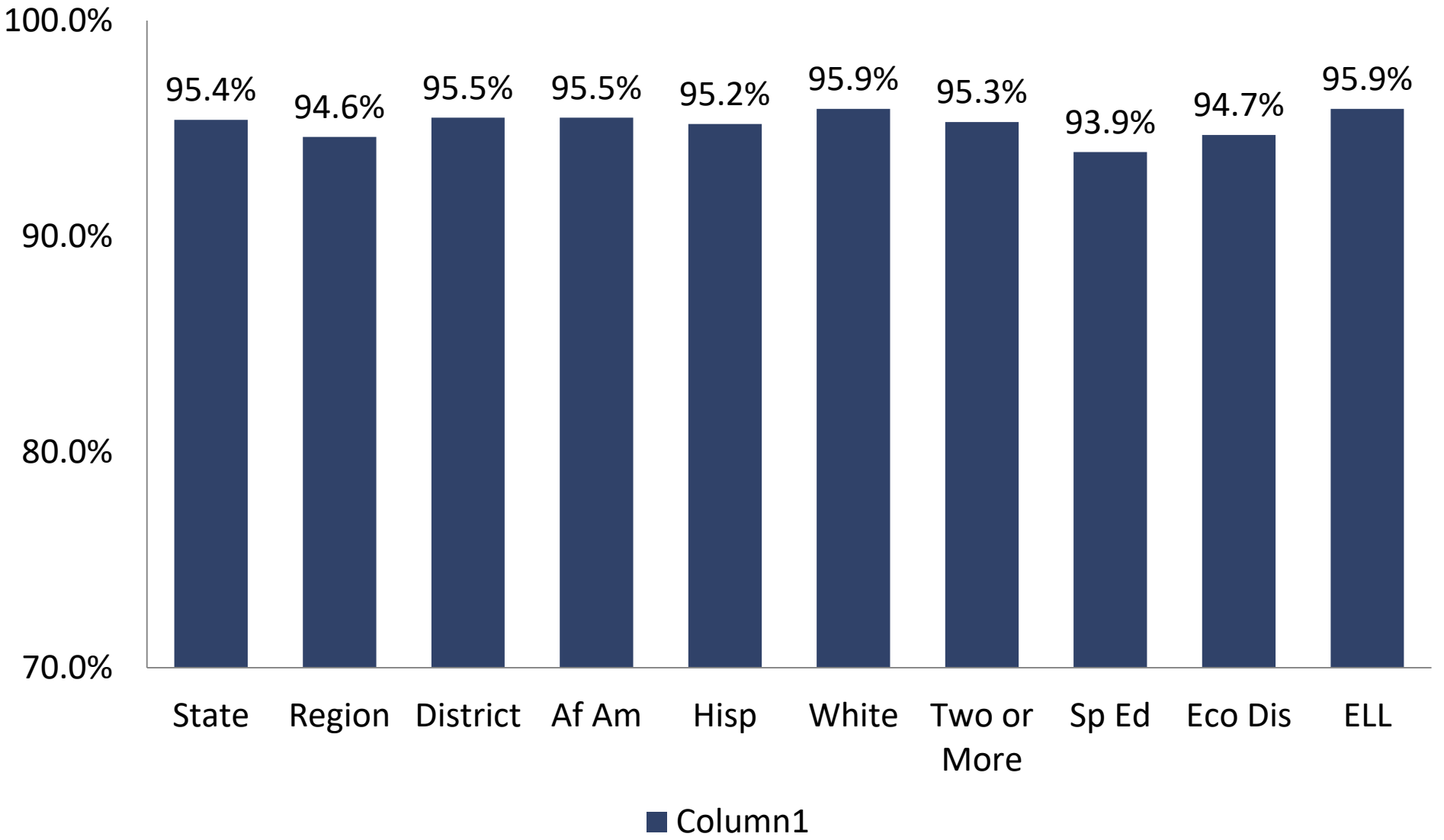


2019 Academic Growth Score
All Grades (Math & ELAR)



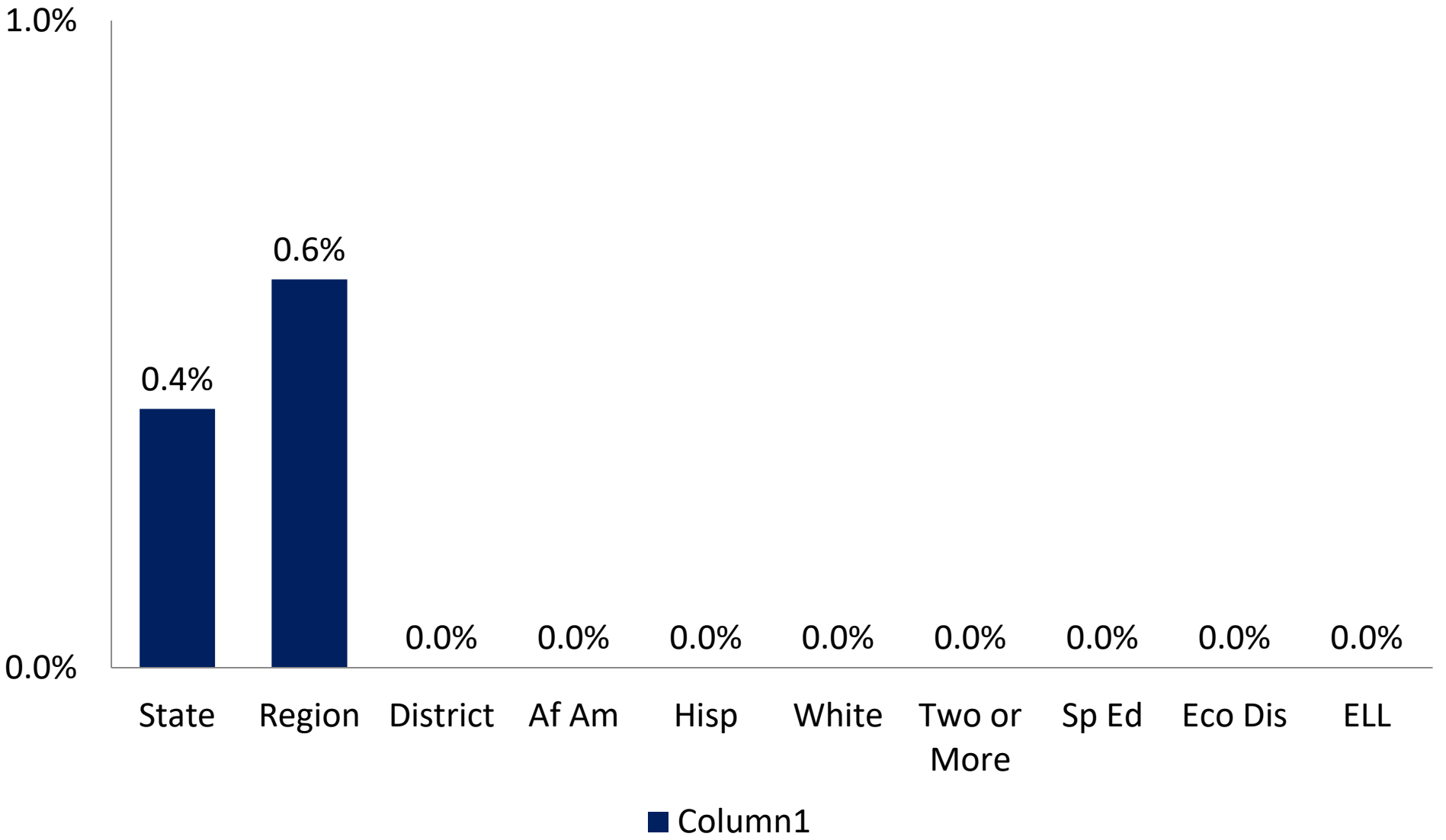
2019 Attendance

2017-2018 School Year



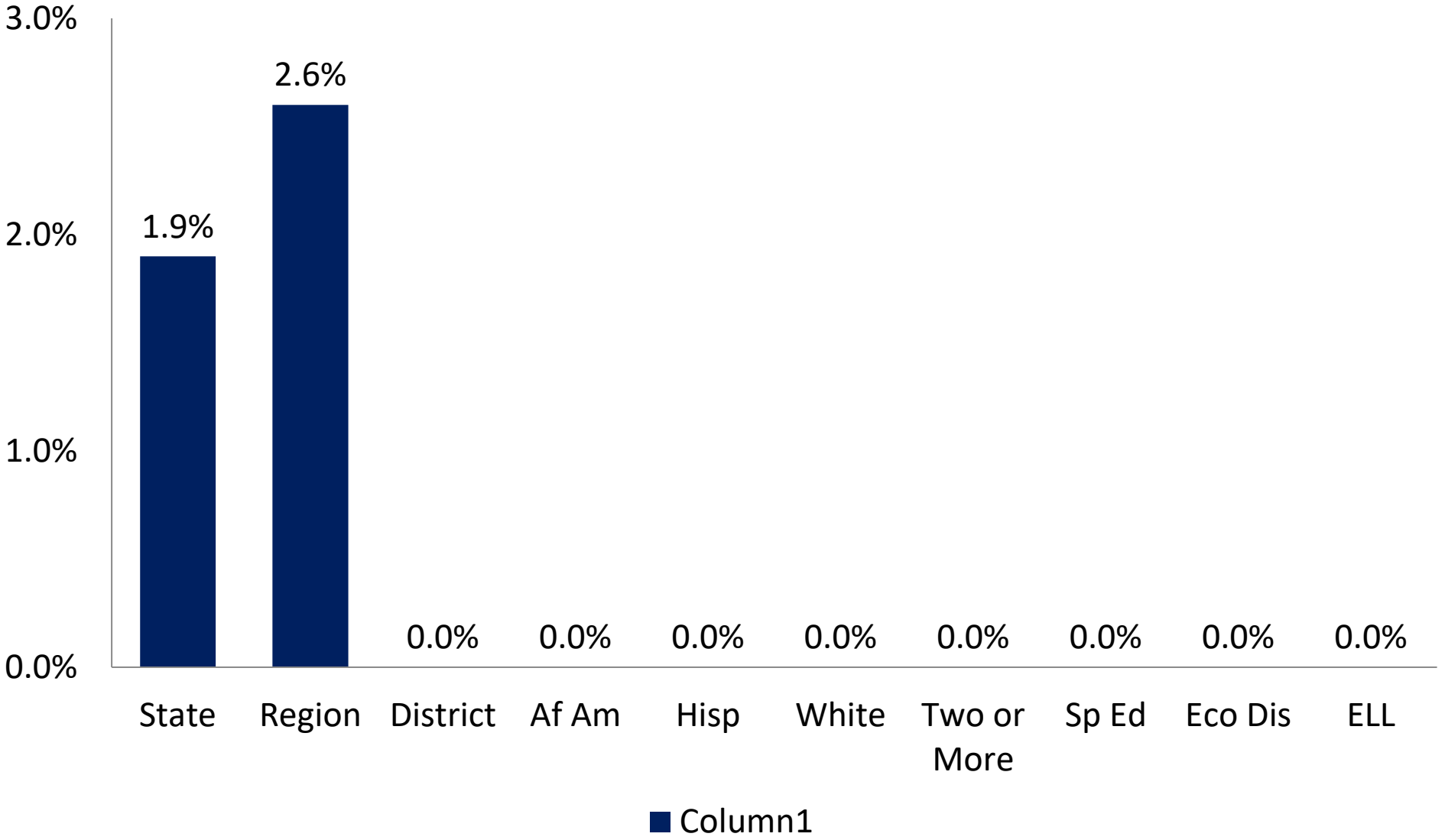
2019 Annual Dropout Rate (Grades 7-8)

2017-2018 School Year



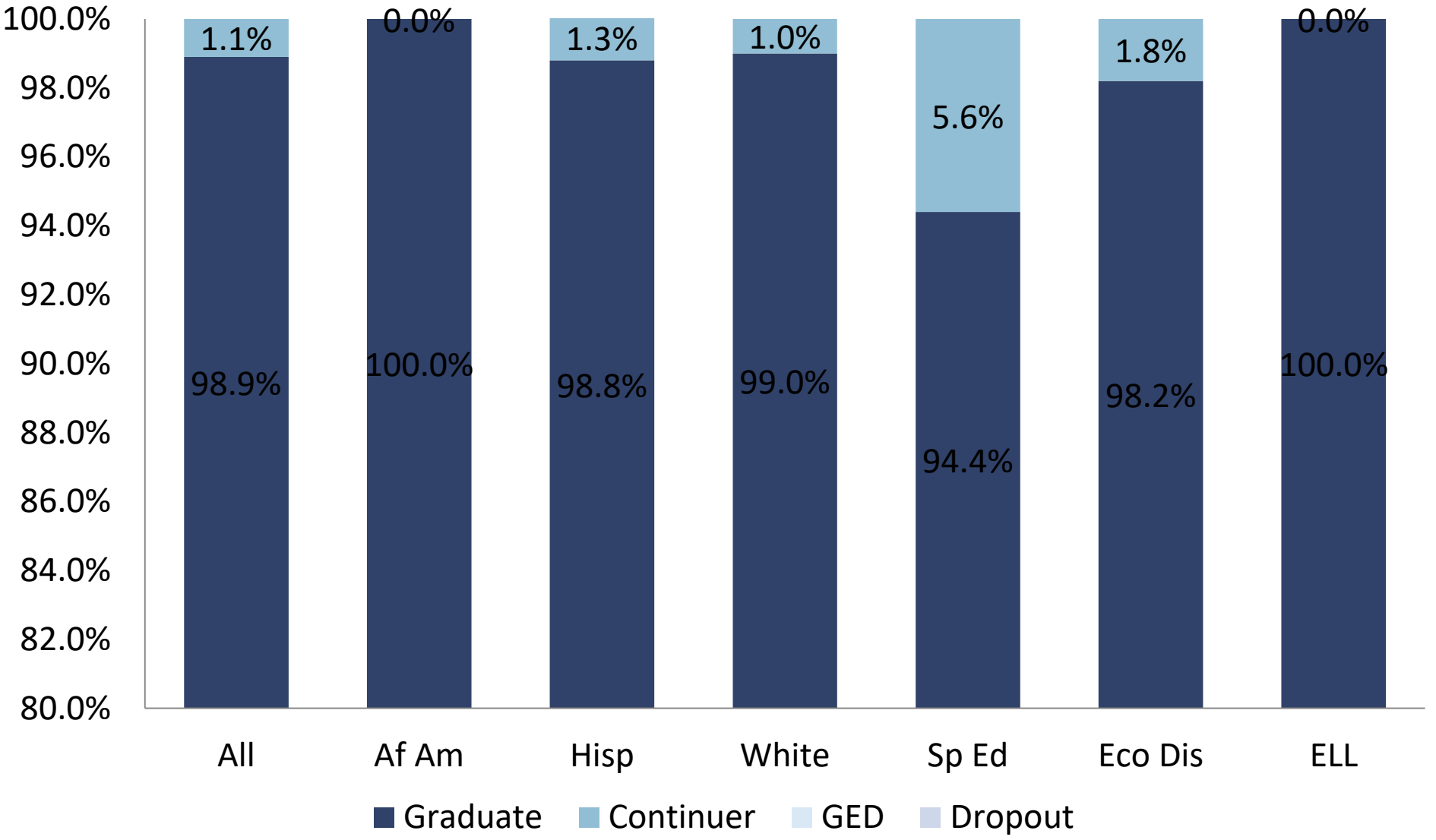
2019 Annual Dropout Rate (Grades 9-12)

2017-2018 School Year

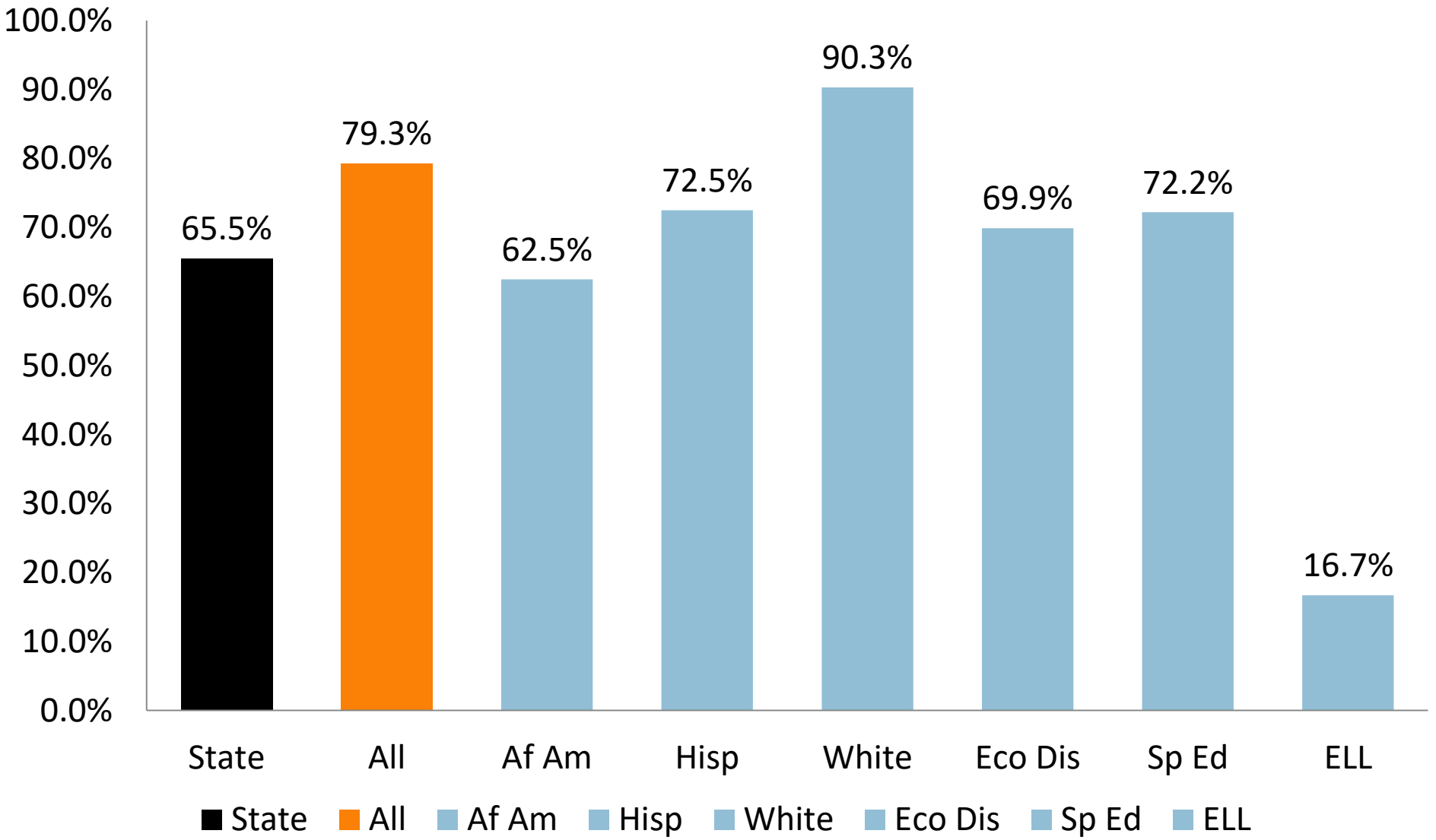


4-Year Longitudinal Graduation Rate (Grades 9-12)

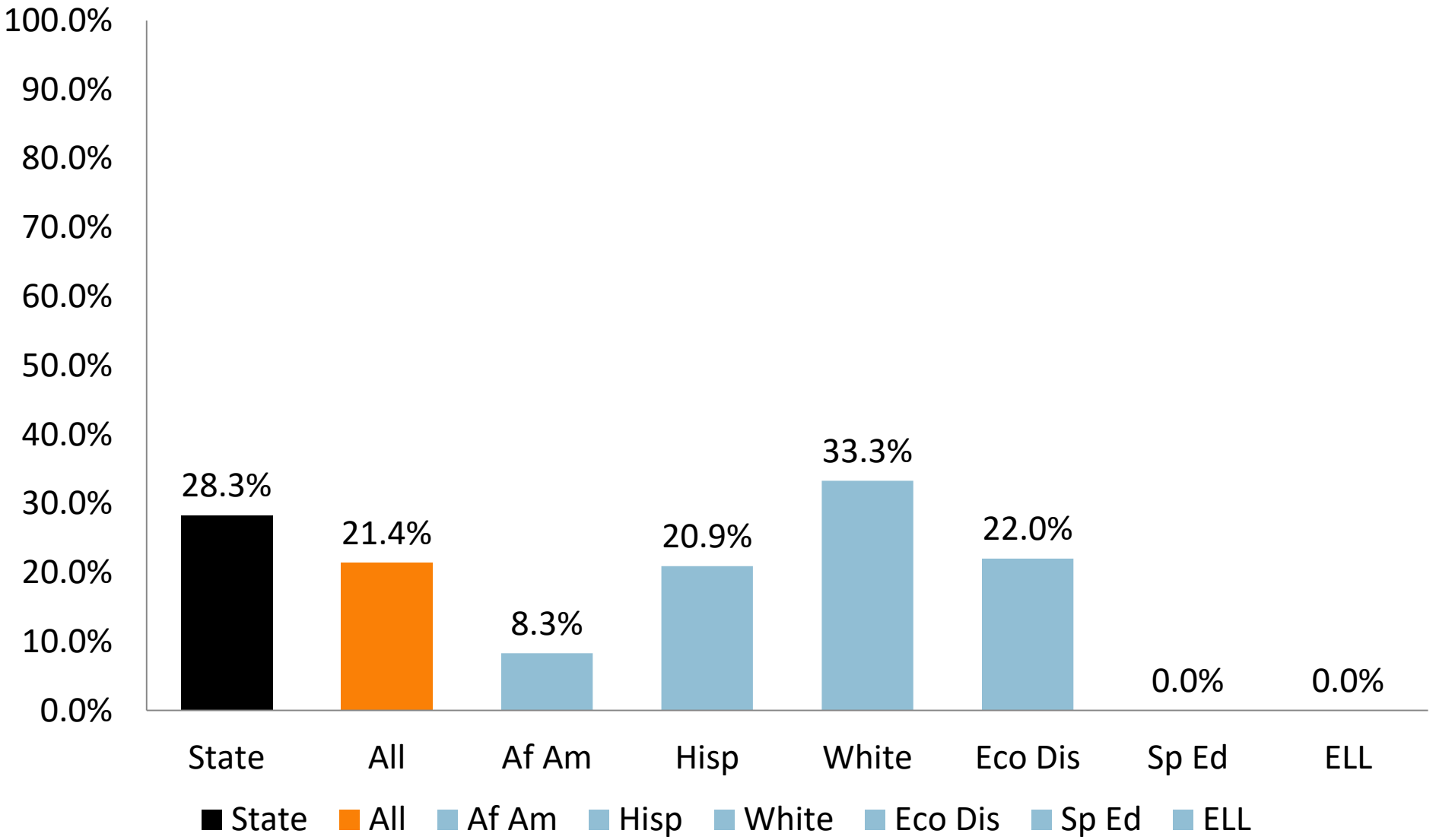
Class of 2018 Cohort



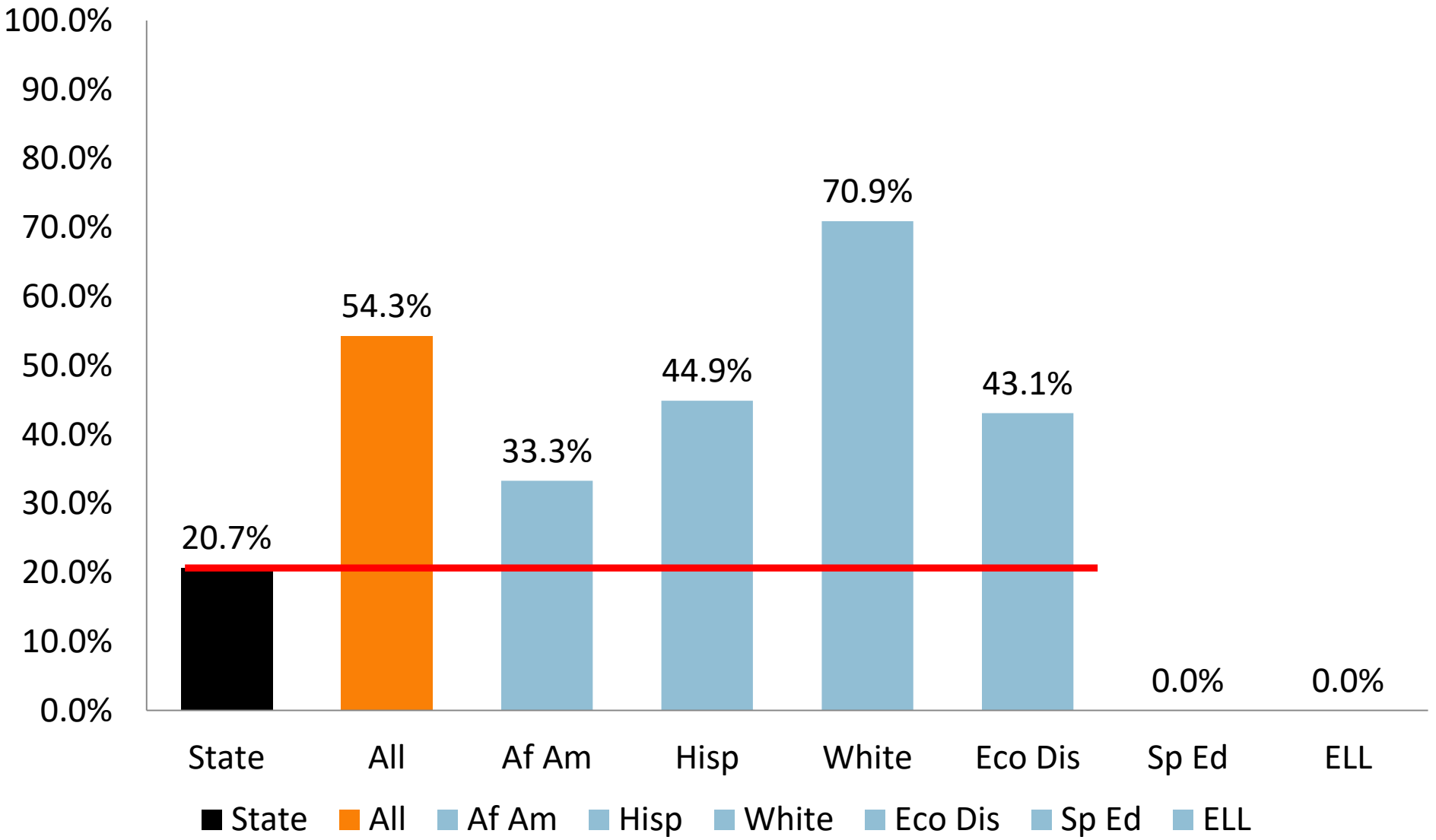
Class of 2018 College, Career, and Military Grad. (Stu. Achievement & Annual Grads)



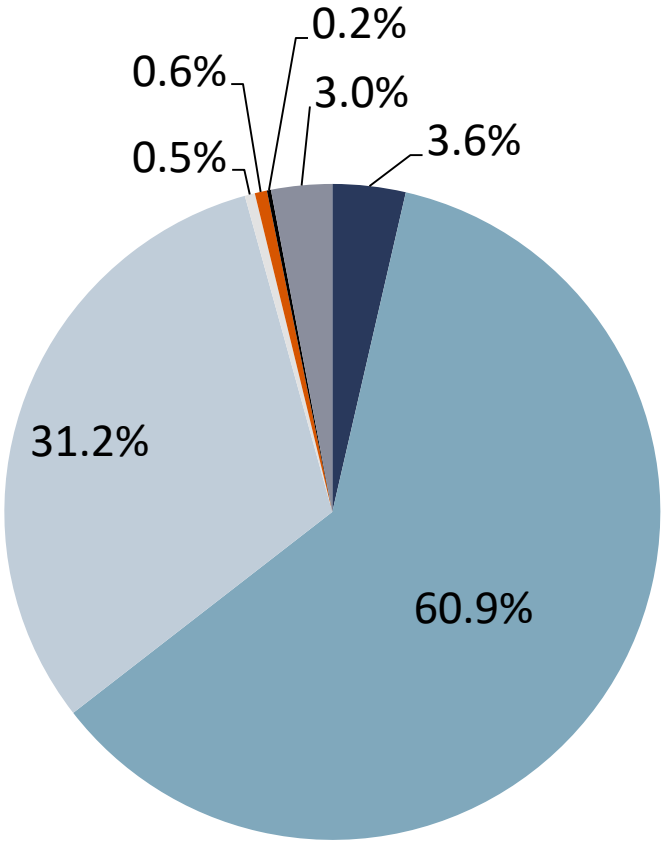
Class of 2018 College Ready Graduates



Class of 2018 College Dual Credits

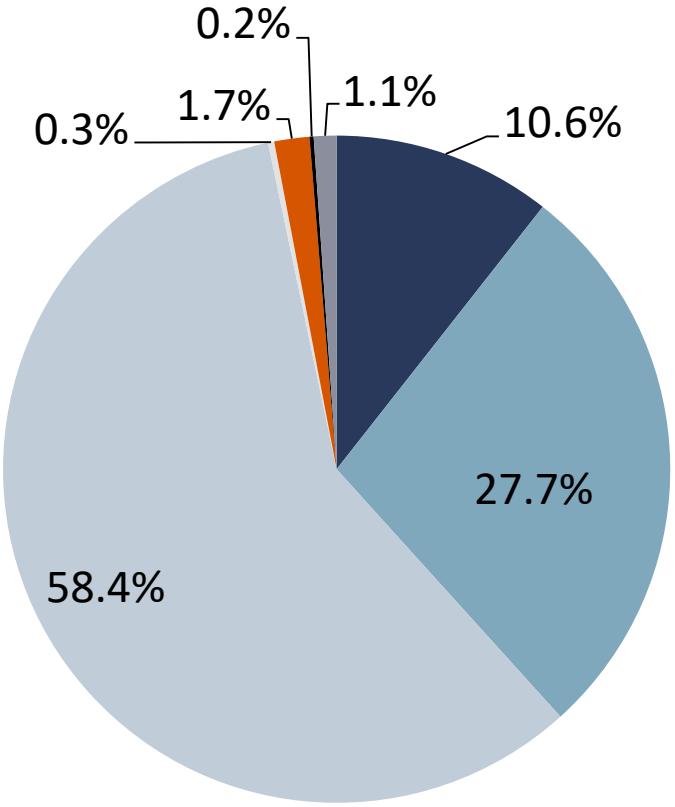


2019 Student Ethnic Distribution



District

African American
Hispanic
White
American Indian
Asian
Pacific Islander
Two or More Races

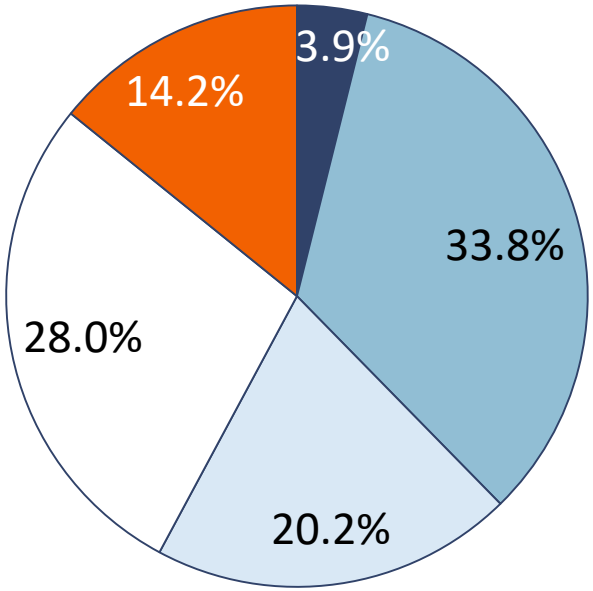


State

2019 Student Demographics

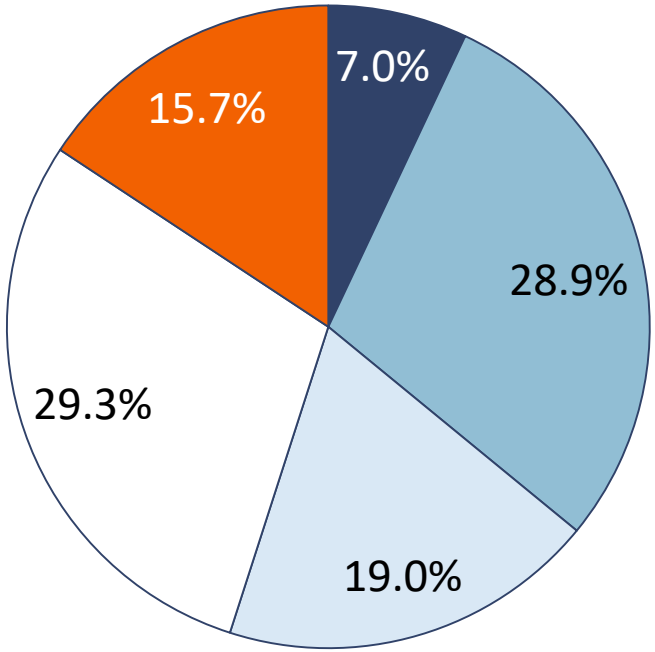
	District	State
Economically Disadvantaged	**51.2%**	**60.6%**
English Language Learners	**5.8%**	**19.5**
Students w/Disciplinary Placements (2017-2018)	**1.6%**	**1.4%**
At-Risk	**28.0%**	**50.1%**

2019 Teachers Years of Experience



District

Beginning
1-5 Years
6-10 Years
11-20 Years
Over 20 years



State

2019 Enrollment by Program

	District	State
Bilingual/ESL	**5.4%**	**19.7%**
Career & Technical Education	**30.4%**	**26.3%**
Gifted & Talented Education	**5.1%**	**8.1%**
Special Education	**11%**	**9.6%**

PEIMS Financial Standard Reports/2017-2018

Financial Actual Report

District Accreditation Status

- 2018–19 accreditation status. Information on accreditation status is available online at http://tea.texas.gov/accredstatus/.

2018-2019 Accreditation Status					
CDN	Name	ESC	2018 FIRST Rating	2018 Accountability Rating	2018-2019 Accreditation Status
163908	MEDINA VALLEY ISD	20	A - Superior	A	ACCREDITED

Violent and Criminal Incidents

- Texas statute (TEC 39.053) requires every district to publish an annual report on violent and criminal incidents at campuses in the district.

Violent and Criminal Incidents

Report on Violent or Criminal Incidents	
County-District Number: 163908 District Name: MEDINA VALLEY ISD	
Discipline Action Reason Codes	Total Occurrences
(11) - "Brought a Firearm to School or Unlawful carrying of a Handgun"	0
(12) - "Unlawful Carrying of a Location-Restricted Knife (blade longer than 5.5 inches)"	0
(13) - "Unlawful Carrying of a Club"	0
(14) - "Conduct Containing Elements of Offense Relating to Prohibited Weapons"	1
(16) - "Arson"	0
(17) - "Murder, Capital Murder, Criminal Attempt To Commit Murder"	0
(18) - "Indecency With A Child"	0
(19) - "Aggravated Kidnapping"	0
(29) - "Aggravated Assault against employee/volunteer"	0
(30) - "Aggravated Assault against someone other than employee/volunteer"	0
(31) - "Sexual/Aggravated Sexual Assault against employee/volunteer"	0
(32) - "Sexual/Aggravated Sexual Assault against someone other than employee/volunteer"	0
(36) - "Felony Controlled Substance Violation"	0
(37) - "Felony Alcohol Violation"	0
(46) - "Aggravated Robbery"	0
(47) - "Manslaughter"	0
(48) - "Criminally Negligent Homicide"	0
(49) - "Engages In Deadly Conduct"	0
(57) - "Continuous Sexual Abuse Of Young Child(ren)"	0

-PR6200 Resources

Texas Higher Education Coordinating Board

- Texas statute (TEC 51.403e) requires every district to include with its TAPR a report on student performance in postsecondary institutions during the first year enrolled after graduation from high school.

High School Graduates from FY2017
Enrolled in Texas Public or Independent Higher Education in FY 2018

Medina Valley HS	Total Graduates	GPA for 1st Year in Public Higher Education in Texas					
		< 2.0	2.0 – 2.49	2.5 – 2.99	3.0 – 3.49	> 3.5	Unknown
Four-Year Public University	73	9	6	10	21	27	0
Two-Year Public Colleges	64	10	8	11	21	12	2
Independent Colleges & Universities	9						
Not Trackable	8						
Not Found	133						
Total High School Graduates	287						

For more information, please contact:

Dr. Dwight H. McHazlett

Assistant Superintendent: Curriculum Instruction & Student Services

dwight.mchazlett@mvisd.org

830-931-2243 ext. 1101

"Every Child Deserves a Champion"

Construction Update

February 17, 2020

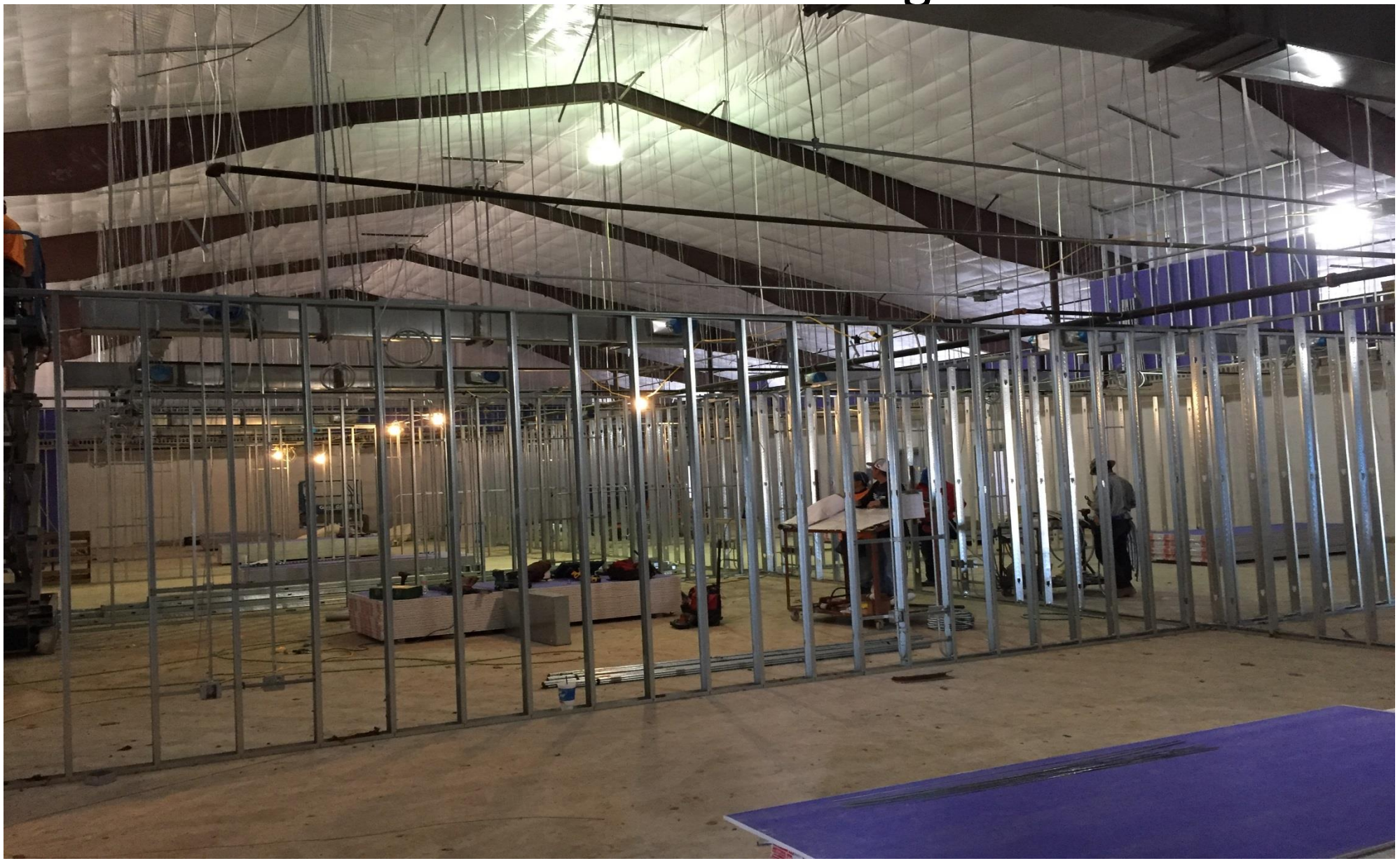
High School Addition #2



High School Addition #2
($9.14 MM)



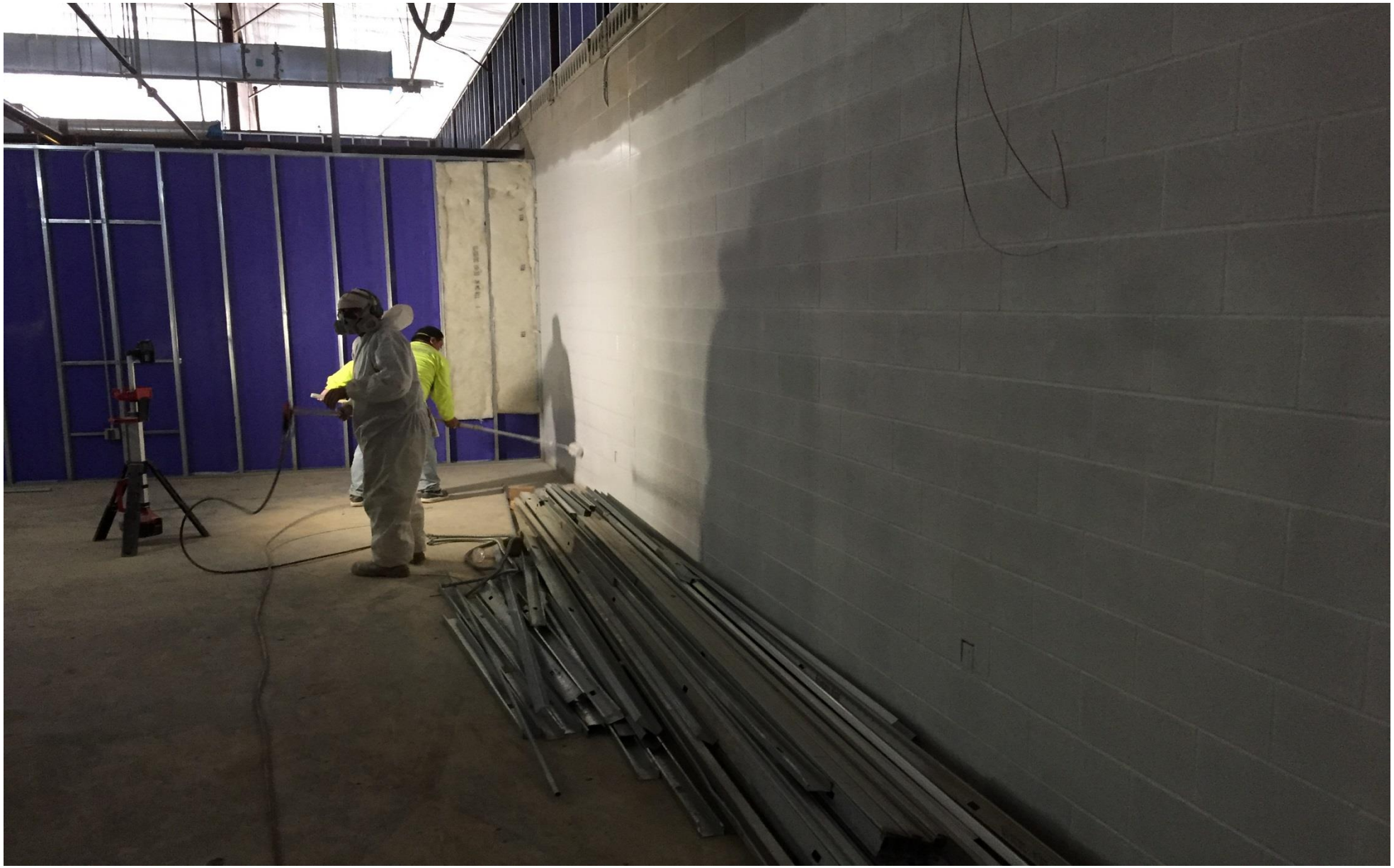
High School Addition #2
Metal Stud Framing



High School Addition #2
Sheetrock Installation



High School Addition #2
Block Filler Application



High School Addition #2
Science Classroom/Lab



High School Addition #2
Mechanical Mezzanine



High School Addition #2



Target Completion Date → May 30, 2020

Castroville Remodel
Building A Classroom



Castroville Remodel
Building A Classroom



Castroville Remodel
Building A Classroom



Castroville Remodel
New Corridor & Classroom Doors



Castroville Remodel – Building A
New Tile Restrooms



Castroville Remodel – Building A
New Tile Restrooms



Castroville Remodel – Building A
New Tile Drinking Fountains



Elementary #5

($27.8 MM)



Elementary #5

(Ladera Subdivision)



Elementary #5

Pier Drilling



Elementary #5

Pouring of Mud Slab



Elementary #5

Pouring of Mud Slab



Elementary #5



Target Completion Date → April 30, 2021

Facilities Roof/Canopy Addition



Facilities Roof/Canopy Addition



Higher Learning Center → Curriculum Support



Higher Learning Center → Curriculum Support



JANUARY 2020
MEDINA VALLEY INDEPENDENT SCHOOL DISTRICT
GENERAL FUND FINANCIAL STATEMENT

	Estimated Revenues	Original Budget	Current Budget	Current Period Actual	YTD Actual	Estimated Encumbrance	Balance	Year Percent Recognized	Prior Year Percent Recognized
5700	Local and Intermediate Revenues	$22,174,000	$22,174,000	$ 5,649,229	$18,270,771	$ -	$ 3,903,229	82.40%	76.33%
5800	**State Program Revenues**	**$28,521,324**	**$29,171,324**	**$ -**	**$12,171,470**	**$ -**	**$16,999,854**	**41.72%**	**40.22%**
5900	Federal Revenues	$ 330,000	$ 330,000	$ 54,920	$ 181,520	$ -	$ 148,480	55.01%	63.89%
	Total Revenues	**$51,025,324**	**$51,675,324**	**$ 5,704,149**	**$30,623,761**	**$ -**	**$21,051,563**	**59.26%**	**57.70%**
	Proposed Appropriations								
11	Instruction	$28,698,107	$28,875,031	$ 2,289,061	$11,780,207	$ 14,500,082	$ 2,594,742	40.80%	41.39%
12	**Instructional Resourcesand Media Services**	**$ 456,329**	**$ 456,329**	**$ 51,074**	**$ 223,998**	**$ 243,555**	**$ (11,224)**	**49.09%**	**47.03%**
13	Curriculum and Instructional Staff Development	$ 531,777	$ 588,285	$ 43,423	$ 282,472	$ 186,130	$ 119,683	48.02%	32.87%
21	**Instructional Leadership**	**$ 1,021,222**	**$ 1,074,888**	**$ 87,979**	**$ 428,457**	**$ 538,343**	**$ 108,088**	**39.86%**	**39.88%**
23	School Leadership	$ 2,389,050	$ 2,440,550	$ 200,831	$ 1,032,937	$ 1,365,546	$ 42,067	42.32%	40.26%
31	**Guidance, Counseling and Evaluation Services**	**$ 1,265,928**	**$ 1,411,023**	**$ 132,400**	**$ 700,809**	**$ 666,131**	**$ 44,083**	**49.67%**	**43.40%**
32	Social Work Services	$ 327,569	$ 327,569	$ 22,981	$ 114,485	$ 155,064	$ 58,020	34.95%	40.84%
33	**Health Services**	**$ 672,346**	**$ 672,346**	**$ 48,159**	**$ 243,184**	**$ 293,614**	**$ 135,548**	**36.17%**	**38.87%**
34	Student Transportation	$ 3,065,615	$ 3,765,615	$ 344,259	$ 1,327,993	$ 1,731,917	$ 705,705	35.27%	32.77%
36	**Extracurricular Activities**	**$ 1,577,691**	**$ 1,577,691**	**$ 143,307**	**$ 582,978**	**$ 554,809**	**$ 439,904**	**36.95%**	**39.73%**
41	General Administration	$ 1,499,732	$ 1,499,732	$ 113,365	$ 614,223	$ 689,149	$ 196,360	40.96%	44.84%
51	**Facilities Maintenance and Operations**	**$ 6,728,960**	**$ 6,813,960**	**$ 459,788**	**$ 2,642,759**	**$ 2,103,978**	**$ 2,067,223**	**38.78%**	**36.17%**
52	Security and Monitoring Services	$ 960,033	$ 516,960	$ 33,650	$ 129,041	$ 179,165	$ 208,754	24.96%	36.84%
53	**Data Processing Services**	**$ 1,330,425**	**$ 1,723,686**	**$ 127,890**	**$ 1,036,923**	**$ 662,682**	**$ 24,081**	**60.16%**	**47.49%**
61	Community Services	$ 45,540	$ 45,540	$ 1,906	$ 10,210	$ 10,049	$ 25,281	22.42%	33.91%
81	**Facilities Acquisition and Construction**	**$ 50,000**	**$ 50,000**	**$ -**	**$ -**	**$ -**	**$ 50,000**	**0.00%**	**0%**
95	Payments to JJAEP	$ 5,000	$ 5,000	$ -	$ -	$ -	$ 5,000	0.00%	0%
99	**Other Intergovernmental Charges**	**$ 400,000**	**$ 400,000**	**$ -**	**$ 341,523**	**$ 29,026**	**$ 29,451**	**85.38%**	**0%**
	Totals	**$51,025,324**	**$52,244,205**	**$ 4,100,074**	**$21,492,199**	**$ 23,909,241**	**$ 6,842,765**	**41.14%**	**40.17%**
	Surplus/Deficit	**$ -**	**$ (568,881)**						

JANUARY 2020
MEDINA VALLEY INDEPENDENT SCHOOL DISTRICT
GENERAL FUND EXPENDITURES BY OBJECT

Object		Budget		YTD Actuals	Current YTD % Recongized	Prior YTD % Recongized
6100	$	40,766,412	$	16,598,140	40.72%	39.96%
6200	**$**	**4,500,885**	**$**	**1,793,264**	**39.84%**	**42.62%**
6300	$	3,971,583	$	1,821,955	45.87%	44.92%
6400	**$**	**1,251,111**	**$**	**695,568**	**55.60%**	**45.46%**
6600	$	1,754,214	$	583,272	33.25%	11.03%
TOTAL	**$**	**52,244,205**	**$**	**21,492,199**	**41.14%**	**40.17%**

JANUARY 2020
MEDINA VALLEY INDEPENDENT SCHOOL DISTRICT
FOOD SERVICE FUND FINANCIAL STATEMENT

	Estimated Revenues	Original Budget	Current Budget	Current Period Actual	YTD Actual	Encumbrance	Balance	Current Year Percent Recognized	Prior Year Percent Recognized
5700	Local and Intermediate Revenues	$1,212,419	$1,212,419	$121,656	$ 653,342	$ -	$ 559,077	53.89%	43.91%
5800	**State Program Revenues**	**$ -**	**$ -**	**$ -**		**$ -**	**$ -**	**0.00%**	**0.00%**
5900	Federal Revenues	$2,391,568	$2,391,568	$375,089	$1,072,512	$ -	$1,319,056	44.85%	48.33%
	Total Revenues	**$3,603,987**	**$3,603,987**	**$496,745**	**$1,725,854**	**$ -**	**$1,878,133**	**47.89%**	**46.11%**
	Proposed Appropriations								
11	Instruction								
12	**Instructional Resourcesand Media Services**								
13	Curriculum and Instructional Staff Development								
21	**Instructional Leadership**								
23	School Leadership								
31	**Guidance, Counseling and Evaluation Services**								
32	Social Work Services								
33	**Health Services**								
34	Student Transportation								
35	**Food Service**	**$3,603,987**	**$3,603,987**	**$398,025**	**$1,886,654**	**$ 1,781,896**	**$ (64,563)**	**52.3%**	**43.4%**
36	Extracurricular Activities								
41	**General Administration**								
51	Facilities Maintenance and Operations								
52	**Security and Monitoring Services**								
53	Data Processing Services								
61	**Community Services**								
81	Facilities Acquisition and Construction								
95	**Payments to JJAEP**								
99	Other Intergovernmental Charges								
	Totals	**$3,603,987**	**$3,603,987**	**$398,025**	**$1,886,654**	**$ 1,781,896**	**$ (64,563)**	**52.3%**	**43.4%**
	Surplus/Deficit	**$ -**	**$ -**						

JANUARY 2020
MEDINA VALLEY INDEPENDENT SCHOOL DISTRICT
DEBT SERVICE FUND FINANCIAL STATEMENT

	Estimated Revenues	Original Budget	Current Budget	Current Period Actual	YTD Actual	Encumbrance	Balance	Year Percent Recognized	Prior Year Percent Recognized
5700	Local and Intermediate Revenues	$9,848,098	$9,848,098	$2,623,639	$8,421,418	$ -	$1,426,680	85.51%	86.45%
5800	**State Program Revenues**	**$ 123,190**	**$ 123,190**	**$ -**	**$ 123,190**	**$ -**	**$ -**	**100.00%**	**138.99%**
5900	Federal Revenues	$ -	$ -	$ -	$ -	$ -	$ -	0.00%	0.00%
	Total Revenues	**$9,971,288**	**$9,971,288**	**$2,623,639**	**$8,544,608**	**$ -**	**$1,426,680**	**85.69%**	**88.71%**
	Proposed Appropriations								
11	Instruction								
12	**Instructional Resourcesand Media Services**								
13	Curriculum and Instructional Staff Development								
21	**Instructional Leadership**								
23	School Leadership								
31	**Guidance, Counseling and Evaluation Services**								
32	Social Work Services								
33	**Health Services**								
34	Student Transportation								
35	**Food Service**								
36	Extracurricular Activities								
41	**General Administration**								
51	Facilities Maintenance and Operations								
52	**Security and Monitoring Services**								
53	Data Processing Services								
61	**Community Services**								
71	Debt Service	$9,971,288	$9,971,288	$ -	$ 2,040	$ -	$9,969,248	0.02%	0.02%
81	**Facilities Acquisition and Construction**								
95	Payments to JJAEP								
99	**Other Intergovernmental Charges**								
	Totals	**$9,971,288**	**$9,971,288**	**$ -**	**$ 2,040**	**$ -**	**$9,969,248**	**0.02%**	**0.02%**
	Surplus/Deficit	**$ -**	**$ -**						

Check Register for January 2020

Check Date	Vendor Name	Transaction Amount
01/02/2020	NATIONAL PLAN ADMN ANNUITIES	$26,465.76
01/02/2020	TEXAS CLASSROOM TEACHERS ASSC.	$71.00
01/02/2020	ATPE	$6,974.20
01/02/2020	TEXAS TEACHERS-A.C.P.	$2,910.00
01/02/2020	TEXAS AFT/PEG	$35.00
01/02/2020	BAY BRIDGE ADMIN.LLC	$53,583.82
01/02/2020	NATIONAL PLAN ADMINISTRATORS	$8,399.42
01/02/2020	NATIONAL PLAN -HSA	$2,405.00
01/02/2020	NAT'L PLAN ADMN DEPEND CARE	$419.68
01/02/2020	U.S. DEPARTMENT OF EDUCATION	$123.58
01/09/2020	A TWO Z GRAPHICS	$635.00
01/09/2020	ASSESSMENT INTERVENTION MGMT, LLC	$2,805.00
01/09/2020	BUSINESS RADIO LICENSING	$800.00
01/09/2020	CDW GOVERNMENT, INC.	$1,790.78
01/09/2020	COMMERCIAL KITCHEN REPAIR INC	$633.05
01/09/2020	DOGGETT FREIGHTLINER OF SOUTH TEXAS	$583.75
01/09/2020	EASTBAY INC.	$3,841.00
01/09/2020	FOLLETT SCHOOL SOLUTIONS, INC	$4,315.10
01/09/2020	INTECH SOUTHWEST SERVICES, LLC	$487.00
01/09/2020	J & R TILE, INC.	$32,653.00
01/09/2020	J2 CLOUD SERVICES, LLC	$450.05
01/09/2020	LEARNING ZONE	$188.86
01/09/2020	MVISD-FOOD SERVICE DEPT	$344.58
01/09/2020	RAINBOW PIZZA LLC.	$289.04
01/09/2020	TANYA LEE STIVORS	$32.48
01/09/2020	DOCUMENT TRACKING SERVICES, LLC	$1,085.00
01/09/2020	DUMAS HARDWARE COMPANY	$438.00
01/09/2020	FERGUSON ENTERPRISES	$3,826.50
01/09/2020	GULF COAST PAPER CO INC	$1,675.33
01/09/2020	H.E.B. GROCERY COMPANY	$3,277.30
01/09/2020	HIGH SCHOOL MUSIC SERVICE INC	$108.05
01/09/2020	LEXIA LEARNING SYSTEMS LLC	$400.00
01/09/2020	MEDINA COUNTY TAX OFFICE	$75.00
01/09/2020	NEOFUNDS BY NEOPOST	$3,020.00
01/09/2020	ROYCE GROFF OIL CO INC	$3,844.64
01/09/2020	TEXAS ASSOC. FOR ALTERNATIVE ED INC	$285.00
01/09/2020	TEXAS TECH UNIVERSITY	$100.00
01/09/2020	THE PROPHET CORP	$1,146.37
01/09/2020	AHR'S FLOWER SHOP	$35.00
01/09/2020	ALAMO TRUCK ACCESSORIES	$7,324.00
01/09/2020	BILL MILLERS BAR-B-Q	$239.00

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01/09/2020	CITY OF LACOSTE WATER DEPT	$1,788.60
01/09/2020	DRAGO INVESTMENTS, LTD	$92.95
01/09/2020	LAKESHORE LEARNING MATERIALS	$3,697.89
01/09/2020	NORTH TEXAS TOLLWAY AUTHORITY	$5.76
01/09/2020	SPECIAL OLYMPICS TEXAS, INC.	$200.00
01/09/2020	SYSCO USA I, INC./SYSCO CENTRAL TX	$150.00
01/09/2020	ALAMO AREA AQUATIC ASSOCIATION	$270.00
01/09/2020	CAPSTONE	$3,154.00
01/09/2020	CARLOS PONCE	$280.00
01/09/2020	CED INC/COLUMBIA ELECTRIC SUPPLY	$1,135.00
01/09/2020	CORNERSTONE PUBLICATIONS, INC.	$32.00
01/09/2020	DEAN'S CUSTOM UPHOLSTERY	$865.00
01/09/2020	ERIC ARMIN INC	$361.90
01/09/2020	HAYDAY, INC/CTWP	$1,173.20
01/09/2020	J.W. PEPPER AND SON, INC.	$231.91
01/09/2020	RAVEN RABAGO	$2,068.75
01/09/2020	SAS/SAN ANTONIO SHOEMAKERS	$126.00
01/09/2020	SCHOOL OUTFITTERS, LLC	$282.97
01/09/2020	SCHOOL SPECIALTY, INC	$671.31
01/09/2020	VALERO ENERGY	$117.06
01/09/2020	WRIGHT EXPRESS FSC	$60.00
01/09/2020	AT&T	$2,569.28
01/09/2020	BOLNER'S INC.	$74.95
01/09/2020	BORDEN DAIRY COMPANY	$3,193.90
01/09/2020	DOUBLETREE SUITES BY HILTON AUSTIN	$1,162.90
01/09/2020	EDUCATION SERVICE CENTER REGION XX	$9,150.00
01/09/2020	FLINN SCIENTIFIC INC	$118.96
01/09/2020	JD METAL ROOFING INC	$1,900.00
01/09/2020	NTHS-NATIONAL TECHNICAL HONOR SOCIE	$760.00
01/09/2020	OLYMPIA TROPHY CENTER, INC	$939.00
01/09/2020	RUSH TRUCK CENTERS OF TEXAS, LP	$820.06
01/09/2020	SAN ANTONIO WATER SYSTEM	$1,464.33
01/09/2020	SEVERIN INTERMEDIATE HOLDINGS, LLC.	$3,779.46
01/09/2020	SOUTHEASTERN PERFORMANCE APPAREL	$477.22
01/09/2020	TEXAS ASSOC SCH BUS OFFICIALS	$1,325.00
01/09/2020	THE COLLEGE BOARD	$1,050.00
01/09/2020	YOANDRA NARANJO	$53.30
01/09/2020	BUSH'S CHICKEN	$160.16
01/09/2020	CASTROVILLE TRUE VALUE	$124.93
01/09/2020	DEBRA HARRINGTON KELLER	$32.48
01/09/2020	FAMILY PARTS COMPANY INC	$1,448.35

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01/09/2020	ISC ACQUISITION CORP.	$543.00
01/09/2020	JAMIE OSBURN SOTELO	$112.00
01/09/2020	MEDINA ECONOMIC DEV FOUNDATION, INC	$300.00
01/09/2020	QUILL CORPORATION	$503.32
01/09/2020	SONJA M TOVAR	$2,045.00
01/09/2020	STAPLES CONTRACT & COMM, LLC	$455.29
01/09/2020	TEX ASSN OF SCHOOL BOARDS-TASB, INC	$8,808.50
01/09/2020	TEXAS LIBRARY ASSOCIATION, INC	$810.00
01/09/2020	TEXAS LOCK & DOOR CLOSER, INC.	$772.35
01/09/2020	TRACTOR SUPPLY CO	$5.16
01/09/2020	TUMBLEWEED PRESS, INC	$1,349.00
01/09/2020	WELDERS SUPPLY CO	$606.74
01/09/2020	ZINSMEYER A/C & HEATING LLC	$28,796.00
01/09/2020	ANGIE MARIE GALINDO	$48.25
01/09/2020	DE LA GARZA FENCE/SUPPLY INC	$35,989.57
01/09/2020	DOMINO'S PIZZA	$165.74
01/09/2020	GIFTS 'N STUFF	$180.00
01/09/2020	HOME DEPOT CREDIT SERVICES	$1,643.55
01/09/2020	JOURNEYED.COM INC	$11,839.50
01/09/2020	KENNETH MICHAEL ROHRBACH	$64.27
01/09/2020	LACKLAND MILITARY CLOTHING STORE	$72.85
01/09/2020	MEDINA ELECTRIC COOPERATIVE, INC.	$605.90
01/09/2020	MISC	$40.00
01/09/2020	OFFICE DEPOT INC	$214.93
01/09/2020	RECORDS CONSULTANTS, INC	$8,910.50
01/09/2020	SAM'S CLUB DIRECT	$201.26
01/09/2020	SERVICE INDUSTRIAL, INC.	$248.15
01/09/2020	TAQUERIA SAN JUAN #2	$158.40
01/09/2020	TEXTBOOK WAREHOUSE, LLC	$974.00
01/09/2020	TRIPLE-S STEEL SUPPLY INC.	$417.60
01/09/2020	TX TAG	$33.09
01/09/2020	BSN SPORTS, LLC	$519.95
01/09/2020	BULL'S EYE BRANDS INC.	$3,062.79
01/09/2020	CENTERPOINT ENERGY	$1,520.69
01/09/2020	GATEWAY PRINTING & OFFICE SUPPLY	$2,499.43
01/09/2020	HABY'S ALSATIAN BAKERY	$348.00
01/09/2020	HARDIE'S FRESH FOODS	$2,070.76
01/09/2020	KURZ & CO.	$1,208.31
01/09/2020	LABATT INSTITUTIONAL SUPPLY CO	$34,423.00
01/09/2020	MARTINEE CREATIONS	$920.00
01/09/2020	MEDINA COUNTY TREASURER	$500.00

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01/09/2020	MVISD-TRANSPORTATION DEPT	$4,112.94
01/09/2020	RED WING SHOES	$13,925.51
01/09/2020	WALMART	$1,830.02
01/09/2020	WASTE MANAGEMENT OF TEXAS, INC	$8,172.68
01/09/2020	YANCEY WATER SUPPLY CORP	$1,832.87
01/10/2020	WALMART	$269.95
01/10/2020	MISC	$3,486.38
01/13/2020	AMERICAN MARKETING ASSOCIATION	$35.00
01/13/2020	DUSTIN WAYNE HURLEY	$183.00
01/13/2020	AMAZON.COM	$56.98
01/14/2020	AMAZON.COM	$2,252.71
01/14/2020	MISC	$659.31
01/15/2020	MVISD WORKERS' COMPENSATION	$17,285.02
01/15/2020	W.R. GRIGGS CONSTRUCTION, INC	$382,144.53
01/15/2020	BROADWAY NATIONAL BANK	$164,759.26
01/15/2020	TEACHER RETIREMENT SYSTEM	$230,610.00
01/15/2020	U.S. DEPARTMENT OF EDUCATION	$123.58
01/15/2020	AMAZON.COM	$165.47
01/15/2020	EXPERT PAY	$1,277.00
01/16/2020	AMY LYNN BROWN	$1,360.00
01/16/2020	BIG KAHUNA FUNDRAISING	$2,520.00
01/16/2020	BSN SPORTS, LLC	$2,275.00
01/16/2020	BUSH'S CHICKEN	$259.95
01/16/2020	CASTROVILLE UTILITY SYSTEM	$13,127.14
01/16/2020	DOCUMENT TRACKING SERVICES, LLC	$975.44
01/16/2020	DZIUK MEAT MARKET	$160.97
01/16/2020	GATEWAY PRINTING & OFFICE SUPPLY	$3,167.54
01/16/2020	HABY'S ALSATIAN BAKERY	$111.70
01/16/2020	LABATT INSTITUTIONAL SUPPLY CO	$29,854.81
01/16/2020	MICHELE ESTRADA HERNANDEZ	$62.00
01/16/2020	MISSION RESTAURANT SUPPLY CO.	$492.00
01/16/2020	NEIL RYAN TSCHIRHART	$86.00
01/16/2020	RENAISSANCE LEARNING INC	$27.09
01/16/2020	ROYCE GROFF OIL CO INC	$15,430.17
01/16/2020	SAN ANTONIO TESTING LABORATORY, INC	$75.00
01/16/2020	TEXAS ASSOC SCH BUS OFFICIALS	$770.00
01/16/2020	TPX COMMUNICATIONS CO	$1,234.72
01/16/2020	TRACTOR SUPPLY CO	$121.84
01/16/2020	UNIFIRST HOLDINGS, INC.	$36.03
01/16/2020	AT&T	$2,690.30
01/16/2020	AUTOMATED LOGIC-TEXAS, INC	$1,162.00

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01/16/2020	BLICK ART MATERIALS/DICK BLICK INC	$638.69
01/16/2020	BRUCE W MEYER	$3,385.50
01/16/2020	CASTROVILLE CHAMBER OF COMMER.	$1,205.00
01/16/2020	DANIEL QUALLS	$86.00
01/16/2020	GABRIEL CARY	$140.13
01/16/2020	GIFTS 'N STUFF	$236.00
01/16/2020	HOMEWOOD SUITE DOWN TOWN AUSTIN	$6,153.92
01/16/2020	INTEGRATED COMMUNICATIONS TECH. LP	$25,149.35
01/16/2020	MOY TARIN RAMIREZ ENGINEERS, LLC	$5,517.50
01/16/2020	PROPERTY CASUALTY ALLIANCE OF TX	$701.09
01/16/2020	SA THERAPY IN MOTION INC	$10,107.25
01/16/2020	SERVICE INDUSTRIAL, INC.	$66.06
01/16/2020	TAJE-TEX ASSOC OF JOURNALISM EDUC.	$637.00
01/16/2020	TAQUERIA SAN JUAN #2	$254.15
01/16/2020	THOMAS JEFFERSON HIGH SCHOOL	$320.00
01/16/2020	UT-AUSTIN SCHOOL OF SOCIAL WORK	$570.00
01/16/2020	W W GRAINGER INC	$689.71
01/16/2020	ALAMO CITY COACHES CLINIC	$140.00
01/16/2020	BECKWITH ELECTRONIC ENGINEERING CO	$2,988.72
01/16/2020	CASTROVILLE TRUE VALUE	$438.52
01/16/2020	CHICK-FIL-A	$216.48
01/16/2020	EDWARDS AQUIFER AUTHORITY	$9,427.40
01/16/2020	INSCO DISTRIBUTING INC	$3,112.68
01/16/2020	LA VERNIA I.S.D.	$450.00
01/16/2020	LAS PALAPAS MEX. REST.-ALAMO RANCH	$154.00
01/16/2020	MATERA PAPER COMPANY, INC	$5,907.75
01/16/2020	MEDINA COUNTY TREASURER	$21,760.30
01/16/2020	POSITIVE PROMOTIONS, INC	$254.95
01/16/2020	SCHOOLKIDZ.COM LLC	$1,671.36
01/16/2020	STAPLES CONTRACT & COMM, LLC	$7,845.67
01/16/2020	TEXAS DEPT OF PUBLIC SAFETY	$284.00
01/16/2020	WALMART	$464.32
01/16/2020	WASTE MANAGEMENT OF TEXAS, INC	$450.25
01/16/2020	WHATABURGER	$502.78
01/16/2020	ACT INC	$4,186.00
01/16/2020	APPLE INC.	$389.50
01/16/2020	BARNES & NOBLE BOOKSELLERS	$68.43
01/16/2020	BORDEN DAIRY COMPANY	$1,437.73
01/16/2020	BPA AREA II REGION 2	$1,120.00
01/16/2020	BULL'S EYE BRANDS INC.	$5,308.45
01/16/2020	EDUCATION SERVICE CENTER REGION XX	$3,478.75

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01/16/2020	EWING IRRIGATION PRODUCTS, INC	$505.34
01/16/2020	HEXCO INC.	$62.20
01/16/2020	HOME DEPOT CREDIT SERVICES	$7,597.76
01/16/2020	J.W. PEPPER AND SON, INC.	$100.00
01/16/2020	LAUREN CARLIE POMPA	$18.00
01/16/2020	MEDICAL WHOLESALE, INC.	$881.53
01/16/2020	MYVRSPOT, LLC	$3,990.00
01/16/2020	OFFICE DEPOT INC	$569.27
01/16/2020	ROBERT C HERB JR	$86.00
01/16/2020	SHINDIGZ/STUMPS	$73.46
01/16/2020	TAPT	$190.00
01/16/2020	TCEA/TX COMPUTER EDUCATORS ASSOC	$339.00
01/16/2020	A & A PUMP COMPANY	$245.00
01/16/2020	COMMERCIAL KITCHEN REPAIR INC	$669.86
01/16/2020	FAMILY PARTS COMPANY INC	$112.71
01/16/2020	HOBBY LOBBY STORES, INC	$94.26
01/16/2020	J2 CLOUD SERVICES, LLC	$449.75
01/16/2020	MARIA LIZABETH MADRIGALES	$46.40
01/16/2020	NATL FEDERATION OF STATE HS ASSOC.	$74.89
01/16/2020	QBS, INC.	$40.00
01/16/2020	SONIC DRIVE-IN, #3515	$400.00
01/16/2020	TRANE SAN ANTONIO	$1,282.12
01/16/2020	TX HS COACHES ED FOUNDATION	$178.00
01/16/2020	WELDERS SUPPLY CO	$1,370.80
01/16/2020	YOU NAME IT SPECIALTIES	$2,845.75
01/16/2020	AHR'S FLOWER SHOP	$140.00
01/16/2020	AMERICAN FIRE PROTECTION GROUP, INC	$1,076.00
01/16/2020	ASW ENTERPRISES, LLC.	$60.00
01/16/2020	BILL MILLERS BAR-B-Q	$423.75
01/16/2020	CASTROVILLE QUICK LUBE, INC	$66.45
01/16/2020	CINTAS/RUS OF SAN ANTONIO	$425.44
01/16/2020	CLASSLINK, INC	$500.00
01/16/2020	DIANE CASSANDRA GARCIA	$1,000.00
01/16/2020	DRAGO INVESTMENTS, LTD	$1,241.68
01/16/2020	GLOBAL TRNG ACADEMY INC	$600.00
01/16/2020	HIGH SCHOOL MUSIC SERVICE INC	$127.37
01/16/2020	HOLMES HIGH SCHOOL	$400.00
01/16/2020	JOHN DEERE COMPANY	$13,526.58
01/16/2020	JP STEVENS HIGH SCHOOL	$500.00
01/16/2020	LEAP 'N LOGOS	$300.00
01/16/2020	LOUIS D BRANDEIS HIGH SCHOOL	$895.00

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01/16/2020	MSB CONSULTING GROUP, LLC.	$7,385.83
01/16/2020	OMNI CHEER	$224.06
01/16/2020	ROADRUNNER CHARTERS, INC.	$1,300.00
01/16/2020	SOUTHWEST HIGH SCHOOL	$300.00
01/16/2020	SYSCO USA I, INC./SYSCO CENTRAL TX	$186.49
01/16/2020	TRINITY F&B SERVICES, INC.	$461.25
01/16/2020	AL'S GOURMET NUTS	$2,938.50
01/16/2020	ALSATIAN GOLF CLUB	$3,780.00
01/16/2020	ANNABELLE ISAURA CASTILLO	$915.00
01/16/2020	CHICK-FIL-A, POTRANCO RD	$448.23
01/16/2020	FERGUSON ENTERPRISES	$3,144.68
01/16/2020	GREGORY W. FELUX	$165.00
01/16/2020	GULF COAST PAPER CO INC	$302.28
01/16/2020	H.E.B. GROCERY COMPANY	$524.35
01/16/2020	KURZ & CO.	$355.48
01/16/2020	PYRA MED HEALTH SERVICES, LLC	$6,265.20
01/16/2020	RAUL PEREZ	$2,165.00
01/16/2020	ROBERT STEVE GARZA	$86.00
01/16/2020	SAMUEL CLEMENS HIGH SCHOOL	$144.00
01/16/2020	SCHOOL SPECIALTY, INC	$370.40
01/16/2020	SOMERSET ISD	$890.00
01/16/2020	TEACHER SYNERGY, LLC	$242.48
01/16/2020	THE SHERWIN-WILLIAMS CO	$336.06
01/16/2020	UTILITY SERVICE CO, INC	$3,041.75
01/16/2020	VALLEY ATHLETIC FIELD SOLUTIONS INC	$1,265.93
01/16/2020	CDW GOVERNMENT, INC.	$15,527.98
01/16/2020	CED INC/COLUMBIA ELECTRIC SUPPLY	$12,075.31
01/16/2020	DPC INDUSTRIES, INC.	$20.00
01/16/2020	FIRE ALARM CONTROL SYSTEMS, INC	$5,387.00
01/16/2020	HAMPTON INN & SUITES DALLAS/FRISCO	$233.26
01/16/2020	HARDIE'S FRESH FOODS	$4,001.79
01/16/2020	HAYDAY, INC/CTWP	$14,584.75
01/16/2020	HILTON AMERICAS-HOUSTON	$593.10
01/16/2020	INTECH SOUTHWEST SERVICES, LLC	$1,721.50
01/16/2020	J & R TILE, INC.	$1,375.00
01/16/2020	NOTHING BUNDT CAKE, LLC	$118.80
01/16/2020	RED WING SHOES	$63.74
01/16/2020	ROCK SOLID INTERNET & TELEPHONE	$1,399.98
01/16/2020	SAM'S CLUB DIRECT	$850.15
01/16/2020	STATE COMPTROLLER PUBLIC ACCTS	$440.90
01/16/2020	TASA-TEX ASSOC OF SCHOOL ADMINISTRA	$425.00

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01/16/2020	TITAN SUPPORT SYSTEMS, INC	$1,155.00
01/16/2020	TRIPLE-S STEEL SUPPLY INC.	$54.62
01/16/2020	WITTE MUSEUM	$315.00
01/17/2020	MISC	$1,297.89
01/21/2020	AMAZON.COM	$233.71
01/22/2020	AMAZON.COM	$1,332.72
01/23/2020	A & A PUMP COMPANY	$518.75
01/23/2020	BSN SPORTS, LLC	$10,239.92
01/23/2020	CITY PUBLIC SERVICE	$62,150.00
01/23/2020	FAMILY PARTS COMPANY INC	$692.34
01/23/2020	HARDIE'S FRESH FOODS	$9,604.23
01/23/2020	HEAVY DUTY BUS PARTS, INC.	$125.90
01/23/2020	JEAN'S RESTAURANT SUPPLY	$13,257.76
01/23/2020	KENNETH MICHAEL ROHRBACH	$31.63
01/23/2020	PYRAMID EDUCATIONAL CONSULTANTS,INC	$2,145.00
01/23/2020	TAQUERIA SAN JUAN #2	$105.06
01/23/2020	TRIPLE-S STEEL SUPPLY INC.	$1,473.77
01/23/2020	US BANK NAT'L ASSOCIATION	$440.00
01/23/2020	AMERI-FORM, INC.	$627.00
01/23/2020	ANDREW VEGA	$200.00
01/23/2020	EWELL EDUCATIONAL SERVICES, INC	$704.00
01/23/2020	FREDERICKSBURG I.S.D.	$235.00
01/23/2020	GATEWAY PRINTING & OFFICE SUPPLY	$9,348.60
01/23/2020	KURZ & CO.	$3,666.98
01/23/2020	LONE STAR RADIATOR CO INC	$138.45
01/23/2020	NTS COMMUNICATIONS INC	$249.59
01/23/2020	PAUL H BROOKES PUBLISHING CO., INC	$459.96
01/23/2020	SYSCO USA I, INC./SYSCO CENTRAL TX	$1,273.12
01/23/2020	TAYLOR PUBLISHING CO INC	$11,666.60
01/23/2020	THE SHERWIN-WILLIAMS CO	$344.31
01/23/2020	WORK PLACE PRO/NEW LIFE INDUSTRIES,	$534.90
01/23/2020	ALAMO HEIGHTS I.S.D.	$450.00
01/23/2020	ALLEN MICHAEL GARTMANN	$25.00
01/23/2020	BORDEN DAIRY COMPANY	$14,411.39
01/23/2020	BRENNAN HIGH SCHOOL	$300.00
01/23/2020	BULL'S EYE BRANDS INC.	$3,922.27
01/23/2020	CDW GOVERNMENT, INC.	$89,283.16
01/23/2020	EDUCATION SERVICE CENTER REGION XX	$1,401.00
01/23/2020	GLAZIER CLINICS/MEGA CLINIC	$599.00
01/23/2020	HYATT REGENCY AUSTIN	$1,487.05
01/23/2020	O'REILLY AUTO PARTS	$205.50

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01/23/2020	RAYMOND SIFUENTES	$375.00
01/23/2020	TEXAS COUNSELING ASSOCIATION	$285.00
01/23/2020	WALSH GALLEGOS TREVINO RUSSO & KYLE	$4,793.50
01/23/2020	H.E.B. GROCERY COMPANY	$439.62
01/23/2020	HOME DEPOT CREDIT SERVICES	$1,950.15
01/23/2020	HONDO ISD	$200.00
01/23/2020	MESAC/MATH ENGLISH SCIENCE	$0.00
01/23/2020	MISC	$2,367.15
01/23/2020	OFFICE DEPOT INC	$606.01
01/23/2020	ONE FOR AUTISM, INC	$4,100.00
01/23/2020	SAM'S CLUB DIRECT	$973.10
01/23/2020	SAN MARCOS BOOSTER CLUB	$300.00
01/23/2020	TEXAS UIL	$1,270.00
01/23/2020	AMY LYNN BROWN	$1,140.00
01/23/2020	CHRISTINE A OROZCO	$21.34
01/23/2020	COBB PEDIATRIC THERAPY SVCS LLC	$1,416.00
01/23/2020	HABY'S ALSATIAN BAKERY	$91.70
01/23/2020	JOSE JOAQUIN OLIVEROS III	$36.00
01/23/2020	JT ADVERTISING & GRAPHICS	$35.00
01/23/2020	LORI LYNN GILL	$15.64
01/23/2020	RELIABLE PARTS, INC	$59.34
01/23/2020	STEVEN R ALVAREZ	$48.25
01/23/2020	TPX COMMUNICATIONS CO	$647.75
01/23/2020	WALMART	$880.94
01/23/2020	AMERICAN FIRE PROTECTION GROUP, INC	$470.00
01/23/2020	APPLE INC.	$372.00
01/23/2020	BILL MILLERS BAR-B-Q	$360.10
01/23/2020	CARLOS PONCE	$280.00
01/23/2020	CINTAS/RUS OF SAN ANTONIO	$212.72
01/23/2020	DE LA GARZA FENCE/SUPPLY INC	$574.58
01/23/2020	DESIREE DENISE DEAR	$196.87
01/23/2020	J.W. PEPPER AND SON, INC.	$54.00
01/23/2020	JOSEPH GROSS	$72.65
01/23/2020	RAPTOR TECHNOLOGIES	$100.00
01/23/2020	RICHEY ATHLETICS	$18,615.00
01/23/2020	ROYCE GROFF OIL CO INC	$3,487.23
01/23/2020	SERVICE INDUSTRIAL, INC.	$628.50
01/23/2020	SPORTS FIELD SOLUTIONS	$20,000.00
01/23/2020	AHI ENTERPRISES, LLC	$522.00
01/23/2020	BUSINESS PROFESSIONALS OF AMERICA	$22.00
01/23/2020	E GROUP INC.	$701.00

Check Register for January 2020

Check Date	Vendor Name	Transaction Amount
01/23/2020	FERGUSON ENTERPRISES	$1,566.84
01/23/2020	INTECH SOUTHWEST SERVICES, LLC	$1,020.00
01/23/2020	TRACTOR SUPPLY CO	$144.94
01/23/2020	TRESONA MULTIMEDIA, LLC.	$1,680.00
01/23/2020	UNIFIRST HOLDINGS, INC.	$36.03
01/23/2020	AT&T	$1,341.68
01/23/2020	AUTISTIC TREATMENT CENTER, INC	$24,048.42
01/23/2020	CASTROVILLE TRUE VALUE	$338.10
01/23/2020	CPS ENERGY	$41,808.12
01/23/2020	FRANCIE GUST	$11.15
01/23/2020	MOY TARIN RAMIREZ ENGINEERS, LLC	$1,781.25
01/23/2020	NORTH EAST ISD	$520.00
01/23/2020	QUILL CORPORATION	$424.09
01/23/2020	RUSH TRUCK CENTERS OF TEXAS, LP	$4,574.07
01/23/2020	TOM C CLARK HIGH SCHOOL	$185.00
01/24/2020	MISC	$1,776.99
01/27/2020	MISC	$442.57
01/28/2020	MISC	$223.67
01/29/2020	AMAZON.COM	$373.79
01/30/2020	ACE MART RESTAURANT SUPPLY CO,INC	$21.34
01/30/2020	AIDEN BY BW AUSTIN CITY HOTEL	$685.72
01/30/2020	AT&T	$930.96
01/30/2020	BRIMAR INDUSTRIES	$224.42
01/30/2020	CAITLIN SCHMIDT	$490.00
01/30/2020	CASTROVILLE TRUE VALUE	$229.27
01/30/2020	FAMILY PARTS COMPANY INC	$135.79
01/30/2020	GIFTS 'N STUFF	$1,344.00
01/30/2020	LAB RESOURCES, INC	$20,360.00
01/30/2020	QUILL CORPORATION	$1,511.06
01/30/2020	TX DEPT OF LICENSING & REGULATION	$455.00
01/30/2020	UNIVERSITY OF TEXAS AT SAN ANTONIO	$175.00
01/30/2020	WELDERS SUPPLY CO	$143.37
01/30/2020	YOU NAME IT SPECIALTIES	$2,845.75
01/30/2020	ALICIA M CASTILLO	$91.00
01/30/2020	HOLIDAY INN TOWN LAKE-ASDN LLC	$1,988.01
01/30/2020	LA QUINTA INN-STAFFORD	$657.20
01/30/2020	MARCOS ROBERTO TORRES JR	$49.00
01/30/2020	RIO MEDINA TRUCK & AUTOMOTIVE, LLC	$246.73
01/30/2020	RUSH TRUCK CENTERS OF TEXAS, LP	$823.60
01/30/2020	SCHOLASTIC & SPORTS RECOGNITION	$1,920.00
01/30/2020	TCASE - TX CO OF ADMIN OF SPEC EDUC	$91.00

Check Register for January 2020

Check Date	Vendor Name	Transaction Amount
01/30/2020	VICENTE G GUEVARA	$61.00
01/30/2020	BANDERA ISD	$30.00
01/30/2020	BORDEN DAIRY COMPANY	$2,944.75
01/30/2020	BSN SPORTS, LLC	$1,148.72
01/30/2020	BULL'S EYE BRANDS INC.	$24,881.42
01/30/2020	CENTERPOINT ENERGY	$1,548.09
01/30/2020	CHRISTINE DENISE SNIDER	$57.00
01/30/2020	DOMINO'S PIZZA #8029	$393.64
01/30/2020	EDUCATION SERVICE CENTER REGION XX	$1,125.00
01/30/2020	EWING IRRIGATION PRODUCTS, INC	$460.20
01/30/2020	EXPERT PAY	$1,277.00
01/30/2020	HABY'S ALSATIAN BAKERY	$27.95
01/30/2020	HARDIE'S FRESH FOODS	$3,668.71
01/30/2020	HONDO ANVIL HERALD	$37.00
01/30/2020	KENNETH MICHAEL ROHRBACH	$113.82
01/30/2020	KURZ & CO.	$1,561.50
01/30/2020	LABATT INSTITUTIONAL SUPPLY CO	$90,669.45
01/30/2020	LITERACY RESOURCES, INC	$2,631.67
01/30/2020	MATH WARM-UPS.COM	$5,175.00
01/30/2020	MVISD-TRANSPORTATION DEPT	$11,681.16
01/30/2020	NOTHING BUNDT CAKE, LLC	$72.80
01/30/2020	SAMUEL ALANIZ JR	$59.58
01/30/2020	TAEA-TEXAS ART EDUCATION ASSN	$306.00
01/30/2020	TANYA LEE STIVORS	$92.88
01/30/2020	US WATER SERVICES, INC.	$2,398.00
01/30/2020	WALMART	$893.84
01/30/2020	WASTE MANAGEMENT OF TEXAS, INC	$1,350.75
01/30/2020	CROWNE PLAZA HOUSTON GALLERIA AREA	$219.78
01/30/2020	DOMINO'S	$195.72
01/30/2020	HOME DEPOT CREDIT SERVICES	$2,306.10
01/30/2020	INDUSTRIAL COMMUNICATIONS	$90,029.52
01/30/2020	INSCO DISTRIBUTING INC	$515.33
01/30/2020	LACKLAND MILITARY CLOTHING STORE	$75.95
01/30/2020	MARIA J GUEVARA	$2.55
01/30/2020	MATERA PAPER COMPANY, INC	$1,130.86
01/30/2020	MCCORMICK'S GROUP, LLC	$116.27
01/30/2020	MELHART MUSIC CENTER, INC	$765.00
01/30/2020	MICHAEL C SOTELO	$61.00
01/30/2020	OFFICE DEPOT INC	$301.26
01/30/2020	OLD FASHION CANDY CO, INC	$6,023.70
01/30/2020	OTC BRANDS, INC	$143.72

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Check Date	Vendor Name	Transaction Amount
01/30/2020	SAM'S CLUB DIRECT	$40.32
01/30/2020	STAPLES CONTRACT & COMM, LLC	$263.98
01/30/2020	TABE/TX ASSOC FOR BILINGUAL EDUCATI	$240.00
01/30/2020	TAYLOR PUBLISHING CO INC	$1,046.01
01/30/2020	TEXAS STATE UNIVERSITY- CAREER SVCS	$275.00
01/30/2020	TRIPLE-S STEEL SUPPLY INC.	$67.50
01/30/2020	VIVROUX SPORTING GOODS	$4,040.85
01/30/2020	WHATABURGER	$300.53
01/30/2020	WINFIELD SOLUTIONS LLC	$260.72
01/30/2020	AUSTIN 18 HOTEL, LLC.	$1,372.86
01/30/2020	CINTAS/RUS OF SAN ANTONIO	$53.62
01/30/2020	DINN BROS. INC.	$172.75
01/30/2020	LAKESHORE LEARNING MATERIALS	$2,677.05
01/30/2020	NORTH TEXAS TOLLWAY AUTHORITY	$10.00
01/30/2020	SHELBY L COOK	$202.80
01/30/2020	SYSCO USA I, INC./SYSCO CENTRAL TX	$1,799.56
01/30/2020	VERNIER SOFTWARE AND TECHNOLOGY	$372.52
01/30/2020	CARLOS ROSAS JR	$68.00
01/30/2020	CED INC/COLUMBIA ELECTRIC SUPPLY	$2,243.43
01/30/2020	CTSFSDA	$65.00
01/30/2020	DAVIS PUBLICATIONS, INC.	$110.00
01/30/2020	DD OFFICE PRODUCT/LIBERTY PAPER	$22,218.00
01/30/2020	DUSTIN WAYNE HURLEY	$100.12
01/30/2020	FERGUSON ENTERPRISES	$3,043.30
01/30/2020	HAYDAY, INC/CTWP	$972.11
01/30/2020	J.W. PEPPER AND SON, INC.	$241.00
01/30/2020	LA VERNIA I.S.D.	$376.00
01/30/2020	POCKET RADAR INC.	$362.97
01/30/2020	REALLY GOOD STUFF	$277.38
01/30/2020	SCHOOL SPECIALTY, INC	$478.63
01/30/2020	TEXAS DEPT OF PUBLIC SAFETY	$65.00
01/30/2020	ASSESSMENT INTERVENTION MGMT, LLC	$1,062.50
01/30/2020	CASTROVILLE QUICK LUBE, INC	$48.26
01/30/2020	CDW GOVERNMENT, INC.	$2,365.67
01/30/2020	COMMZOOM, LLC	$8,060.00
01/30/2020	DEA SPECIALTIES CO., LTD	$5,150.00
01/30/2020	DEMCO INC.	$1,030.94
01/30/2020	DUMAS HARDWARE COMPANY	$1,101.00
01/30/2020	FOLLETT SCHOOL SOLUTIONS, INC	$5,199.03
01/30/2020	HISPANIC FLAMENCO BALLET	$1,254.00
01/30/2020	HOBBY LOBBY STORES, INC	$51.14

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Check Date	Vendor Name	Transaction Amount
01/30/2020	HOLIDAY INN EXPRESS AUSTIN DOWNTOWN	$652.68
01/30/2020	INTECH SOUTHWEST SERVICES, LLC	$8,239.00
01/30/2020	KEMPF'S LAWNMOWER REPAIR	$225.00
01/30/2020	MVISD WORKERS' COMPENSATION	$17,774.47
01/30/2020	MVISD-FOOD SERVICE DEPT	$619.93
01/30/2020	RAINBOW PIZZA LLC.	$481.50
01/30/2020	SAN ANTONIO FOOD BANK	$1,033.32
01/30/2020	TEXAS A&M UNIVERSITY-SAN ANTONIO	$150.00
01/30/2020	TRANE SAN ANTONIO	$1,843.37
01/30/2020	AMERICAN CLASSIC TOURS & MUSIC FEST	$100.00
01/30/2020	BROADWAY NATIONAL BANK	$168,340.59
01/30/2020	CESAR TERRAZAS JR	$10.00
01/30/2020	FELIPE JUAN ALMARES	$25.00
01/30/2020	HIGH SCHOOL MUSIC SERVICE INC	$6,254.46
01/30/2020	J&R WINDOW FASHIONS	$236.00
01/30/2020	KERRVILLE ISD	$180.00
01/30/2020	MARY LOU DEHOYOS	$2,190.00
01/30/2020	MEDINA ELECTRIC COOPERATIVE, INC.	$597.39
01/30/2020	MISSION RESTAURANT SUPPLY CO.	$14.50
01/30/2020	NEOFUNDS BY NEOPOST	$85.12
01/30/2020	PUBLIC RELATIONS SOCIETY OF AMERICA	$250.00
01/30/2020	QBS, INC.	$32.00
01/30/2020	ROYCE GROFF OIL CO INC	$12,901.44
01/30/2020	SAN ANTONIO SPURS	$946.00
01/30/2020	SERVICE INDUSTRIAL, INC.	$272.87
01/30/2020	SOMERSET ISD	$450.00
01/30/2020	TEPSA	$339.00
01/30/2020	THE PROPHET CORP	$291.27
01/30/2020	W W GRAINGER INC	$1,756.59
01/31/2020	TEXAS TEACHERS-A.C.P.	$2,910.00
01/31/2020	ATPE	$7,011.05
01/31/2020	TEXAS CLASSROOM TEACHERS ASSC.	$71.00
01/31/2020	MISC	$1,899.12
01/31/2020	NATIONAL PLAN ADMN ANNUITIES	$23,315.76
01/31/2020	TEXAS AFT/PEG	$35.00
01/31/2020	MORPHO TRUST USA, INC.	$246.25
01/31/2020	BAY BRIDGE ADMIN.LLC	$53,360.13
01/31/2020	MARY K VIEGELAHN,CHAPTER 13 TRUSTEE	$1,090.00
01/31/2020	NATIONAL PLAN ADMINISTRATORS	$8,399.42
01/31/2020	NATIONAL PLAN -HSA	$2,553.33
01/31/2020	NAT'L PLAN ADMN DEPEND CARE	$419.68

Check Register for January 2020

Check Date	Vendor Name	Transaction Amount
01/31/2020	U.S. DEPARTMENT OF EDUCATION	$219.81

Medina Valley Independent School District
Investment Report for the Quarter Ending November 30, 2019

Depository or Investment Pool	Account Name	Type of Account	% Earned	8/31/19 Book Value	8/31/19 Market Value	Changes Deposits	Changes Withdrawals	Changes Interest	11/30/19 Book Value	11/30/19 Market Value
Lone Star Investment Pool	Interest & Sinking	Corporate Overnight Plus	1.93%	$3,532,662	$3,533,028	$248,010	$0	$18,494	$3,799,166	$3,799,776
Lone Star Investment Pool	Capital Projects (Series 2016)	Corporate Overnight Plus	1.93%	$2,115,440	$2,115,659	$12,969	-$538,369	$9,215	$1,599,255	$1,599,511
Lone Star Investment Pool	Capital Projects (Series 2019)	Corporate Overnight Plus	1.93%	$47,721,456	$47,726,413	$12,969	-$1,948,625	$242,970	$46,028,770	$46,036,172
Lone Star Investment Pool	General Operating	Corporate Overnight Plus	1.93%	$17,058,104	$17,059,876	$17,238,642	-$15,037,486	$96,534.00	$19,355,794	$19,358,907
Broadway Bank	General Operating	Public Funds Now	0.40%	$2,520,304	$2,520,304	$ 16,667,360	-$16,891,025.00	$93.00	$2,296,732	$2,296,732
	Total			**$72,947,966**	**$72,955,280**	**$34,179,950**	**-$34,415,505**	**$367,306.00**	**$73,079,717**	**$73,091,098**



2020-2021

PRELIMINARY BUDGET PROJECTIONS

FEBRUARY 17, 2020



2019 LEGISLATIVE SESSION

- Districts were required to ***compress*** their 2019-20 M&O Tax Rates to 93% of their 2018-19 rate.

  (1.00 x .93 = $.93)

- Districts were allowed to set their tax rate at 4 cents above their compressed rate ($.93 + .04) or up to a rollback rate of **$.97** with **board** approval.
- State will use Current Year Values instead of Prior Year
- Increase to the Basic Allotment to $6,160 from $5,140
- Increase Weights to SCE
- New Allotments created are Fast Growth, CTE for Middle Schools, Dual Language, Dyslexia, Early Education and CCMR
- Allotments discontinued are GT and High School Allotment



2019 LEGISLATIVE SESSION

- Districts annually, under current legislation, will recalculate their M&O Tax Rate to determine if they will be required to compress it further.
- Compression is determined based on a districts level of property value growth.
- Districts are allowed to set their tax rate at 4 cents above their compressed rate $.8511, with **board** approval.
  - This is based on using 12% property value growth, which is in line with our trend data
- MVISD is allowed to set their tax rate at 5 cents above their compressed rate of **$.8511,** with unanimous **board** approval.

Comptroller's Certified Values (CPTD Value)

Tax Year	CPTD Value	% Change
2012	$1,037,099,877	+ 4.6%
2013	$1,145,335,788	+ 10.4%
2014	$1,244,625,811	+ 8.7%
2015	$1,398,768,146	+ 12.4%
2016	$1,537,810,428	+ 9.9%
2017	$1,689,265,122	+ 9.8%
2018	$1,941,432,916	+ 14.9%
2019	$2,188,531,720	+ 12.7%
*2020	$2,451,155,526	+ 12.0%

*Estimated



Tax Rate History

	2015/16	2016/17	2017/18	2018/19	2019/20	*2020/21
M&O Tax Rate	$1.0400	$1.0400	$1.0400	$1.0400	$0.9700	$0.8910
I&S Tax Rate	$0.3482	$0.3992	$0.3992	$0.3992	$0.4550	$0.4550
Total Tax Rate	$1.3882	$1.4392	$1.4392	$1.4392	$1.4250	$1.3460

*** M&O TAX RATE IS CURRENTLY EXPECTED TO BE COMPRESSED BASED ON PROPERTY VALUE GROWTH**

*** I&S TAX RATE IS CURRENTLY PROJECTED TO STAY THE SAME BASED ON PROPERTY VALUE GROWTH**

Current Year Taxable Values and Estimated Tax Revenues

	2019-20	2020-2021	Growth
Medina County:	$1,133,327,265	$1,269,326,537	12.00%
Bexar County:	$880,611,865	$986,285,289	12.00%
Total Net Taxable Values:	**$2,013,939,130**	**$2,255,611,826**	**12.00%**
M&O Tax Levy	$19,535,210	$20,097,501	2.88%
	$1,634,001	$1,634,001	
Total M&O Tax Levy	**$21,169,211**	**$21,731,503**	**2.66%**

Student Enrollment

CAMPUS	2017-18 Actual	2018-19 Actual	2019-20 Projected	*2019-20 Current	2020-21 Projected
Castroville Elementary	658	619	639	645	608
LaCoste Elementary	761	550	563	552	565
Luckey Ranch Elementary	-	763	861	848	970
Potranco Elementary	1,027	712	753	824	840
Loma Alta Middle School	-	693	798	793	890
Middle School	1,219	613	639	636	653
High School	1,392	1,525	1,667	1,640	1,763
Total Projected Enrollment	5,057	5,475	5,920	5,938	6,289

* As of 2/7/20



New/Additional Costs

New Positions

- ✓ 20 Teaching Positions
- ✓ 2 Social Workers
- ✓ 10 Bus Drivers

Other considerations

- ✓ Buses

2019-2020 Projected Budget without 5th Golden Penny

ESTIMATED REVENUES	2019-2020 CURRENT BUDGET	2019-2020 PROJECTED ACTUALS	2020-2021 ESTIMATED BUDGET	2020-2021 CHANGE
5700 - LOCAL REVENUES	$ 22,174,000	$ 22,174,000	$ 21,862,265	$ (311,735)
5800 - STATE REVENUES	$ 29,171,324	$ 29,171,324	$ 32,105,474	$ 2,934,150
5900 - FEDERAL REVENUES	$ 330,000	$ 330,000	$ 330,000	$ -
7900 - OTHER SOURCES	$ -	$ -	$ -	$ -
TOTAL	$ 51,675,324	$ 51,675,324	$ 54,297,739	$ 2,622,415

ESTIMATED APPROPRIATIONS	2019-2020 CURRENT BUDGET	2019-2020 PROJECTED ACTUALS	2020-2021 ESTIMATED BUDGET	2020-2021 CHANGE
6100 - SALARIES/BENEFITS	$ 40,787,412	$ 40,501,588	$ 41,976,388	$ 1,188,976
6200 - CONTRACTED SERV.	$ 4,508,531	$ 4,508,531	$ 4,508,531	$ -
6300 - SUPPLIES/EQUIP.	$ 3,948,149	$ 3,948,149	$ 3,948,149	$ -
6400 - TRAVEL/MISC.	$ 1,245,900	$ 1,245,900	$ 1,245,900	$ -
6600 - CAPITAL OUTLAY	$ 1,754,214	$ 1,754,214	$ 1,754,214	$ -
8900 - TRANSFER OUT	$ -			
TOTAL	$ 52,244,206	$ 51,958,382	$ 53,433,182	$ 1,188,976
SURPLUS/DEFICIT	$ (568,882)	$ (283,058)	$ 864,557	

2019-2020 Projected Budget with 5th Golden Penny

ESTIMATED REVENUES	2019-2020 CURRENT BUDGET	2019-2020 PROJECTED ACTUALS	2020-2021 ESTIMATED BUDGET	2020-2021 CHANGE
5700 - LOCAL REVENUES	$ 22,174,000	$ 22,174,000	$ 22,102,265	$ (71,735)
5800 - STATE REVENUES	$ 29,171,324	$ 29,171,324	$ 32,625,474	$ 3,454,150
5900 - FEDERAL REVENUES	$ 330,000	$ 330,000	$ 330,000	$ -
7900 - OTHER SOURCES	$ -	$ -	$ -	$ -
TOTAL	$ 51,675,324	$ 51,675,324	$ 55,057,739	$ 3,382,415

ESTIMATED APPROPRIATIONS	2019-2020 CURRENT BUDGET	2019-2020 PROJECTED ACTUALS	2020-2021 ESTIMATED BUDGET	2020-2021 CHANGE
6100 - SALARIES/BENEFITS	$ 40,787,412	$ 40,501,588	$ 41,976,388	$ 1,188,976
6200 - CONTRACTED SERV.	$ 4,508,531	$ 4,508,531	$ 4,508,531	$ -
6300 - SUPPLIES/EQUIP.	$ 3,948,149	$ 3,948,149	$ 3,948,149	$ -
6400 - TRAVEL/MISC.	$ 1,245,900	$ 1,245,900	$ 1,245,900	$ -
6600 - CAPITAL OUTLAY	$ 1,754,214	$ 1,754,214	$ 1,754,214	$ -
8900 - TRANSFER OUT	$ -			
TOTAL	$ 52,244,206	$ 51,958,382	$ 53,433,182	$ 1,188,976
SURPLUS/DEFICIT	$ (568,882)	$ (283,058)	$ 1,624,557	

Medina Valley I.S.D.

Teacher Hiring Schedule*

2019-2020

Years Exp.	Annual Salary	Longevity Stipend
0	$52,710	$1,000
1	$53,210	$1,000
2	$53,810	$1,000
3	$54,410	$1,000
4	$54,910	$1,000
5	$55,695	$1,000
6	$56,345	$1,750
7	$56,995	$1,750
8	$57,695	$1,750
9	$58,145	$1,750
10	$58,245	$1,750
11	$58,345	$2,250
12	$58,445	$2,250
13	$58,545	$2,250
14	$58,645	$2,250
15	$58,745	$2,250
16	$58,870	$2,750
17	$58,995	$2,750
18	$59,145	$2,750
19	$59,320	$2,750
20	$59,820	$2,750
21	$60,620	$3,250
22	$61,420	$3,250
23	$62,220	$3,250
24	$63,020	$3,250
25	$63,820	$3,250
26	$64,730	$3,750
27	$65,580	$3,750
28	$65,730	$3,750
29	$67,130	$3,750
30+	$67,930	$3,750

*The salaries listed above are based on 10-month employment for the 2019-2020 school year only. Salary plans are determined on an annual bassis and salary advancement is not gauranteed. Pay increases are based on the annual pay raise budget approved by the Board of Trustees.

**Master's degree add $1,000 to annual salary at appropriate experience level.

Teacher Hiring Schedule

- This schedule is used as a **HIRING** Schedule only!
- Includes:
  - Teachers
  - Nurses
  - Non-Commissioned ROTC Officers
- This schedule illustrates **MINIMUM** salaries. Some employees are paid more than these amounts for additional duty days or stipends.
- Salary schedules are developed for **one year only**. Employee's future salaries cannot be predicted from this schedule.
- Current MVISD teachers salaries are set annually by the Board of Trustees.



Pay Increase History

CATEGORY	14-15	15-16	16-17	17-18	18-19	*19-20
Teachers (Month)	$165	$179	$150	$110	$133	$226
Admin./Professional	3.0%	3.0%	2.6%	2.0%	3.0%	5.0%
Clerical	3.0%	3.5%	3.0%	2.0%	3.0%	5.0%
Manual Trades	3.0%	3.5%	3.0%	2.0%	3.0%	5.0%

*19-20 does not include the longevity stipend.



QUESTIONS?

Superintendent Briefing

February 17, 2020

District Enrollment

	6/6/19	2/14/20	Growth
Castroville Elementary	619	643	+ 24
LaCoste Elementary	550	554	+ 4
Potranco Elementary	712	818	+ 106
Luckey Ranch Elementary	763	850	+ 87
Loma Alta Middle School	693	794	+ 101
Medina Valley Middle School	613	636	+ 23
Medina Valley High School	1525	1638	+ 113
Totals	**5475**	**5933**	**+ 458**

End of 18-19 Enrollment: 5,475
Growth over end of 18-19: + 458
8.37% increase over end of 18-19.

UIL Districts for 20-21 & 21-22

2020-22 OFFICIAL DISTRICT ALIGNMENT
FOOTBALL
CONFERENCE 5A DIVISION 2

Region 1

District 1
Canutillo
Clint Horizon
El Paso Hanks
El Paso Parkland
El Paso Ysleta

District 2
El Paso
El Paso Andress
El Paso Austin
El Paso Bowie
El Paso Burges
El Paso Irvin
El Paso Jefferson

District 3
Abilene Wylie
Canyon Randall
Lubbock Cooper
Plainview
Wichita Falls
Wichita Falls Rider

District 4
Carrollton Creekview
Ft Worth North Side
Ft Worth Polytechnic
Ft Worth South Hills
Ft Worth Southwest
Ft Worth Trimble Tech
Ft Worth Wyatt
Grapevine

Region 2

District 5
Aledo
Arlington Seguin
Burleson
Cleburne
Everman
Joshua
Mansfield Timberview
Waco University

District 6
Dallas Adamson
Dallas Conrad
Dallas Hillcrest
Dallas Jefferson
Dallas Kimball
Dallas Seagoville
Dallas South Oak Cliff
Dallas Spruce
Mesquite Poteet

District 7
Denison
Frisco
Frisco Lebanon Trail
Frisco Liberty
Frisco Memorial
Lake Dallas
Lucas Lovejoy
Princeton
Prosper Rock Hill

District 8
Corsicana
Crandall
Ennis
Forney
Greenville
North Forney
Royse City
Sulphur Springs

Region 3

District 9
Hallsville
Jacksonville
Longview Pine Tree
Marshall
Mount Pleasant
Nacogdoches
Texarkana Texas
Whitehouse

District 10
Bryan Rudder
College Station A&M Consolidated
Huntsville
Lamar Fulshear
Montgomery
Montgomery Lake Creek
Rosenberg Lamar Cons

District 11
Fort Bend Marshall
Fort Bend Willowridge
Galena Park
H Austin
H Madison
H Northside
H Sharpstown
H Sterling
H Waltrip

District 12
Crosby
Dayton
Humble Kingwood Park
Mt Belvieu Barbers Hill
Nederland
Port Neches-Groves
Santa Fe
Texas City

Region 4

District 13
Bastrop
Bastrop Cedar Creek
Brenham
Elgin
Georgetown East View
Leander Glenn
Leander Rouse
Pflugerville Connally

District 14
Austin Crockett
Austin McCallum
Austin Navarro
Austin Northeast
Austin Travis
Liberty Hill
Marble Falls

District 15
Boerne Champion
Castroville Medina Valley
Floresville
Kerrville Tivy
Lockhart
SA Alamo Heights

District 16
Edcouch-Elsa
Mercedes
Mission Sharyland
Mission Veterans Memorial
Pharr Valley View
PSJA Memorial
PSJA Southwest
Roma
Sharyland Pioneer

UIL Districts for 20-21 & 21-22

2020-21 OFFICIAL DISTRICT ALIGNMENT

VOLLEYBALL
CONFERENCE 5A

Region 1

District 1
El Paso
El Paso Andress
El Paso Austin
El Paso Bowie
El Paso Burges
El Paso Chapin
El Paso Irvin
El Paso Jefferson

District 2
Canutillo
Clint Horizon
El Paso Bel Air
El Paso Del Valle
El Paso El Dorado
El Paso Hanks
El Paso Parkland
El Paso Ysleta

District 3
Amarillo
Amarillo Caprock
Amarillo Palo Duro
Amarillo Tascosa
Canyon Randall
Plainview

District 4
Abilene Cooper
Abilene Wylie
Lubbock
Lubbock Cooper
Lubbock Coronado
Lubbock Monterey

District 5
Aledo
Azle
Granbury
White Settlement Brewer
Wichita Falls
Wichita Falls Rider

District 6
Colleyville Heritage
Denton
Denton Ryan
Grapevine
Lake Dallas
N Richland Hills Birdville
N Richland Hills Richland
Northwest
Saginaw

District 7
Ft Worth Arlington Hts
Ft Worth North Side
Ft Worth Polytechnic
Ft Worth South Hills
Ft Worth Southwest
Ft Worth Trimble Tech
Ft Worth Wyatt

District 8
Arlington Seguin
Burleson
Burleson Centennial
Crowley
Everman
Mansfield Legacy
Mansfield Summit
Mansfield Timberview

Region 2

District 9
Frisco
Frisco Centennial
Frisco Heritage
Frisco Independence
Frisco Lebanon Trail
Frisco Liberty
Frisco Lone Star
Frisco Memorial
Frisco Reedy
Frisco Wakeland

District 10
Denison
Lewisville The Colony
Lucas Lovejoy
McKinney North
Princeton
Prosper Rock Hill
Sherman
Wylie East

District 11
Carrollton Creekview
Carrollton Smith
Carrollton Turner
Dallas Adams
Dallas Conrad
Dallas Hillcrest
Dallas Jefferson
Dallas White
Dallas Wilson

District 12
Dallas Adamson
Dallas Kimball
Dallas Molina
Dallas Samuell
Dallas Seagoville
Dallas South Oak Cliff
Dallas Spruce
Dallas Sunset
Lancaster

District 13
Crandall
Dallas Highland Park
Forney
Greenville
Mesquite Poteet
North Forney
Royse City
West Mesquite

District 14
Cleburne
Corsicana
Ennis
Joshua
Midlothian
Red Oak
Waco University

District 15
Hallsville
Longview
Longview Pine Tree
Marshall
Mount Pleasant
Sulphur Springs
Texarkana Texas

District 16
Huntsville
Jacksonville
Lufkin
Nacogdoches
Tyler
Whitehouse

Region 3

District 17
Austin Anderson
Austin Ann Richards
Austin Crockett
Austin LASA
Austin McCallum
Austin Navarro
Austin Northeast
Austin Travis
Lockhart

District 18
Bastrop
Bastrop Cedar Creek
Elgin
Manor
Pflugerville
Pflugerville Connally
Pflugerville Hendrickson
Pflugerville Weiss

District 19
Brenham
Bryan Rudder
College Station
College Station A&M Consolidated
Katy Paetow
Magnolia
Magnolia West
Waller

District 20
Cleveland
Conroe Caney Creek
Dayton
Humble Kingwood Park
Montgomery
Montgomery Lake Creek
New Caney
New Caney Porter

District 21
Beaumont United
Crosby
Galena Park
Mt Belvieu Barbers Hill
Nederland
Port Arthur Memorial
Port Neches-Groves

District 22
Baytown Goose Crk Mem
Baytown Lee
Baytown Sterling
Friendswood
Galveston Ball
La Porte
Manvel
Santa Fe
Texas City

District 23
H Austin
H Madison
H Milby
H Northside
H Sharpstown
H Sterling
H Waltrip
H Wisdom

District 24
Angleton
Fort Bend Hightower
Fort Bend Kempner
Fort Bend Marshall
Fort Bend Willowridge
Lamar Fulshear
Richmond Foster
Rosenberg Lamar Cons
Rosenberg Terry

Region 4

District 25
Cedar Park
Georgetown
Georgetown East View
Leander
Leander Glenn
Leander Rouse
Liberty Hill
Marble Falls

District 26
Boerne Champion
Buda Johnson
Comal Canyon
Dripping Springs
Kerrville Tivy
Kyle Lehman
SA Alamo Heights
SA Veterans Memorial
Seguin

District 27
SA Brackenridge
San Antonio Burbank
San Antonio Edison
San Antonio Highlands
San Antonio Houston
San Antonio Jefferson
San Antonio Kennedy
San Antonio Lanier
San Antonio Memorial

District 28
Castroville Medina Valley
Eagle Pass Winn
Floresville
San Antonio Harlandale
San Antonio McCollum
San Antonio Southside
San Antonio Southwest
Southwest Legacy

District 29
CC Carroll
CC Flour Bluff
CC Veterans Memorial
Corpus Christi King
Corpus Christi Moody
Corpus Christi Ray
Gregory-Portland
Victoria East
Victoria West

District 30
La Joya Palmview
Laredo Cigarroa
Laredo Martin
Mission Veterans Memorial
Rio Grande City
Roma

District 31
McAllen
McAllen Memorial
McAllen Rowe
Mission Sharyland
Pharr Valley View
PSJA Memorial
PSJA Southwest
Sharyland Pioneer

District 32
Brownsville Lopez
Brownsville Pace
Brownsville Porter
Brownsville Veterans Memorial
Donna
Edcouch-Elsa
Mercedes
Weslaco East

UIL Districts for 20-21 & 21-22

2020-21 OFFICIAL DISTRICT ALIGNMENT

BASKETBALL
CONFERENCE 5A

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El Paso El Dorado
El Paso Hanks
El Paso Parkland
El Paso Ysleta

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Amarillo Palo Duro
Amarillo Tascosa
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Wichita Falls Rider

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Dallas Wilson

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Dallas South Oak Cliff
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Dallas Sunset
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West Mesquite

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Ennis
Joshua
Midlothian
Red Oak
Waco University

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Longview Pine Tree
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Mount Pleasant
Sulphur Springs
Texarkana Texas

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Pflugerville Hendrickson
Pflugerville Weiss

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Magnolia West
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New Caney Porter

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Baytown Sterling
Friendswood
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H Sharpstown
H Sterling
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H Wisdom

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Fort Bend Marshall
Fort Bend Willowridge
Lamar Fulshear
Richmond Foster
Rosenberg Lamar Cons
Rosenberg Terry

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Leander Glenn
Leander Rouse
Liberty Hill
Marble Falls

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Buda Johnson
Comal Canyon
Dripping Springs
Kerrville Tivy
Kyle Lehman
SA Alamo Heights
SA Veterans Memorial
Seguin

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San Antonio Burbank
San Antonio Edison
San Antonio Highlands
San Antonio Houston
San Antonio Jefferson
San Antonio Kennedy
San Antonio Lanier
San Antonio Memorial

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Eagle Pass Winn
Floresville
San Antonio Harlandale
San Antonio McCollum
San Antonio Southside
San Antonio Southwest
Southwest Legacy

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CC Flour Bluff
CC Veterans Memorial
Corpus Christi King
Corpus Christi Moody
Corpus Christi Ray
Gregory-Portland
Victoria East
Victoria West

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La Joya Palmview
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Laredo Martin
Mission Veterans Memorial
Rio Grande City
Roma

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McAllen
McAllen Memorial
McAllen Rowe
Mission Sharyland
Pharr Valley View
PSJA Memorial
PSJA Southwest
Sharyland Pioneer

District 32
Brownsville Lopez
Brownsville Pace
Brownsville Porter
Brownsville Veterans Memorial
Donna
Edcouch-Elsa
Mercedes
Weslaco East

MEDINA VALLEY INDEPENDENT SCHOOL DISTRICT
Board Minutes

School Board of Trustees Regular Board Meeting – January 21, 2020
8449 FM 471 South, Castroville, Texas 78009
Medina Valley Independent School District Board Room

A Regular School Board Meeting of the Board of Trustees of Medina Valley ISD was held Tuesday, January 21, 2020, beginning at 6:30 PM in the Medina Valley Middle School Cafeteria.

I. First Order of Business

A. Establish a Quorum
Shannon Beasley, Board President, called the Medina Valley ISD Regular Board Meeting to order at 6:30 pm, a quorum of the Board Members were present, Shannon Beasley, Beth Zinsmeyer, Jennilea Campbell, Darren Calvert, Mario De Leon, and Terry Groff.
Bruce Haby was absent.

B. Everyone stood for the Pledge of Allegiance to the Flag, followed by a moment of silence.

II. Announcements/Communications/Presentations

A. School Board Recognition Presentations
The following groups presented to the Board in honor of School Board Recognition Month.

- Medina Valley Middle School students
- Loma Alta Middle School Student Council
- LaCoste Elementary students
- Castroville Elementary students
- Medina Valley High School students
- Luckey Ranch Elementary Pep Squad
- Potranco Elementary Science Club

B. Paul Holzhaus presented the Monthly Construction Update.

C. Dr. Rohrbach presented the District's Monthly Financials.

D. Dr. Rohrbach presented his monthly Superintendent Briefing.

E. Dr. Rohrbach presented the 2019 State of the District Report.

F. Dr. Rohrbach conducted the First Reading - Board Policy Update 114 effecting Local Board Policies BE, BED, CDA, CH, CKC, CKE, CQ, CQB, DFFA, DH, EHBB, FDE, FFAA, FFB, FFBA, FL, GBAA and GKA.

III. Hear from Patrons and/or Staff
A parent of a MVISD student shared her concerns about the LaCoste Elementary ALE Unit.

IV. Discussion and Possible Action Items

A. Dr. Rohrbach presented the Consent Agenda Items for the Board to consider.

1. Minutes of Regular Meeting 12-16-19
2. Donations – AFCEA, $1000 donation for Ms. Ponton at Luckey Ranch.
3. Out of State Travel for FFA National Land, Range and Homesite Judging in Oklahoma.
4. Superintendent's Report on Budgeted Purchases of Good/Services in Excess of $50,000 - none

Jennilea Campbell made a Motion, seconded by Darren Calvert, to approve the consent agenda items as presented. All 6 Board Members voted for and the Motion passed.

B. Dr. Rohrbach presented the Election Order for May 2, 2020 (2 At Large Positions and SMD #5) for the Board to consider.

Terry Groff made a Motion, seconded by Mario De Leon, to approve the Election Order for May 2, 2020 as presented. All 6 Board Members voted for and the Motion passed.

C. Dr. Rohrbach proposed the Purchase of 4 Portable Buildings for Luckey Ranch Elementary for the Board to consider.

Mario De Leon made a Motion, seconded by Darren Calvert, to approve the purchase of 4 portable buildings as presented. All 6 Board Members voted for and the Motion passed.

D. Dr. Rohrbach presented the submitted names for Elementary #5 for the Board to consider. Names submitted for consideration were Lucas Creek Elementary and Ladera Elementary.

Mario De Leon made a Motion, seconded by Terry Groff, to table the item until the next Regular Board Meeting. All 6 Board Members voted for and the Motion passed.

E. Dr. Rohrbach spoke to the Board about the need to appoint a Board Committee to research, review and make recommendations to the Board for the standardization and branding of the district and the campuses.
Shannon Beasley, Board President appointed a Board Committee consisting of Jennilea Campbell, Terry Groff and Darren Calvert.

F. Budget Amendment(s) none

Board President Shannon Beasley announced that in accordance with the Texas Open Meetings Act the Board of Trustees will convene into Closed Session at 8:23 pm. No voting will take place in the closed meeting. Any action the board wishes to take as a result of discussions in closed session will take place after the board reconvenes in the open meeting.

V. Closed Session

A. Personnel Matters (TX Govt. Code Section 551.074)

1. Appointment, Employment, Evaluation, Reassignment, Duties, Discipline, and Dismissal of a Public Officer or Employee.
2. Annual Evaluation of the Superintendent

Board President Shannon Beasley announced that the Board would reconvene into Open Session at 10:36 pm.

VI. Action as Appropriate from Closed Session

A. Consider and take possible action on professional contracts
Mario De Leon made a Motion, seconded by Terry Groff, to approve the contract recommendations by the Superintendent for professional educators as presented. All 6 Board Members voted for and the Motion passed.

Board President Shannon Beasley congratulated the following Medina Valley ISD new hire:

Rachelle Rasmussen, Potranco Elementary Teacher

B. Consideration of future meeting dates

The next Regular Board Meeting will on Monday, February 17th at 6:30pm in the MVISD Board Room.

VII. Adjournment

Mario De Leon made a Motion, seconded by Darren Calvert, to adjourn the Regular School Board Meeting at 10:38 pm on January 21, 2020. All 6 Board Members voted for and the Motion passed.

_____ _____

Shannon Beasley, Board President Jennilea Campbell, Board Secretary

Board Approved_____

MEDINA VALLEY INDEPENDENT SCHOOL DISTRICT

"Proud of our past, dedicated to the present, committed to the Future"

Request for Board Acceptance of Donation

($501 and above)

School/Department: Castroville Elementary

Donor: Castroville Elementary PTO

Address: 1000 Madrid Street
Castroville TX 78009

Donor Contact Name: Pennie Robertson

Donor Contact Phone: 210 625-2364

Donation Description:

ViewSonic Board

Medina Valley ISD Board Action Required

Approved or Disapproved

Date: _____

8449 FM 471 South, Castroville, TX 78009-5309 Phone (830) 931-2243 - FAX (830) 931-4050

CASTROVILLE ELEMENTARY PTO 09-96 5589

1000 MADRID
CASTROVILLE, TX 78009

DATE 2-12-2020

PAY TO THE ORDER OF Castroville Elementary $ 2,499.00

Two Thousand Four hundred & ninety nine dollars xxx/100 DOLLARS

Security Features Details on Back.

Castroville State Bank
502 PARIS STREET (830) 538-2201
CASTROVILLE, TEXAS 78009-4514

FOR ViewSonic ViewBoard

MP

⑈005589⑈ ⑆114923439⑆ 172 553⑈

MEDINA VALLEY HIGH SCHOOL

Proud of our Past, Dedicated to the Present, Committed to the Future!

MEMORANDUM

TO: MVISD School Board

FROM: Mrs. Laura Kohlleppel

CC: Dr. Kenneth Rohrbach, Mr. Tanner Lange and Mrs. Amanda Monteiro

DATE: February 11, 2020

SUBJECT: Out-of-State Overnight Trip Permission

I would like to request permission for the MVHS Business Professionals of America National Qualifiers to travel overnight to the National Leadership Conference in Washington D.C. to be held May 6-10, 2020. Qualifiers will be announced on March 7 at the State Leadership Conference. I will be supervising the student(s) on my own unless the number is great enough to need an additional chaperone or if a male student qualifies.

MVHS chapter members will join over 5,000 other conference delegates from across the nation to participate in national level business skills competitions, workshops, general sessions, and the national officer candidate campaigns and elections.

We will be traveling to and from the airport by school suburban, to and from Washington D.C. by airline, and we will utilize public transportation services while there. During our stay, we will be lodging at the conference hotel - Gaylord National Resort & Convention Center - 201 Waterfront Street, Oxon Hill, MD 20745.

There is currently $6,500 available in the BPA accounts to pay for this trip. Please let me know if you need any additional information. Thank you for your consideration.

Attachment

Amanda Monteiro

MEDINA VALLEY INDEPENDENT SCHOOL DISTRICT



"Proud of our past, dedicated to the present, committed to the Future"

MEMORANDUM

To: Medina Valley ISD Board of Trustees
From: Dr. Kenneth Rohrbach, Superintendent
Re: TASB Board Policy Update 114
Date: February 12, 2020

The first reading of TASB Board Policy Update was conducted at the January board meeting. I have reviewed each of the local policies included in the update and the changes recommended. I feel that all of the recommended changes, additions, and deletions are appropriate.

Superintendent Recommendation: Approve TASB Board Policy Update 114

8449 FM 471 South, Castroville, TX 78009-5309 Phone (830) 931-2243 FAX (830) 931-4050

Vantage Points

A Board Member's Guide to Update 114

Please note: *Vantage Points* is an executive summary, prepared specifically for board members, of the TASB Localized 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 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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TASB Policy Service

Numerous bills were enacted in the 86th Legislative Session. In this *Vantage Points,* we will focus primarily on the local policies impacted by these new laws. There are a few policies that are recommended for updating in response to revised guidance from the Texas Education Agency. Different from previous versions of the *Vantage Points*, we have organized this document to align with the sections of the policy manual.

We strongly encourage you to review the Explanatory Notes contained in your district's update packet for information specific to your policies and additional background on all the 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

Tax Officials

BDAF(LOCAL) POLICY CONSIDERATION

A few districts had provisions regarding tax officials at this code. Since the statutory language on tax officials is being moved to CCG(LEGAL), districts with this policy will find that the content regarding the employment of an assessor or collector of district taxes has been moved to CCG(LOCAL). The BDAF policy code has been deleted from the table of contents and is no longer an active code.

Board Meetings

SB 494 reduced the time required to post notice of an emergency meeting from two hours to one hour. This new one-hour requirement would also apply to an amendment to the meeting agenda after the 72-hour deadline, which is known as a supplemental notice. The same bill revised what constitutes an emergency or urgent public necessity that would permit the board to hold an emergency meeting or to amend its agenda after the 72-hour deadline.

SB 1640 revised the definition of "deliberation" and added new provisions that prohibit a series of communications between board members. Board members should review the sections in BE(LEGAL) titled Deliberation and Prohibited Series of Communications for more information.

BE(LOCAL) POLICY CONSIDERATION

SB 494 reduces the time required to post notice of an emergency meeting or to provide a supplemental notice from two hours to one hour. A recommended revision to BE(LOCAL) reflects this change. All other legislative changes regarding board meetings are reflected in BE(LEGAL).

Public Comment

HB 2840 impacts the manner in which public comment is conducted in your district. Prior to this legislation, the board had ample discretion to manage the portion of the meeting when citizens could address the board. The law now requires that public comment be permitted on agenda items at all meetings, including regular meetings, special meetings, and board workshops. The opportunity for the public to address the board on an agenda item must be before or during the board's deliberation on the item. The bill also states that the board cannot prohibit public criticism of the board unless the criticism is otherwise prohibited by law. HB 2840 does permit the board to establish reasonable rules that govern the amount of time an individual is permitted to speak, with additional time permitted for speakers that require certain translation services.

BED(LOCAL) POLICY CONSIDERATION

The vast majority of school districts were permitting public comment prior to this new law. In response to HB 2840, the following revisions to BED(LOCAL) are recommended:

- Deletion of the overall time for public comment.
- Deletion of the requirement that delegations of a certain number appoint one spokesperson.
- At regular meetings, public comment continues to be permitted on any topic, whether it is an item on the posted agenda or not.
- At special meetings, including board workshops or work sessions, public comment is limited to items on the posted agenda.
- A new provision is included requiring all public comment to occur at the beginning of the meeting.

To assist with efficient management of board meetings when large numbers of individuals wish to address the board, the revised policy permits the presiding officer to make adjustments to procedures, such as adjusting the time allotted to each speaker, reordering agenda items, deferring public comments on nonagenda items, and continuing agenda items to a later meeting.

For those few districts that did not permit public comment at board meetings prior to this legislation, the revisions made to BED(LOCAL) will now permit public comment at all board meetings but only for agenda items. The policy for these districts also states when public comment will be received and includes a provision that permits the presiding officer to make adjustments to procedures for meeting efficiency as well as time limits for individuals to address the board.

If the board wishes to limit public comment to agenda items at regular meetings, adjust the individual time limit, or make other adjustments to this policy, please contact the district's TASB policy consultant.

To assist the board in developing public comment procedures, Policy Services provides samples in the *TASB Regulations Resource Manual*. Please contact your superintendent or your TASB policy consultant if you wish to review these sample board procedures.

Section C—Business and Support Services

Texas Economic Development Act

CCGB(LOCAL) POLICY CONSIDERATION

For those districts that currently have a local policy at CCGB(LOCAL), we recommend a more streamlined version of that policy. The revised policy removes legal provisions that can be found in CCGB(LEGAL) and addresses provisions that require board action, such as establishing the threshold for the large project application, setting the standard application fee, providing procedures for filing and processing the application, outlining the board and superintendent responsibilities regarding the application and implementation of the agreement, and providing a statement regarding conflicts of interest.

Investments

HB 2706 permits the district to invest bond proceeds or pledged revenue to the extent allowed by the Public Funds Investment Act, other laws, and the district's local policy.

CDA(LOCAL) POLICY CONSIDERATION

The recommended changes to CDA(LOCAL) permit the district to invest bond proceeds or pledged revenue in accordance with law. Additional recommended revisions clarify that, should the district exercise the option to invest in bond proceeds, those investments could not be made in no-load mutual funds.

Governmental Accounting Standards Board (GASB) Statement 84 revised terminology to change "agency" funds to "custodial" funds. In response, a corresponding change is recommended in the local policy.

Finally, a few districts' local policies included a statement requiring an annual portfolio report to the board in addition to the monthly or quarterly reports the board receives. Because there is no requirement to reflect this practice in policy, the provision is recommended for removal. A district may continue to provide this annual report without the policy provision.

Purchasing Procedures

CH(LOCAL) POLICY CONSIDERATION

The Texas Education Agency, through its *Financial Accountability System Resource Guide*, requires the district to have purchasing procedures to comply with a variety of state and federal laws. Recommended policy text has been added that requires the superintendent to develop those procedures.

Emergency Operations Plans

CKC(LOCAL) POLICY CONSIDERATION

Recommended revisions to this policy require the district's emergency operations plan to include active shooter response procedures (HB 2195) and to ensure that a substitute teacher has access to campus buildings and materials to carry out duties of a regular district employee during an emergency or emergency drill (SB 11).

Security Personnel

CKE(LOCAL) POLICY CONSIDERATION

This policy has been revised to comply with SB 1707. The bill prohibits district peace officers or school resource officers (SRO) from being assigned routine discipline or school administrative tasks. A statement to this effect has been added to the policy.

SB 1707 also requires that the board determine the duties of the district's peace officers and SROs and include those duties in specific documents, such as the district improvement plan, the student code of conduct, and other appropriate publications. For districts with a police force, if your policy describes the powers and duties of your police officers, your policy will meet this requirement. If your district has entered into an agreement with local law enforcement to hire SROs and has this currently reflected in your policy manual, new policy language is recommended to satisfy the SB 1707 requirement to determine SRO duties.

Cybersecurity

CQB(LOCAL) POLICY CONSIDERATION

This new recommended policy code has been created to house the new cybersecurity policy required by SB 820 and to address the cybersecurity training of employees and board members required by HB 3834. This new code is also where provisions on security breaches are now found; these provisions were formerly coded at policy CQ. The security breach text has

been revised to address reporting requirements to the Texas Education Agency in accordance with SB 820.

Section D—Personnel

Furloughs

DFFA(LOCAL) POLICY CONSIDERATION

A minor revision is recommended to this policy as a result of HB 3 moving statutory provisions on furloughs from Education Code Chapter 42 to Chapter 48. The detail has been removed in favor of the cross-reference to policy DEA.

Firearms

DH(LOCAL) POLICY CONSIDERATION

HB 1143 prohibits a district from regulating the manner in which a handgun, firearm, or ammunition is stored in a locked vehicle in a district parking area, provided the item is not in plain view. Recommended changes to this policy and GKA(LOCAL) reflect this new law by deleting language requiring firearms in locked vehicles to be unloaded.

Section E—Instruction

Gifted and Talented Program

EHBB(LOCAL) POLICY CONSIDERATION

Based on HB 3 and the newly adopted Texas State Plan for the Education of Gifted/Talented Students, EHBB(LEGAL) and (LOCAL), the policies on gifted and talented (GT) services, have been updated. EHBB(LOCAL) has undergone a complete review to ensure that all required provisions are included in the policy as reflected in law and the state plan. In addition to the revisions to existing text, new recommended provisions address use of GT funds and the annual compliance certification the district must make to the commissioner. This recommended policy also addresses parent consultations for exiting students, appeals, and broader language regarding the selection committee. The remaining revisions are recommended to provide more flexibility to the district regarding reassessments and placement of transfer students in the GT program.

Partnership Charters

ELA(LOCAL) POLICY CONSIDERATION

This policy only appears in a few districts' policy manuals. A minor revision has been made to the legal citation in this policy as a result of HB 3, which

moved funding provisions regarding partnership charters from Education Code Chapter 42 to Chapter 48.

Section F—Students

School Safety Transfers

FDE(LOCAL) POLICY CONSIDERATION

TEA's recent revisions to the Unsafe School Choice Option Guidance Handbook prompted recommended changes at FDE(LOCAL) to update the list of violent criminal offenses for which a victim is eligible for a transfer to another school within the district.

UIL Physicals

FFAA(LOCAL) POLICY CONSIDERATION

A new UIL rule requires students who are participating in marching band to have a pre-participation physical in accordance with the schedule established by the UIL. Recommended revisions to this policy broaden the language to accommodate future changes to UIL rules and allow the superintendent to designate other extracurricular programs for which the district will require physicals.

Threat Assessments

FFB(LEGAL) includes new provisions regarding the establishment and composition of threat assessment and safe and supportive school teams as required by SB 11 and the process these teams will use in evaluating individuals and students who make threats of violence or exhibit harmful, threatening, or violent behavior.

FFB(LOCAL) POLICY CONSIDERATION

This new recommended local policy has been created in response to SB 11 and addresses the requirement for boards to adopt policies and procedures regarding the threat assessment and safe and supportive teams. The district's policies and procedures must be consistent with the model policies and procedures developed by the Texas School Safety Center (TxSSC). TASB collaborated with the TxSSC to develop this policy.

The TxSSC advises that district procedures need to be individualized to fit each district's unique circumstances. The TxSSC website has numerous resources to assist in developing such procedures.

Trauma-Informed Care

FFBA(LOCAL) POLICY CONSIDERATION

This new recommended local policy on trauma-informed care has also been developed to comply with SB 11. The details of the district's trauma-informed care program must be included in the district improvement plan. The policy specifies the elements required to be addressed in the district's trauma-informed care program, including increasing staff and parent awareness of trauma-informed care, required training, and available counseling options for students affected by trauma or grief. The policy also affirms that the district must report training compliance to TEA.

Student Records

FL(LOCAL) POLICY CONSIDERATION

This policy has been revised to assist with the implementation of the district's safe and supportive school program (see policy FFB) as required by SB 11. The new recommended provision at Access by School Officials clarifies that a person appointed to a team that supports the safe and supportive school program may access student records if the person has a legitimate educational interest in the records.

Section G—Community and Governmental Relations

Public Information Requests

GBAA(LOCAL) POLICY CONSIDERATION

SB 494 permits the board of a district impacted by a catastrophe to temporarily suspend the Public Information Act. This policy includes new recommended provisions to delegate to the superintendent the authority to approve the initial suspension period of up to seven consecutive days and provide the required notices. For an extension beyond the initial seven-day period, the law requires the board to determine whether it is still impacted by the catastrophe. Thus, the recommended local policy text requires the board to approve an extension.

Firearms

GKA(LOCAL) POLICY CONSIDERATION

HB 1143 prohibits a district from regulating the manner in which a handgun, firearm, or ammunition is stored in a locked vehicle in a district parking area, provided the item is not in plain view. Recommended changes to this policy and DH(LOCAL) reflect this new law by deleting language requiring firearms in locked vehicles to be unloaded.

Annotated

Policy Reference Manual
Update 114

Update 114 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 114

Policy Reference Manual

Code	Type	Action To Be Taken	Note
ATTN	(NOTE)	No policy enclosed	See explanatory note
AF	(LEGAL)	Replace policy	Revised policy
AG	(LEGAL)	Replace policy	Revised policy
AIB	(LEGAL)	Replace policy	Revised policy
AIC	(LEGAL)	Replace policy	Revised policy
B	(LEGAL)	Replace table of contents	Revised table of contents
BAA	(LEGAL)	Replace policy	Revised policy
BBA	(LEGAL)	Replace policy	Revised policy
BBBA	(LEGAL)	Replace policy	Revised policy
BBBB	(LEGAL)	Replace policy	Revised policy
BBD	(LEGAL)	Replace policy	Revised policy
BBFA	(LEGAL)	Replace policy	Revised policy
BBI	(LEGAL)	Replace policy	Revised policy
BDAE	(LEGAL)	Replace policy	Revised policy
BDAF	(LEGAL)	DELETE policy	See explanatory note
BE	(LEGAL)	Replace policy	Revised policy
BED	(LEGAL)	Replace policy	Revised policy
BJCB	(LEGAL)	Replace policy	Revised policy
BJCD	(LEGAL)	Replace policy	Revised policy
BQ	(LEGAL)	Replace policy	Revised policy
BR	(LEGAL)	DELETE policy	See explanatory note
C	(LEGAL)	Replace table of contents	Revised table of contents
CBA	(LEGAL)	Replace policy	Revised policy
CCA	(LEGAL)	Replace policy	Revised policy
CCG	(LEGAL)	Replace policy	Revised policy
CCGA	(LEGAL)	Replace policy	Revised policy
CCH	(LEGAL)	Replace policy	Revised policy
CDA	(LEGAL)	Replace policy	Revised policy
CE	(LEGAL)	Replace policy	Revised policy
CFC	(LEGAL)	Replace policy	Revised policy
CFEA	(LEGAL)	Replace policy	Revised policy
CH	(LEGAL)	Replace policy	Revised policy
CK	(LEGAL)	Replace policy	Revised policy
CKC	(LEGAL)	Replace policy	Revised policy

Policy Reference Manual

Code	Type	Action To Be Taken	Note
CKD	(LEGAL)	Replace policy	Revised policy
CKE	(LEGAL)	Replace policy	Revised policy
CKEA	(LEGAL)	ADD policy	See explanatory note
CKEB	(LEGAL)	ADD policy	See explanatory note
CKEC	(LEGAL)	ADD policy	See explanatory note
CL	(LEGAL)	Replace policy	Revised policy
CMD	(LEGAL)	Replace policy	Revised policy
CNA	(LEGAL)	Replace policy	Revised policy
CNC	(LEGAL)	Replace policy	Revised policy
CPC	(LEGAL)	Replace policy	Revised policy
CQ	(LEGAL)	Replace policy	Revised policy
CQA	(LEGAL)	Replace policy	Revised policy
CQB	(LEGAL)	ADD policy	See explanatory note
CQC	(LEGAL)	ADD policy	See explanatory note
CRG	(LEGAL)	Replace policy	Revised policy
CV	(LEGAL)	Replace policy	Revised policy
D	(LEGAL)	Replace table of contents	Revised table of contents
DAA	(LEGAL)	Replace policy	Revised policy
DBAA	(LEGAL)	Replace policy	Revised policy
DC	(LEGAL)	Replace policy	Revised policy
DEA	(LEGAL)	Replace policy	Revised policy
DEAA	(LEGAL)	Replace policy	Revised policy
DEB	(LEGAL)	Replace policy	Revised policy
DEC	(LEGAL)	Replace policy	Revised policy
DF	(LEGAL)	Replace policy	Revised policy
DG	(LEGAL)	Replace policy	Revised policy
DH	(LEGAL)	Replace policy	Revised policy
DHB	(LEGAL)	Replace policy	Revised policy
DHC	(LEGAL)	ADD policy	See explanatory note
DMA	(LEGAL)	Replace policy	Revised policy
DNA	(LEGAL)	Replace policy	Revised policy
DNB	(LEGAL)	Replace policy	Revised policy
DP	(LEGAL)	Replace policy	Revised policy
EA	(LEGAL)	ADD policy	See explanatory note

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Code	Type	Action To Be Taken	Note
EB	(LEGAL)	Replace policy	Revised policy
EC	(LEGAL)	Replace policy	Revised policy
EEB	(LEGAL)	Replace policy	Revised policy
EEM	(LEGAL)	Replace policy	Revised policy
EF	(LEGAL)	Replace policy	Revised policy
EHAA	(LEGAL)	Replace policy	Revised policy
EHAB	(LEGAL)	Replace policy	Revised policy
EHAC	(LEGAL)	Replace policy	Revised policy
EHBA	(LEGAL)	Replace policy	Revised policy
EHBAC	(LEGAL)	Replace policy	Revised policy
EHBAE	(LEGAL)	Replace policy	Revised policy
EHBB	(LEGAL)	Replace policy	Revised policy
EHBC	(LEGAL)	Replace policy	Revised policy
EHBF	(LEGAL)	Replace policy	Revised policy
EHBG	(LEGAL)	Replace policy	Revised policy
EHBK	(LEGAL)	Replace policy	Revised policy
EHDD	(LEGAL)	Replace policy	Revised policy
EIC	(LEGAL)	Replace policy	Revised policy
EIF	(LEGAL)	Replace policy	Revised policy
EK	(LEGAL)	Replace policy	Revised policy
EKB	(LEGAL)	Replace policy	Revised policy
EL	(LEGAL)	Replace policy	Revised policy
F	(LEGAL)	Replace table of contents	Revised table of contents
FB	(LEGAL)	Replace policy	Revised policy
FD	(LEGAL)	Replace policy	Revised policy
FDC	(LEGAL)	Replace policy	Revised policy
FEB	(LEGAL)	Replace policy	Revised policy
FED	(LEGAL)	Replace policy	Revised policy
FFAC	(LEGAL)	Replace policy	Revised policy
FFAD	(LEGAL)	Replace policy	Revised policy
FFAF	(LEGAL)	Replace policy	Revised policy
FFB	(LEGAL)	Replace policy	Revised policy
FFBA	(LEGAL)	ADD policy	See explanatory note
FFE	(LEGAL)	Replace policy	Revised policy

Instruction Sheet

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Code	Type	Action To Be Taken	Note
FFG	(LEGAL)	Replace policy	Revised policy
FM	(LEGAL)	Replace policy	Revised policy
FNCC	(LEGAL)	Replace policy	Revised policy
FNCE	(LEGAL)	Replace policy	Revised policy
FNCG	(LEGAL)	Replace policy	Revised policy
FNG	(LEGAL)	Replace policy	Revised policy
FO	(LEGAL)	Replace policy	Revised policy
FOA	(LEGAL)	Replace policy	Revised policy
FOB	(LEGAL)	Replace policy	Revised policy
FOC	(LEGAL)	Replace policy	Revised policy
FOCA	(LEGAL)	Replace policy	Revised policy
FOD	(LEGAL)	Replace policy	Revised policy
FODA	(LEGAL)	Replace policy	Revised policy
GA	(LEGAL)	Replace policy	Revised policy
GB	(LEGAL)	Replace policy	Revised policy
GBA	(LEGAL)	Replace policy	Revised policy
GBAA	(LEGAL)	Replace policy	Revised policy
GKA	(LEGAL)	Replace policy	Revised policy
GNB	(LEGAL)	Replace policy	Revised policy
GRAA	(LEGAL)	Replace policy	Revised policy
GRAA	(EXHIBIT)	DELETE exhibit	See explanatory note
GRB	(LEGAL)	Replace policy	Revised policy
GRC	(LEGAL)	Replace policy	Revised policy

Explanatory Notes
TASB Policy Reference Manual Update 114

Policy Reference Manual

ATTN(NOTE) GENERAL INFORMATION ABOUT THIS UPDATE

Please note:

Changes at Update 114 are based almost exclusively on legislation from the 86th Regular Legislative Session.

Unless otherwise noted, references to legislative bills throughout these explanatory notes refer to Senate Bills (SB) or House Bills (HB) from the 86th Regular Legislative Session. All referenced bills have already gone into effect unless otherwise noted.

For more information about the bills mentioned below and other changes from the 86th Legislative Session, download the free *2019 Legislative Summary for TASB Members* PDF at https://store.tasb.org/legislative-summary-for-tasb-members-pdf/.

AF(LEGAL) INNOVATION DISTRICTS

Revisions from HB 3 explain that the commissioner may revoke district of innovation status for the district's failure to comply with TEA's employment registry or criminal history background requirements.

AG(LEGAL) HOME-RULE DISTRICTS

Minor revisions to the list of Education Code requirements that apply to home-rule districts are from HB 3. The bill also provides that it is a material violation of a home-rule district's charter if the district fails to comply with TEA's employment registry or criminal history background requirements.

AIB(LEGAL) ACCOUNTABILITY: PERFORMANCE REPORTING

HB 3 requires the annual performance report to include progress on early childhood literacy and mathematics proficiency plans and college, career, and military readiness plans.

Provisions on the high school allotment performance review have been repealed.

AIC(LEGAL) ACCOUNTABILITY: INTERVENTIONS AND SANCTIONS

The commissioner may authorize a district to enter into a memorandum of understanding with an institution of higher education to improve district performance (HB 4170).

Campus interventions and sanctions were affected by:

- HB 4170, which revised the duties of the campus intervention team; and
- HB 4205, which revised provisions on repurposing of a campus and clarified that commissioner decisions on campus turnaround are final and not subject to appeal.

Monitoring reviews and random on-site investigations may be conducted to ensure qualification of funding in accordance with HB 3.

SB 11 permits the commissioner to appoint a conservator for the district if TEA receives notice from the Texas School Safety Center of a district's failure to submit a multihazard emergency operations plan.

B(LEGAL) LOCAL GOVERNANCE

The B Section table of contents has been revised to delete BDAF, the content of which has been moved to CCG.

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BAA(LEGAL) BOARD LEGAL STATUS: POWERS AND DUTIES

New board duties include adoption of a cybersecurity policy (SB 820); development of early childhood literacy and mathematics proficiency plans (HB 3); development of college, career, and military readiness plans (HB 3); and completion of an efficiency audit before holding an election seeking voter approval to adopt a maintenance and operations tax rate. Adjustments to the board's discretionary powers and duties include reference to the use of the board evaluation tool developed by the commissioner and deletion of a provision that is not located in Chapter 11 of the Education Code.

BBA(LEGAL) BOARD MEMBERS: ELIGIBILITY/QUALIFICATIONS

SB 2283 clarifies that a person convicted of a felony is ineligible to serve on a school board.

HB 831 clarifies the factors for a court to consider when determining whether a candidate has satisfied continuous residency requirements after a temporary absence.

BBBA(LEGAL) ELECTIONS: CONDUCTING ELECTIONS

Legislation affected several provisions on conducting elections:

- HB 1241 requires additional detail in notices of polling place locations;
- HB 933 clarifies posting obligations and notice to the county clerk and voter registrar;
- HB 1067 provides guidance on ballot adjustments in the event of a candidate's death;
- HB 1888 repeals the exception to the use of county election precincts in May elections if certain circumstances are met;
- HBs 1048 and 1888 affect early voting, including designation of early voting polling places in November elections and the use of temporary branch polling places; and
- HB 1850 addresses posting of information from branch daily registers and early voting rosters.

BBBB(LEGAL) ELECTIONS: POST-ELECTION PROCEDURES

The order of candidate names on the ballot of a runoff election or election to resolve a tie is specified by HB 88.

BBD(LEGAL) BOARD MEMBERS: TRAINING AND ORIENTATION

HB 403 requires trustees to complete, every two years, one hour of training on identifying and reporting potential victims of sexual abuse, human trafficking, and other maltreatment of children.

BBFA(LEGAL) ETHICS: CONFLICT OF INTEREST DISCLOSURES

A provision requiring trustee financial statements for trustees in El Paso County has expired and been removed from this policy. Other changes are to better reflect statutory wording.

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

SB 944 requires a current or former trustee who maintains public information on a privately owned device to forward or transfer the information to the district or preserve the public information in its original form in a backup or archive and on the device for the relevant retention period.

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

Depository contracts and bonds no longer have to be filed with TEA per SB 1376.

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

Provisions on tax officials as revised by SB 2, effective January 1, 2020, have been moved to CCG. BDAF is no longer an active code.

BE(LEGAL) BOARD MEETINGS

SB 494 reduces the posting requirement for emergency meetings from two hours to one hour, with conforming changes for notice to the media, and provides examples of what constitutes an emergency or urgent public necessity required for an emergency meeting.

SB 1640 adds provisions on prohibited series of communications among trustees to address what are commonly called "walking quorums." The bill also revises the definition of "deliberation."

BED(LEGAL) BOARD MEETINGS: PUBLIC PARTICIPATION

HB 2840 significantly revises public comment requirements at board meetings:

- Public comment on agenda items is required at all meetings, including special meetings and workshops;
- A board must allow each individual who wishes to address the board on an agenda item to do so before or during the board's consideration of the item;
- A board may adopt reasonable rules, including rules that limit the total time an individual is allowed to speak, with additional time for certain types of translation services; and
- A board may not prohibit public criticism of the board, including criticism of any act, omission, policy, procedure, program, or service.

BJCB(LEGAL) SUPERINTENDENT: PROFESSIONAL DEVELOPMENT

Superintendents must receive at least two and a half hours of continuing education every five years on identifying and reporting potential victims of sexual abuse, human trafficking, and other maltreatment of children (HB 403).

BJCD(LEGAL) SUPERINTENDENT: EVALUATION

Details on the disclosure requirements for evaluations, as revised by SB 1230, have been moved to GBA. Other changes are to better match statutory wording.

BQ(LEGAL) PLANNING AND DECISION-MAKING PROCESS

The required content of the district improvement plan has been amended by several bills:

- SB 11 requires inclusion of the district's trauma-informed care policy.
- SB 1707 requires inclusion of the law enforcement duties of various types of security personnel.
- HB 111 requires inclusion of the district's policy on sexual abuse, sex trafficking, and other maltreatment of children. (Sex trafficking was added to this existing requirement.)

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BR(LEGAL) REPORTS

This legally referenced policy on reports is being deleted, as the content is already included in otherrelevant policy codes.

C(LEGAL) BUSINESS AND SUPPORT SERVICES

The C Section table of contents has been revised to separate the legal content on security personnel into four codes:

- CKE includes general provisions applicable to the various types of district security personnel.
- CKEA includes provisions on commissioned peace officers.
- CKEB includes provisions on school marshals.
- CKEC includes provisions on school resource officers.

The CQ series has been revised to add:

- CQB on cybersecurity; and
- CQC on equipment.

CBA(LEGAL) STATE AND FEDERAL REVENUE SOURCES: STATE

As a result of HB 3, this policy has been updated with a high-level overview of state funding, including the requirement to submit certain information through PEIMS for funding determinations.

HB 3 moves foundation school program funding provisions from Education Code Chapter 42 to Chapter 48.

CCA(LEGAL) LOCAL REVENUE SOURCES: BOND ISSUES

Several bills affect this legally referenced policy on bonds.

- SB 11 permits debt issuance for purchasing and retrofitting buses and school vehicles for safety and security purposes.
- HB 440 addresses limitations on bond issuance and provides guidance on use of unspent bond proceeds.
- HB 477 adjusts the information required to be included in bond election orders.
- HBs 3 and 477 and SB 30 address language for bond propositions and ballot contents.
- HB 477 requires a district to prepare voter information about proposed bond issuance.

CCG(LEGAL) LOCAL REVENUE SOURCES: AD VALOREM TAXES

The revisions to this legally referenced policy on ad valorem taxes are based on HB 3 and SB 2, which significantly revise the ad valorem taxation process for school districts.

TEA has published videos explaining the HB 3 tax rate changes and other financial provisions, available at https://tea.texas.gov/About_TEA/Government_Relations_and_Legal/Government_Relations/House_Bill_3.

Information from the Texas comptroller on changes from SB 2, effective January 1, 2020, is available at https://comptroller.texas.gov/taxes/property-tax/legal-resource.php. Provisions on tax officials as revised by SB 2 have been moved to this code from BDAF.

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CCGA(LEGAL) AD VALOREM TAXES: EXEMPTIONS AND PAYMENTS

Provisions on ad valorem exemptions and payments are revised as follows:

- HB 1313 extends under certain conditions the residence homestead exemption to the surviving spouse of an individual who was disabled;
- SB 2, effective January 1, 2020, addresses exemptions for historical structures or archeological sites; and
- Additional detail has been added on split payments, which permit a taxpayer to pay taxes (without discount) in two installments.

CCH(LEGAL) LOCAL REVENUE SOURCES: APPRAISAL DISTRICT

SB 2, effective January 1, 2020, revises appraisal district procedures. The bill:

- Adds a prohibition on employing an individual who is an officer or employee of a taxing unit that participates in the appraisal district; and
- Adjusts eligibility to serve on an appraisal district board for prior property appraisers or owner representatives.

CDA(LEGAL) OTHER REVENUES: INVESTMENTS

HB 293 creates an exception to the ongoing investment training requirements for school district financial officers in limited circumstances.

HB 2706 modifies investment provisions on bond proceeds, fully collateralized repurchase agreements, and commercial paper. The bill modifies the requirements for a public funds investment pool that uses amortized cost.

CE(LEGAL) ANNUAL OPERATING BUDGET

HB 1495 requires budget itemization regarding expenditures for directly or indirectly influencing or attempting to influence the outcome of legislation or administrative action.

SB 2, effective January 1, 2020, requires a district to post various tax rate and budget information on the district's website in a format prescribed by the comptroller.

CFC(LEGAL) ACCOUNTING: AUDITS

A district must post on its website certain information, including the district's most recent financial audit, as required by SB 2, effective January 1, 2020.

CFEA(LEGAL) PAYROLL PROCEDURES: SALARY DEDUCTIONS AND REDUCTIONS

The definition of "eligible qualified investment product" is revised by HB 2820. The change permits 403(b) products to be offered by a company that is eligible to offer the product under law. TRS no longer has oversight.

CH(LEGAL) PURCHASING AND ACQUISITION

The prohibition on contracting with a company that boycotts Israel is revised by HB 793, which clarifies that the prohibition does not apply to a sole proprietorship and revises the contracts subject to the prohibition.

Certain district contracts must include provisions requiring the contracting entity to preserve contracting information and provide that information on request of the district. These provisions are from SB 943.

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HB 1495 and SB 65 revise the requirements regarding contracts subject to the disclosure of interested parties to include contracts for services that require a person to register as a lobbyist.

Interior design services must be procured under the Professional Services Procurement Act per HB 2868.

HB 2826 adds provisions on contingent fee contracts for legal services.

Districts with fewer than 10,000 students are exempted by SB 1376 from Texas Commission on Environmental Quality provisions requiring a purchasing preference for recycled products.

Other new provisions on contracts address entertainment event contracts (HB 81) and taxpayer resource transactions (SB 22).

CK(LEGAL) SAFETY PROGRAM/RISK MANAGEMENT

Revisions from SB 11 include:

- Adjustments to the responsibilities, membership, and meeting requirements for the school safety and security committee; and
- Additional provisions on the safety and security audit, including consequences for failing to meet the reporting requirements.

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

Several revisions are based on SB 11, which:

- Adds required notice to parents of bomb or terroristic threats at any district facility where students are present;
- Adds to the content of emergency operations plans (EOP); and
- Addresses a district's failure to submit its EOP for review by the Texas School Safety Center (TxSSC) or to correct plan deficiencies identified by the TxSSC.

HB 2195 requires EOPs to include provisions on responding to active shooter emergencies.

CKD(LEGAL) SAFETY PROGRAM/RISK MANAGEMENT: EMERGENCY MEDICAL EQUIPMENT AND PROCEDURES

Districts must develop a traumatic injury response protocol no later than January 1, 2020, in accordance with HB 496. The protocol must provide bleeding control stations, require training for security personnel and all other district personnel who may be reasonably expected to use a bleeding control station, and offer similar training to students enrolled at the campus in grade 7 or higher.

Sample administrative procedures on this issue are included in the *TASB Regulations Resource Manual*.

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

As mentioned above, CKE includes general provisions applicable to the various types of district security personnel. Legislative revisions include:

- Clarification that the board determines the law enforcement duties of security personnel, which must be included in the listed district publications and documents and cannot include routine student discipline, school administrative tasks, or contact with students unrelated to the law enforcement duties (SB 1707); and
- Clarification of training requirements (HB 2195 and SB 11).

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CKEA(LEGAL) SECURITY PERSONNEL: COMMISSIONED PEACE OFFICERS

Legal provisions specifically addressing commissioned peace officers have been moved from CKE to this new code. Legislative changes include the optional provision for a law enforcement agency to have an unassigned epinephrine auto-injector program (SB 1827). Other changes are to include the relevant statutory cite in place of the list of duties for peace officers and to revise wording to better reflect statute.

CKEB(LEGAL) SECURITY PERSONNEL: SCHOOL MARSHALS

Legal provisions specifically addressing school marshals have been moved from CKE to this new code and revised to reflect HB 1387, including:

- Clarification of the board's authority to appoint one or more school marshals for each campus; and
- Deletion of the previous cap on the number of school marshals a board may appoint.

Other changes are to better reflect statute.

CKEC(LEGAL) SECURITY PERSONNEL: SCHOOL RESOURCE OFFICERS

Legal provisions specifically addressing school resource officers have been moved from CKE to this new code.

CL(LEGAL) BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT

SB 668 excludes school districts from provisions that require energy usage reports and repeals the requirement that districts purchase certain energy efficient light bulbs.

Districts with fewer than 10,000 students are exempted by SB 1376 from recycling programs required by the Texas Commission on Environmental Quality (TCEQ). In addition, the TCEQ may exempt a district for which compliance would constitute a hardship.

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

Legislative changes on instructional materials include:

- Revised references to "instructional materials and technology" throughout (HB 4170);
- Clarification of permitted expenditures using the instructional materials allotment (HB 396); and
- Removal of the annual June 1 deadline for a district to make an online requisition for instructional materials (SB 668).

CNA(LEGAL) TRANSPORTATION MANAGEMENT: STUDENT TRANSPORTATION

HB 3 affected several student transportation provisions, including:

- Modifying the transportation allotment to be based on a rate per mile per regular eligible student and revising the definition of "regular eligible student" to include a student who is homeless;
- Revising provisions on the cost of transporting CTE students from a campus to the work-based learning site; and
- Providing reimbursement on a per-mile basis for transporting a dual credit student to specific locations for a course not available at the student's campus.

CNC(LEGAL) TRANSPORTATION MANAGEMENT: TRANSPORTATION SAFETY

HB 771 clarifies the use of wireless communication devices on buses.

Policy Reference Manual

CPC(LEGAL) OFFICE MANAGEMENT: RECORDS MANAGEMENT

Revisions to records management provisions are from HB 1962 and include:

- Clarification of the duties of the district and the records management officer;
- Deletion of TSLAC's obligations to approve, disapprove, accept, or reject various district filings; and
- Revision of the standards for destruction of records.

CQ(LEGAL) TECHNOLOGY RESOURCES

Technology provisions have been split into discrete codes:

- CQ continues to address general technology issues;
- CQA continues to address websites;
- CQB is a new code addressing cybersecurity and federal provisions on access to electronic communications; and
- CQC is a new code addressing equipment.

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

HB 305 requires most districts to post online the district's contact information; trustee information; election date, location, and filing information; and meeting notices and minutes.

HB 963 requires online posting of the name, email address, and beginning and end dates of terms of office for each trustee.

Other new online posting requirements are for:

- Certain early voting (HB 1850) and bond election items (HBs 440 and 477);
- Efficiency audits before an election to approve a tax rate (HB 3);
- Tax rate and budget information (SB 2, effective January 1, 2020);
- Early childhood literacy and mathematics plans, including progress on goals (HB 3);
- Progress on goals set for college, career, and military readiness plans (HB 3);
- A summary of and access to the state *Guidelines for the Care of Students with Food Allergies At-Risk for Anaphylaxis* (SB 869);
- Contact information for campus behavior coordinators (SB 1306); and
- Certain information pertaining to public information requests (SB 944).

Districts no longer need to post reports on energy usage per SB 668.

CQB(LEGAL) TECHNOLOGY RESOURCES: CYBERSECURITY

SB 820 includes new requirements on cybersecurity. A district must have a cybersecurity policy and the superintendent must designate a cybersecurity coordinator who will report breaches of system security involving student information to TEA and parents.

HB 3834 requires cybersecurity training for district employees who have access to a district computer system or database and for all board members.

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Security breach notifications were affected by HB 4390, which changes the timelines for disclosures to individuals and the attorney general.

Federal provisions on access to electronic communications were moved to this code from CQ.

CQC(LEGAL) TECHNOLOGY RESOURCES: EQUIPMENT

Provisions on technology equipment have been moved to this new code from CQ(LEGAL), and existing provisions on the Technology Lending Program Grant have been added.

CRG(LEGAL) INSURANCE AND ANNUITIES MANAGEMENT: DEFERRED COMPENSATION AND ANNUITIES

The definition of "eligible qualified investment product" is revised by HB 2820. The change permits 403(b) products to be offered by a company that is eligible to offer the product under law. TRS no longer has oversight.

CV(LEGAL) FACILITIES CONSTRUCTION

HB 985 prohibits a school district from considering whether a bidder on a public work contract has an agreement with a collective bargaining organization relating to the project.

New provisions have been added regarding use of proceeds from construction defect litigation (HB 1734) and construction liability claims (HB 1999).

Provisions on contract requirements that are included in CH have been deleted and replaced with a cross-reference to that code.

D(LEGAL) PERSONNEL

The D Section table of contents has been revised to add DHC, addressing reports to TEA of misconduct by noncertified employees.

DAA(LEGAL) EMPLOYMENT OBJECTIVES: EQUAL EMPLOYMENT OPPORTUNITY

SB 37 prohibits a district that issues a license from taking disciplinary action against a person who has defaulted on a student loan.

Additional detail has been added regarding the existing state law prohibition on age discrimination.

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

HB 3 amended several provisions on criminal history. The bill:

- Clarifies that districts of innovation (DOI) are subject to Education Code provisions relating to criminal history records and may have their DOI status terminated for failing to provide requested information to TEA.
- Expands the criminal history for which a district must refuse to hire an applicant to include deferred adjudication community supervision for an offense requiring registration as a sex offender or conviction of a Title 5 felony if the victim was a minor.

DC(LEGAL) EMPLOYMENT PRACTICES

Several bills affect this legally referenced policy on employment practices:

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- HB 3 requires a district to refuse to hire a person listed on TEA's registry of persons who are not eligible to be employed in public schools and those under investigation.
- SB 2073 allows a district anticipating fewer than 180 days of instruction to reduce proportionally the minimum days of service for an educator to below 187 days. A reduction in days of service does not reduce salary.
- SB 1230 adds obtaining employment at a private school to the prohibition on assisting a person in obtaining employment if the person previously engaged in misconduct with a minor.

TEA has published a video explaining the HB 3 do-not-hire registry, available at https://tea.texas.gov/About_TEA/Government_Relations_and_Legal/Government_Relations/House_Bill_3.

DEA(LEGAL) COMPENSATION AND BENEFITS: COMPENSATION PLAN

A new provision has been added from HB 3 triggering compensation increases when the basic allotment increases from the prior year.

DEAA(LEGAL) COMPENSATION PLAN: INCENTIVES AND STIPENDS

HB 3 adds a local optional teacher designation system under which the district may receive an allotment for teachers designated as master, exemplary, or recognized. Master teacher grant programs have been deleted in accordance with SB 1376.

New requirements for optional mentor teacher programs are from HB 3.

Please note: Districts that choose to provide incentives to teachers who complete autism training must adopt a policy in accordance with HB 3.

DEB(LEGAL) COMPENSATION AND BENEFITS: FRINGE BENEFITS

HB 872 revises the information a district must provide to the Employees Retirement System when a peace officer is killed in the line of duty.

Note that SB 2, effective January 1, 2020, prohibits the board from decreasing the total compensation of a first responder, including a peace officer, employed by the district in the fiscal year beginning in 2020. This provision is not reflected in policy due to its temporary effect.

DEC(LEGAL) COMPENSATION AND BENEFITS: LEAVES AND ABSENCES

Some provisions on jury duty have been moved to DG(LEGAL).

DF(LEGAL) TERMINATION OF EMPLOYMENT

HB 3 expands the criminal history for which a district must discharge an employee to include deferred adjudication community supervision for an offense requiring registration as a sex offender or conviction of a Title 5 felony if the victim was a minor.

HB 3 requires a district to discharge a person listed on TEA's registry of persons who are not eligible to be employed in public schools and those under investigation.

DG(LEGAL) EMPLOYEE RIGHTS AND PRIVILEGES

Several bills affect this legally referenced policy on employee rights and privileges:

- HB 621 amends the prohibition on employer retaliation against a professional for a good faith report of child abuse or neglect to include defined adverse employment actions.

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- HB 4310 prohibits a district from penalizing a teacher who does not follow the scope and sequence for a required curriculum subject if the teacher determines that students need more or less time to demonstrate proficiency in the TEKS.
- SB 370 and HB 504 prohibit certain negative actions against an employee who serves as a juror or grand juror.

DH(LEGAL) EMPLOYEE STANDARDS OF CONDUCT

In accordance with SB 944, a current or former district employee who maintains public information on a privately owned device must forward or transfer the information to the district or preserve the public information in its original form in a backup or archive and on the device for the relevant retention period.

HB 1143 prohibits a district from regulating the manner in which a handgun, firearm, or ammunition is stored in a locked vehicle in a school parking area, provided the item is not in plain view.

DHB(LEGAL) EMPLOYEE STANDARDS OF CONDUCT: REPORTS TO STATE BOARD FOR EDUCATOR CERTIFICATION

HB 3 clarifies that reports to SBEC of educator misconduct may be filed through the new SBEC internet portal.

SB 1476 creates an exception to a superintendent's obligation to report educator misconduct to SBEC if, before the educator's termination or resignation, the superintendent completes an investigation and determines the educator did not engage in the alleged misconduct specified in law.

DHC(LEGAL) EMPLOYEE STANDARDS OF CONDUCT: REPORTS TO TEXAS EDUCATION AGENCY

As reflected in this new policy, HB 3 establishes a procedure for reporting noncertified employee misconduct to TEA that mirrors required reporting of certified employee misconduct to SBEC.

DMA(LEGAL) PROFESSIONAL DEVELOPMENT: REQUIRED STAFF DEVELOPMENT

New staff development is required in the areas of:

- Prevention techniques for and recognition of sex trafficking of children (HB 111);
- Implementation of trauma-informed care (SB 11);
- Test administration procedures (Administrative Code rules, effective April 23, 2019);
- Cybersecurity (HB 3834);
- Early literacy through attending teacher literacy academies (HB 3);
- Concussion training for school nurses on the concussion oversight team (HB 961); and
- Seizure recognition and related first aid for school nurses and certain other district employees (HB 684).

SB 1376 makes the UIL responsible for conducting extracurricular activity safety training.

DNA(LEGAL) PERFORMANCE APPRAISAL: EVALUATION OF TEACHERS

Several bills affect this legally referenced policy on teacher evaluation:

- HB 3 clarifies that an appraisal must be done at least once *for* each school year rather than *during* each school year.

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- SB 1451 provides that a district may not assign a teacher a deficiency solely on the basis of disciplinary referrals done for discretionary removal from the classroom.
- Details on the disclosure requirements for evaluations as revised by SB 1230 have been moved to GBA.

Other changes are to better match statute.

DNB(LEGAL) PERFORMANCE APPRAISAL: EVALUATION OF CAMPUS ADMINISTRATORS

Details on the disclosure requirements for evaluations as revised by SB 1230 have been moved to GBA. Other changes are to better match statute.

DP(LEGAL) PERSONNEL POSITIONS

A principal is required by HB 3 to notify the superintendent within seven business days after the date of a noncertified employee's termination or resignation following allegations of certain conduct.

EA(LEGAL) INSTRUCTIONAL GOALS AND OBJECTIVES

Board-adopted early childhood literacy and mathematics proficiency plans and college, career, and military readiness plans are required by HB 3.

EB(LEGAL) SCHOOL YEAR

If a district requires each educator to attend an approved school safety training course, SB 11 requires the commissioner to provide for a waiver, allowing for fewer required minutes of instruction.

EC(LEGAL) SCHOOL DAY

A funding provision for prekindergarten grant programs repealed by HB 3 has been deleted.

EEB(LEGAL) INSTRUCTIONAL ARRANGEMENTS: CLASS SIZE

Based on HB 3, references to the High-Quality Prekindergarten Grant Program have been removed, as it is no longer a grant program.

EEM(LEGAL) INSTRUCTIONAL ARRANGEMENTS: JUVENILE RESIDENTIAL FACILITIES

Funding provisions for students the district serves in a juvenile residential facility have been revised by HB 3.

EF(LEGAL) INSTRUCTIONAL RESOURCES

A district must provide printed versions of relevant electronic instructional materials for a student who does not have reliable access to technology at home (HB 391). The district is not required to purchase print editions of these materials for this purpose.

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

Several bills affect this legally referenced policy on required instruction:

- SB 11 revises the health curriculum to include various mental health topics and requires the SBOE to adopt rules for districts to incorporate digital citizenship into their curriculum.

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- When adopting a scope and sequence for a required curriculum subject, a district must ensure sufficient time is provided for teaching the TEKS (HB 4310).
- The duties of the School Health Advisory Committee (SHAC) were expanded by SB 435 and SB 11 to include the topics of suicide, opioid and other substance abuse, and other mental health items.
- SB 1376 repeals the requirement for districts to distribute TEA information on steroids, but districts are still required to notify students of the prohibition on nonmedical use of steroids by posting information, as explained at FNCF.
- HB 1026 requires a district to adopt a character education program.

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

Kindergarten through third grade reading program requirements have been added from HB 3. The bill requires the use of a phonics curriculum and integration of reading instruments to diagnose reading development and comprehension.

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

A district may allow concurrent enrollment in Algebra I and geometry (SB 1374).

EHBA(LEGAL) SPECIAL PROGRAMS: SPECIAL EDUCATION

SB 1376 repeals the Education Code provision that required a district that entered into a shared services arrangement to receive commissioner approval for the arrangement.

EHBAC(LEGAL) SPECIAL EDUCATION: STUDENTS IN NONDISTRICT PLACEMENT

SB 1376 repeals the Education Code provision that required a district that entered into a shared services arrangement to receive commissioner approval for the arrangement.

EHBAE(LEGAL) SPECIAL EDUCATION: PROCEDURAL REQUIREMENTS

Provisions on surrogate parents were revised by HB 1709.

EHBB(LEGAL) SPECIAL PROGRAMS: GIFTED AND TALENTED STUDENTS

Changes from HB 3 require a district to adopt a policy regarding the use of funds to support the district's gifted and talented (GT) program. The bill also requires a district to certify each year to the commissioner that the district's GT program is consistent with the state GT plan and report to the commissioner on the use of funds for the district's GT program.

EHBC(LEGAL) SPECIAL PROGRAMS: COMPENSATORY/ACCELERATED SERVICES

There were numerous legislative changes to the provisions on compensatory education.

Districts are required by HB 3 to provide TEA each student's residential census block, which will be factored into the compensatory education allotment. Calculation details for the allotment have been removed.

Dropout prevention plans are due by December 1 of each year per HB 3.

The definition of a student who is at-risk of dropping out of school has been revised to address students who:

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- Have been incarcerated or who have a parent or guardian who has been incarcerated within the student's lifetime (SB 1746); and
- Participate in an adult high school diploma and industry certification charter school program (HB 1051).

TEA has published a video explaining the HB 3 compensatory education changes, available at https://tea.texas.gov/About_TEA/Government_Relations_and_Legal/Government_Relations/House_Bill_3.

EHBF(LEGAL) SPECIAL PROGRAMS: CAREER AND TECHNICAL EDUCATION

Provisions on reimbursements to districts for certification examinations taken by students in career and technology have been added based on HB 3.

TEA has published a video explaining the HB 3 changes on exam reimbursements, available at https://tea.texas.gov/About_TEA/Government_Relations_and_Legal/Government_Relations/House_Bill_3.

EHBG(LEGAL) SPECIAL PROGRAMS: PREKINDERGARTEN

SB 1679 provides that an eligible three-year-old prekindergarten student remains eligible for enrollment in the following year.

Other changes to prekindergarten programs are from HB 3. Among other changes, if a district operates a prekindergarten program for eligible children who are at least four years of age, the district must provide full-day prekindergarten that meets high-quality prekindergarten program standards (absent an exemption). For children under four years of age, a district still has the option to operate prekindergarten on a half-day basis or offer full-day prekindergarten with local funding or on a tuition basis. In addition, a program for children who are at least four years of age must comply with the High Quality Prekindergarten Program standards.

TEA has published a video explaining the HB 3 prekindergarten changes, available at https://tea.texas.gov/About_TEA/Government_Relations_and_Legal/Government_Relations/House_Bill_3.

EHBK(LEGAL) SPECIAL PROGRAMS: OTHER INSTRUCTIONAL INITIATIVES

Two mandatory recognition events have been added: Texas Girls in STEM Day is on March 1 (HB 3435), and Holocaust Remembrance Week will be on a date designated by the governor (SB 1828).

Provisions on character education are now mandatory, not optional, and have been moved to EHAA (HB 1026).

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

The requirements for dual credit program agreements with institutions of higher education were modified by HB 3650 and SB 1276.

EIC(LEGAL) ACADEMIC ACHIEVEMENT: CLASS RANKING

HB 539 addresses the issue that districts with very small graduating classes do not create a top ten percent for purposes of the automatic college admissions law. This bill requires Texas public universities to admit valedictorians who meet the requirements in law.

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EIF(LEGAL) ACADEMIC ACHIEVEMENT: GRADUATION

SB 213 extends expiration dates from September 1, 2019, to September 1, 2023, for provisions on individual graduation committees and provisions authorizing districts to award a high school diploma to eligible students who entered grade 9 before the 2011–12 school year and have not performed satisfactorily on the relevant exit-level test.

On request of the parent, districts must issue a high school diploma posthumously to each student who dies while enrolled in the district in accordance with HB 638. The diploma may not be issued before the school year in which the student was expected to graduate.

SB 232 requires districts to inform parents of a high school student that the student is not required to complete Algebra II to graduate, but that not completing the course may have negative consequences for automatic college admission and for certain financial aid. The notice must be by regular mail or email.

HB 678 allows a student to satisfy one of the two required credits in languages other than English by successfully completing an elementary school course in American Sign Language.

Provisions on endorsements for students in special education were revised by HB 165.

EK(LEGAL) TESTING PROGRAMS

HB 3 amends the tests that high school students may take in grade 11 or 12 at state cost to include the Texas Success Initiative.

Revised Administrative Code rules effective July 22, 2019, clarify current law limiting administration of locally required assessments designed to prepare students for state assessments. The revised rule explains what constitutes an assessment instrument designed to prepare students for state-administered assessment instruments.

EKB(LEGAL) TESTING PROGRAMS: STATE ASSESSMENT

HB 3906 prompted changes regarding the use of technology in state assessments for mathematics and administration of assessments in kindergarten and prekindergarten.

Administrative Code rules amended effective April 23, 2019, significantly revised the provisions on test security and confidentiality.

Other revisions are to better reflect statute.

EL(LEGAL) CAMPUS OR PROGRAM CHARTERS

HB 3 provides that a charter campus or program must comply with the listed Education Code provisions regarding the duty to discharge or refuse to hire certain employees or applicants.

F(LEGAL) STUDENTS

A new policy, FFBA on trauma-informed care, has been added to the F section table of contents.

FB(LEGAL) EQUAL EDUCATIONAL OPPORTUNITY

This legally referenced policy on equal educational opportunity has been updated to include a provision from SB 1978 that prohibits a district from taking any adverse action against a person based on the person's membership in, affiliation with, or contribution, donation, or other support provided to a religious organization. Other changes are to better match statutory wording.

FD(LEGAL) ADMISSIONS

Several bills affected student admissions:

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- SB 668 clarifies the definition of students who are homeless.
- A new provision from HB 2526 provides that a person is eligible for admission if the person and either parent reside in a residence homestead on property any part of which is located in the district.
- HB 1597 adds proof of eligibility provisions for a person whose parent is in the armed services and the parent provides a military order for a transfer to a military installation in or adjacent to the district's attendance zone. Proof of residency in the district's attendance zone must then be provided within ten days of the arrival date in the military order.
- Provisions on the foundation school program were affected by HBs 3 and 1051.

FDC(LEGAL) ADMISSIONS: HOMELESS STUDENTS

Throughout, terminology has been changed from "homeless students" to "students who are homeless" in accordance with SB 668.

FEB(LEGAL) ATTENDANCE: ATTENDANCE ACCOUNTING

HB 3 allows, rather than requires as under existing law, the commissioner to adjust ADA of a district located in an area declared a disaster by the governor if the district experiences a decline in ADA that is reasonably attributable to the disaster.

FED(LEGAL) ATTENDANCE: ATTENDANCE ENFORCEMENT

Provisions on funding of the position of juvenile case manager have been updated based on SB 346. Other changes add existing statutory text.

FFAC(LEGAL) WELLNESS AND HEALTH SERVICES: MEDICAL TREATMENT

Several legislative changes have been incorporated, including:

- A prohibition on a district regulating the sale, distribution or possession of dextromethorphan (certain cold medicine) (HB 1518);
- Deletion of the requirement for a district to notify the commissioner following administration of an unassigned epinephrine auto-injector (SB 668); and
- New provisions permitting a district to adopt and implement a policy authorizing a school nurse to maintain and administer unassigned asthma medication (HB 2243). Sample administrative provisions are available in the *TASB Regulations Resource Manual*.

Also added is an existing statutory provision prohibiting a district from enacting, adopting, or enforcing a rule or regulation that prohibits the possession of low-THC cannabis as authorized by the Texas Compassionate Use Act in the Health and Safety Code.

FFAD(LEGAL) WELLNESS AND HEALTH SERVICES: COMMUNICABLE DISEASES

The Department of State Health Services rather than TEA must now prescribe the procedures for districts to use when distributing information on bacterial meningitis (HB 3884).

FFAF(LEGAL) WELLNESS AND HEALTH SERVICES: CARE PLANS

SB 869 requires a district's policy on food allergies to be consistent with the Texas Department of State Health Services' *Guidelines for the Care of Students with Food Allergies At-Risk for Anaphylaxis*. The bill requires the board to post a summary of the *Guidelines* on the district's website and include information on how to obtain the full document. Likewise, forms addressing food allergies must include information about the *Guidelines*. Relevant materials in the *TASB Regulations Resource Manual* have been updated.

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Provisions on seizure management and treatment plans are from HB 684 and allow a parent to submit a seizure management plan to the district to address health-care services the student may receive at school or school activities.

FFB(LEGAL) STUDENT WELFARE: CRISIS INTERVENTION

SB 11 includes provisions on the threat assessment and safe and supportive school team that districts must establish to serve each campus and the process the teams will use in evaluating individuals and students who make threats of violence or exhibit harmful, threatening, or violent behavior. The teams must receive training and report specific information to TEA. The board must adopt a policy addressing specific elements.

SB 11 also permits districts to provide parents relevant information on various mental health topics.

FFBA(LEGAL) CRISIS INTERVENTION: TRAUMA-INFORMED CARE

SB 11 requires boards to adopt and implement a policy on the implementation of trauma-informed care practices in each school environment. The policy must also address:

- Increasing staff and parent awareness of trauma-informed care, including required training for educators;
- Implementation of trauma-informed practices and care by district and campus staff; and
- Available counseling options for students affected by trauma or grief.

Districts must report to TEA on compliance with the training provisions.

FFE(LEGAL) STUDENT WELFARE: STUDENT ASSISTANCE PROGRAMS/COUNSELING

This legally referenced policy on student assistance programs has been updated to include existing legal provisions on consent for services provided by a licensed specialist in school psychology.

FFG(LEGAL) STUDENT WELFARE: CHILD ABUSE AND NEGLECT

The district improvement plan and any informational handbook provided to students and parents must include the district's policy on addressing sexual abuse, sex trafficking, and other maltreatment of children (HB 111). Please note that the post-legislative supplement to the *TASB Model Student Handbook* includes provisions and resources to address these topics. The district should include any other details in the district improvement plan and communicate the district's practices and procedures to employees, parents, and students.

HB 621 prohibits a district from taking any adverse employment action against a professional who makes a good faith report of abuse or neglect.

FM(LEGAL) STUDENT ACTIVITIES

Legislation affected several provisions on student activities:

- Certain safety training will be provided by the UIL rather than districts (SB 1376).
- A school nurse may be a member of the district's concussion oversight team and is authorized to remove an affected student from practices or competition (HB 961).
- A district must provide information about sudden cardiac arrest and electrocardiogram testing to a student who is required by UIL to submit a physical examination certification (HB 76).

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Administrative Code rules amended effective May 1, 2019, permit a district to allow a student who is ineligible to participate in an extracurricular activity and who is enrolled in a state-approved music course that participates in UIL Concert and Sight-Reading Evaluation to perform with the ensemble during the UIL evaluation performance only.

FNCC(LEGAL) STUDENT CONDUCT: PROHIBITED ORGANIZATIONS AND HAZING

SB 38 amends the Education Code definition of hazing.

FNCE(LEGAL) STUDENT CONDUCT: PERSONAL TELECOMMUNICATIONS/ELECTRONIC DEVICES

A district must allow a student to use a graphing calculator application on an electronic device when the student is enrolled in a course that requires the use of a graphing calculator, unless the district provides students the use of one at no cost (HB 3906).

FNCG(LEGAL) STUDENT CONDUCT: WEAPONS

Provisions on clubs and knuckles were revised based on HB 446, which removes clubs from the Penal Code offense regarding unlawfully carrying a weapon outside of one's premises or vehicle. The bill also removes knuckles from the list of prohibited weapons in Penal Code 46.05.

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

Unless limited by a court order, a parent appointed as a conservator of a child always has the right to attend school activities, including school lunches, performances, and field trips (HB 3145).

FO(LEGAL) STUDENT DISCIPLINE

Several general discipline provisions were affected by legislation:

- A student’s status as homeless or in the conservatorship of DFPS was added to the list of mitigating factors the district must consider in making certain disciplinary decisions (HB 811).
- The law enforcement duties of various security personnel must be included in the Student Code of Conduct (SB 1707).
- District websites must include contact information for the campus behavior coordinator or other relevant administrator (SB 1306).
- Districts must provide foundation curriculum coursework to students assigned to in-school or out-of-school suspension using one option that does not require the use of the internet (HB 3012).
- Aversive techniques listed in the policy that are intended to reduce the likelihood of a behavior recurring by intentionally inflicting significant physical or emotional discomfort or pain may not be used with students (HB 3630 and SB 712).
- A district may not discipline a teacher on the basis of documentation the teacher submitted regarding a student's violation of the student code of conduct (SB 1451).
- Information regarding out-of-school suspensions must be reported to TEA (HB 65).

FOA(LEGAL) STUDENT DISCIPLINE: REMOVAL BY TEACHER OR BUS DRIVER

SB 1451 clarifies that students sent to the campus behavior coordinator's or other administrator's office under a routine referral or a discretionary removal are not considered to have been removed from the

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classroom for purposes of reporting data through PEIMS or other similar reports required by state or federal law.

FOB(LEGAL) STUDENT DISCIPLINE: OUT-OF-SCHOOL SUSPENSION

A district may not place in out-of-school suspension a student who is homeless unless the student engages in certain conduct (HB 692).

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

DAEP placement is required if a student engages in certain forms of harassment against an employee (SB 2432).

In determining whether there is a reasonable belief that a student engaged in felony conduct, a superintendent may not consider additional information requested by the district from law enforcement for the purpose of creating a threat assessment or safety plan (HB 2135).

For clarity, additional details from statute have been added regarding terms of removal.

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

HB 2184 creates mandatory procedures and notice requirements for a student's transition to the regular classroom from an alternative education program, as defined by the bill.

Documents in the *TASB Regulations Resource Manual* have been updated to address HB 2184.

FOD(LEGAL) STUDENT DISCIPLINE: EXPULSION

An existing statutory provision addressing appeals of expulsion decisions has been added.

FODA(LEGAL) EXPULSION: JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

HB 3012 permits court-ordered placement in a JJAEP for terroristic threats.

GA(LEGAL) ACCESS TO PROGRAMS, SERVICES, AND ACTIVITIES

A provision has been added from SB 1978 that prohibits a district from taking any adverse action (as defined in the policy) against a person based on the person's membership in, affiliation with, or contribution, donation, or other support provided to a religious organization.

GB(LEGAL) PUBLIC INFORMATION PROGRAM

In accordance with SB 944, a current or former district officer or employee who maintains public information on a privately owned device must forward or transfer the information to the district or preserve the public information in its original form in a backup or archive and on the device for the relevant retention period. An employee may be disciplined for failure to comply.

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

Provisions on public information have been revised, including those addressing release of:

- Certain contracting information (SB 943);

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- Evaluations (SB 1230);
- Information regarding the location or physical layout of certain shelter centers (HB 3091);
- Protected health information and out-of-state health-care provider information (SB 944);
- Information on applicants for disaster recovery funds (HB 3175);
- Information that would provide an advantage to competitors or bidders (SB 943);
- Expenditures for parades, concerts, or other entertainment events (HB 81); and
- Certain commercial, financial, and proprietary information (SB 943).

GBAA(LEGAL) INFORMATION ACCESS: REQUESTS FOR INFORMATION

Legislation affected multiple provisions on requests for information, including:

- Duties of the officer for public information (SB 944);
- Methods for requesting information (SB 944);
- Requests for contracting information not maintained by the district (SB 943);
- Requests for an attorney general decision (SBs 943 and 944); and
- Temporary suspension of the Public Information Act by the board of a district currently impacted by a catastrophe (SB 494).

Other revisions are to better reflect statutory wording.

GKA(LEGAL) COMMUNITY RELATIONS: CONDUCT ON SCHOOL PREMISES

HB 1552 clarifies who is a retired law enforcement officer for Penal Code 46.03, which prohibits weapons in certain places.

Districts may no longer regulate the manner in which a handgun, firearm, or ammunition is stored in a locked vehicle in a district parking area, provided the item is not in plain view (HB 1143).

HB 1791 broadens existing provisions that limit a district from providing unauthorized notice that handguns are prohibited.

GNB(LEGAL) RELATIONS WITH EDUCATIONAL ENTITIES: REGIONAL EDUCATION SERVICE CENTERS

HB 3 revises the core services that education service centers are required to provide to include training and assistance regarding instruction in personal financial literacy, gifted and talented programs, and programs that qualify for a funding allotment.

GRAA(LEGAL) STATE AND LOCAL GOVERNMENTAL AUTHORITIES: LAW ENFORCEMENT AGENCIES

Information about arrests of students provided to districts from law enforcement agencies must include sufficient information for the district to determine whether it is necessary to conduct a threat assessment or prepare a safety plan for the student (SB 2135). In addition, a superintendent may request information for the purpose of conducting a threat assessment or preparing a safety plan.

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GRAA(EXHIBIT) STATE AND LOCAL GOVERNMENTAL AUTHORITIES: LAW ENFORCEMENT AGENCIES

This exhibit has been deleted, as the list of offenses principals must report to local law enforcement authorities is included in GRAA(LEGAL).

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

When a district provides educational services to a student who resides in a state hospital, HB 2210 specifies the elements of the memorandum of understanding between the hospital and district.

GRC(LEGAL) RELATIONS WITH GOVERNMENTAL ENTITIES: EMERGENCY MANAGEMENT

Provisions on emergency management training have been deleted as they are not applicable to school districts.

Definitions

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

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

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

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

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

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

19 TAC 102.1301

District of Innovation

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

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

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

Education Code 12A.001; 19 TAC 102.1303

Public Hearing

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

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

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

Education Code 12A.002; 19 TAC 102.1305

Local Innovation Plan

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

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

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

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

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

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

Prohibited Exemptions

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

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

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1. A state or federal requirement, imposed by statute or rule, applicable to an open-enrollment charter school operating under Education Code Chapter 12, Subchapter D, including, but not limited to, the requirements listed in Education Code 12.104(b), and:
    a. Education Code Chapter 22, Subchapter B;
    b. Education Code Chapter 25, Subchapter A, sections 25.001, .002, .0021, .0031, and .004;
    c. Education Code Chapter 28, sections 28.002, .0021, .0023, .005, .0051, .006, .016, .0211, .0213, .0217, .025, .0254, .02541, .0255, .0258, .0259, and .026;
    d. Education Code Chapter 29, Subchapter G;
    e. Education Code Chapter 30, Subchapter A;
    f. Education Code 30.104;
    g. Education Code Chapter 34;
    h. Education Code Chapter 37, sections 37.006(l), .007(e), .011, .012, .013, and .020; and
    i. Education Code Chapter 39;
2. Education Code Chapter 11, Subchapters A, C, D, and E, except that a district may be exempt from Education Code 11.1511(b)(5) and (14) and 11.162;
3. Education Code Chapter 13;
4. Education Code Chapter 41;
5. Education Code Chapter 42;
6. Education Code Chapter 44, sections 44.0011, .002, .003, .004, .0041, .005, .0051, .006, .007, .0071, .008, .009, .011, .0312, .032, .051, .052, .053, and .054;
7. Education Code Chapter 45, sections 45.003, .0031, .005, .105, .106, .202, and .203; and
8. Education Code Chapter 46.

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

1. A requirement of a grant or other state program in which the district voluntarily participates;

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2. Duties that the statute applies to the execution of that power if a district chooses to implement an authorized power that is optional under the terms of the statute; and

3. Requirements imposed by provisions outside the Education Code, including requirements under Government Code Chapter 822.

19 TAC 102.1309; Education Code 12A.004

Adoption of Local Innovation Plan

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

1. The final version of the proposed plan has been available on the district's website for at least 30 days;

2. The board has notified the commissioner of the board's intention to vote on adoption of the proposed plan; and

3. The district-level committee [see BQA] has held a public meeting to consider the final version of the proposed plan and has approved the plan by a majority vote of the committee members. The public meeting may occur at any time, including up to or on the same date at which the board intends to vote on final adoption of the proposed plan.

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

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

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

A district's exemption under the plan includes any subsequent amendment or redesignation of an identified state requirement, unless the subsequent amendment or redesignation specifically applies to an innovation district.

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

Education Code 12A.005; 19 TAC 102.1307

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Notice to TEA	Not later than the 15th day after the date on which the board finalizes a local innovation plan either through adoption, amendment, or renewal, the district shall provide a copy of the current local innovation plan to TEA, which shall promptly post the current local innovation plan on the agency's website. *Education Code 12A.0071(b); 19 TAC 102.1307(g)*
Term	The term of a district's designation as a district of innovation may not exceed five years and is effective upon district approval and notification of the plan to the Texas Education Agency (TEA). A district may only have one innovation plan at any given time. *Education Code 12A.006; 19 TAC 102.1311*
Amendment, Rescission, or Renewal of Local Innovation Plan	A local innovation plan may be amended, rescinded, or renewed if the action is approved by a vote of the district-level committee [see BQA] and a two-thirds majority vote of the board of trustees. An amendment to an approved plan does not change the date of the term of designation as an innovation district. Exemptions that were already formally approved are not required to be reviewed. A district must notify TEA within five business days of rescission and provide a date at which time it will be in compliance with all sections of the Education Code, but no later than the start of the following school year. During renewal, all sections of the plan and exemptions shall be reviewed, and the district must follow all components outlined in 19 Administrative Code 102.1307 relating to Adoption of Local Innovation Plans. The district shall notify the commissioner of any actions taken along with the associated exemptions and local approval dates. *Education Code 12A.007; 19 TAC 102.1313*
Website Posting	A district designated as a district of innovation shall ensure that a copy of the district's current local innovation plan is available to the public by posting and maintaining the plan in a prominent location on the district's internet website. *Education Code 12A.0071(a); 19 TAC 102.1307(f)* The district's innovation plan must be clearly posted on the district's website for the term of the designation as an innovation district. *19 TAC 102.1307(f)*
Criminal History Background Checks	A prohibition, restriction, or requirement imposed by Education Code Chapter 22, Subchapter C (district employee and volunteer criminal history records), applies to the same extent to a district of innovation or other charter entity.

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The failure of a district of innovation to provide information required under Education Code 22.0832 (National Criminal History Record Information Review of Certain Open-Enrollment Charter School Employees) may result in termination of the district's designation as a district of innovation.

Education Code 22.0815

Termination by Commissioner

Discretionary Termination

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

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

Instead of terminating a district's designation, the commissioner may permit the district to amend the local innovation plan to address concerns specified by the commissioner.

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

The commissioner may terminate a district's designation as a district of innovation if the district fails to comply with the duty to discharge or refuse to hire certain employees or applicants for employment under Education Code 12.1059. *Education Code 12A.008(b-1)* [See DBAA]

Mandatory Termination

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

1. A final unacceptable academic performance rating under Education Code 39.054;
2. A final unacceptable financial accountability rating under Education Code 39.082; or
3. Any combination of one or more unacceptable ratings Education Code 39.054 and one or more unacceptable ratings under Education Code 39.082.

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

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No Appeal	The commissioner's decision to terminate a district's designation as a district of innovation is final and may not be appealed. *Education Code 12A.008(d); 19 TAC 102.1315(d)*

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A district may choose to operate under a home-rule charter. Adoption of a home-rule charter does not affect:

1. The district's boundaries.
2. Taxes or bonds of the district authorized before the effective date of the charter.

Education Code 12.0011, .011

Powers of Home-Rule District

A home-rule district has the powers and entitlements granted to school districts and school district boards, including taxing authority. A home-rule district is subject to federal and state laws and rules governing school districts except:

1. A home-rule district is subject to the Education Code only to the extent a provision of the Education Code specifically provides for the applicability to a home-rule district;
2. A home-rule district is subject to a rule adopted by the State Board of Education (SBOE) or the commissioner of education only if the code provision authorizing the rule specifically applies to a home-rule district; and
3. A home-rule district is subject to all requirements of federal law and applicable court orders relating to eligibility for and the provision of special education and bilingual programs.

Nondiscrimination

The above statements do not permit a home-rule district to discriminate against a student who has been diagnosed as having a learning disability, including dyslexia or attention deficit/hyperactivity disorder. Prohibited discrimination includes denial of placement in a gifted and talented program if the student would otherwise be qualified for the program but for the student's learning disability.

The above statements do not permit a home-rule district to, on the basis of race, socioeconomic status, learning disability, or family support status, place a student in a program other than the highest level program necessary to ensure the student's success.

Education Code 12.012(a), (c)

Charter Commission

A board shall appoint a charter commission to frame a home-rule school district charter if:

1. The board receives a petition requesting the appointment of a charter commission signed by at least five percent of the district's registered voters; or
2. At least two-thirds of the total membership of the board adopts a resolution ordering the appointment of a charter commission.

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The board must appoint the commission by the 30th day after receipt of the petition or adoption of the resolution.

The commission must complete the proposed charter not later than the first anniversary of the date of the commission's appointment. After that date, the commission expires and the appointment of the commission is void.

Education Code 12.014, .015(a), (c)

Membership

The charter commission shall consist of 15 district residents. The membership must reflect the racial, ethnic, socioeconomic, and geographic diversity of a district. A majority of the commission members must be parents of school-age children attending public school. At least 25 percent of the commission must be classroom teachers selected by representatives of the professional staff as provided by the planning process under Education Code 11.251(e). [See BQ series] *Education Code 12.015(a)–(b)*

Governmental Body

The charter commission is considered a governmental body for purposes of Government Code Chapters 551 (Open Meetings Act) and 552 (Public Information Act). *Education Code 12.015(d)*

Content of Home-Rule Charter

The home-rule charter must:

1. Describe the educational program to be offered.
2. Provide that continuation of the charter is contingent on:
    a. Acceptable student performance on assessment instruments.
    b. Compliance with other applicable accountability provisions.
3. Specify any basis, in addition to a basis specified at Education Code Chapter 11, Subchapter B, on which the charter may be placed on probation or revoked.
4. Describe the governing structure of the district and campuses.
5. Specify any procedure or requirement, in addition to those at Education Code Chapter 38 [see FF series], the district will follow to ensure the health and safety of students and employees.
6. Describe the process by which the district will adopt an annual budget, including the use of program-weight funds.
7. Describe how the annual audit of the district's financial and programmatic operations will be conducted, including how the district will provide the necessary information to participate in

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the Public Education Information Management System (PEIMS).

8. Include any other provision the charter commission considers necessary.

Education Code 12.016

Review by Commissioner of Education

The charter commission shall submit the proposed charter to the commissioner of education. The commissioner shall review the charter for compliance with applicable laws and recommend any necessary modifications. If the commissioner does not act within 30 days after the date the commissioner receives the proposed charter, the charter is approved. *Education Code 12.018*

Charter Elections

As soon as practicable after the commissioner approves the charter, a board shall order an election on the proposed charter. The election shall be held on the first uniform election date that occurs at least 45 days after the date the board orders the election.

At least three copies of the proposed charter must be available in the office at each school campus and at the district's central administrative office between the date of the election order and election day. Notice of the election must include a statement of where and how copies may be obtained or viewed. A summary of the proposed charter shall be attached to each copy. The summary shall also be made available to district employees, parents, community members, and the media.

The ballot shall be written to permit voting for or against the proposition: "Whether the (name of district) shall be governed under the home-rule district charter, which is proposed by a charter commission appointed by the board and under which only certain laws and rules apply to the district."

Education Code 12.019

Minimum Voter Turnout

An election on the adoption of a proposed home-rule charter has no effect unless at least 25 percent of the registered voters of the district vote in the election.

If the required number of voters does not vote in the election, the board shall order another election to be held on the first uniform election date:

1. That occurs at least 45 days after the election is ordered, and
2. On which one or more elections are to be held, the combination of which covers all the territory of the district.

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If the required number of voters does not vote in the election, a board may continue to order elections until the required minimum is achieved.

Education Code 12.022

Charter Amendments

A home-rule charter may be amended pursuant to Education Code 12.020 and .022(b).

Adoption of Charter or Amendment

Subject to Education Code 12.022 (minimum voter turnout), the proposed charter or amendment is adopted if approved by a majority of the qualified voters of the district voting in the election. The charter or amendment shall specify an effective date and takes effect according to its terms when the board enters an order declaring the charter or amendment adopted. The board shall enter the order not later than the tenth day after the date the canvass of the election returns is completed.

As soon as practicable after a district adopts the charter or amendment, the board shall notify the commissioner of the outcome of the election.

Education Code 12.021

Certification of Charter

As soon as practicable after the charter or amendment is adopted, the board president shall certify to the secretary of state a copy of the charter or amendment showing voter approval. The secretary of state shall file and record the certification. A recorded charter or amendment is a public act. A court shall take judicial notice of a recorded charter or amendment and proof is not required of its provisions. *Education Code 12.023, .024*

Governance of Home-Rule District

A home-rule district may adopt and operate under any governing structure. The home-rule district may create offices, determine the time and method for selecting officers, and prescribe the qualifications and duties of officers. The term of any officer shall be three or four years, as determined under Education Code 11.059. *Education Code 12.025*

Change in Governing Body

If the adoption, amendment, or revocation of a home-rule school district charter changes the structure of the board, the members serving on the date the adoption, amendment, or revocation takes effect shall continue in office until their successors have been chosen and have qualified for office. *Education Code 12.026*

Requirements Under Education Code

A home-rule district is subject to:

1. Provisions of the Education Code establishing a criminal offense.

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2. Provisions of the Education Code relating to limitations on liability.

3. Prohibitions, restrictions, or requirements relating to:

   a. PEIMS, as determined by the commissioner.

   b. Educator certification under Education Code Chapter 21 and educator rights under Education Code 21.407, .408, and 22.001. [See CFEA, DGA]

   c. Criminal history records under Education Code Chapter 22, Subchapter C. [See DBAA]

   d. Student admissions under Education Code 25.001. [See FD]

   e. School attendance under Education Code 25.085~~–28.~~ .087. [See FEA]

   f. Interdistrict transfers under Education Code Chapter 25, Subchapter B. [See FDA]

   g. Elementary class-size limits, in the case of any campus that fails to satisfy any standard under Education Code 39.054(e). [See EEB]

   h. High school graduation under Education Code 28.025. [See EIF]

   i. Special education programs under Education Code Chapter 29, Subchapter A. [See EHBA series]

   j. Bilingual education under Education Code Chapter 29, Subchapter B. [See EHBE]

   k. Prekindergarten programs under Education Code Chapter 29, Subchapter E. [See EEL, EHBG]

   l. Safety provisions relating to the transportation of students under Education Code 34.002–.004 and .008. [See CNA, CNB, CNC]

   m. Computation and distribution of state aid under Education Code Chapters 31, ~~42~~43, and ~~43~~48.

   n. Extracurricular activities under Education Code 33.081. [See FM]

   o. Health and safety under Education Code Chapter 38. [See FF series]

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p. Public school accountability under Education Code Chapter 39, Subchapters B, C, D, and J, and Chapter 39A. [See AI series]

q. ~~Equalized wealth level~~Options for local revenue levels in excess of entitlement under Education Code Chapter ~~41~~49.

r. Bonds or other obligations or tax rates under Education Code Chapters ~~42,~~ 43, 45, and ~~45~~48.

s. Purchasing under Education Code Chapter 44. [See CH]

Education Code 12.013(b)

Employees of Home-Rule Districts

An employee who qualifies for membership in the Teacher Retirement System shall be covered in the same manner and to the same extent as a qualified employee employed by an independent school district. *Education Code 12.012(b)*

Rescission of Charter

A board shall order an election on the question of rescinding the home-rule school district charter if:

1. The board receives a petition requesting a rescission election signed by at least five percent of the registered voters of the district; or
2. At least two-thirds of the board adopts a resolution ordering the election.

Rescission of a home-rule charter does not affect:

1. District boundaries.
2. Taxes or bonds of the district authorized before the effective date of the rescission.

Education Code 12.030(b), (h)

Probation or Revocation of Charter

The SBOE may place a home-rule charter on probation or revoke the charter. *Education Code 12.027, .028; 19 TAC 100.201*

Material Violation

A home-rule district commits a material violation of the district's charter if the district fails to comply with the duty to discharge or refuse to hire certain employees or applicants for employment under Education Code 22.085 or Education Code 22.092. *Education Code 12.0271(a)* [See DBAA]

Status of District in Case of Annexation or Consolidation

If a district is annexed to another district under Education Code Chapter 13, and only one of the districts is a home-rule district, the status of the receiving district shall be the status of both districts following annexation. The petition under Education Code 13.003 must state the status for the consolidated district. *Education Code 12.029*

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District Annual Report

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

Texas Academic Performance Report (TAPR)

The performance report provided by the Texas Education Agency (TEA) under Education Code 39.306 shall be termed the Texas Academic Performance Report (TAPR). The intent of the TAPR is to inform the public about the educational performance of the district and of each campus in the district in relation to the district, the state, and a comparable group of schools. The TAPR will present the campus performance information as well as the student, staff, and financial information required by statute. It will also include any explanations and additional information deemed appropriate to the intent of the report.

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

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

Other Annual Report Information

The annual report must also include:

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

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

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

Education Code 39.306(a)

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

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

The report may include the following information:

1. Student information, including total enrollment, enrollment by ethnicity, socioeconomic status, and grade groupings and retention rates;

2. Financial information, including revenues and expenditures;

3. Staff information, including number and type of staff by sex, ethnicity, years of experience, and highest degree held; teacher and administrator salaries; and teacher turnover;

4. Program information, including student enrollment by program, teachers by program, and instructional operating expenditures by program; and

5. The number of students placed in a disciplinary alternative education program (DAEP) under Education Code Chapter 37.

Education Code 39.306(e)

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

Public Hearing

The board shall hold a hearing for public discussion of the report. The board shall give notice of the hearing to property owners in the district and parents of and other persons standing in parental relation to a district student. The notice of hearing must include notice to a newspaper of general circulation in the district and notice to electronic media serving the district. *Education Code 39.306(c)*

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A board shall hold a hearing for public discussion of the TAPR within 90 days after the report is received from TEA. The hearing may take place during a regularly scheduled or special meeting of the board. *19 TAC 61.1022(c)*

Publication

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

The board shall disseminate the report by posting it on the district website and in public places, such as each school office, local businesses, and public libraries. *Education Code 39.306(c); 19 TAC 61.1022(f)*

Report Uses

The information in the annual report shall be a primary consideration in district and campus planning. It shall also be a primary consideration of the board in the evaluation of the performance of the superintendent, and of the superintendent in the evaluation of the performance of campus principals. *Education Code 39.307*

Campus Performance Report

Each school year, TEA shall prepare and distribute to each district a report card for each campus. The campus report card distributed by TEA shall be termed the "school" report card (SRC). The intent of the SRC is to inform each student's parents or guardians about the school's performance and characteristics. The SRC will present the student, staff, financial, and performance information required by statute, as well as any explanations and additional information deemed appropriate to the intent of the report.

Distribution

The district must disseminate each SRC within six weeks after the SRC is received from TEA. The school may not alter the report provided by TEA; however, it may concurrently provide additional information to the parents or guardians that supplements or explains information in the SRC.

The SRC must be distributed to the parent, guardian, conservator, or other person having lawful control of each student at the campus. On written request, a district shall provide a copy of the SRC to any other party.

The campus administration may provide the SRC in the same manner it would normally transmit official communications to parents and guardians, such as including the SRC in a weekly folder sent home with each student, mailing it to the student's residence, providing it at a teacher-parent conference, enclosing it with the student report card, or sending it via electronic mail.

Education Code 39.305; 19 TAC 61.1021

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Website Notices

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

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

Education Code 39.362

Student Performance Report

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

Notice to Parents

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

Notice to Teachers and Students

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

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

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

Education Code 39.304

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Quality of Learning Indicators

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

The quality of learning indicators must include:

1. The percentage of graduating students who meet the course requirements for the foundation high school program, the distinguished level of achievement under the foundation high school program, and each endorsement described by Education Code 28.025(c-1) [see EIF];
2. The results of the SAT, ACT, and certified workforce training programs;
3. For students who have failed to satisfy the state standard on an assessment, the performance of those students on subsequent assessments, aggregated by grade level and subject area;
4. For each campus, the number of students, disaggregated by major student subpopulations, who take courses under the foundation high school program and take additional courses to earn an endorsement, disaggregated by type of endorsement;
5. The percentage of students, aggregated by grade level, provided accelerated instruction under after unsatisfactory performance on a state assessment; the results of assessment instruments administered under the accelerated instruction program; the percentage of students promoted through the grade placement committee process; the subject of the assessment instrument on which each student failed to perform satisfactorily under each performance standard; and the performance of those students in the school year following that promotion on the state assessments;
6. The percentage of students of limited English proficiency exempted from the administration of an assessment;
7. The percentage of students in a special education program assessed through alternative assessment instruments;
8. The percentage of students who satisfy the college readiness measure;
9. The measure of progress toward dual language proficiency for students of limited English proficiency;

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10. The percentage of students who are not educationally disadvantaged;

11. The percentage of students who enroll and begin instruction at an institution of higher education in the school year following high school graduation; and

12. The percentage of students who successfully complete the first year of instruction at an institution of higher education without needing a developmental education course.

Education Code 39.301

~~**High School Allotment Annual Performance Review**~~

~~At an open meeting of the board of trustees, each district must establish annual performance goals for programs, activities, and strategies implemented with high school allotment funds related to the following performance indicators:~~

~~1. Percentage of students graduating from high school;~~

~~2. Enrollment in advanced courses, including College Board advanced placement courses, International Baccalaureate courses, and dual or college credit courses; and~~

~~3. Percentage of "College-Ready Graduates," as defined by 19 Administrative Code 61.1094(2).~~

~~Annually, the board of trustees of a district must review its progress in relation to the performance indicators specified above. Progress should be assessed based on information that is disaggregated with respect to race, ethnicity, gender, and socioeconomic status.~~

~~A district must ensure that decisions about the continuation or establishment of programs, activities, and strategies implemented with high school allotment funds are based on:~~

~~4. State assessment results and other student performance data;~~

~~5. Standards for success and cost-effectiveness as established by the commissioner under Education Code 39.233(a)(1); and~~

~~6. Guidance for improving high school completion and success and college readiness programs as established by the commissioner under Education Code 39.233(a)(2).~~

~~*19 TAC 61.1099*~~

Performance-Based Monitoring Analysis System

In accordance with Education Code 7.028(a), the purpose of the Performance-Based Monitoring Analysis System (PBMAS) is to report annually on the performance of districts in selected program areas: bilingual education/English as a Second Language, career

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and technical education, special education, and certain Title programs under federal law. The performance of a district is reported through indicators of student performance and program effectiveness and corresponding performance levels established by the commissioner. *19 TAC 97.1005; Education Code 7.028(a)*

Federal Report Card

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

Implementation

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

Minimum Requirements

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

1. In the case of the district, information that shows how students served by the district achieved on state academic assessments compared to students in the state as a whole;
2. In the case of a school, information that shows how the school's students' achievement on state academic assessments compared to students served by the district and the state as a whole; and
3. Any other information that the district determines is appropriate and will best provide parents, students, and other members of the public with information regarding the progress of each public school served by the district, whether or not such information is included in the annual state report card.

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

District Data on Academic Achievement

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

The website must:

1. Include district information, disaggregated by campus, grade, sex, race, academic quarter or semester, as applicable, and school year, regarding the following:

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a. Student academic achievement and growth;

b. Teacher and student attendance; and

c. Student discipline records; and

2. Be updated at least once each quarter of the school year.

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

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

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

Education Code 11.1516

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Interventions and Sanctions for School Districts

The commissioner of education shall take any of the actions authorized by Education Code, Chapter 39A, Subchapter A, to the extent the commissioner determines necessary if:

Grounds for Commissioner Action

1. A district does not satisfy:
    a. The accreditation criteria under Education Code 39.052 [see AIA];
    b. The academic performance standards under Education Code 39.053 or 39.054 [see AIA]; or
    c. Any financial accountability standard as determined by commissioner rule [see CFA]; or
2. The commissioner considers the action to be appropriate on the basis of a special accreditation investigation under Education Code 39.057.

Education Code 39A.001

Authorized Commissioner Actions

If a district is subject to commissioner action, the commissioner may:

1. Issue public notice of the deficiency to the board;
2. Order a hearing to be conducted by the board to notify the public of:
    a. The insufficient performance;
    b. The improvements in performance expected by the Texas Education Agency (TEA); and
    c. The interventions and sanctions that may be imposed if the performance does not improve;
3. Order the preparation of a student achievement improvement plan that addresses each academic achievement indicator under Education Code 39.053(c) for which the district's performance is insufficient, the submission of the plan to the commissioner for approval, and the implementation of the plan;
4. Order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board and the district's superintendent shall appear and explain the district's low performance, lack of improvement, and plans for improvement;
5. Arrange a monitoring review of the district;
6. Appoint a TEA monitor to participate in and report to TEA on the activities of the board or superintendent;

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7. Appoint a conservator to oversee the operations of the district; ~~or~~

8. Appoint a management team to direct the operations of the district in areas of insufficient performance or require the district to obtain certain services under a contract with another person~~.~~; or

9. Authorize the district to enter into a memorandum of understanding with an institution of higher education that provides for the assistance of the institution of higher education in improving the district's performance.

Education Code 39A.002

Regardless of whether the commissioner lowers a district's status or rating, the commissioner may take action under Education Code Chapters 39 and 39A or 19 Administrative Code 97.1057 if the commissioner determines that the action is necessary to improve any area of performance by the district or campus.

Subject to 19 Administrative Code 97.1057(h)–(k), once the commissioner takes action under 19 Administrative Code Subchapter EE (~~regarding~~ accreditation status, standards, and sanctions), the commissioner may impose on the district or campus any other sanction under Education Code Chapter 39 or 39A, or Subchapter EE, singly or in combination, to the extent the commissioner determines is reasonably required to achieve the purposes specified in 19 Administrative Code 97.1053.

19 TAC 97.1057(c), (e)

In making a determination to impose district and campus accreditation sanctions under 19 Administrative Code Chapter 97, Subchapter EE, the commissioner shall meet the requirements of 19 Administrative Code 97.1059. *19 TAC 97.1059*

Conservator or Management Team

The commissioner shall clearly define the powers and duties of a conservator or management team appointed to oversee the operations of a district.

At least every 90 days, the commissioner shall review the need for the conservator or management team and shall remove the conservator or management team unless the commissioner determines that continued appointment is necessary for effective governance of the district or delivery of instructional services.

A conservator or management team, if directed by the commissioner, shall prepare a plan for the implementation of the appointment of a board of managers or the revocation of accreditation.

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The conservator or management team may:

1. Direct an action to be taken by the principal of a campus, the superintendent of the district, or the board; and
2. Approve or disapprove any action of the principal of a campus, the superintendent of the district, or the board.

The conservator or management team may not:

1. Take any action concerning a district election, including ordering or canceling an election or altering the date of or the polling places for an election;
2. Change the number of or method of selecting the board;
3. Set a tax rate for the district; and
4. Adopt a budget for the district that provides for spending a different amount, exclusive of required debt service, from that previously adopted by the board.

Education Code 39A.003

Regardless of whether a district has satisfied the accreditation criteria, if for two consecutive school years, including the current school year, a district has had a conservator or management team assigned, the commissioner may appoint a board of managers, a majority of whom must be residents of the district, to exercise the powers and duties of the board of trustees. For purposes of this subsection, a school year begins on the first day of instruction and includes any portion of the school year. *19 TAC 97.1057(d); Education Code 39A.006(b)*

Board of Managers

The commissioner may appoint a board of managers to exercise the powers and duties of a district's board if the district is subject to commissioner action and:

1. Has a current accreditation status of accredited-warned or accredited-probation;
2. Fails to satisfy any standard under Education Code 39.054(e); or
3. Fails to satisfy financial accountability standards as determined by commissioner rule.

Education Code 39A.004

Revocation of Accreditation

The commissioner may revoke the accreditation of a district if the district is subject to commissioner action, and for two consecutive school years, including the current school year, the district has:

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1. Received an accreditation status of accredited-warned or accredited-probation;
2. Failed to satisfy any standard under Education Code 39.054(e); or
3. Failed to satisfy financial accountability standards as determined by commissioner rule.

In addition to revoking a district's accreditation, the commissioner may:

1. Order closure of the district and annex the district to one or more adjoining districts under Education Code 13.054; or
2. In the case of a home-rule school district, order closure of all programs operated under the district's charter.

Education Code 39A.005

Intervention to Improve High School Completion Rate

If a district is subject to commissioner action and the district has failed to satisfy any standard under Education Code 39.054(e) because of the district's dropout rates, the commissioner may impose sanctions against a district designed to improve high school completion rates, including:

1. Ordering the development of a dropout prevention plan for approval by the commissioner;
2. Restructuring the district or appropriate campuses to improve identification of and service to students who are at risk of dropping out of school, as defined by Education Code 29.081;
3. Ordering lower student-to-counselor ratios on campuses with high dropout rates; and
4. Ordering the use of any other intervention strategy effective in reducing dropout rates, including mentor programs and flexible class scheduling.

Education Code 39A.007

Campus Intervention Team and Targeted Improvement Plan

Actions Based on Campus Performance

If the performance of a campus is below any standard under Education Code 39.054(e), the commissioner shall:

1. Take actions, to the extent the commissioner determines necessary, as provided by Education Code, Chapter 39A; and
2. Assign a campus intervention team.

To the extent the commissioner determines necessary, the commissioner may:

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1. Order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board, the superintendent, and the campus principal shall appear and explain the campus's low performance, lack of improvement, and plans for improvement; or

2. Establish a school community partnership team composed of members of the campus-level planning and decision-making committee and additional community representatives as determined appropriate by the commissioner.

Education Code 39A.051

Texas Accountability Intervention System

If a campus's performance is below any standard under Education Code 39.054(e), the campus shall engage in the Texas Accountability Intervention System (TAIS) continuous improvement process. The commissioner shall assign members to a campus intervention team as outlined in 19 Administrative Code 97.1063 and Education Code 39.106.

If a campus is assigned an unacceptable rating under Education Code 39.054(e) for a fifth consecutive year, the commissioner shall order the appointment of a board of managers to govern the district or the closure of the campus.

19 TAC 97.1061

Campus Intervention Team

The campus intervention team shall follow the requirements of 19 Administrative Code 97.1061 and Education Code 39.106.

A campus intervention team assigned by the commissioner may include teachers, principals, other educational professionals, and superintendents recognized for excellence in their roles and appointed by the commissioner to serve as members of a team. *Education Code 39A.052*

A campus intervention team must include a professional service provider (PSP) and a district coordinator of school improvement (DCSI). The DCSI must submit qualifications to TEA for approval. *19 TAC 97.1063*

On-Site Needs Assessment

A campus intervention team shall:

1. Conduct, with the involvement and advice of the school community partnership team, if applicable:

   a. If the commissioner determines necessary, a comprehensive on-site needs assessment; or

   b. A targeted on-site needs assessment relevant to an area of insufficient performance of the campus; and

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2. Recommend appropriate actions as provided by Education Code 39A.054.

An on-site needs assessment must determine the factors resulting in the campus's low performance and lack of progress, including the contributing education-related factors.

In conducting a comprehensive on-site needs assessment, the campus intervention team shall use each of the guidelines and procedures at Education Code 39A.053(c).

In conducting a targeted on-site needs assessment, the campus intervention team shall use the appropriate guidelines and procedures described above relevant to each area of insufficient performance.

Education Code 39A.053

Recommendations

On completing the on-site needs assessment, the campus intervention team shall, with the involvement and advice of the school community partnership team, if applicable, recommend actions relating to any area of insufficient performance, including:

1. Reallocation of resources;
2. Technical assistance;
3. Changes in school procedures or operations;
4. Staff development for instructional and administrative staff;
5. Intervention for individual administrators or teachers;
6. Waivers from state statutes or rules;
7. Teacher recruitment or retention strategies and incentives provided by the district to attract and retain appropriately certified and experienced teachers; or
8. Other actions the campus intervention team considers appropriate.

Education Code 39A.054

Targeted Improvement Plan

In addition to the duties relating to the on-site needs assessment, the campus intervention team shall:

1. Assist the campus in developing a targeted improvement plan;
2. Conduct a public meeting at the campus with the campus principal, the members of the campus-level planning and decision-making committee, parents of students attending the

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campus, and community members residing in the district to review the campus performance rating and solicit input for the development of the targeted improvement plan [see Notice of Public Meeting, below];

3. Assist the campus in submitting the targeted improvement plan to the board for approval and presenting the plan in a public hearing [see Public Hearing, below]; and

4. Assist the commissioner in monitoring the progress of the campus in executing the targeted improvement plan.

Education Code 39A.055

Notice of Public Meeting

The campus intervention team must provide written notice of the public meeting to the parents of students attending the campus and post notice of the meeting on the campus's internet website. The notice must include the date, time, and place of the meeting. *Education Code 39A.056*

Public Hearing

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

1. Notify the public of:

   a. The insufficient performance of the campus;

   b. The improvements in performance expected by TEA; and

   c. The intervention measures or sanctions that may be imposed under Education Code, Chapter 39A if the performance does not improve within a designated period; and

2. Solicit public comment on the targeted improvement plan or updated targeted improvement plan.

The board must post the targeted improvement plan on the district's internet website before the hearing.

The board may conduct one hearing relating to one or more campuses subject to a targeted improvement plan or an updated targeted improvement plan.

Education Code 39A.057

Submission to Commissioner

The board shall submit the targeted improvement plan or updated targeted improvement plan to the commissioner for approval. The campus intervention team shall assist the campus in submitting the targeted improvement plan to the commissioner. *Education Code 39A.058*

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Executing Plan

In executing the targeted improvement plan, the campus intervention team shall, if appropriate:

1. Assist the campus in implementing research-based practices for curriculum development and classroom instruction, including bilingual education and special education programs, and financial management;

2. Provide research-based technical assistance, including data analysis, academic deficiency identification, intervention implementation, and budget analysis, to strengthen and improve the instructional programs at the campus; and

3. Require the district to develop a teacher recruitment and retention plan to address the qualifications and retention of the teachers at the campus.

Education Code 39A.059

Continuing Duties of the Campus Intervention Team

For each year a campus is assigned an unacceptable performance rating, the campus intervention team shall:

~~1. Continue to work with the campus until the campus satisfies all the performance standards under Education Code 39.054(e) for a two-year period or the campus satisfies all performance standards for a one-year period and the commissioner determines that the campus is operating and will continue to operate in a manner that improves student achievement;~~

~~2.~~1. Assist in updating the targeted improvement plan to identify and analyze areas of growth and areas that require improvement; and

~~3.~~2. Submit each updated targeted improvement plan to the board.

Education Code 39A.060

Needs Improvement Rating

If a district or campus is assigned an overall or domain performance rating of D:

1. The commissioner shall order the district or campus to develop and implement a targeted improvement plan approved by the board; and

2. The interventions and sanctions provided by Education Code, Chapter 39A based on failure to satisfy performance standards under Education Code 39.054(e) apply to the district or campus only as provided below.

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The interventions and sanctions based on failure to satisfy performance standards under Education Code 39.054(e) apply to a district or campus ordered to develop and implement a targeted improvement plan if the district or campus is assigned:

1. An overall or domain performance rating of F; or

2. An overall performance rating of D as provided below.

If a district or campus is assigned an overall performance rating of D for a school year after the district or campus is ordered to develop and implement a targeted improvement plan, the commissioner shall implement interventions and sanctions that apply to an unacceptable campus and those interventions and sanctions shall continue for each consecutive school year thereafter in which the campus is assigned an overall performance rating of D.

~~*Education Code 39.101 [Acts of the 85th Legislative Session, House Bill 22, amended former Education Code, Chapter 39, Subchapter E, by adding Section 39.101]*~~

Education Code 39A.0545

Campus Planning and Site-Based Decision-Making

The commissioner may authorize a school community partnership team established under Education Code 39A.051 to supersede the authority of and satisfy the requirements of establishing and maintaining a campus-level planning and decision-making committee.

The commissioner may authorize a targeted improvement plan or an updated targeted improvement plan to supersede the provisions of and satisfy the requirements of developing, reviewing, and revising a campus improvement plan.

Education Code 39A.061

Submission of Campus Improvement Plan

If the performance of a campus satisfies performance standards under Education Code 39.054(e) for the current school year but would not satisfy the performance standards if the standards to be used for the following school year were applied to the current school year, on the request of the commissioner, the campus-level planning and decision-making committee shall revise and submit to the commissioner the portions of the campus improvement plan that are relevant to those areas for which the campus would not satisfy performance standards. The revised portions of the improvement plan must be submitted in an electronic format. *Education Code 39A.062*

Compliance Through Federal Accountability

Notwithstanding the provisions of Education Code Chapter 39A, if the commissioner determines that a campus subject to interven-

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tions or sanctions has implemented substantially similar intervention measures under federal accountability requirements, the commissioner may accept the substantially similar intervention measures as measures in compliance with Education Code Chapter 39A. *Education Code 39A.063*

Campus Turnaround Plan

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

Updated Targeted Improvement Plan

A campus intervention team shall assist the campus in:

1. Developing an updated targeted improvement plan, including a campus turnaround plan to be implemented by the campus;
2. Submitting the updated targeted improvement plan to the board for approval and presenting the plan in a public hearing as provided by Education Code 39A.057;
3. Obtaining approval of the updated plan from the commissioner; and
4. Executing the updated plan on approval by the commissioner.

The updated targeted improvement plan submitted to the board must include all plans and details that are required to execute the campus turnaround plan without any additional action or approval by the board.

Education Code 39A.101

Public Notice

Within 60 days of receiving a campus's preliminary accountability rating, the district must notify parents, community members, and stakeholders that the campus received an unacceptable rating for two consecutive years and request assistance in developing the campus turnaround plan in accordance with 19 Administrative Code 97.1064.

Upon approval of the board, the district must submit the campus turnaround plan electronically to TEA by March 1 unless otherwise specified. A campus may implement, modify, or withdraw its campus turnaround plan with board approval if the campus receives an academically acceptable rating for the school year following the development of the campus turnaround plan.

19 TAC 97.1064(d), (g)–(h); Education Code 39A.103–.104

Required Contents

A campus turnaround plan must include:

1. Details on the method for restructuring, reforming, or reconstituting the campus;

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2. A detailed description of the academic programs to be offered at the campus, including:

   a. Instructional methods;

   b. Length of school day and school year;

   c. Academic credit and promotion criteria; and

   d. Programs to serve special student populations;

3. If a district charter is to be granted for the campus under Education Code 12.0522:

   a. The term of the charter; and

   b. Information on the implementation of the charter;

4. Written comments from:

   a. The campus-level committee established under Education Code 11.251, if applicable;

   b. Parents; and

   c. Teachers at the campus;

5. A detailed description of the budget, staffing, and financial resources required to implement the plan, including any supplemental resources to be provided by the district or other identified sources; and

6. A detailed description for developing and supporting the oversight of academic achievement and student performance by the board of trustees under Education Code 11.1515.

Education Code 39A.105 [Acts of the 85th Legislative Session, Senate Bill 1566, amended former Education Code 39.107(b-1) to include the information provided at Subsection (6)]

Implementing Entities

A campus ordered to prepare a campus turnaround plan shall implement the updated targeted improvement plan as approved by the commissioner.

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

In making appointments, the commissioner shall consider individuals who have demonstrated success in managing campuses with student populations similar to the campus at which the individual appointed will serve.

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Education Code 39A.102, .108

Effective Date

A campus turnaround plan must take effect not later than the school year following the third consecutive school year that the campus has received an unacceptable performance rating. *Education Code 39A.106*

Commissioner Approval or Rejection

Not later than June 15 of each year, the commissioner shall, in writing, either approve or reject any campus turnaround plan prepared and submitted to the commissioner by a district. If the commissioner rejects a campus turnaround plan, the commissioner must also send the district an outline of the specific concerns regarding the turnaround plan that resulted in the rejection. ~~*Education Code 39.107 [Acts of the 85th Legislative Session, House Bill 2263, added Subsection (b-10) to former Education Code 39.107]*~~*Education Code 39A.107(a-1)*

If the commissioner rejects a campus turnaround plan, the district must create a modified plan with assistance from TEA staff and submit the modified plan to the commissioner for approval not later than the 60th day after the date the commissioner rejects the campus turnaround plan. The commissioner shall notify the district in writing of the commissioner's decision regarding the modified plan not later than the 15th day after the date the commissioner receives the modified plan. *Education Code 39A.107(a-2)*

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

Education Code 12.0522(b) does not apply to a district charter approved by the commissioner. An approved district charter may be renewed or continue in effect after the campus is no longer subject to the commissioner's order under Education Code 39A.101.

If the commissioner does not approve a campus turnaround plan, the commissioner shall order:

1. Appointment of a board of managers to govern the district;
2. Alternative management of the campus; or
3. Closure of the campus.

~~If the commissioner rejects a campus turnaround plan, the district must create a modified plan with assistance from TEA staff and submit the modified plan to the commissioner for approval not later~~

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~~than the 60th day after the date the commissioner rejects the campus turnaround plan. The commissioner shall notify the district in writing of the commissioner's decision regarding the modified plan not later than the 15th day after the date the commissioner receives the modified plan.~~*Education Code 39A.107* ~~*[Acts of the 85th Legislative Session, House Bill 2263, added Subsection (b-11) to former Education Code 39.107];~~ *19 TAC 97.1065*

Implementation

Following approval of a campus turnaround plan by the commissioner, the district, in consultation with the campus intervention team, may take any actions needed to prepare for the implementation of the plan. *Education Code 39A.108*

Assistance and Partnerships

A district may:

1. Request that a regional education service center provide assistance in the development and implementation of a campus turnaround plan; or
2. Partner with an institution of higher education to develop and implement a campus turnaround plan.

Education Code 39A.109

Change in Campus Performance Rating

If a campus for which a campus turnaround plan has been ordered receives an acceptable performance rating for the school year following the order, the board may:

1. Implement the campus turnaround plan;
2. Implement a modified version of the campus turnaround plan; or
3. Withdraw the campus turnaround plan.

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

Education Code 39A.110

Continued Unacceptable Performance Rating

If a campus is considered to have an unacceptable performance rating for three consecutive school years after the campus is ordered to submit a campus turnaround plan, the commissioner shall order:

1. Appointment of a board of managers to govern the district; or
2. Closure of the campus.

Education Code 39A.111; 19 TAC 97.1065(a)(2)

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Parent Petition for Action

"Parent" means the parent who is indicated on the student registration form at that campus and the signature of only one parent of a student is required.

If the commissioner is presented, in the time and manner specified by commissioner rule, with a written petition signed by the parents of a majority of the students enrolled at a campus with an unacceptable performance rating for three consecutive school years, specifying an authorized action that the parents request the commissioner to order, the commissioner shall order the specific action requested.

If the board presents to the commissioner, in the time and manner specified by commissioner rule, a written request that the commissioner order specific authorized action other than the specific action requested in the parents' petition and a written explanation of the basis for the board's request, the commissioner may order the action requested by the board.

Education Code 12.051, 39A.112; 19 TAC 97.1065(d)

Repurposing of Closed Campus

If the commissioner orders the closure of a campus, that campus may be repurposed to serve students at that campus location only if the commissioner~~:~~ finds that the repurposed campus offers a distinctly different academic program and approves a new campus identification number for the repurposed campus. A campus may be repurposed if the campus

~~1. Finds that the repurposed campus:~~

~~a. Offers a distinctly different academic program; and~~

~~2.~~1. Serves a majority of grade levels not served at the original campus; ~~and~~or

~~3. Approves a new campus identification number for the repurposed campus.~~

2. ~~The~~Is operated under a contract, approved by the school board, with a nonprofit organization exempt from federal taxation under Section 501(c)(3), Internal Revenue Code of 1986 that:

a. Has a governing board that is independent of the district;

b. Has a successful history of operating school district campuses or open-enrollment charter schools:

(1) That cumulatively serve 10,000 or more students; and

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~~(1)~~(2) A majority of ~~students~~ which have been assigned ~~to a campus that has been closed and repurposed may not have attended that campus in the previous~~an overall performance rating of B or higher under Education Code 39.054 for the preceding school year~~.~~; and

c. Has been assigned an overall performance rating of B or higher under Education Code 39.054 for the preceding school year.

Student Enrollment and Assignment

Any student assigned to a campus that has been closed must be allowed to transfer to any other campus in the district that serves that student's grade level and on request must be provided transportation to the other campus.

The commissioner may grant an exemption allowing students assigned to a closed campus to attend the repurposed campus if there is no other campus in the district at which the students may enroll.

Noncontracted Repurposed Campus

The majority of students assigned to a campus that has been closed and repurposed may not have attended that campus in the previous school year if the campus was repurposed to serve a majority of grade levels not served at the original campus.

Enrollment Provision in Contract

A contract approved by the school board with a nonprofit organization must provide that a student residing in the attendance zone of the campus immediately before the campus was repurposed shall be admitted for enrollment at the repurposed campus.

Education Code 39A.113

Targeted Technical Assistance

If the commissioner determines that the basis for the unacceptable performance of a campus for more than two consecutive school years is limited to a specific condition that may be remedied with targeted technical assistance, the commissioner may require the district to contract for the appropriate technical assistance. *Education Code 39A.114*

Commissioner Authority

A decision by the commissioner under the campus turnaround plan subchapter of the Education Code is final and may not be appealed. *Education Code 39A.116*

Alternative Management

The commissioner shall appoint a monitor, conservator, management team, or board of managers whenever such action is required, as determined by 19 Administrative Code 1073. Action under any other section of 19 Administrative Code Chapter 97, Subchapter EE is not a prerequisite to acting under this section. *19 TAC 97.1073*

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Solicitation of Proposals

If the commissioner orders alternative management of a campus, the commissioner shall solicit proposals from qualified nonprofit entities to assume management of the campus or appoint a school district as provided below. The commissioner may solicit proposals from qualified for-profit entities if a nonprofit entity has not responded to the commissioner's request for proposals.

The commissioner may appoint a school district to assume management of the campus if the district:

1. Is not the district in which the campus is located; and
2. Is located within the boundaries of the same regional education service center as the campus.

If a school district is appointed, the district shall assume management of the campus in the same manner as a qualified entity or in accordance with commissioner rule.

The commissioner may annually solicit proposals for the alternative management of a campus. The commissioner shall notify a qualified entity that has been approved as a provider under this section.

Education Code 39A.151

Qualifications of Managing Entity

To qualify for consideration as a managing entity, the entity must submit a proposal that provides information relating to the entity's management and leadership team that will participate in management of the campus under consideration, including information relating to individuals who have:

1. Documented success in whole school interventions that increased the educational and performance levels of students in campuses considered to have an unacceptable performance rating;
2. A proven record of effectiveness with programs assisting low-performing students;
3. A proven ability to apply research-based school intervention strategies;
4. A proven record of financial ability to perform under the management contract; and
5. Any other experience or qualifications the commissioner determines necessary.

In selecting a managing entity, the commissioner shall give preference to a qualified entity that:

1. Meets any of the commissioner’s qualifications; and

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2. Has documented success in educating students from similar demographic groups and with similar educational needs as the students who attend the campus to be operated by the managing entity.

Education Code 39A.152

Contract with Managing Entity

If the commissioner has ordered alternative management of a campus, the district shall execute a contract with an approved provider to serve as a managing entity for the campus. The term of the contract may not exceed five years with an option to renew the contract. The district must execute the contract and relinquish control of the campus before January 1 of the school year.

The management contract must include:

1. A provision describing the district's responsibilities in supporting the operation of the campus; and

2. Provisions approved by the commissioner requiring the managing entity to demonstrate improvement in campus performance, including negotiated performance measures.

Performance measures must be consistent with the priorities of Education Code Chapters 39 and 39A.

The management contract must be approved by the commissioner before the contract is executed. As appropriate, the commissioner may require the district, as a term of the contract, to support the campus in the same manner as the district was required to support the campus before the execution of the contract.

Education Code 39A.153; 19 TAC 97.1067

Extension of Management Contract

The commissioner may require a district to extend the term of a management contract with a managing entity if the commissioner determines that extending the contract on expiration of the initial term is in the best interest of the students attending the campus. The terms of the contract must be approved by the commissioner. *Education Code 39A.154*

Evaluation of Managing Entity

The commissioner shall evaluate a managing entity's performance on the first and second anniversaries of the date of the management contract.

If the evaluation fails to demonstrate improvement as negotiated under the management contract by the first anniversary of the date of the contract, the district may:

1. Terminate the contract, with the commissioner's consent, for nonperformance or breach of contract; and

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2. Select another provider from an approved list provided by the commissioner.

If the evaluation fails to demonstrate significant improvement, as determined by the commissioner, by the second anniversary of the date of the management contract, the district shall:

1. Terminate the contract; and

2. Select another provider from an approved list provided by the commissioner or resume operation of the campus if approved by the commissioner.

If the commissioner approves the district's resumed operation of the campus, the commissioner shall assign a technical assistance team to assist the campus.

Education Code 39A.155

Cancellation of Management Contract

If a campus receives an unacceptable performance rating for two consecutive school years after a managing entity assumes management of the campus, the commissioner shall cancel the contract with the managing entity. *Education Code 39A.156*

Return of Management to District

Unless a campus has an unacceptable performance rating for three consecutive school years [see Continued Unacceptable Performance Rating, above], at the end of a management contract term or on the cancellation of a management contract, the board shall resume management of the campus. *Education Code 39A.157*

Applicability of Accountability Provisions

Each campus operated by a managing entity is subject to Education Code Chapters 39 and 39A in the same manner as any other campus in the district. *Education Code 39A.158*

Funding

The funding for a campus operated by a managing entity may not be less than the funding of the other campuses in the district on a per student basis so that the managing entity receives at least the same funding the campus would otherwise have received. *Education Code 39A.159*

Open Meetings and Public Information

With respect to the management of a campus by a managing entity:

1. A managing entity is considered to be a governmental body for purposes of the Texas Open Meetings Act and Public Information Act; and

2. Any requirement in the Texas Open Meetings Act or Public Information Act that applies to a school district or the board of trustees of a district applies to a managing entity.

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Education Code 39A.160

Board of Managers

General Powers and Duties

A board of managers may exercise all of the powers and duties assigned to a board of trustees of a school district by law, rule, or regulation.

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

Education Code 39A.201

Board of Managers of District

If the commissioner appoints a board of managers to govern a district:

1. The powers of the board are suspended for the period of the appointment; and
2. The commissioner shall appoint a district superintendent.

A board of managers appointed to govern a school district may amend the budget of the district.

Education Code Chapter 39A applies to a school district governed by a board of managers in the same manner it applies to any other district.

Education Code 39A.202

Board of Managers of Campus

If the commissioner appoints a board of managers to govern a campus:

1. The powers of the board of trustees of the school district in relation to the campus are suspended for the period of the appointment; and
2. The commissioner shall appoint a campus principal.

A board of managers appointed to govern a campus may submit to the commissioner for approval amendments to the budget of the school district for the benefit of the campus. If the commissioner approves the amendments, the board of trustees of the school district shall adopt the amendments.

Education Code 39A.203

Composition of Board of Managers

A board of managers appointed by the commissioner must, if possible, include community leaders, business representatives who

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	have expertise in leadership, and individuals who have knowledge or expertise in the field of education. *Education Code 39A.204*
Training of Board of Managers	The commissioner must provide each individual appointed to a board of managers with training in effective leadership strategies. *Education Code 39A.205* The training in effective leadership strategies shall be provided by TEA-approved authorized providers of board training to each individual appointed by the commissioner to a board of managers, and, following the expiration of the appointment of the board of managers, to the board of trustees of the school district. *19 TAC 97.1073(h)*
Compensation	The commissioner may authorize payment of a board of managers from TEA funds. A conservator or a member of a management team appointed to serve on a board of managers may continue to be compensated as determined by the commissioner. *Education Code 39A.206*
Replacement of Member of Board of Managers	The commissioner may at any time replace a member of a board of managers. The commissioner may adopt rules necessary to implement this section. *Education Code 39A.207*
Expiration of Appointment	A board of managers shall, during the period of the appointment, order the election of members of the board of trustees of the school district in accordance with the law. The members of the board of trustees do not assume any powers or duties after the election until the appointment of the board of managers expires. Not later than the second anniversary of the date the board of managers of a school district was appointed, the commissioner shall notify the board of managers and the board of trustees of the date on which the appointment of the board of managers will expire. Following each of the last three years of the period of the appointment, one-third of the members of the board of managers shall be replaced by the number of members of the board of trustees who were elected at an election that constitutes, as closely as possible, one-third of the membership of the board of trustees. If, before the second anniversary of the date the board of managers of a school district was appointed, the commissioner determines, after receiving local feedback, that insufficient progress has been made toward improving the academic or financial performance of the district, the commissioner may extend the authority of the board of managers for a period of up to two additional years.

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On the expiration of the appointment of the board of managers, the board of trustees assumes all of the powers and duties assigned to a board of trustees by law, rule, or regulation.

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

Education Code 39A.208; 19 TAC 97.1073

Removal of Board of Managers

The commissioner may remove a board of managers appointed to govern a school district only if the campus that was the basis for the appointment of the board of managers receives an acceptable performance rating for two consecutive school years.

If a campus that was the basis for the appointment of a board of managers receives an unacceptable performance rating for two additional consecutive years following the appointment of the board of managers, the commissioner may remove the board of managers and, in consultation with the local community, may appoint a new board of managers to govern the district.

Following the removal of a board of managers, or at the request of a managing entity to oversee the implementation of alternative management, the commissioner may appoint a conservator or monitor for the district to ensure district-level support for low-performing campuses and to oversee the implementation of the updated targeted improvement plan.

Education Code 39A.209; 19 TAC 97.1073

Challenge of Intervention or Sanction

A district that challenges the commissioner's decision to close the district or a campus or to pursue alternative management of a campus must appeal the decision as provided below.

Review of Sanctions by SOAH

A challenge is under the substantial evidence rule [see Government Code, Chapter 2001, Subchapter G]. The commissioner shall adopt procedural rules for a challenge under this section.

Notwithstanding other law:

1. The State Office of Administrative Hearings (SOAH) shall conduct an expedited review of a challenge;
2. The administrative law judge shall issue a final order not later than the 30th day after the date on which the hearing is finally closed;
3. The decision of the administrative law judge is final and may not be appealed; and

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4. The decision of the administrative law judge may set an effective date for an action under this section.

Education Code 39A.301

Annual Review

The commissioner shall annually review the performance of a district or campus subject to intervention and sanction to determine the appropriate actions to be implemented.

The commissioner must review at least annually the performance of a district for which the accreditation status or performance rating has been lowered due to insufficient student performance and may not raise the accreditation status or performance rating until the district has demonstrated improved student performance.

If the review reveals a lack of improvement, the commissioner shall increase the level of state intervention and sanction unless the commissioner finds good cause for maintaining the current status.

Education Code 39A.901

Increasing Intensity

If a district or campus does not exhibit improvement in student performance, the commissioner may increase the intensity of intervention and sanction that would otherwise be required by statute or rule, including ordering campus closure, district annexation, or appointment of a board of managers.

For purposes of this section, improvement means an increase in the scaled score for the overall academic performance rating under Education Code Chapter 39.

19 TAC 97.1070(a)–(b)

Special Accreditation Investigations

The commissioner may authorize a special accreditation investigation:

1. When excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;
2. When excessive numbers of allowable exemptions from the required state assessment are determined;
3. In response to complaints to TEA of alleged violations of civil rights or other requirements imposed on the state by federal law or court order;
4. In response to established compliance reviews of the district's financial accounting practices and state and federal reporting requirements;

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5. When extraordinary numbers of student placements in disciplinary alternative education programs, other than placements under Education Code 37.006 and 37.007, are determined;

6. In response to an allegation involving a conflict between members of the board or between the board and the district administration if it appears that the conflict involves a violation of a role or duty of the board members or the administration clearly defined by the Education Code. If TEA's findings indicate the board has observed a lawfully adopted policy, TEA may not substitute its judgment for that of the board;

7. When excessive numbers of students in special education programs are assessed through modified assessment instruments;

8. In response to an allegation regarding, or an analysis using a statistical method result indicating, a possible violation of an assessment instrument security procedure;

9. When a significant pattern of decreased academic performance has developed as a result of the promotion in the preceding two school years of students who did not perform satisfactorily on the state assessments;

10. When excessive numbers of students eligible to enroll fail to complete an Algebra II course or any other advanced course as determined by the commissioner;

11. When resource allocation practices indicate a potential for significant improvement in resource allocation;

12. When a disproportionate number of students of a particular demographic group is graduating with a particular endorsement;

13. When an excessive number of students is graduating with a particular endorsement;

14. When a school district for any reason fails to produce, at the request of TEA, evidence or an investigation report relating to an educator who is under investigation by the State Board for Educator Certification;

15. In response to a complaint with respect to alleged inaccurate data that is reported through PEIMS or through other reports required by state or federal law or rule or court order and that is used by TEA to make a determination relating to public school accountability, including accreditation, under Education Code Chapter 39;

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16. In response to repeated complaints concerning imposition of excessive paperwork requirements on classroom teachers; or

17. As the commissioner otherwise determines necessary.

Education Code 39.057(a)–(c)

TEA shall adopt written procedures for conducting special accreditation investigations, including procedures that allow TEA to obtain information from district employees in a manner that prevents a district or campus from screening the information. *Education Code 39.058(a); 19 TAC 102.1401*

Commissioner Action

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

1. Take appropriate action under Education Code Chapter 39A, [see Interventions and Sanctions for School Districts, above];

2. Lower the district's accreditation status or a district's or campus's performance rating; or

3. Take action under both items 1 and 2 above.

Regardless of whether the commissioner lowers the accreditation status or a district's or campus's performance rating, the commissioner may impose one of the district- or campus-level interventions or sanctions under Education Code 39A.002 [see Interventions and Sanctions for School Districts, above].

Education Code 39.057(d), (e)

Miscellaneous Provisions

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

Acquisition of Professional Services

1. Select or be assigned an external auditor, data quality expert, professional authorized to monitor district assessment instrument administration, or curriculum or program expert; or

2. Provide for or participate in the appropriate training of district staff or board members in the case of a district, or campus staff, in the case of a campus.

Education Code 39A.902

Costs Paid by District

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

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fails or refuses to pay the costs in a timely manner, the commissioner may:

1. Pay the costs using amounts withheld from any funds to which the district is otherwise entitled; or

2. Recover the amount of the costs in the manner provided for recovery of an over allocation of state funds under Education Code ~~42.258~~48.272.

Education Code 39A.903

Monitoring Reviews and On-Site Investigations

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

1. Compliance with federal law and regulations;

2. Financial accountability, including compliance with grant requirements; and

3. Data integrity for purposes of:

   a. The Public Education Information Management System (PEIMS); ~~and~~

   b. Accountability under Education Code Chapter 39~~.~~ and 39A; and

4. Qualification for funding under Chapter 48.

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

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

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

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Education Code 7.028, 39.056

Immunity from Civil Liability	An employee, volunteer, or contractor acting on behalf of the commissioner, or a member of a board of managers appointed by the commissioner, is immune from civil liability to the same extent as a professional employee of a district under Education Code 22.051. *Education Code 39A.904*
Campus Name Change Prohibited	In reconstituting, repurposing, or imposing any other intervention or sanction on a campus, the commissioner may not require that the name of the campus be changed. *Education Code 39A.905*
Transitional Interventions and Sanctions	For a campus that received an unacceptable performance rating for the 2013–14, 2014–15, and 2015–16 school years, the commissioner may apply the interventions and sanctions authorized by Chapter 39 as that chapter existed on January 1, 2015, to the campus. If a campus receives an unacceptable performance rating for the 2016–17 and 2017–18 school years, the commissioner shall apply the interventions and sanctions authorized when a campus has an unacceptable performance rating for three consecutive school years under current law. For a campus that received an acceptable performance rating for the 2013–14 school year and an unacceptable performance rating for the 2014–15 and 2015–16 school years, the commissioner shall apply interventions and sanctions in current law to the campus. If the campus receives an unacceptable performance rating for the 2016–17, 2017–18, and 2018–19 school years, the commissioner shall apply the interventions and sanctions authorized when a campus has an unacceptable performance rating for three consecutive school years under current law. These transition provisions expire September 1, 2020. *Education Code 39A.906*
Special Program Performance: Intervention Stages	The commissioner shall assign a district to an intervention stage based on performance levels under 19 Administrative Code 97.1005 (~~relating to~~ Performance-Based Monitoring Analysis System) [see AIB] according to the criteria and requirements in 19 Administrative Code 97.1071. Intervention actions taken under this section are intended to assist the district in raising its performance and/or achieving compliance under 19 Administrative Code 97.1005 and do not preclude or substitute for a sanction under another provision of Chapter 97, Subchapter EE.

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19 TAC 97.1071

Intervention Pause

Except as otherwise provided by 19 Administrative Code 97.1062 and unless extended by the commissioner, TEA will cease to enforce the interventions under Education Code 39A.101-39A.111 until conclusion of the second consecutive school year of operation under:

1. A partnership as defined by 19 Administrative Code 97.1077(a)(2), (b), or (c) of this title [see ELA]; or
2. Designation as a mathematics innovation zone under Education Code 28.020 and applicable rules.

Any intervention or sanction not covered by the provision above shall continue.

If a campus ceases to qualify for the intervention pause at any point during a school year, TEA will resume previously ordered interventions and sanctions, order interventions and sanctions based on the rating from that school year, and count that rating for purposes of consecutive years of performance.

19 TAC 97.1062

Failure to Submit EOP

If TEA receives notice from the Texas School Safety Center of a district's failure to submit a multihazard emergency operations plan [see CKC], the commissioner may appoint a conservator for the district under Education Code Chapter 39A. The conservator may order the district to adopt, implement, and submit a multihazard emergency operations plan. If a district fails to comply with a conservator's order to adopt, implement, and submit a multihazard emergency operations plan within the time frame imposed by the commissioner, the commissioner may appoint a board of managers under Education Code Chapter 39A to oversee the operations of the district. *Education Code 37.1082(a)–(b)*

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

Student Board Member

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

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SECTION B: LOCAL GOVERNANCE

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

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SECTION B: LOCAL GOVERNANCE

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

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Note: This policy addresses the powers and duties of the board set forth in Education Code Chapter 11, Subchapter D. For other powers and duties of the board not listed below, see the applicable policy codes.

The trustees~~,~~ as a body corporate~~,~~ have the exclusive power and duty to govern and oversee the management of the public schools of the district. The trustees may adopt rules and bylaws necessary to carry out these powers and duties.

All powers and duties not specifically delegated by statute to the Texas Education Agency or the State Board of Education are reserved for the board.

Education Code 11.151(b), (d)

Mandatory Powers and Duties

A board shall:

1. Seek to establish working relationships with other public entities to make effective use of community resources and to serve the needs of public school students in the community.
2. Adopt a vision statement and comprehensive goals for the district and the superintendent, and monitor progress toward those goals. [See AE]
3. Establish performance goals for the district concerning the academic and fiscal performance indicators under Education Code Chapter 39, Subchapters C, D, and J, and any performance indicators adopted by the district. [See AI series]
4. Provide oversight regarding student academic achievement and strategic leadership for maximizing student performance. *Education Code 11.1515* [See AIB]
5. Ensure that the superintendent is accountable for achieving performance results, recognizes performance accomplishments, and takes action as necessary to meet performance goals. [See BJA]
6. Collaborate with the superintendent as set forth at Education Code 11.1512(b). [See BJA]
7. Adopt a policy to establish a district- and campus-level planning and decision-making process as required under Education Code 11.251. [See BQ series]
8. Publish an annual educational performance report as required under Education Code 39.306. [See AIB, BQ series]

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9. Adopt an annual budget for the district as required under Education Code 44.004. [See CE]

10. Adopt a tax rate each fiscal year as required by Tax Code 26.05. [See CCG]

11. Monitor district finances to ensure that the superintendent is properly maintaining the district's financial procedures and records. [See CF series]

12. Ensure that district fiscal accounts are audited annually as required by Education Code 44.008. [See CFC]

13. Publish an end-of-year financial report for distribution to the community. [See CFA]

14. Conduct elections as required by law. [See BBB series]

15. By rule, adopt a process through which district personnel, students or the parents or guardians of students, and members of the public may obtain a hearing from the district administrators and the board regarding a complaint. [See DGBA, FNG, and GF]

16. Make decisions relating to terminating the employment of district employees employed under a contract to which Education Code Chapter 21 applies, including terminating or not renewing an employment contract to which that chapter applies. [See DF series]

17. Select the internal auditor if a district employs an internal auditor. The internal auditor shall report directly to the board. *Education Code 11.170* [See DC]

18. Adopt a policy providing for the employment and duties of district personnel. *Education Code 11.1513* [See BJ series, DC series, and DEA series]

19. Limit redundant requests for information and the number and length of written reports that a classroom teacher is required to prepare. The board shall review paperwork requirements imposed on classroom teachers and transfer to existing non-instructional staff a reporting task that can reasonably be accomplished by that staff. *Education Code 11.164* [See DLB]

20. Adopt a cybersecurity policy. *Education Code 11.175* [See CQB]

21. Adopt early childhood literacy and mathematics proficiency plans. *Education Code 11.185* [See EA]

22. Adopt college, career, and military readiness plans. *Education Code 11.186* [See EA]

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23. Conduct an efficiency audit before seeking voter approval to adopt a tax rate for the maintenance and operations of the district at an election held for that purpose. *Education Code 11.184* [See CCG]

~~20.~~24. Carry out other powers and duties as provided by the Education Code or other law.

Education Code 11.1511(b), except as noted

Discretionary Powers and Duties

A board may:

1. Issue bonds and levy, pledge, assess, and collect an annual ad valorem tax to pay the principal and interest on the bonds as authorized under Education Code 45.001 and 45.003. *Education Code 11.1511(c)(1)* [See CCA]

2. Levy, assess, and collect an annual ad valorem tax for maintenance and operation of a district as authorized under Education Code 45.002 and 45.003. *Education Code 11.1511(c)(2)* [See CCG]

3. Employ a person to assess or collect the district's taxes as authorized under Education Code 45.231. *Education Code 11.1511(c)(3)* [See CCG and BDAF]

4. Require a district's chief business official or curriculum director or a person holding an equivalent position to appear at an executive session of the board or to testify at a public hearing held by the board. *Education Code 11.1511(d)* [See BJA regarding prohibition of superintendent interference]

5. Enter into contracts as authorized under the Education Code or other law and delegate contractual authority to a superintendent as appropriate. *Education Code 11.1511(c)(4)*

6. Sue and be sued in the name of the district. *Education Code 11.151(a)*

7. Receive bequests and donations or other moneys or funds coming legally into its hands in the name of the district. A conveyance, devise, or bequest of property for the benefit of the public schools, if not otherwise directed by the donor, vests the property in the board or their successors in office. *Education Code 11.151(a), .156* [See CDC]

8. Contract with a public or private entity for that entity to provide educational services for the district. *Education Code 11.157* [See EEL]

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9. Charge fees as set forth at Education Code 11.158. *Education Code 11.158* [See FP]

10. Change the name of the district. *Education Code 11.160* [See AB]

11. Adopt rules that require students at a school in the district to wear school uniforms as set forth at Education Code 11.162. *Education Code 11.162* [See FNCA]

12. Adopt rules to keep school campuses, including school libraries, open for recreational activities, latchkey programs, and tutoring after school hours. *Education Code 11.165*

13. Operate a school or program or hold a class on the campus of an institution of higher education as set forth at Education Code 11.166. *Education Code 11.166* [See GNC]

14. Operate a school or program, including an extracurricular program, or hold a class outside the boundaries of the district. *Education Code 11.167* [See GNA]

~~15. Establish before-school or after-school programs for students enrolled in elementary or middle school grades. *Education Code 33.9031*~~

15. Use the board evaluation tool developed by the commissioner of education. *Education Code 11.182* [See BG]

District Property

A board may acquire and hold real and personal property in the name of the district. All rights and titles to the school property of a district, whether real or personal, shall be vested in the trustees and their successors in office. *Education Code 11.151(a), (c)* [See CHG]

The board may, by resolution, authorize the sale of any property, other than minerals, held in trust for public school purposes. The trustees may, in any appropriate manner, dispose of property that is no longer necessary for the operation of the district. *Education Code 11.151(c), .154(a)* [See CI]

The board may, by resolution, authorize the donation of real property and improvements formerly used as a school campus to a municipality, county, state agency, or nonprofit organization as provided at Education Code 11.1541. *Education Code 11.1541* [See CDB]

Minerals in land belonging to the district may be sold to any person. The sale must be authorized by a resolution adopted by majority vote of the board. *Education Code 11.153* [See CDB]

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Note: For restrictions on a board's authority to use district resources for ~~[~~certain purposes, see CE~~]~~ (LEGAL).

~~Board Powers and Duties~~

~~A board may not:~~

~~16. Enter into an agreement authorizing the of employees, property, or the provision of materials or labor for the design, construction, or renovation of improvements to real property not owned or leased by the district, except as provided at Education Code 45.109. *Education Code 11.168*~~

~~Impose taxes; issue bonds; use or authorize the use of district employees; use or authorize the use of district property, money, or other resources; or acquire property for the design, construction, renovation, or operation of a hotel. *Education Code 11.178* [See CE]~~

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

Eligibility

To be eligible to be a candidate for, or elected or appointed to, the office of school board member, a person must:

1. Be a United States citizen.
2. Be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable.
3. Have not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote.
4. Have not been ~~finally~~ convicted of a felony ~~from which the person has not been pardoned or otherwise released from the resulting disabilities~~.
5. Have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:
    a. For an independent candidate, the date of the regular filing deadline for a candidate's application for a place on the ballot.
    b. For a write-in candidate, the date of the election at which the candidate's name is written in.
    c. For an appointee to an office, the date the appointment is made.
6. Be registered to vote in the territory from which the office is elected on the date described at item 5, above.

Election Code 1.020, 141.001(a); Education Code 11.066; Gov't Code 601.009; Brown v. Patterson, 609 S.W.2d 287 (Tex. Civ. App.—Dallas 1980, no writ); Tex. Const. Art. XVI, Sec. 14

Qualified Voter

A person may not be elected trustee of an independent school district unless the person is a qualified voter. *Education Code 11.061(b)*

"Qualified voter" means a person who:

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1. Is 18 years of age or older;
2. Is a United States citizen;
3. Has not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote;
4. Has not been finally convicted of a felony [see also Atty. Gen. Op. LO 96-114 (1996) (concluding that caveat at Election Code 11.002 does not mitigate blanket prohibition in Election Code 141.001, above at Eligibility)];
5. Is a resident of this state; and
6. Is a registered voter.

Election Code 1.020, 11.002

Residency

"Residence" Defined

"Residence" means domicile, one's home and fixed place of habitation to which one intends to return after any temporary absence; one does not lose one's residence status by leaving to go to another place for temporary purposes only. A person does not acquire a residence in a place to which the person has come for temporary purposes only and without the intention of making that place the person's home. Residence shall be determined in accordance with the common-law rules, as enunciated by the courts of this state, except as otherwise provided by the Election Code. *Election Code 1.015*

~~Single-Member Districts~~

~~A candidate for board member representing a single-member district must be a resident of the district the candidate seeks to represent. *Education Code 11.052(g)*~~

Note: The issue of whether a candidate has satisfied residency requirements should be judicially determined. *State v. Fischer, 769 S.W.2d 619 (Tex. App.—Corpus Christi 1989, writ dism'd w.o.j~~)~~.)*

Intent to Return

For purposes of satisfying the continuous residency requirement, a person who claims an intent to return to a residence after a temporary absence may establish that intent only in accordance with Election Code 141.001(a-1), which does not apply to a person displaced from the person's residence due to a declared local, state, or national disaster. *Election Code 141.001(a-1)–(a-2)*

Single-Member Districts

A candidate for board member representing a single-member district must be a resident of the district the candidate seeks to represent. *Education Code 11.052(g)*

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Ineligibility

A person is ineligible to serve as a member of the board of a district if the person has been convicted of a felony or an offense under Penal Code 43.02(b) (~~regarding~~ prostitution). *Education Code 11.066*

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

Notice of Polling Place

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

Election Order

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

Each election order must state:

1. The date of the election;
2. The offices or measures to be voted on;
3. The early voting clerk's official mailing address;
4. The location of the main early voting polling place;
5. The dates and hours for early voting; and
6. The dates and hours of any Saturday and Sunday early voting.

Election Code 3.006, 83.010, 85.004, .007

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

Failure to Order an Election

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

Election Notice

Contents

Notice of the election must state:

1. The nature and date of the election;
2. The location of each polling place;
3. The hours the polls will be open;
4. The early voting clerk's official mailing address;
5. The location of the main early voting polling place; and

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

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

Notice of Special Election

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

Publication

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

Posting

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

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

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

Notice to County Clerk and Voter Registrar

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

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Notice to Election Judge

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

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

Election Code 4.007

Failure to Give Notice of Election

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

Filing Information

Notice to Candidates

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

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

Application

A candidate application for a place on the ballot must:

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

Election Code 31.0021, 141.031, .039

Deadline

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

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

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

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Death of Candidate

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

1. The authority responsible for preparing the ballots may choose to omit the candidate from the ballot; and
2. If the authority omits the candidate's name under item 1, the filing deadline for an application for a place on the ballot for the office sought by the candidate is extended until the fifth day after the filing deadline.

Election Code 145.098(b)

Write-in Candidate

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

Special Election

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

An application must be filed not later than:

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

Exception

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

Write-in Candidate

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

Election Code 201.054

Delivery or Submission of Documents

Under the Election Code, delivery, submission, or filing of an application, notice, report, or other document or paper with an employee of the district at the district's usual place for conducting official business constitutes filing with the district. The district may accept the document or paper at a place other than the district's usual place for conducting official business.

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

Election Code 1.007

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Election of Unopposed Candidate

The board may declare each unopposed candidate elected to office in accordance with the provisions below. *Election Code 2.053(a)*

A special election is considered to be a separate election with a separate ballot from a general election for board members or another special election held at the same time. *Election Code 2.051(a)*

Single-Member Districts

If any members of a board are elected from single-member districts, the procedures to declare unopposed candidates elected apply to the election in a particular single-member district if each candidate for an office that is to appear on the ballot in that single-member district is unopposed and no opposed at-large race is to appear on the ballot. *Election Code 2.051(b)*

Procedure for Canceling Election

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

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

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

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

Election Code 2.052

On receipt of the certification, the board by order may declare each unopposed candidate elected to office. If a declaration is made, no election is held.

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

The ballots used at a separate election held at the same time as an election that would have been held if the candidates were not declared elected shall include the offices and names of the candi-

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dates declared elected listed separately after the measures or contested races in the separate election under the heading "Unopposed Candidates Declared Elected." The candidates shall be grouped in the same relative order prescribed for the ballot generally. No votes are cast in connection with the unopposed candidates.

Election Code 2.053

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

Ballot

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

Drawing

The district shall conduct a drawing to determine the order of the candidates' names in an election at which the names of more than one candidate for the same office are to appear on the ballot. The district shall post notice of the date, hour, and place of the drawing. The notice must remain posted in the district's office continuously for 72 hours immediately preceding the scheduled drawing. The district shall mail written notice of the date, hour, and place of the drawing to each candidate not later than the fourth day before the date of the drawing. Each candidate affected by a drawing is entitled to be present or have a representative present at the drawing. *Election Code 52.093–.094* [See BBBB regarding ballot order in a runoff election or election to resolve a tie.]

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

Election Services Contract

The county election officer, as defined by Election Code 31.091(1), may contract with the board of a district situated wholly or partly in the county served by the officer to perform election services, as provided by Election Code Chapter 31, Subchapter D, in any one or more elections ordered by the board.

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

Election Code 31.092, .093, 41.001(d)

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Election Judges and Clerks

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

Polling Places

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

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

~~Exception for May~~

~~A district is not required to use the county election precincts for an election held on the May uniform election date if the district:~~

~~4. Conducts early voting by personal appearance:~~

~~a. At 75 percent or more of its permanent or temporary branch polling places on the same days and during the same hours as voting is conducted at the main early voting place; and~~

~~b. At each remaining polling place for at least two consecutive days of voting during the early voting period, and for at least eight hours on each day; or~~

~~5. Has not established a permanent or temporary branch early voting polling place.~~

Electioneering

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

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

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Definitions

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

~~Voting Period~~

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

~~Early Voting Period~~

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

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

Election Code 61.003, 85.036

Early Voting

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

November Early Voting Polling Places

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

1. Shall designate as an early voting polling place for the election an eligible county polling place located in the district; and

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

"Eligible county polling place" means an early voting polling place, other than a polling place established under Election Code 85.062(e), established by a county.

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

Temporary Branch Days and Hours

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

1. Eight hours each day; or

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

Election Code 85.064(b)

Records

Branch Daily Register

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

Early Voting Rosters

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

The information must be made available:

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

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

Election Code 87.121(g)–(i)

Conducting Elections

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

Bilingual Materials

Spanish

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

Other Languages

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

Voting Systems

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

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Accessible Voting Stations

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

Electronic Voting System Exceptions

For an election other than an election of a district that is held jointly with another election in which a federal office appears on the ballot, a district is not required to meet the requirements for accessibility under Election Code 61.012(a)(1)(C) if the district is located in a county that meets certain population and other requirements set forth in Election Code 61.013(a). A district that intends to use this provision to provide fewer voting stations that meet the requirements for accessibility than required must provide notice under Election Code 61.013(d). *Election Code 61.013*

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

Tie Votes

Second Election

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

Other Options

Casting Lots

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

Withdrawal

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

Automatic Recount

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

Election Code 2.002

Runoff Election

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

If the candidates in a runoff election tie, an automatic recount shall be conducted under Election Code Chapter 216. If the recount does not resolve the tie, the tied candidates shall cast lots to determine the winner. The board president shall supervise the casting of lots. A tying candidate may resolve the tie by filing with the board president a signed and acknowledged written statement of withdrawal. On receipt of the statement, the remaining candidate is the winner, and a casting of lots is not held. *Election Code 2.028*

Ballot Order

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

Recounts

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

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

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

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

Effect of Petition

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

Canvass Returns

General Rule

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

1. The third day after election day;
2. The date on which the early voting ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election; or
3. The date on which all timely received ballots cast from addresses outside of the United States are counted, if a ballot to be voted by mail in the election was provided to a person outside of the United States.

Election Code 67.003(b)

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November Election—Even-Numbered Years

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

Quorum for Canvass

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

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

Minutes

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

Election Code 67.004(a), (g)

Certificate of Election

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

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

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

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

The presiding officer shall also prepare a report of the precinct results as contained in the election register and deliver the report to the secretary of state not later than the 30th day after election day in an electronic format prescribed by the secretary of state.

Election Code 67.016, .017

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Certificate for Unopposed Candidate	A certificate of election shall be issued to each unopposed candidate declared elected in the same manner and at the same time as provided for a candidate elected at the election. The candidate must qualify for the office in the same manner as provided for a candidate elected at the election. *Election Code 2.053(e)* [See BBBA regarding the election of an unopposed candidate.]
Officer's Statement	All elected and appointed board members, before taking the oath or affirmation of office and entering upon the duties of office, shall sign the required officer's statement. The statement shall be retained with the official records of the office. *Tex. Const. Art. XVI, Sec. 1(b), (c)*
Oath of Office	All elected and appointed ~~board members~~trustees, before they enter upon the duties of the office, shall take the official oath or affirmation of office ~~and~~. Newly elected trustees shall file ~~it~~their official oaths with the board president. *Tex. Const. Art. XVI, Sec. 1(a); Education Code 11.061(a)* The oath may be administered and a certificate of the fact given by the individuals listed at Government Code 602.002, including: 1. A judge, retired judge, or clerk of a municipal court. 2. A judge, retired judge, senior judge, clerk, or commissioner of a court of record. 3. A justice of the peace or clerk of a justice court. 4. A notary public. *Gov't Code 602.002*
Election Records	Except as otherwise provided by the Election Code, a district shall preserve the precinct election records distributed to it for at least 22 months after election day. *Election Code 66.058(a)*
Destruction of Records	After expiration of the prescribed period for preserving election records under the Election Code, the records may be destroyed or otherwise disposed of unless, at the expiration of the preservation period, an election contest or a criminal investigation or proceeding connected with the election is pending. In that case, the records shall be preserved until the contest, investigation, or proceeding is completed and the judgment, if any, becomes final. *Election Code 1.013*

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Open Meetings Act Training

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

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

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

Gov't Code 551.005

Public Information Act Training

Not later than the 90th day after taking the oath of office, each board member shall complete training of not less than one and not more than two hours regarding the responsibilities of the board and its officers and employees under Government Code Chapter 552 (Public Information Act). A board member may designate a public information coordinator to satisfy the training for the board member if the public information coordinator is primarily responsible for administering the responsibilities of the board member or board under the Public Information Act. [See GBAA regarding public information coordinator training] *Gov't Code 552.012*

SBOE-Required Training

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

The continuing education required under Education Code 11.159 applies to each member of the board and consists of orientation sessions, an annual team-building session with the board and the superintendent, and specified hours of continuing education based on identified needs. To the extent possible, an entire board shall participate in continuing education programs together. *19 TAC 61.1(b), (i)*

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

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

Annually, the SBOE shall commend those board-superintendent teams that receive at least eight hours of continuing education in

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the continuing education specified at Team Building and Annual Continuing Education below as an entire board-superintendent team.

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

19 TAC 61.1(k), (l)

Reporting

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

Orientation

Local District Orientation

Each new board member shall participate in a local district orientation session within one year before or 120 days after the board member's election or appointment. The purpose of this orientation is to familiarize new board members with local board policies and procedures and district goals and priorities. The orientation shall be at least three hours in length for each new board member and, in addition to topics chosen by the district, shall address local district practices in curriculum and instruction, business and finance operations, district operations, superintendent evaluation, and board member roles and responsibilities.

Any sitting board member may attend or participate in the local district orientation.

19 TAC 61.1(b)(1)(A)

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Education Code Orientation

A sitting board member shall receive a basic orientation to the Education Code and relevant legal obligations. The orientation shall have special but not exclusive emphasis on statutory provisions related to governing Texas school districts. The orientation shall be delivered by regional education service centers and shall be no less than three hours in length. Topics shall include Chapter 26 (Parental Rights and Responsibilities) and Education Code 28.004 (Local School Health Advisory Council and Health Education Instruction).

New Members

A newly elected or appointed board member shall receive the Education Code orientation within the first 120 days of service.

Current Members

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

19 TAC 61.1 (b)(1)(B)

Legislative Updates

After each session of the Texas Legislature, each board member shall receive an update to the basic orientation to the Education Code from a regional education service center or any registered provider. A board member who has attended a basic orientation session given by a service center that incorporates the most recent legislative changes is not required to attend an update. *19 TAC 61.1(b)(1)(C)*

Team Building

Annually, the entire board, including all board members, shall participate with their superintendent in a team-building session facilitated by a regional education service center or any registered provider. The team-building session shall be at least three hours in length.

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

19 TAC 61.1(b)(2)

Annual Continuing Education

In addition to the continuing education requirements at Orientation and Team Building above, each board member shall receive additional continuing education on an annual basis in fulfillment of assessed needs and based on the framework for governance leadership. [See BBD(EXHIBIT)] The continuing education may be

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provided by a regional education service center or other registered provider. *19 TAC 61.1(b)(3)*

At least 50 percent of the continuing education shall be designed and delivered by persons not employed or affiliated with a board member's school district. No more than one hour of the required continuing education that is delivered by the district may use self-instructional materials. *19 TAC 61.1(h)*

First Year

In the first year of service, a board member shall receive at least ten hours of continuing education in fulfillment of assessed needs. Up to five of the required ten hours may be fulfilled through online instruction, provided the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor. *19 TAC 61.1(b)(3)(A)*

Subsequent Years

After the first year of service, a board member shall receive at least five hours of continuing education annually in fulfillment of assessed needs. A board member may fulfill the five hours of continuing education through online instruction, provided that the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor. *19 TAC 61.1(b)(3)(B)*

Board President

A board president shall receive continuing education related to leadership duties of the board president as some portion of the annual requirement. *19 TAC 61.1(b)(3)(C)*

Evaluating Student Academic Performance

Each board member shall complete continuing education every two years on evaluating student academic performance.

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

19 TAC 61.1(b)(4)

Authorized Provider

~~A trustee or candidate may complete the training at a regional education service center or through another authorized provider. *Education Code 11.159(d)*~~

An authorized provider for training on evaluating student academic performance is a provider who is registered pursuant to 19 Administrative Code 61.1(f) and has demonstrated proficiency in the content required [see Contents, below]. *19 TAC 61.1(b)(4)(C)*

~~Time for Completion~~

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~~A candidate may complete the training up to one year before the candidate is elected.~~

~~If a newly elected or appointed board member did not complete this training in the year preceding the member's election, the member must complete the training within 120 days after election or appointment.~~

~~A returning board member shall complete the training by the second anniversary of the completion of the trustee's previous training.~~

Contents

The training on evaluating student academic performance shall be at least three hours in length and include, at a minimum, the following:

1. Instruction in school board behaviors correlated to improved student outcomes with emphasis on inputs, outcomes, and collaborative student outcome goal setting;
2. Instruction in progress monitoring to improve student outcomes with emphasis on progress monitoring practices, formative assessments, interim assessments, and summative assessments; and
3. Instruction in state accountability with emphasis on the Texas Essential Knowledge and Skills, state assessment instruments administered under the Education Code Chapter 39, and the state accountability rating system.

If the training is attended by an entire board and its superintendent, includes a review of local school district data on student achievement, and otherwise meets the requirements described at Team Building above, the training may serve to meet a board member's obligation to receive training described at Team Building and at Evaluating Student Academic Performance, above, as long as the training complies with the Texas Open Meetings Act.

19 TAC 61.1(b)(4)

Identifying and Reporting Abuse

The SBOE shall require a trustee to complete every two years at least one hour of training on identifying and reporting potential victims of sexual abuse, human trafficking, and other maltreatment of children.

Time for Completion

A candidate may complete the training on evaluating student academic performance or identifying and reporting abuse up to one year before the candidate is elected.

A new trustee shall complete the training within 120 days after the date of the trustee's election or appointment.

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A returning trustee shall complete the training by the second anniversary of the completion of the trustee's previous training.

Education Code 11.159(c)(2), (c-2)

Training Provider

A trustee or candidate may complete the training on evaluating student academic performance or identifying and reporting abuse at a regional education service center or through another authorized provider. *Education Code 11.159(d)*

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

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Note: For information regarding conflicts of interest and depository contracts, see BDAE.

Substantial Interest Affidavit

If a local public official has a substantial interest in a business entity or in real property, the local public official shall, before a vote or decision on any matter involving the business entity or the real property, file an affidavit stating the nature and extent of the interest if:

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

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

The affidavit shall be filed with the official recordkeeper of the district.

Local Gov't Code 171.004(a)–(b)

Abstention

The local public official shall also abstain from further participation in the matter.

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

Local Gov't Code 171.004(a), (c)

Definitions

Substantial Interest

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

1. The person owns at least:

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

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

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

Local Gov't Code 171.002

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Business Entity	"Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law. *Local Gov't Code 171.001(2)*
First-Degree Relatives	The local public official is considered to have a substantial interest if a person related in the first degree by either affinity or consanguinity to the local public official, as determined under Government Code Chapter 573, Subchapter B [see DBE], has a substantial interest as defined above. *Local Gov't Code 171.002*
Local Public Official	"Local public official" means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), central appraisal district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature. *Local Gov't Code 171.001(1)*
Real Property	A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of $2,500 or more. *Local Gov't Code 171.002*
Contracts Permitted	A board may contract with a business entity in which a trustee has a substantial interest if the trustee follows the disclosure and abstention procedure set out above. *Atty. Gen. Op. JM-424 (1986)*
Separate Vote on Budget	A board shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a trustee has a substantial interest. The affected trustee shall not participate in that separate vote, but may vote on a final budget if he or she filed the affidavit and the matter in which he or she is concerned has been resolved. *Local Gov't Code 171.005*
Depository Bank	A school board member with a "substantial interest" in a depository bank must file an affidavit stating his interest and must abstain from participating in decisions on loan contracts with the depository if action on the matter will have a special economic effect on the bank that is distinguishable from the effect on the public. *Atty. Gen. Op. JM-1082 (1989)* [See BDAE]
Violations	A local public official commits an offense if the official knowingly: 1. Violates Local Government Code 171.004. 2. Acts as surety for a business entity that has a contract, work, or business with a district. 3. Act as surety on any official bond required of an officer of a district. *Local Gov't Code 171.003*

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Voidable Actions

The finding by a court of a violation of Local Government Code Chapter 171 does not render an action of the board voidable unless the measure that was the subject of an action involving a conflict of interest would not have passed without the vote of the person who violated the chapter. *Local Gov't Code 171.006*

Conflicts Disclosure Statement

A local government officer shall file a conflicts disclosure statement, as adopted by the Texas Ethics Commission, with respect to a vendor if the vendor enters into a contract with the district or the district is considering entering into a contract with the vendor; and the vendor:

1. Has an employment or other business relationship with the local government officer or a family member of the officer, and the business relationship results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that:
    a. A contract between the district and the vendor has been executed; or
    b. The district is considering entering into a contract with the vendor;
2. Has given to the local government officer or a family member of the officer one or more gifts, and the gift or gifts have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:
    a. A contract between the district and the vendor has been executed; or
    b. The district is considering entering into a contract with the vendor; or
3. Has a family relationship with the local government officer.

Gifts—Exception

A local government officer is not required to file a conflicts disclosure statement in relation to a gift, as defined by law, accepted by the officer or a family member of the officer if the gift is:

1. A political contribution as defined by Title 15, Election Code; or
2. Food accepted as a guest.

Local Gov't Code 176.003(a)–(a-1)

Filing Date

A local government officer shall file the conflicts disclosure statement with the records administrator of a district not later than 5:00

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p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement. *Local Gov't Code 176.003(b)*

Vendor Questionnaire

A person who is both a local government officer and a vendor of a local governmental entity is required to file a vendor questionnaire if the person enters or seeks to enter into a contract with the local governmental entity; or is an agent of a person who enters or seeks to enter into a contract with the local governmental entity. [See CHE] *Local Gov't Code 176.006(e)*

Definitions

Agent

"Agent" means a third party who undertakes to transact some business or manage some affair for another person by the authority or on account of the other person. The term includes an employee. *Local Gov't Code 176.001(1)*

Business Relationship

"Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

1. A transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
2. A transaction conducted at a price and subject to terms available to the public; or
3. A purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Gov't Code 176.001(a-1)

Family Member

"Family member" means a person related to another person within the first degree by consanguinity or affinity, as described by Government Code Chapter 573, Subchapter B. [See DBE] *Local Gov't Code 176.001(2)*

Family Relationship

"Family relationship" means a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity, as those terms are defined by Government Code Chapter 573, Subchapter B. [See DBE] *Local Gov't Code 176.001(2-a)*

Gift

"Gift" means a benefit offered by a person, including food, lodging, transportation, and entertainment accepted as a guest. The term does not include a benefit offered on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient. *Local Gov't Code 176.001(2-b)*

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Investment Income

"Investment income" means dividends, capital gains, or interest income generated from:

1. A personal or business:
   a. Checking or savings account,
   b. Share draft or share account, or
   c. Other similar account;
2. A personal or business investment; or
3. A personal or business loan.

Local Gov't Code 176.001(2-d)

Local Government Officer

"Local government officer" means a member of the board, the superintendent, or an agent (including an employee) of the district who exercises discretion in the planning, recommending, selecting, or contracting of a vendor. *Local Gov't Code 176.001(4)*

Records Administrator

"Records administrator" means the director, superintendent, or other person responsible for maintaining the records of a district or another person designated by the district to maintain statements and questionnaires filed under Local Government Code 176 and perform related functions. *Local Gov't Code 176.001(5)* [See CPC]

Vendor

"Vendor" means a person who enters or seeks to enter into a contract with a local governmental entity. The term includes an agent of a vendor. The term includes an officer or employee of a state agency when that individual is acting in a private capacity to enter into a contract. The term does not include a state agency except for Texas Correctional Industries. *Local Gov't Code 176.001(7)*

Duties of Records Administrator

A records administrator shall:

1. Maintain a list of local government officers of the district and shall make that list available to the public and any vendor who may be required to file a conflict of interest questionnaire under Local Government Code 176.006; and
2. Maintain the statements and questionnaires that are required to be filed under Government Code Chapter 176 in accordance with the district's records retention schedule. [See CPC]

Local Gov't Code 176.0065

Internet Posting

A district that maintains an internet website shall provide access on the district's internet website to the conflicts disclosure statements and questionnaires required to be filed with the records administrator. *Local Gov't Code 176.009*

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Violations

A local government officer commits an offense if the officer is required to file a conflicts disclosure statement and knowingly fails to file the required conflicts disclosure statement with the appropriate records administrator not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement. It is an exception to the application of the penalty that the local government officer filed the required conflicts disclosure statement not later than the seventh business day after receiving notice from the district of the alleged violation.

A board may reprimand, suspend, or terminate the employment of an employee who knowingly fails to comply with a requirement adopted under Local Government Code 176. [See DF series]

A board may, at its discretion, declare a contract void if the board determines that a vendor failed to file a conflict of interest questionnaire required by Local Government Code 176.006.

Local Gov't Code 176.013

Affidavit Disclosing Interest in Property

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

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

The affidavit must~~:~~ be filed with the county clerk of the county in which the public servant resides and the county clerk of each county in which the property is located.

The affidavit must:

1. State the name of the public servant and the public servant's office, public title, or job designation ~~held or sought.~~;
2. Fully describe the property~~.~~;
3. Fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest ~~and the date the interest was acquired.~~;
4. State the date when the person acquired an interest in the property;
5. ~~4.~~ Include a verification ~~of the truth of~~as follows: "I swear that the information in ~~the~~this affidavit~~.~~ is personally known by me to

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be correct and contains the information required by Section 553.002, Government Code"; and

~~5.~~6. ~~Include~~Contain an acknowledgment of the same type required for recording a deed in the deed records of ~~a~~the county.

Gov't Code 553.002

~~"Public Servant" — Government Code~~

Definition

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

1. A candidate for nomination or election to public office, or
2. An officer of government.

Gov't Code 553.001

Violation

A ~~public servant who fails to file~~person commits an offense if the person violates Government Code 553.002 and the person has actual notice of the acquisition or intended acquisition of the legal or equitable interest in the property. A person who violates Government Code 553.002 by not filing the required affidavit ~~when required~~ is presumed to have the intent to commit an offense. ~~An offense under this section is a Class A misdemeanor.~~ *Gov't Code 553.003*

Annual Financial Management Report

A district's annual financial management report shall include summary schedules of expenditures paid on behalf of each board member, reimbursements received by each board member, gifts with a total value over $250 received by board members from certain vendors, and amounts received by board members for business transactions with the district. [See CFA] *Education Code 39.083; 19 TAC 109.1001(q)(3)(B)(ii), (iv), (v)*

~~***Note:*** The following provisions do not apply to the board of a district that is subject to Education Code Section 11.0641 [See Trustee Financial Statement—Districts in El Paso County]. *Education Code 11.064(d)*~~

Trustee Financial Statement

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

Not later than the 15th day after the date a board adopts this resolution, the board shall deliver a certified copy of the resolution to the Texas Ethics Commission. A resolution applies beginning on January 1 of the second year following the year in which the reso-

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lution is adopted. A member of a board that has adopted a resolution is not required to include, in a financial disclosure statement, financial activity occurring before January 1 of the year following the year in which the resolution is adopted.

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

1. A board member has failed to comply with filing and recusal requirements applicable to the member under Chapter 171, Local Government Code;
2. District financial accounting practices are not adequate to safeguard state and district funds; or
3. A district has not met a standard set by the commissioner in the financial accountability rating system.

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

Education Code 11.064

Electronic Filing

Except as provided at Appointed Official, below, a financial statement filed with the Ethics Commission must be filed by computer diskette, modem, or other means of electronic transfer, using computer software provided by the commission or computer software that meets commission specifications for a standard file format.

Appointed Official

An individual who was appointed to office may file the financial statement by certified mail in compliance with Government Code 572.029.

Gov't Code 572.0291

Confidentiality

Electronic report or financial statement data saved in an Ethics Commission temporary storage location for later retrieval and editing before the report or financial statement is filed is confidential and may not be disclosed. After the report or financial statement is filed with the Ethics Commission, the information disclosed in the

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filed report or financial statement is public information to the extent provided by the law requiring the filing of the report or financial statement. *Gov't Code 571.0671(d)*

Violations

A trustee serving in a school district that has adopted a resolution or that is subject to an order issued by the commissioner commits an offense if the trustee fails to file the statement required by the resolution or order. An offense under this section is a Class B misdemeanor. *Education Code 11.064(c)*

~~***Note:*** The following provisions apply only to the board of a district located in a county on the international border and in which a municipality with a population of 600,000 or more is located.~~

~~**Trustee Financial Statement—Districts in El Paso County**~~

~~Each member of the board shall file a financial statement with:~~

~~4. The board of trustees; and~~

~~5. The commissioners court of the county in which the school district's central administrative office is located.~~

~~The provisions of Subchapter B, Chapter 572, Government Code, governing the contents, timeliness of filing, and public inspection of a statement apply to a statement filed under this section as if the trustee were a state officer and the commissioners court of the county were the Texas Ethics Commission. A trustee is not required to file a statement under this section for financial activity occurring on or after January 1, 2018.~~

~~If the commissioners court of the county determines that a required financial statement is late, the trustee responsible for filing the statement is liable to the county for a civil penalty of $500. If a statement is more than 30 days late, the commissioners court shall issue a warning of liability by registered mail to the trustee responsible for the filing. If the penalty is not paid before the tenth day after the date on which the warning is received, the trustee is liable for a civil penalty not to exceed $10,000.~~

~~Violations~~

~~A trustee commits a Class B misdemeanor if the trustee fails to file the required statement.~~

~~*Education Code 11.0641*~~

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

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Private Corporation It is lawful for a local public official to serve as a member of the board of directors of private, nonprofit corporations when such officials receive no compensation or other remuneration from the nonprofit corporation or other nonprofit entity. *Local Gov't Code 171.009*

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

Public Information on Private Device

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

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

Gov't Code 522.004(b) [See GB]

Online Message Board

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

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

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

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

If the district removes from the online message board or similar internet application a communication that has been posted for at least 30 days, the district shall maintain the posting for a period of six years. This communication is public information and must be

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disclosed in accordance with Government Code Chapter 552 (Public Information Act).

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

Gov't Code 551.006

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Note: The Texas Education Agency maintains information regarding depository contracts for districts,[1] including the forms referenced in this policy.

Selection

A school depository must be a bank located in this state and may be selected only as provided by this policy. "Bank" means a bank, a savings and loan association, or a savings bank organized under the laws of this state, another state, or federal law that has its main office or a branch office in this state. The term does not include any bank the deposits of which are not insured by the Federal Deposit Insurance Corporation (FDIC). *Education Code 45.201(2), .202, .203*

Method

Not later than the 60th day before the date a school district's current depository contract expires, the district shall choose whether to select a depository through competitive bidding or through requests for proposals. *Education Code 45.206(a)*

The district must keep the selected bid or proposal form in the district and make it available to TEA upon request. *19 TAC 109.51(b)*

Competitive Bidding

Notice

If a district chooses to use competitive bidding, the district shall, not later than the 30th day before the date the current depository contract expires, mail to each bank in the district and, if desired, to other banks, a notice stating the time and place in which bid applications will be received for selecting a depository or depositories. The notice must include the uniform bid blank form prescribed by State Board of Education (SBOE) rule. The district may add to the uniform bid blank other terms that do not unfairly restrict competition between banks in or near the territory of the district. *Education Code 45.206(a-1), (b); 19 TAC 109.51(b), (c)*

Requests for Proposals

Notice

If a district chooses to use requests for proposals, the district shall, not later than the 30th day before the date the current depository contract expires, mail to each bank located in the district and, if desired, to other banks, a notice stating the time and place in which proposals will be received for selecting a depository or depositories. The notice must include the uniform proposal blank form prescribed by SBOE rule. A district shall state the selection criteria, including the factors specified under Education Code 45.207(c) [see Factors to Consider, below], in the request for proposals. The district may add to the uniform proposal blank other terms that do not unfairly restrict competition between banks in or near the territory of the district. *Education Code 45.206(a-2), (b), (d); 19 TAC 109.51(b), (d)*

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Best Value A district shall select the proposal that offers the best value to the district based on the evaluation and ranking of each submitted proposal in relation to the stated selection criteria. A district may negotiate with the bank that submits the highest-ranked proposal to determine any terms of the proposed depository contract other than the interest rates proposed. *Education Code 45.206(d)*

Award of Contract A district shall award the depository contract to the bank that submits the highest bid or the highest-ranked proposal, as determined under Factors to Consider, below, except that the district may award the contract as provided at Tie Bids and Proposals, below if:

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

Education Code 45.207(a)

Factors to Consider The board shall at a regular or special meeting consider each bid or proposal received. In determining the highest and best bid or the highest-ranked proposal, or in case of tying bids or proposals the highest and best tying bids or proposals, a board shall consider:

1. The interest rate bid or proposed on time deposits;
2. The charge for keeping district accounts, records, and reports and furnishing checks;
3. The ability of the bank submitting the bid or proposal to provide the necessary services and perform the duties as school district depository; and
4. Any other matter the board considers to be in the best interest of a district.

Education Code 45.207(c)

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

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

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2. Award a contract to each of the banks submitting the tying bids or proposals.

Education Code 45.207(a-1)

Rejection of Bids or Proposals

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

Conflict of Interest

If a member of the board is a stockholder, officer, director, or employee of a bank, the bank is not disqualified from bidding, submitting a proposal, or becoming the depository of the district if the bank is selected by a majority vote of the board or a majority vote of a quorum when only a quorum is present.

Abstention

If a board member is a stockholder, officer, director, or employee of a bank that has bid or submitted a proposal to become the depository, the member may not vote on awarding a depository contract to the bank, and the contract must be awarded by a majority vote of the trustees as provided above who are not either a stockholder, officer, director, or employee of a bank receiving a depository contract.

Education Code 45.204

Contract

Term

The depository shall serve for a term of two years and until its successor is selected and has qualified. A district and its depository bank may agree to extend the contract for three additional two-year terms. The contract may be modified for each two-year extension if both parties mutually agree to the terms. The contract term and any extension must coincide with the district's fiscal year. An extension is not subject to the requirements of Education Code 45.206 [see Method, above]. *Education Code 45.205*

Form

The depository or depositories and a district shall enter into a depository contract(s), bond(s), or other necessary instruments setting forth the duties and agreements pertaining to the depository in the form and with the content prescribed by the SBOE. The parties shall attach and incorporate by reference the bid or proposal of the depository. ~~A copy of the contract and bond, if applicable, shall be filed with TEA.~~ *Education Code 45.208(a~~), (e~~); 19 TAC 109.52*

Authorized Collateral

Bond

The depository shall attach to the contract and file with the district a bond in an initial amount equal to the estimated highest daily balance, determined by the board, of all deposits the district will have in the depository, less any FDIC insurance. The bond must be payable to the district and signed by the depository and some surety company authorized to do business in this state. The depository shall increase the amount of the bond if the board determines it to be necessary to adequately protect the funds of the district deposited with the depository. *Education Code 45.208(b)*

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The bond and surety must be approved by the board. A premium on the bond may not be paid out of district funds. *Education Code 45.208(d)*

Bond Conditions

The bond shall be conditioned on:

1. Faithful performance of all legal duties and obligations;
2. Payment on presentation of all checks or drafts on order of the board;
3. Payment on demand of any demand deposit;
4. Payment, after the expiration of the required notice period, of any time deposit;
5. Faithful keeping of school funds by the depository and accounting for the funds according to law; and
6. Faithful paying over to the successor depository all balances remaining in the accounts.

Education Code 45.208(c)

Approved Securities

In lieu of a bond, the depository may deposit or pledge, with the district or a designated trustee, approved securities, as defined in Education Code 45.201(4), in an amount sufficient to adequately protect the funds of the district deposited with the depository. A depository may give a bond and deposit or pledge approved securities in an aggregate amount sufficient to adequately protect the funds of the district. The district shall designate from time to time the amount to adequately protect the district. The district may not designate an amount less than the balance of school district funds on deposit with the depository from day to day, less any applicable FDIC insurance. *Education Code 45.208(f)*

In accordance with written board policy, a district shall determine if an investment security, as defined in Government Code 2257.002(5), is eligible to secure deposits of public funds under the Public Funds Collateral Act, Government Code, Chapter 2257. *Gov't Code 2257.023(a)*

"Eligible security" means:

1. A surety bond;
2. An investment security;
3. An ownership or beneficial interest in an investment security, other than an option contract to purchase or sell an investment security;

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4. A fixed-rate collateralized mortgage obligation that has an expected weighted average life of ten years or less and does not constitute a high-risk mortgage security;

5. A floating-rate collateralized mortgage obligation that does not constitute a high-risk mortgage security; or

6. A letter of credit issued by a federal home loan bank.

Gov't Code 2257.002(4)

The policy may include the security of the institution that obtains or holds an investment security, the substitution or release of an investment security, and the method by which an investment security used to secure a deposit of public funds is valued. *Gov't Code 2257.023(b)*

Texas Bullion Depository

The Texas Bullion Depository is established as an agency of this state in the office of the comptroller under Subtitle C, Title 10, Government Code. The depository may receive a deposit of bullion or specie from or on behalf of a district in accordance with rules adopted by the comptroller. *Gov't Code 2116.002(a), .005(a); 34 TAC 14.1–.20.*

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

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[1] Depository Contracts for School Districts: https://tea.texas.gov/Finance_and_Grants/Financial_Compliance/Depository_Contracts_for_School_Districts/

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Selection of Assessor and Collector

A board may employ a person to assess or collect the district's taxes and may compensate the person as the board considers appropriate. *Education Code 45.231*

A district may also provide for the assessment or collection of the district's taxes under one of the following methods:

1. Require the county to assess and collect taxes for the school district. The board may revoke the requirement at any time by official action. *Tax Code 6.22(c)*

2. Contract with another taxing unit or the county appraisal district(s) to perform duties relating to the assessment or collection of taxes. *Tax Code 6.24(a)*

3. Use one of the following methods, which were specified in former Education Code Chapter 23, Subchapter F, if the district used one of those methods for the 1994 tax year. The district may continue to use that method of selection until the district uses one of the methods above. *Education Code 45.232*

   a. Appoint an assessor and provide by resolution that taxes be collected by the county or city tax collector. *Former Education Code 23.95*

   b. By ordinance or resolution, authorize the city tax assessor-collector to assess and collect taxes. *Former Education Code 23.96*

   c. By a two-thirds vote of each board, consolidate assessing and collecting taxes with other independent school districts by appointing the same assessor-collector. *Former Education Code 23.97*

Registration Requirements

In accordance with the Property Taxation Professional Certification Act, the following school district tax officials shall be registered with the Texas Department of Licensing and Regulation and satisfy all requirements for certification:

1. An assessor-collector, collector, or other person designated by a board as the chief administrator of the district's assessment functions, collection functions, or both;

2. All persons engaged in appraisals of real or personal property for ad valorem tax purposes; and

3. A person who performs assessment or collection functions for a district and who is required to register by the chief administrator of the district's tax office.

Occupations Code 1151.151, .160

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Duties

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

Assessor

In addition to any other duties that may be required by law, the assessor shall:

1. On receipt of the appraisal roll, determine the total appraised value, total assessed value, and total taxable value of property taxable by the district. *Tax Code 26.04(a)*

2. By August 1 or as soon thereafter as practicable, submit to the board the appraisal roll showing the total appraised, assessed, and taxable values. *Tax Code 26.04(b)*

3. On receipt of notice of the tax rate for the current tax year, calculate the tax imposed on each property on the appraisal roll for the district. *Tax Code 26.09*

4. By October 1 or as soon thereafter as practicable, prepare and mail a tax bill to each person in whose name the property is listed on the tax roll and to the person's authorized agent. The assessor is not required to mail a tax bill if on or before September 15, the individual or entity entitled to receive a tax bill and the assessor enter into a signed, written agreement providing for delivery of the tax bill by electronic means. *Tax Code 31.01(a), (k)*

Collector

In addition to any other duties that may be required by law, the collector shall:

1. By August 1 or as soon thereafter as practicable, certify to a board an estimate of the collection rate for the current year. If the collector certified an anticipated collection rate in the preceding year that was lower than the actual collection rate, the collector shall also certify the amount collected in excess of the anticipated amount in the preceding year. *Tax Code 26.04(b)*

2. Each month, prepare and submit to a board a written report made under oath accounting for all taxes collected during the preceding month. Reports of collections made in the months of October through January are due on the 25th day of the month following the month that is the subject of the report. Reports of collections made in all other months are due on the 15th day of the month following the month that is the subject of the report. *Tax Code 31.10(a)*

3. Each year, prepare and submit to a board an annual report made under oath accounting for all taxes collected or delinquent on property taxed by a district during the preceding 12-

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month period. Annual reports are due on the 60th day following the last day of the fiscal year. *Tax Code 31.10(b)*

4. At least monthly, deposit in a district's depository all taxes collected for the district. The board may require deposits to be made more frequently. *Tax Code 31.10(c)*

5. If a district's taxes are collected by another taxing unit or the appraisal district, the collector shall deposit taxes in the district's depository daily, unless a board by official action provides that deposits may be made less often than daily. *Tax Code 31.10(d)*

6. Each year, prepare a current and cumulative delinquent tax roll for the district. *Tax Code 33.03*

7. At least once each year, deliver a delinquent tax notice to each person whose name appears on the delinquent tax rolls. *Tax Code 33.04*

Collector's Bond

If a district's taxes are collected by a district employee, a board shall require the tax collector to give bond conditioned on the faithful performance of duties. The bond shall be made payable to and be approved by a board in an amount determined by the board. The board may require a new bond at any time, and failure to give new bond within a reasonable time after demand is a ground for removal from office. The board may prescribe additional requirements for the bond.

If a district's taxes are collected by a person who is not an employee of the district, a board may require the person to give bond conditioned on the faithful performance of duties. The bond shall be payable to, approved by, and paid for by the board in an amount determined by the board. The board may prescribe additional requirements for the bond.

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

Tax Code 6.29

Limit on Contracting

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

For purposes of the above paragraph, an individual has a substantial interest in a business entity if:

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~~1. The combined ownership of the individual and the individual's spouse is at least ten percent of the voting stock or share of the business entity or the individual; or~~

~~2. The individual's spouse is a partner, limited partner, or officer of the business entity.~~

~~"Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or other entity recognized by law.~~

~~*Tax Code 6.036(c), (d)*~~

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

Definitions

Meeting

"Meeting" means a deliberation among a quorum of a board, or between a quorum of the board and another person, during which public business or public policy over which the board has supervision or control is discussed or considered, or during which the board takes formal action. "Meeting" also means a gathering:

1. That is conducted by a board or for which a board is responsible;
2. At which a quorum of members of a board is present;
3. That has been called by a board; and
4. At which board members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of a district, about the public business or public policy over which the board has supervision or control.

Gov't Code 551.001(4)

A communication or exchange of information between board members about public business or public policy over which the board has supervision or control does not constitute a meeting or deliberation for purposes of the Texas Open Meetings Act if the communication is posted to an online message board or similar internet application in compliance with Government Code 551.006. *Gov't Code 551.006* [See BBI(LEGAL)]

Deliberation

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

Recording

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

Videoconference Call

"Videoconference call" means a communication conducted between two or more persons in which one or more of the partici-

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pants communicate with the other participants through duplex audio and video signals transmitted over a telephone network, a data network, or the internet. *Gov't Code 551.001(8)*

Social Function, Convention, or Candidate Event

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

Legislative Committee or Agency Meeting

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

Superintendent Participation

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

Open to Public

Every meeting of a board shall be open to the public. A board may, however, exclude a witness from a hearing during the examination of another witness in a matter being investigated and may enter into a closed meeting, as provided by law. *Gov't Code 551.002, .084, Ch. 551, Subch. D* [See BDB and BEC]

Parental Access

A parent, as defined in Education Code 26.002, is entitled to complete access to any meeting of a board, other than a closed meeting held in compliance with the Open Meetings Act. *Education Code 26.007(a)*

Recording

All or any part of an open meeting may be recorded by any person in attendance by means of a recorder, video camera, or any other means of aural or visual reproduction. A board may adopt reasonable rules to maintain order at a meeting, including rules related to the location of recording equipment and the manner in which the recording is conducted. These rules shall not prevent or unreasonably impair a person from exercising the right to record a meeting that is open to the public. *Gov't Code 551.023*

Minutes

A board shall prepare and keep minutes or make a recording of each open meeting. The minutes shall state the subject matter of

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each deliberation and indicate each vote, order, decision, or other action taken. *Gov't Code 551.021*

Board Member Attendance

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

Availability

The minutes and recording are public records and shall be available for public inspection and copying on request to a superintendent or designee. *Gov't Code 551.022; Education Code 11.0621*

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

Notice Required

A board shall give written notice of the date, hour, place, and subject(s) of each meeting it holds. *Gov't Code 551.041*

Continued Meeting

If a board recesses an open meeting to the following regular business day, the board is not required to post notice of the continued meeting if the action is taken in good faith and not to circumvent Government Code Chapter 551. If an open meeting is continued to the following regular business day and, on that following day, a board continues the meeting to another day, the board must give the required written notice of the meeting continued to that other day. *Gov't Code 551.0411(a)*

Inquiry During Meeting

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

Location

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

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

Education Code 26.007(b)

Time of Notice and Accessibility

Notice of a board meeting shall be posted on a bulletin board at a place convenient to the public in the central administration office for at least 72 hours before the scheduled time of the meeting. That notice or a notice posted at another board-designated place shall at all times be readily accessible to the public for at least 72 hours

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before the scheduled time of the meeting. *Gov't Code 551.043(a), .051; City of San Antonio v. Fourth Court of Appeals, 820 S.W. 2d 762 (Tex. 1991)*

If a district is required to post notice of a meeting on the internet, the district satisfies the requirement that the notice must be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the internet during the prescribed period.

A district must still comply with the duty to physically post the notice in the central administration office and if the district makes a good-faith attempt to continuously post the notice on the internet during the prescribed period, the physically posted notice must be readily accessible to the general public during normal business hours.

Gov't Code 551.043(b)

Internet Posting

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

A district that contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more must also, concurrently with the notice, post on the district's internet website the agenda for a board meeting, if the agenda differs from the posted notice.

The validity of a posting of a district that made a good-faith attempt to comply with the internet posting requirements is not affected by a failure to comply that is due to a technical problem beyond the control of the district.

Gov't Code 551.056 [See CQA for website posting requirements regarding notice of board meetings.]

Specificity of Agenda / Notice

Agendas for all meetings shall be sufficiently specific to inform the public of the subjects to be deliberated at the meeting, setting out any special or unusual matters to be considered or any matter in which the public has a particular interest. Deliberations or actions pertaining to a superintendent and principals are of particular public interest, and notice of those subjects must be worded with such clarity that the public will understand what a board proposes to discuss or accomplish. *Cox Enterprises, Inc. v. Austin Indep. Sch. Dist., 706 S.W.2d 956 (Tex. 1986); Point Isabel Indep. Sch. Dist. v. Hinojosa, 797 S.W.2d 176 (Tex. App.—Corpus Christi 1990, writ denied); Atty. Gen. Ops. M-494 (1969), H-419 (1974), H-662 (1975), H-1045 (1977)*

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The terms “employee briefing” or “staff briefing” do not give adequate notice of the subject matter to be presented to a board by employees or staff members. *Atty. Gen. Op. JC-169 (2000)*

The subject of a report or update by district staff or a member of the board must be set out in the notice in a manner that informs a reader about the subjects to be addressed. *Atty. Gen. Op. GA-668 (2008)*

Emergency Meeting or Emergency Addition to Agenda

In an emergency or when there is an urgent public necessity, the notice of a meeting to deliberate or take action on the emergency or urgent public necessity, or the supplemental notice to add the deliberation or taking of ~~a subject added to~~ action on the emergency or urgent public necessity as an item to the agenda for a meeting for which notice has been posted in accordance with ~~law~~ the Open Meetings Act, is sufficient if ~~it~~the notice or supplemental notice is posted for at least ~~two hours~~one hour before the meeting is convened.

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

1. A matter directly related to responding to the emergency or urgent public necessity identified in the notice or supplemental notice of the meeting; or

2. An agenda item listed on a notice of the meeting before the supplemental notice was posted.

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

1. An imminent threat to public health and safety ~~or~~, including a threat described in item 2, below, if imminent; or

2. A reasonably unforeseeable situation~~. A~~, including:

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

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

    c. Epidemic; or

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

The board shall clearly identify the emergency or urgent public necessity ~~for each item~~ in the notice of an emergency meeting ~~and each item added in a~~or supplemental notice.

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The sudden relocation of a large number of residents from the area of a declared disaster to a district's jurisdiction is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation. ~~Notice of an emergency meeting or supplemental notice of an emergency item added to the agenda of a meeting to address a situation described by this subsection must be given to members of the news media as provided by Government Code 551.047 not later than one hour before the meeting.~~

Gov't Code 551.045

Catastrophe

A board prevented from convening an open meeting that was otherwise properly posted under Government Code Section 551.041 because of a catastrophe may convene the meeting in a convenient location within 72 hours pursuant to Government Code Section 551.045 if the action is taken in good faith and not to circumvent Government Code Chapter 551. If a board is unable to convene the open meeting within those 72 hours, the board may subsequently convene the meeting only if the board gives the required written notice of the meeting.

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

1. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
2. Power failure, transportation failure, or interruption of communication facilities;
3. Epidemic; or
4. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

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

Special Notice to News Media

A district shall provide special notice of each meeting by telephone, facsimile transmission, or electronic mail to any news media that has requested ~~it~~special notice and agreed to reimburse the district for the cost of providing the special notice. ~~When an emergency meeting is called or an emergency item added to an agenda, a board president shall notify by telephone, facsimile transmission, or electronic mail any news media who have previously requested special notice of all meetings.~~ *Gov't Code 551~~.047,~~.052*

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

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

Quorum

A majority of a board (e.g., four members of a seven-member board or five members of a nine-member board, regardless of the number of vacancies) constitutes a quorum for meetings of the board. *Gov't Code 551.001(6), 311.013(b)*

Disaster

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

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

Gov't Code 418.1102

Secret Ballot

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

Meeting by Telephone Conference Call

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

Each part of the telephone conference call meeting that is required to be open shall be audible to the public at the location specified in the notice of the meeting. The location designated in the notice as the location of the meeting shall provide two-way communication during the entire telephone conference call meeting and the identification of each party to the telephone conference shall be clearly stated prior to speaking.

Notice

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

Recording

The conference call meeting shall be recorded and made available to the public.

Gov't Code 551.125

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Meeting by Videoconference Call

A board member or district employee may participate remotely in a board meeting by means of a videoconference call if the video and audio feed of the board member's or employee's participation, as applicable, is broadcast live at the meeting and complies with the provisions below. A board member who participates by videoconference call shall be counted as present at the meeting for all purposes. A board member who participates in a meeting by video conference call shall be considered absent from any portion of the meeting during which audio or video communication with the member is lost or disconnected. The board may continue the meeting only if a quorum remains present at the meeting location or, if applicable, continues to participate in a meeting conducted as specified at Multiple Counties, below. *Gov't Code 551.001(8), .127(a-1)-(a-3)*

Quorum

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

Multiple Counties

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

Notice

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

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

Gov't Code 551.127(b)–(e)

Quality of Audio and Video Signals

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

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

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

Gov't Code 551.127(f), (h)–(j); 1 TAC 209.10–.11

Recording

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

Remote Participation by the Public

A board may allow a member of the public to testify at a meeting from a remote location by videoconference call even if a board member is not participating in the meeting from a remote location.

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

Video and Audio Recording of Meeting

A board for a district that has a student enrollment of 10,000 or more shall make a video and audio recording of reasonable quality of each:

1. Regularly scheduled open meeting that is not a work session or a special called meeting; and
2. Open meeting that is a work session or special called meeting at which the board votes on any matter or allows public comment or testimony. [See BED for requirements regarding public testimony.]

The board shall make available an archived copy of the video and audio recording of each meeting on the internet not later than seven days after the date the recording was made. The board shall maintain the archived recording on the internet for not less than two years after the date the recording was first made available. A board is exempt from the requirements in this paragraph if the board's failure to make the required recording of a meeting available is the result of a catastrophe, as defined by Government Code

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551.0411 [see Catastrophe, above], or a technical breakdown. Following a catastrophe or breakdown, the board must make all reasonable efforts to make the required recording available in a timely manner.

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

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

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

Gov't Code 551.128(b-1)–(b-6)

Internet Broadcast

A board that is not subject to the provisions above at Video and Audio Recording of Meeting may broadcast an open meeting over the internet. If a board broadcasts a meeting over the internet, it shall establish an internet site and provide access to the broadcast from that site. A board shall provide on the internet site the same notice of the meeting, within the time required for posting that notice, that the board is required to post under the Open Meetings Act. *Gov't Code 551.128(b), (c)*

Attorney Consultation

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

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

Exception

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

Gov't Code 551.129

Hearing-Impaired Persons

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

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hearing impaired an interpreter who has qualifications approved by the Texas Department of Assistive and Rehabilitative Services.

For purposes of this requirement, "deaf or hearing impaired" means having a hearing impairment, regardless of the existence of a speech impairment, that inhibits comprehension of a proceeding or inhibits communication with others.

Gov't Code 558.001, .003

Prohibited Series of Communications

A board member commits an offense if the member:

1. Knowingly engages in at least one communication among a series of communications that each occur outside of a meeting authorized by the Open Meetings Act and that concern an issue within the jurisdiction of the board in which the members engaging in the individual communications constitute fewer than a quorum of members but the members engaging in the series of communications constitute a quorum of members; and

2. Knew at the time the member engaged in the communication that the series of communications:

   a. Involved or would involve a quorum; and

   b. Would constitute a deliberation once a quorum of members engaged in the series of communications.

Gov't Code 551.143

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United States Constitution

A district shall take no action abridging the freedom of speech or the right of the people to petition the board for redress of grievances. *U.S. Const. Amend. I, XIV*

A board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. When the board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. *Rosenberger v. Rector & Visitors of Univ. of Virginia, 515 U.S. 819, 828 (1995); City of Madison v. Wis. Emp. Rel. Comm'n, 429 U.S. 167, 176 (1976); Pickering v. Bd. of Educ., 391 U.S. 563, 568 (1968)*

A board may create a limited public forum for the purpose of hearing comments from the public so long as:

1. The board does not discriminate against speech on the basis of viewpoint;
2. Any restrictions are reasonable in light of the purpose served by the forum; and
3. The board provides alternative paths for expressing categories of protected speech that are excluded from the forum.

Fairchild v. Liberty Indep. Sch. Dist., 597 F.3d 747 (5th Cir. 2010)

Texas Constitution

Citizens shall have the right, in a peaceable manner, to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. *Tex. Const. Art. I, Sec. 27*

Public Comment

~~As long as the requirements of the Open Meetings Act are satisfied and the right of citizens to apply to a board for redress of their grievances is not abridged, the board need not provide a public forum for every citizen wishing to express an opinion on a matter. Reasonable restraints on the number, length, and frequency of presentations are permissible. A board may limit the number of persons it will hear on a particular subject and the frequency with which they may appear, so long as the regulation does not abridge constitutionally guaranteed rights of freedom of speech and to petition, nor unfairly discriminate among views seeking expression. *Atty. Gen. Op. H-188 (1973)*~~

A board shall allow each member of the public who desires to address the board regarding an item on an agenda for an open meeting of the board to address the board regarding the item at the meeting before or during the board's consideration of the item.

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Time Limits	A board may adopt reasonable rules regarding the public's right to address the board under these provisions, including rules that limit the total amount of time that a member of the public may address the board on a given item.
Additional Time for Translation	If a board does not use simultaneous translation equipment in a manner that allows the board to hear the translated public testimony simultaneously, a rule adopted that limits the amount of time that a member of the public may address the board must provide that a member of the public who addresses the board through a translator must be given at least twice the amount of time as a member of the public who does not require the assistance of a translator in order to ensure that non-English speakers receive the same opportunity to address the board.
Public Criticism	A board may not prohibit public criticism of the board, including criticism of any act, omission, policy, procedure, program, or service. This does not apply to public criticism that is otherwise prohibited by law. *Gov't Code 551.007*

Disruption

It is a criminal offense for a person, with intent to prevent or disrupt a lawful meeting, to substantially obstruct or interfere with the ordinary conduct of a meeting by physical action or verbal utterance and thereby curtail the exercise of others' First Amendment rights. *Penal Code 42.05; Morehead v. State, 807 S.W. 2d 577 (Tex. Cr. App. 1991)*

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Team Building

The superintendent's participation in team building sessions as part of the board's continuing education [see BBD] shall represent one component of the superintendent's ongoing professional development. *19 TAC 61.1(b)*

Identifying and Reporting Abuse

Continuing education requirements for a superintendent must include at least two and a half hours of training every five years on identifying and reporting potential victims of sexual abuse, human trafficking, and other maltreatment of children. *Education Code 21.054(h)*

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Employment and Evaluation

The board shall adopt a policy providing for the employment and duties of district personnel. The employment policy must provide that the board employs and evaluates the superintendent. *Education Code 11.1513(a)(1)* [See DC]

Appraisal Process

A board shall appraise a superintendent annually using either:

1. The commissioner of education's recommended appraisal process and criteria; or
2. An appraisal process and performance criteria that are:
   a. Developed by the district in consultation with the district- and campus-level committees; and
   b. Adopted by the board.

Education Code 21.354(c)

In addition to other procedures and criteria determined by the board, the commissioner's recommended appraisal process and criteria shall include, at a minimum, an annual evaluation of the superintendent and a student performance domain. Completion of the Lone Star Governance superintendent evaluation may satisfy these requirements. *19 TAC 150.1031(b)–(c)*

Annual Performance Report

The information in the annual report describing the educational performance of a district [see AIB] shall be a primary consideration of the board in evaluating the superintendent. *Education Code 39.307(3)(C)*

Penalty for Noncompliance

Funds of the district may not be used to pay a superintendent who has not been appraised in the preceding 15 months. *Education Code 21.354(d)*

Confidentiality

A document evaluating the performance of a ~~superintendent~~teacher or administrator is confidential and is not subject to disclosure under the Public Information Act, Government Code Chapter 552. ~~[See GBA]~~

~~A district may give the Texas Education Agency (TEA) a document evaluating the performance of a superintendent employed by the district for purposes of an investigation conducted by TEA. A document provided to TEA remains confidential unless the document becomes part of the record in a contested case under the Administrative Procedure Act, Government Code Chapter 2001.~~

~~Except as provided by a court order prohibiting disclosure, a document provided to TEA may be used in a disciplinary proceeding against a superintendent if the document may be admitted under~~

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~~rules of evidence applicable to a contested case under Government Code 2001.081.~~

Education Code 21.355 [For disclosure requirements on evaluations, see GBA.]

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Planning and Decision-Making Process

A board shall adopt a policy to establish a district- and campus-level planning and decision-making process that will involve the professional staff of a district, parents of students enrolled in a district, business representatives, and community members in establishing and reviewing the district's and campuses' educational plans, goals, performance objectives, and major classroom instructional programs. *Education Code 11.251(b)*

The planning and decision-making requirements do not:

1. Prohibit a board from conducting meetings with teachers or groups of teachers other than the district-level committee meetings.
2. Prohibit a board from establishing policies providing avenues for input from others, including students or paraprofessional staff, in district- or campus-level planning and decision making.
3. Limit or affect the power of a board to govern the public schools.
4. Create a new cause of action or require collective bargaining.

Education Code 11.251(g), .252(e), .253(f)

Evaluation

At least every two years, a district shall evaluate the effectiveness of the district's decision-making and planning policies, procedures, and staff development activities related to district- and campus-level decision making and planning to ensure that they are effectively structured to positively impact student performance. *Education Code 11.252(d)*

Administrative Procedure

A board shall ensure that an administrative procedure is provided to clearly define the respective roles and responsibilities of the superintendent, central office staff, principals, teachers, district-level committee members, and campus-level committee members in the areas of planning, budgeting, curriculum, staffing patterns, staff development, and school organization.

A board shall ensure that the district-level planning and decision-making committee will be actively involved in establishing the administrative procedure that defines the respective roles and responsibilities pertaining to planning and decision making at the district and campus levels.

Education Code 11.251(d)

Federal Requirements

The district policy must provide that all pertinent federal planning requirements are addressed through the district- and campus-level planning process. *Education Code 11.251(f)*

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Single-Campus District

In a district that has only one campus, the district- and campus-level committees may be one committee and the district and campus plans may be one plan. *Education Code 11.252(c)*

Required Plans

A board shall ensure that a district improvement plan and improvement plans for each campus are developed, reviewed, and revised annually for the purpose of improving the performance of all students. A board shall annually approve district and campus performance objectives and shall ensure that the district and campus plans:

1. Are mutually supportive to accomplish the identified objectives; and
2. At a minimum, support the state goals and objectives under Education Code Chapter 4.

Education Code 11.251(a)

Shared Services Arrangement for DAEP Services

A district participating in a shared services arrangement for disciplinary alternative education program (DAEP) services shall ensure that the district improvement plan and each campus-level plan include the performance of the DAEP student group for the district. The identified objectives for the improvement plans shall include:

1. Student groups served, including overrepresentation of students from economically disadvantaged families, with ethnic and racial representations, and with a disability who receive special education and limited English proficiency services;
2. Attendance rates;
3. Pre- and post-assessment results;
4. Dropout rates;
5. Graduation rates; and
6. Recidivism rates.

19 TAC 103.1201(b)

District Improvement Plan

A district shall have a district improvement plan that is developed, evaluated, and revised annually, in accordance with district policy, by the superintendent with the assistance of the district-level committee. The purpose of the district improvement plan is to guide district and campus staff in the improvement of student performance for all student groups in order to attain state standards in respect to the achievement indicators. *Education Code 11.252(a)* [See AIA]

The district improvement plan must include provisions for:

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1. A comprehensive needs assessment addressing performance on the achievement indicators, and other appropriate measures of performance, that are disaggregated by all student groups served by a district, including categories of ethnicity, socioeconomic status, sex, and populations served by special programs, including students in special education programs under Education Code Chapter 29, Subchapter A.

2. Measurable district performance objectives for all appropriate achievement indicators for all student populations, including students in special education programs under Education Code Chapter 29, Subchapter A, and other measures of student performance that may be identified through the comprehensive needs assessment.

3. Strategies for improvement of student performance that include:

    a. Instructional methods for addressing the needs of student groups not achieving their full potential.

    b. Methods for addressing the needs of students for special programs, including:

        (1) Suicide prevention programs, in accordance with Health and Safety Code Chapter 161, Subchapter O-1, which includes a parental or guardian notification procedure [see FFB];

        (2) Conflict resolution programs;

        (3) Violence prevention programs; and

        (4) Dyslexia treatment programs.

    c. Dropout reduction.

    d. Integration of technology in instructional and administrative programs.

    e. Discipline management.

    f. Staff development for professional staff of a district.

    g. Career education to assist students in developing the knowledge, skills, and competencies necessary for a broad range of career opportunities.

    h. Accelerated education.

4. Strategies for providing to middle school, junior high school, and high school students, those students' teachers and

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school counselors, and those students' parents information about:

a. Higher education admissions and financial aid opportunities.

b. The TEXAS grant program and the Teach for Texas grant program.

c. The need for students to make informed curriculum choices to be prepared for success beyond high school.

d. Sources of information on higher education admissions and financial aid.

5. Resources needed to implement identified strategies.

6. Staff responsible for ensuring the accomplishment of each strategy.

7. Timelines for ongoing monitoring of the implementation of each improvement strategy.

8. Formative evaluation criteria for determining periodically whether strategies are resulting in intended improvement of student performance.

9. The trauma-informed care policy required under Education Code 38.036. [See FFBA]

Education Code 11.252(a)

10. The law enforcement duties of peace officers, school resource officers, and security personnel. *Education Code 37.081(d)(1)* [See CKE]

~~9.~~11. A discipline management program providing for prevention of and education concerning unwanted physical or verbal aggression, sexual harassment, and other forms of bullying in schools, on school grounds, and in school vehicles. *Education Code 37.083(a)*

~~10.~~12. A dating violence policy that must:

a. Include a definition of dating violence that includes the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person in a dating relationship, as defined by Family Code 71.0021; and

b. Address safety planning, enforcement of protective orders, school-based alternatives to protective orders,

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training for teachers and administrators, counseling for affected students, and awareness education for students and parents.

Education Code 37.0831 [See FFH]

~~11.~~13. A policy addressing sexual abuse, sex trafficking, and other maltreatment of children that must include:

a. Methods for increasing staff, student, and parent awareness of issues regarding sexual abuse, sex trafficking, and other maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim of sexual abuse, sex trafficking, or other maltreatment, using resources developed by the Texas Education Agency (TEA~~.~~) or the commissioner regarding those issues, including resources developed by TEA under Education Code 38.004 (regarding child abuse reporting and programs). These methods must include the staff training described at Education Code 38.0041(c) [see DMA];

b. Actions that a child who is a victim of sexual abuse, sex trafficking, or other maltreatment should take to obtain assistance and intervention; and

c. Available counseling options for students affected by sexual abuse, sex trafficking, or other maltreatment.

The policy must be included in any informational handbook provided to students and parents.

Education Code 11.252(a)(9), 38.0041

A district's plan for the improvement of student performance is not filed with TEA, but the district must make the plan available to TEA on request. *Education Code 11.252(b)*

Campus-Level Plan

Each school year, the principal of each school campus, with the assistance of the campus-level committee, shall develop, review, and revise the campus improvement plan for the purpose of improving student performance for all student populations, including students in special education programs under Education Code Chapter 29, Subchapter A, with respect to the student achievement indicators and any other appropriate performance measures for special needs populations. *Education Code 11.253(c)*

Each campus improvement plan must:

1. Assess the academic achievement for each student in the school using the achievement indicator system.

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2. Set the campus performance objectives based on the achievement indicator system, including objectives for special needs populations, including students in special education programs under Education Code Chapter 29, Subchapter A.
3. Identify how the campus goals will be met for each student.
4. Determine the resources needed to implement the plan.
5. Identify staff needed to implement the plan.
6. Set time lines for reaching the goals.
7. Measure progress toward the performance objectives periodically to ensure that the plan is resulting in academic improvement.
8. Provide for a program to encourage parental involvement at the campus.
9. Include goals and methods for violence prevention and intervention on campus.
10. If the campus is an elementary, middle, or junior high school, set goals and objectives for the coordinated health program at the campus based on:
    a. Student fitness assessment data, including any data from research-based assessments such as the school health index assessment and planning tool created by the federal Centers for Disease Control and Prevention;
    b. Student academic performance data;
    c. Student attendance rates;
    d. The percentage of students who are educationally disadvantaged;
    e. The use and success of any method to ensure that students participate in moderate to vigorous physical activity; and
    f. Any other indicator recommended by the local school health advisory council.

Education Code 11.253(d)

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Note: The following is an index of periodic reports that are addressed in the legally referenced material of the policy manual. The list is not exhaustive. This list does not address responsive reports (those that are required in response to a specific incident), reports required under special circumstances, or all reports required under administrative procedures of an agency.

Electronic Submission to TEA

Notwithstanding any other law, a district shall submit only in electronic format all reports required to be submitted to TEA under the Education Code. *Education Code 7.060(c)*

Report Requirements

District publication and distribution requirements follow:

1. A written report to each parent of student performance, under Education Code 39.303. [See AIB]
2. At the beginning of the school year, a report to each teacher of students who took a state assessment, indicating whether each student performed satisfactorily or, if the student did not perform satisfactorily, whether the student met the standard for annual improvement, under Education Code 39.304. [See AIB]
3. At the beginning of the school year, a report to each student who took a state assessment, indicating whether the student performed satisfactorily or, if the student did not perform satisfactorily, whether the student met the standard for annual improvement, under Education Code 39.304. [See AIB]
4. Annually, a report describing the educational performance of the district and of each campus in the district, under Education Code 39.306. [See AIB]
5. Annually, information from a campus report card to the parent of each student at the campus, under Education Code 39.305. [See AIB]
6. An end-of year financial report, for distribution to the community under Education Code 11.1511(b)(11). [See BAA]
7. At the last regular board meeting before an election of trustees, the board president's announcement of the name of each board member who has completed the required continuing education, who has exceeded the required hours of continuing education, and who is deficient in meeting the required continuing education as of the anniversary of the date of each board member's election or appointment to the board. The

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minutes of this board meeting must reflect whether each trustee has met or is deficient in meeting the training required for the trustee as of the first anniversary of the date of the trustee's election or appointment under 19 Administrative Code 61.1(j) and Education Code 11.159(b). [See BBD]

8. By September 1 of each year, a report to TEA regarding the number of requests submitted by a member of the board, during the preceding school year, for information, documents, and records and the total cost to the district of responding to such requests, under Education Code 11.1512(c)–(f). [See BBE]

9. The annual financial management report, under Education Code 39.083. [See CFA]

10. Annually, a proposed budget shall be submitted to TEA on or before the date established in the *Financial Accountability System Resource Guide*, under Education Code 44.005. [See CE]

11. On or before the date set by the State Board of Education, a report of the revenues and expenditures for the preceding fiscal year shall be filed with TEA, under Education Code 44.007(c), (d). [See CFA]

12. Not later than the 150th day after the date the fiscal year ends, a board president shall submit the annual financial statement to a daily, weekly, or biweekly newspaper published within the boundaries of the district, under Local Government Code 140.006. [See CFA]

13. Not later than the 150th day after the end of the fiscal year for which an audit was made, a copy of the annual audit report shall be filed with TEA, under Education Code 44.008(d). [See CFC]

14. At least once every three years, a district shall conduct a safety and security audit of the district's facilities and report the results of the safety and security audit to the Texas School Safety Center, under Education Code 37.108. [See CK]

15. Not later than March 1 of each year, each district police department shall submit a report containing information about motor vehicle stops during the previous calendar year to the Texas Commission on Law Enforcement (TCOLE) and the governing body of each county or municipality served by the department, under Code of Criminal Procedure 2.134. [See CKE]

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16. By September 1, districts involved in a school bus advertising program shall provide to the Texas Department of Public Safety written notification of the number of school buses operated by or for the district that display exterior advertising or another paid announcement, under 37 Administrative Code 14.65(a)(1), (b). [See CNB]

17. Annually, a district shall report to TEA the number of accidents in which its buses were involved in the past year, under Education Code 34.015(b). [See CNC]

18. A district that does not participate in the uniform group health insurance program (TRS ActiveCare) shall prepare a report addressing its compliance with Education Code 22.004. [See CRD]

19. At least every two years, before the beginning of the school year and in strict compliance with the time frames established by Railroad Commission rule, a district shall report to its natural gas supplier the results of a pressure test of natural gas piping systems in each district facility, under Utilities Code 121.502–.504. [See CS]

20. Each month, a district that employs any retirees shall file a certified statement with TRS, under Government Code 824.6022. [See DC]

21. Before November 1 of each year, a board shall report to TEA the number of limited English proficient (LEP) students on each campus, under Education Code 29.053(b). [See EHBE]

22. Annually, a district that operates a high school equivalency program shall submit a progress report to TEA, under 19 Administrative Code 89.1417(a). [See EHBL]

23. Annually, a district shall report to TEA the number of students who have participated in a program to earn college credit in high school and the courses in which participating students have earned credit, under Education Code 28.009. [See EHDD]

24. A superintendent shall report the results of reading instruments to the commissioner of education and the board; a student's results, in writing, to the student's parent or guardian; and each student's raw score electronically to TEA, under Education Code 28.006(d). [See EKC]

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~~25. A district shall use the student attendance accounting standards established by the commissioner to make reports on student attendance and student participation in special programs, under 19 Administrative Code 129.1025. [See FEB]~~

~~26. A district shall compile the results of the annual physical fitness assessment of students and provide summary results to TEA, under Education Code 38.103. [See FFAA]~~

~~27. On or before June 30 of each year, a district shall submit to the Texas Department of State Health Services (TDSHS) a report on the vision and hearing screening status of students who were screened during the reporting year, under Health and Safety Code 36.006 and 25 Administrative Code 37.26(b)(6). [See FFAA]~~

~~28. On or before June 30 of each year, a district shall submit to TDSHS a report of spinal screening performed during the school year, under 25 Administrative Code 37.145(b)(5). [See FFAA]~~

~~29. A district located in Regional Education Service Centers 1, 2, 3, 4, 10, 11, 13, 15, 18, 19, or 20 shall submit to the University of Texas—Rio Grande Valley Border Health Office an annual report on its students' risk assessment status for Type 2 diabetes, under Health and Safety Code 95.004(e). [See FFAA]~~

~~30. Annually, a district shall submit a report of the immunization status of students to TDSHS, under Education Code 38.002(c) and 25 Administrative Code 97.71. [See FFAB]~~

~~31. Annually, a district shall report to the commissioner information regarding each placement in a disciplinary alternative education program (DAEP) and each expulsion, under Education Code 37.020. [See FO]~~

~~32.~~1. ~~Not later than the 30th day after the contract is executed and again not later than the 30th day after the contract is terminated, a district shall report to the Office of Federal-State Relations any contract between the district and a federal-level government relations consultant, under Government Code 751.016. [See GR]~~

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SECTION C: BUSINESS AND SUPPORT SERVICES

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

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SECTION C: BUSINESS AND SUPPORT SERVICES

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

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SECTION C: BUSINESS AND SUPPORT SERVICES

CP	OFFICE MANAGEMENT
CPA	Office Communications
CPAA	Printing and Duplicating
CPAB	Mail and Delivery
CPAC	Telephone
CPC	Records Management
CQ	TECHNOLOGY RESOURCES
CQA	District, Campus, and Classroom Websites
CQB	Cybersecurity
CQC	Equipment
CR	INSURANCE AND ANNUITIES MANAGEMENT
CRA	Property Insurance
CRB	Liability Insurance
CRD	Health and Life Insurance
CRE	Workers' Compensation
CRF	Unemployment Insurance
CRG	Deferred Compensation and Annuities
CS	FACILITY STANDARDS
CT	FACILITIES PLANNING
CV	FACILITIES CONSTRUCTION
CVA	Competitive Bidding
CVB	Competitive Sealed Proposals
CVC	Construction Manager-Agent
CVD	Construction Manager-at-Risk
CVE	Design-Build
CVF	Job Order Contracts
CW	NAMING FACILITIES
CX	RENTING OR LEASING FACILITIES FROM OTHERS
CY	INTELLECTUAL PROPERTY

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Available School Fund

The available school fund is apportioned annually to Texas counties according to the scholastic population of each. *Education Code 43.001(b)*

Foundation School Program

~~The provision of public education is a state responsibility that shall be substantially financed through state revenue sources. The public school finance system shall adhere to a standard of neutrality that provides for substantially equal access to similar revenue per student at similar tax effort. *Education Code 42.001*~~

The Foundation School Program consists of:

1. Two tiers that in combination provide for:

   a. Sufficient financing for all school districts to provide a basic program of education that is rated acceptable or higher~~, and for~~ under Education Code 39.054 and meets other applicable legal standards; and

   ~~a.~~b. Substantially equal access to funds to provide an enriched program; and

2. A facilities component as provided by Education Code Chapter 46. [See CCA~~(LEGAL)~~]

Education Code ~~42~~48.002(b)

~~Funding Levels~~

~~Not later than July 1~~The cost of ~~each year, the Commissioner shall determine for each district whether the estimated amount of state and local funding per student in weighted average daily attendance to be provided to the district under~~ the Foundation School Program for a district is the total sum of:

1. The sum of the tier one allotments and other funding as follows:

   a. The basic allotment under Education Code Chapter 48, Subchapter B;

   b. The student-based allotments under Education Code Chapter 48, Subchapter C; and

   c. The additional funding under Education Code Chapter 48, Subchapter D (including the transportation allotment [see CNA] and the new instructional facility allotment below); and

2. The tier two allotment under Education Code Chapter 48, Subchapter E.

The sum of the Foundation School Program maintenance and operations costs for ~~the following~~all accredited school ~~year is less~~

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than the amount provided to districts in this state constitutes the total maintenance and operations cost of the Foundation School Program.

The Foundation School Program shall be financed by:district for the 2010–11

1. State available school year. Ifunds distributed in accordance with the amount estimated to be provided is less, the Commissioner shall certifylaw;

2. Ad valorem tax revenue generated by local school district effort [see CCG series]; and

3. State funds appropriated for the purposes of public school education and allocated to each district in an amount sufficient to finance the percentage decrease in funding to be provided to the cost of each district's Foundation School Program not covered by other funds specified.

Education Code 48.251

PEIMS

A district shall participate in the Public Education Information Management System (PEIMS) and shall provide through that system information required for the administration of Education Code Chapter 48 (Foundation School Program) and of other appropriate provisions of the Education Code. Data standards, established by the commissioner of education, shall be used by a district to submit required information. *Education Code 48.008; 19 TAC 61.1025(b)*

New Instructional Facility Allotment (NIFA)

A district is entitled to an additional allotment as provided by Education Code 48.152 for operational expenses associated with opening a new instructional facility. A district entitled to an allotment may use funds from the district's allotment to renovate an existing instructional facility to serve as a dedicated cybersecurity computer laboratory. *Education Code 48.152*

Definitions

"Instructional facility" has the meaning assigned by Education Code 46.001. *Education Code 48.152(a)(1)* [See CCA]

"New instructional facility" includes:. *Education Code 42.009(a)*

1. A newly constructed instructional facility;

2. A repurposed instructional facility; or

3. A leased facility operating for the first time as an instructional facility with a minimum lease term of not less than ten years.

Education Code 48.152(a)(2); 19 TAC 61.1034

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Bonds and Bond Taxes

The board may issue bonds for:

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

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

Education Code 45.001(a)

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

Limitation

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

Use of Proceeds for Utilities

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

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State Facilities Funding

Instructional Facilities Allotment

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

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

Existing Debt Allotment

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

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

Investment of Bond Proceeds

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

Unspent Bond Proceeds

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

1. For the specific purposes for which the bonds were authorized;
2. To retire the bonds; or
3. For a purpose other than the specific purposes for which the bonds were authorized if:
   a. The specific purposes are accomplished or abandoned; and

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b. The board at a public meeting held only for the purpose of considering the use of the unspent bond proceeds approves in separate votes the use of the proceeds for:

(1) A purpose other than to retire the bonds; and

(2) The purpose specified at the time the vote is taken.

In addition to other requirements, notice of a public meeting held under this provision must include a statement that the board will consider the use of unspent bond proceeds for a purpose other than the specific purposes for which the bonds were authorized. A public meeting held under this provision must provide the public an opportunity to address the board on the question of using the unspent bond proceeds for a purpose other than the specific purposes for which the bonds were authorized.

Education Code 45.1105

Capital Appreciation Bonds

For purposes of the following policy provisions, a "capital appreciation bond" is a bond that accrues and compounds interest from its date of delivery, the interest on which by its terms is payable only upon maturity or prior redemption.

Limitation on Issuance

A school district may not issue capital appreciation bonds that are secured by ad valorem taxes unless:

1. The bonds have a scheduled maturity date that is not later than 20 years after the date of issuance;

2. The board has received a written estimate of the cost of the issuance, including:

   a. The amount of principal and interest to be paid until maturity;

   b. The amount of fees to be paid to outside vendors, including vendors who sell products to be financed by the bond issuance;

   c. The amount of fees to be paid to each financing team member; and

   d. The projected tax impact of the bonds and the assumptions on which the calculation of the projected tax impact is based;

3. The board has determined in writing whether any personal or financial relationship exists between the members of the board and any financial advisor, bond counsel, bond under-

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writer, or other professional associated with the bond issuance and submitted the determination to the Ethics Commission; and

4. The board posts prominently on the district's internet website and enters in the minutes of the board:

   a. The total amount of the proposed bonds;

   b. The length of maturity of the proposed bonds;

   c. The projects to be financed with bond proceeds;

   d. The intended use of bond proceeds not spent after completion of the projects identified;

   e. The total amount of the district's outstanding bonded indebtedness at the time of the election on the bonds, including the amount of principal and interest to be paid on existing bond indebtedness until maturity;

   f. The total amount of the district's outstanding bonded indebtedness, including the amount of principal and interest to be paid until maturity; and

   g. The information received at item 2 above and determined under item 3 above.

The board shall regularly update the debt information posted on the district's internet website under item 4.f above to ensure that the information is current and accurate.

Limitation on Use of Proceeds

Capital appreciation bond proceeds may not be used to purchase the following items, unless an item has an expected useful life that exceeds the bond's maturity date:

1. Items more regularly considered maintenance items, including replacement HVAC units, upgraded plumbing, or similar items; or

2. Transportation-related items, including buses.

Unspent Proceeds

Capital appreciation bond proceeds unspent after completion of the project identified as the proceeds' intended use may be used only for a use identified on the district's website as required above, unless another use is approved by the voters of the district at an election held for that purpose.

Total Amount of Capital Appreciation Bonds

The total amount of capital appreciation bonds may not exceed 25 percent of the district's total outstanding bonded indebtedness at the time of the issuance, including the amount of principal and interest to be paid on the outstanding bonds until maturity.

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Extension

A district may not extend the maturity date of an issued capital appreciation bond, including through the issuance of refunding bonds that extend the maturity date, unless:

1. The extension of the maturity date will decrease the total amount of projected principal and interest to maturity; or
2. The maximum legally allowable tax rate for indebtedness has been adopted and TEA certifies in writing that the solvency of the permanent school fund's bond guarantee program would be threatened without the extension.

Gov't Code 1201.0245

The foregoing provisions of Government Code 1201.0245 do not apply to the issuance of refunding bonds under Government Code Chapter 1207 or capital appreciation bonds for the purpose of financing transportation projects. *Gov't Code 1201.0245(j)*

Bond Elections

Bonds may not be issued and taxes may not be levied unless authorized by a majority of the qualified voters of the district, voting at an election held for such purpose, at the expense of the district, in accordance with the Election Code, except as provided by Education Code 45.003. The election shall be called by resolution or order of the board. The resolution or order must state the date of the election, the proposition or propositions to be submitted and voted on, the polling place or places, and any other matters considered necessary or advisable by the board. *Education Code 45.003(a)*

Each special election in this state shall be held on one of the following dates:

1. The first Saturday in May; or
2. The first Tuesday after the first Monday in November.

Election Code 41.001(a) [See BBB]

Call for Election

For an election to be held on a uniform election date, the election shall be ordered not later than the 78th day before election day. *Election Code 3.005* [See BBBA]

Election Order

In addition to other legal requirements regarding the election order [see BBBA(LEGAL)], the ~~election order~~document ordering an election to authorize a district to issue debt obligations must distinctly state:

1. The proposition language that will appear on the ballot;
2. The purpose for which the bonds are to be authorized;
3. The principal amount of the bonds to be authorized;

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4. That taxes sufficient to pay the ~~annual~~ principal of and interest on the bonds may be imposed;

5. The estimated tax rate if the bonds are authorized or the maximum interest rate of the bonds or any series of the bonds, based on the market conditions at the time of the election order;

6. The maximum maturity date of the bonds to be authorized or that the bonds may be issued to mature over a specified number of years not to exceed ~~40~~the maximum number of years authorized by law;

7. The aggregate amount of the outstanding principal of the district's debt obligations as of the ~~beginning of the fiscal year in which~~date the election is ordered;

8. The aggregate amount of the outstanding interest on the district's debt obligations as of the ~~beginning of the district's fiscal year in which~~ date the election is ordered, which may be based on the district's expectations relative to variable rate debt obligations; and

9. The district's ad valorem debt service tax rate at the time the election is ordered, expressed as an amount per $100 valuation of taxable property.

Election Code 3.009(b)

~~Propositions~~

~~A proposition submitted to authorize the issuance of bonds must include the question of whether the board may levy, pledge, assess, and collect annual ad valorem taxes, on all taxable property in the district, either:~~

~~1. Sufficient, without limits as to rate or amount, to pay the principal of and interest on said bonds; or~~

~~2.~~1. ~~Sufficient to pay the principal of and interest on the bonds, provided that the annual aggregate bond taxes in the district may never be more than the rate stated in the proposition.~~

~~*Education Code 45.003(b)*~~

~~In addition to any other requirement imposed by law for a proposition, including a provision prescribing the proposition language, a proposition submitted to the voters for approval of the issuance of bonds shall specifically state:~~

~~3. The total principal amount of the bonds to be authorized, if approved; and~~

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~~4. A general description of the purposes for which the bonds are to be authorized, if approved.~~

~~*Election Code 52.072(e)(1)*~~

~~The district shall assign a letter to each measure on the ballot that corresponds to its order on the ballot. Each proposition on the ballot must identify the name of the authority ordering the election on the measure. *Election Code 52.095*~~

Posting

The election order must be posted:

1. On election day and during early voting by personal appearance, in a prominent location at each polling place;
2. Not later than the 21st day before the election in three public places in the boundaries of the district; and
3. During the 21 days before the election, on the district's internet website, prominently and together with the notice of the election ~~and~~, the contents of the proposition, and any sample ballot prepared for the election, if the district maintains an internet website.

Election Code 4.003(f) [See Voter Information, below]

Election Notice

The notice of election must comply with Election Code Chapter 4. [For specific requirements regarding contents of the election notice, see BBBA(LEGAL).]

Publication and Posting

The notice of election must be published and posted in accordance with Election Code requirements. [For specific requirements regarding publication and posting, see BBBA(LEGAL).]

Notice to Election Officials

Notice must be given to the county clerk, voter registrar, and election judge in accordance with Election Code Chapter 4. [For specific requirements, see BBBA(LEGAL).]

Propositions

A proposition submitted to authorize the issuance of bonds must include the question of whether the board may levy, pledge, assess, and collect annual ad valorem taxes, on all taxable property in the district, either:

1. Sufficient, without limits as to rate or amount, to pay the principal of and interest on said bonds; or
2. Sufficient to pay the principal of and interest on the bonds, provided that the annual aggregate bond taxes in the district may never be more than the rate stated in the proposition.

The ballot proposition must include the following statement: "THIS IS A PROPERTY TAX INCREASE."

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Education Code 45.003(b), (b-1)

A district that submits to the voters a proposition for the approval of the issuance of debt obligations shall prescribe the wording of the proposition that is to appear on the ballot in accordance with the requirements of Government Code Chapter 1251, Subchapter B. *Election Code 52.072(f)*

The district shall assign a letter to each measure on the ballot that corresponds to its order on the ballot. Each proposition on the ballot must identify the name of the authority ordering the election on the measure. *Election Code 52.095*

Ballot Contents

The ballot for a measure seeking voter approval of the issuance of debt obligations by a district shall specifically state:

1. A plain language description of the single specific purposes for which the debt obligations are to be authorized;

2. The total principal amount of the debt obligations to be authorized; and

3. That taxes sufficient to pay the principal of and interest on the debt obligations will be imposed.

Each single specific purpose for which debt obligations requiring voter approval are to be issued must be printed on the ballot as a separate proposition. A proposition may include as a specific purpose one or more structures or improvements serving the substantially same purpose and may include related improvements and equipment necessary to accomplish the specific purpose.

Gov't Code 1251.052(a)–(a-1)

Exception

Notwithstanding the requirements at Ballot Contents, above, the question of whether to approve the issuance of bonds for the construction, acquisition, and equipment of school buildings in the district, the purchase of new school buses, and the purchase of necessary sites for school buildings may be submitted to the voters in a single ballot proposition, except that bonds for each of the following purposes must be stated in a separate proposition:

1. The construction, acquisition, or equipment of:

   a. A stadium with seating capacity for more than 1,000 spectators;

   b. A natatorium;

   c. Another recreational facility other than a gymnasium, playground, or play area;

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d. A performing arts facility;

e. Housing for teachers as determined by the district to be necessary to have a sufficient number of teachers for the district; and

2. An acquisition or update of technology equipment, other than equipment used for school security purposes or technology infrastructure integral to the construction of a facility.

The question of whether to approve the issuance of bonds for a building described by items 1a–e above must be printed on the ballot as a separate ballot proposition regardless of whether that building is proposed as part of the same complex or building that contains traditional classroom facilities. Each separate ballot proposition must state the principal amount of the bonds to be issued that constitutes the cost for construction of that portion of the building or complex attributable to the building described by items 1a–e above or to the traditional classroom facilities, as applicable.

Education Code 45.003(g)–(h)

Definition

"Debt obligation" means a public security, as defined by Government Code 1201.002, secured by and payable from ad valorem taxes. The term does not include public securities that are designated as self-supporting by the political subdivision issuing the securities. *Gov't Code 1251.051(1)*

Voter Information

A district with at least 250 registered voters on the date the board adopts the debt obligation election order must prepare a voter information document for each proposition to be voted on at the election.

Posting Requirements

The district shall post the voter information document in the same manner as a debt obligation election order is required to be posted under Election Code 4.003(f) [see Posting, above] and may include the voter information document in the debt obligation election order.

A district that maintains an internet website shall provide the information described at Contents, below, on its website in an easily accessible manner beginning not later than the 21st day before election day and ending on the day after the date of the debt obligation election.

Contents

The voter information document must distinctly state:

1. The language that will appear on the ballot;

2. The following information formatted as a table:

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a. The principal of the debt obligations to be authorized;

b. The estimated interest for the debt obligations to be authorized;

c. The estimated combined principal and interest required to pay on time and in full the debt obligations to be authorized; and

d. As of the date the district adopts the debt obligation election order:

(1) The principal of all outstanding debt obligations of the district;

(2) The estimated remaining interest on all outstanding debt obligations of the district, which may be based on the district's expectations relative to the interest due on any variable rate debt obligations; and

(3) The estimated combined principal and interest required to pay on time and in full all outstanding debt obligations of the district, which may be based on the district's expectations relative to the interest due on any variable rate debt obligations;

3. The estimated maximum annual increase in the amount of taxes that would be imposed on a residence homestead in the district with an appraised value of $100,000 to repay the debt obligations to be authorized, if approved, based upon assumptions made by the board; and

4. Any other information that the board considers relevant or necessary to explain the information required by these provisions.

Assumptions

The board shall identify in the voter information document the major assumptions made in connection with the statement required by item 3 above, including:

1. The amortization of the district's debt obligations, including outstanding debt obligations and the proposed debt obligations;

2. Changes in estimated future appraised values within the district; and

3. The assumed interest rate on the proposed debt obligations.

Gov't Code 1251.052(b)–(d)

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Electioneering and Political Advertising

~~The board may not use state or local funds or other resources of the district to electioneer for or against any candidate, measure, or political party. *Education Code 11.169*~~

~~[~~For additional information and prohibitions related to electioneering and political advertising, see BBBD(LEGAL~~).]~~).

50 Cent Test for New Debt

Before issuing bonds, a district must demonstrate to the attorney general that, with respect to the proposed issuance, the district has a projected ability to pay the principal of and interest on the proposed bonds and all previously issued bonds, other than bonds authorized to be issued at an election held on or before April 1, 1991, and issued before September 1, 1992, from a tax at a rate not to exceed $0.50 per $100 of valuation (the "50 Cent Test").

A district may demonstrate the ability to comply with the 50 Cent Test by using the most recent taxable value of property in the district, combined with state assistance to which the district is entitled under Education Code Chapter ~~42~~46 or ~~46~~48 that may be lawfully used for the payment of bonds.

Future Taxable Value

A district may demonstrate the ability to comply with the 50 Cent Test by using a projected future taxable value of property in the district anticipated for the earlier of the tax year five years after the current tax year or the tax year in which the final payment is due for the bonds submitted to the attorney general, combined with state assistance to which the district is entitled under Education Code Chapter ~~42~~46 or ~~46~~48 that may be lawfully used for the payment of bonds.

The district must submit to the attorney general a certification of the district's projected taxable value prepared by a registered, certified professional appraiser who has demonstrated professional experience in projecting taxable values or who can obtain any necessary assistance from an experienced person.

The certification of a district's projected taxable value must be signed by the superintendent. The attorney general must base a determination of whether a district has complied with the 50 Cent Test on a taxable value that is equal to 90 percent of the value certified.

Education Code 45.0031

Refunding Bonds

A board may refund or refinance all or any part of any of the district's outstanding bonds and matured or unmatured but unpaid interest on those bonds payable from ad valorem taxes by issuing refunding bonds payable from ad valorem taxes. *Education Code 45.004; Gov't Code Ch. 1207*

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Instructional Facilities Allotment for Refunding Bonds

A district may use state funds received under Education Code Chapter 46 to pay principal of and interest on refunding bonds that:

1. Are issued to refund bonds eligible under Education Code 46.003;
2. Do not have a final maturity date later than the final maturity date of the bonds being refunded;
3. May not be called for redemption earlier than the earliest call date of all bonds being refunded; and
4. Result in a present value savings as defined in Education Code 46.007(4).

Education Code 46.007

Authorized Unissued Bonds

If a district has authorized school bonds for a specific purpose and that purpose has been accomplished by other means or has been abandoned and all or a portion of the authorized bonds remains unissued, a board may order an election [see BBBA] to submit to the qualified voters of the district the proposition of whether or not the authorized but unissued bonds may be issued, sold, and delivered for other and different purposes specified in the election order and notice. The election shall be ordered, held, and conducted in the same form and manner as that at which the bonds were originally authorized. If a majority of those voting at the election vote in favor of the sale and delivery of the unissued bonds for the purposes specified in the election order and notice, the board may issue, sell, and deliver the bonds and use the proceeds for the purposes authorized at the election. *Education Code 45.110*

Bond Guarantee Program

Eligibility

A district seeking guarantee of eligible bonds under the Bond Guarantee Program shall apply to the commissioner of education using a form adopted by the commissioner. To be eligible for approval, district bonds must be issued under Education Code Chapter 45, Subchapter A, or under Government Code Chapter 1207. *Education Code 45.054, .055(a); 19 TAC 33.65(b)(5)*

Application

An application must include:

1. The name of the district and the principal amount of the bonds to be issued;
2. The name and address of the district's paying agent, which means the financial institution designated by a district as its agent for payment of principal and interest on guaranteed bonds; and
3. The maturity schedule, estimated interest rate, and date of the bonds.

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Education Code 45.051(2), .055

An application must be accompanied by a fee set by rule of the State Board of Education. *Education Code 45.055(c); 19 TAC 33.65(f)(1)*

On approval by the commissioner, bonds issued by a district are guaranteed by the corpus and income of the permanent school fund. The guarantee remains in effect until the date those bonds mature or are defeased in accordance with state law. *Education Code 45.052*

If a district does not receive approval for the guarantee or for any reason does not receive approval of the bonds from the attorney general within the specified time period, the district may reapply in a subsequent month. Applications that were denied approval for the guarantee will not be retained for consideration in subsequent months. *19 TAC 33.65(f)(5)*

A district may not represent bonds as guaranteed for the purpose of pricing or marketing the bonds before the date of the letter granting approval for the guarantee. *19 TAC 33.65(g)(4)(D)*

Credit Enhancement Program

If a district's application for guarantee of district bonds by the permanent school fund is rejected, the district may apply under Education Code Chapter 45, Subchapter I for credit enhancement of bonds described by Education Code 45.054 (eligibility for the Bond Guarantee Program) by money appropriated for the Foundation School Program, other than money that is appropriated to districts specifically:

1. As required under the Texas Constitution; or
2. For assistance in paying debt service.

The credit enhancement remains in effect until the date the bonds mature or are defeased in accordance with state law.

Education Code 45.252

Eligibility

To be eligible for approval by the commissioner for credit enhancement:

1. Bonds must be issued in the manner provided by Education Code 45.054;
2. Payments of all of the principal of the bonds must be scheduled during the first six months of the state fiscal year;
3. The district's lowest credit rating from any credit rating agency may not be the same as or higher than that of the School District Bond Enhancement Program;

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4. The bonded debt for which the credit enhancement is sought must be structured so that no single annual debt service payment exceeds two times the quotient produced by dividing the total proposed annual debt service, as defined in 19 Administrative Code 61.1038(b)(10), for the term of the bonds by the number of years in the amortization schedule; and

5. The district must agree in its application that the total annual debt service on bonds approved for the credit enhancement will be paid on or before August 15 of each state fiscal year.

Education Code 45.254; 19 TAC 61.1038(f)

Application

A district seeking credit enhancement of eligible bonds shall apply to the commissioner using a form adopted by the commissioner for the purpose. The application must:

1. Include the information required by Education Code 45.055(b), at Bond Guarantee Program—Application, above; and

2. Be accompanied by a fee set by the State Board of Education. *19 TAC 61.1038(d)(1)*

Education Code 45.255

The district may not submit an application for a guarantee or credit enhancement before the successful passage of an authorizing proposition.

If a district does not receive a credit enhancement or for any reason does not receive approval of the bonds from the attorney general within the specified time period, the district may reapply in a subsequent month. Applications that were denied a credit enhancement will not be retained for consideration in subsequent months.

A district may not represent the bonds as approved for credit enhancement for the purposes of pricing or marketing the bonds before the date of the letter granting approval for the credit enhancement.

19 TAC 61.1038(e)(1), (8), (10)

Federal Securities Law

Disclosure Obligations for Bond and Other Debt Offerings

Prior to publicly offering bonds, a school district must prepare and deliver to an underwriter an official statement containing the terms of the bond offering, a description of the district itself, financial and operating data of the district, and any other information that may be material to an investor interested in purchasing the district's bonds or otherwise required by Rule 15c2-12 (the "Rule") of the Securities

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Exchange Commission (SEC). *SEC Rule 15c2-12(b)* [See Note, below]

Liability under Federal Securities Law

School districts, board members, and employees of the district are subject to liability under the "antifraud provisions" of the federal securities laws contained in Section 17(a) of the Securities Act of 1933 (the "Securities Act"), Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b-5 of the SEC. The antifraud provisions generally prohibit false or misleading statements made in connection with the offer or sale of a district's bonds (or the omission of material facts from such statements), including the official statement itself and any other statement reasonably expected to reach bond investors ("disclosures"). *SEC Exchange Act Release No. 33741 (Mar. 9, 1994)*

The antifraud provisions also apply to a district's continuing disclosure obligations under the Rule after a district's bonds are issued. [See Continuing Disclosure after Issuing Bonds, below] *SEC Report on the Municipal Securities Market (July 31, 2012) (the "SEC 2012 Report") at pg. 29 and SEC Exchange Act Release No. 33741 (Mar. 9, 1994)*

Continuing Disclosure after Issuing Bonds

Except for exempt offerings, the Rule requires underwriters to obtain a continuing disclosure agreement (CDA) from the district when the district issues bonds. The CDA obligates the district to prepare and file "continuing disclosures" of financial information and operating data after the bonds are issued. *SEC Rule 15c2-12(b)(5)* [See Note, below]

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Note: In preparing an official statement, a district may reasonably rely on the advice of outside professionals who are also subject to the antifraud provisions, but a district is primarily liable for the content of its official statement and other disclosures. *SEC Exchange Act Release No. 36761 (Jan. 24, 1996)*

A district may engage qualified consultants, including qualified disclosure or securities counsel and a financial adviser, to assist with preparing an official statement and other disclosures relating to a bond offering. Creation of internal procedures may help to insulate a district against criticism or liability under federal securities laws.

Internal procedures may provide for (1) appointment of, and disclosure training for, district officials and employees who will be part of the financing team, (2) a procedure of accountability for review of the disclosures, and (3) ensuring that any procedures established are in fact followed.

[See SEC Report on the Municipal Securities Market (July 31, 2012) at pg. 109]

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Tax Rate Adoption

Maintenance Taxes

The board may levy, assess, and collect annual ad valorem taxes for the maintenance of the district's schools. Taxes may not be levied unless authorized by a majority of the qualified voters of the district, voting at an election called for that purpose. *Education Code 45.002, .003(a)*

Restriction on Maintenance Tax Levy

A district may not increase the rate of the district's maintenance taxes to create a surplus in maintenance tax revenue for the purpose of paying the district's debt service. *Education Code 45.0021(a)* [See Taxpayer Injunction, below]

Maintenance Tax Rate Components

Tier One

A district's tier one maintenance and operations tax rate is the number of cents levied by the district for maintenance and operations that does not exceed the product of the state compression percentage, as determined under Education Code 48.255, multiplied by $1.00.

Tier Two

A district's enrichment tax rate consists of:

1. Any cents of additional maintenance and operations tax effort, not to exceed eight cents over the maximum tier one tax rate; and

2. Any cents of additional maintenance and operations tax effort that exceeds the sum of the maximum tier one tax rate and the maximum number of cents permitted under item 1 above.

Education Code 45.0032(a), (b)

Districts Subject to Disaster Exception

For a district to which the Disaster Exception to Election Requirement described below applies, the amount by which the district's maintenance tax rate exceeds the district's voter-approval tax rate, excluding the district's current debt rate under Tax Code 26.08(n)(1)(C) for the preceding year is not considered in determining a district's tier one maintenance and operations tax rate or the district's enrichment tax rate for the current tax year. *Education Code 45.0032(d)*

Maximum Tax Rate

For any year, the maintenance tax rate per $100 of taxable value adopted by the district may not exceed the rate equal to the sum of $0.17 and the product of the state compression percentage, as determined under Education Code ~~42.2516~~48.255, multiplied by $1.~~50~~00.

A rate that exceeds the maximum rate for the year in which the tax is to be imposed is void. A district with a tax rate that is void under this provision may, subject to requirements imposed by other law, adopt a rate for that year that does not exceed the specified maximum rate for that year.

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Education Code 45.003(d), (e)

Districts with 2005 Tax Rate over $1.50

Notwithstanding any other law, a district that levied a maintenance tax for the 2005 tax year at a rate greater than $1.50 per $100 of taxable value in the district as permitted by special law [Art. 2784g Tex. Rev. Civ. Stat.] may not levy a maintenance tax at a rate that exceeds the rate per $100 of taxable value that is equal to the sum of $0.17 and the product of ~~the state compression percentage, as determined under Education Code 42.2516,~~66.67 percent multiplied by the rate of the maintenance tax levied by the district for the 2005 tax year~~.~~, minus any amount by which $1.00 exceeds the product of the state compression percentage, as determined under Education Code 48.255, multiplied by $1.00. *Education Code 45.003(f)*

~~*Education Code 45.003(d)–(f)*~~

For a district described above, any cents of maintenance and operations tax effort that exceeds the maximum rate described at Maximum Tax Rate are not included in the district's tier one maintenance and operations tax rate or the district's enrichment tax rate and the district is not entitled to the guaranteed yield amount of state funds under Education Code 48.202 for those cents of tax effort. *Education Code 45.0032(c)*

Assessor and Collector

The board may employ a person to assess or collect the district's taxes and may compensate the person as the board considers appropriate. This provision does not prohibit a district from providing for the assessment or collection of the district's taxes under a method authorized by Tax Code Chapter 6, Subchapter B. *Education Code 45.231*

A district that used a method of selection for the 1994 tax year that was authorized by former Education Code Chapter 23, Subchapter F, may continue to use that method until the district uses another method authorized above. *Education Code 45.232*

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

Collector's Bond

A district that has its own collector shall require the collector to give bond conditioned on the faithful performance of duties. The bond must be made payable to and be approved by the board in an amount determined by the board. The board may require a new bond at any time, and failure to give new bond within a reasonable time after demand is a ground for removal from office. The board may prescribe additional requirements for the bond.

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A district whose taxes are collected by a person other than the district's own collector may require that person to give bond conditioned on the faithful performance of duties. The bond must be payable to, approved by, and paid for by the board in an amount determined by the board. The board may prescribe additional requirements for the bond.

A district shall pay the premium for a required bond from its general fund or as provided by intergovernmental contract.

Tax Code 6.29

Certified Estimate of Values

By April 30, the chief appraiser shall prepare and certify to the district's assessor an estimate of the taxable value of district property. *Tax Code 26.01(e)*

Appraisal Roll

By July 25, the chief appraiser shall prepare and certify to the assessor for the district that part of the appraisal roll that lists the property taxable by the district. The part certified to the assessor is the appraisal roll for the district. ~~*Tax Code 26.01(a)*~~

If by July 20 the appraisal review board has not approved the appraisal records as required under Tax Code 41.12, the chief appraiser shall not later than July 25 prepare and certify to the assessor for a school district an estimate of the taxable value of property in the school district.

Tax Code 26.01(a)–(a-1)

By August 1 or as soon thereafter as practicable, the district's assessor shall submit to the board the district's appraisal roll, showing the total appraised, assessed, and taxable values of all property and the total taxable value of new property.

By August 1 or as soon thereafter as practicable, a district's collector shall certify to the board ~~an estimate of~~ the anticipated collection rate for the current year. If the collector certified an anticipated collection rate in the preceding year and the actual collection rate in that year exceeded the anticipated rate, the collector shall also certify the amount of debt taxes collected in excess of the anticipated amount in the preceding year.

Tax Code 26.04(b)

Reappraisal after Disaster

The board of a district that is located partly or entirely inside an area declared to be a disaster area by the governor may authorize the reappraisal of all property damaged in the disaster at its market value immediately after the disaster. A district that authorizes a reappraisal pursuant to this provision must pay the appraisal district all the costs of making the appraisal.

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If property damaged in a disaster is reappraised as provided by this provision, the board shall provide for prorating the taxes on the property as specified in Tax Code 23.02(d) for the year in which the disaster occurred.

Tax Code 23.02; Att'y Gen. Op. KP-0192 (2018)

Designated Employee/Officer to Calculate Rates

After the district's assessor submits the appraisal roll to the board, an officer or employee designated by the board shall calculate the no-new-revenue tax rate and the voter-approval tax rate for the district. *Tax Code 26.04(c)*

Truth-in-Taxation Requirements

Note: The *Truth in Taxation* website maintained by the Texas comptroller of public accounts offers detailed guidance on setting local property tax rates for school districts.[1]

Traditional Method

When the budget has been prepared under Education Code 44.002, the board president shall call a meeting of the board for the purpose of adopting a budget for the succeeding tax year. The budget must be adopted before the adoption of the tax rate for the tax year in which the fiscal year covered by the budget begins. *Education Code 44.004(a), (g)* [See CE]

Published Notice

The board president shall provide for publication of notice of the budget and proposed tax rate meeting in a daily, weekly, or biweekly newspaper published in the district. If no daily, weekly, or biweekly newspaper is published in the district, the president shall provide for publication of notice in at least one newspaper of general circulation in the county in which the district's central administrative office is located. The notice shall be published not earlier than the 30th day or later than the tenth day before the date of the hearing.

Form ~~of Notice~~and Contents

The notice of public meeting to discuss and adopt the budget and the proposed tax rate ~~must comply with~~may not be smaller than one-quarter page of a standard-size or a tabloid-size newspaper, and the ~~size, format, and content requirements~~headline on the notice must be in 18-point or larger type and contain the information set out in Education Code 44.004(c) and (c-1).

The notice must include a statement that a district may not increase its maintenance and operations tax rate to create a surplus in maintenance and operations tax revenue for the purpose of paying the district's debt service.

A notice is not valid if it does not substantially conform to the language and format prescribed by the comptroller.

Education Code 44.004(b)–(d)

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Debt Service Rate Decrease

If the published interest and sinking fund (debt service) rate decreases after the publication of the required notice, the president is not required to publish another notice or call another meeting to discuss and adopt the budget and the proposed lower tax rate. *Education Code 44.004(g-1)*

Districts with July 1 Fiscal Year

Notwithstanding the provisions above, a district with a fiscal year beginning July 1 may use the certified estimate of the taxable value of district property in preparing the required notice if the district does not receive the certified appraisal roll on or before June 7. A district that uses a certified estimate may adopt a budget at the public meeting designated in the published notice prepared using the estimate, but the district may not adopt a tax rate before the district receives the certified appraisal roll for the district.

After receipt of the certified appraisal roll, a district must publish a revised notice and hold another public meeting before the district may adopt a tax rate that exceeds:

1. The rate proposed in the notice prepared using the estimate; or
2. The district's ~~rollback~~voter-approval rate determined under Tax Code 26.08 using the certified appraisal roll.

Education Code 44.004(h), (i)

Early Adoption Method

Notwithstanding the provisions above or at Deadline below, a district may adopt a budget after the district adopts a tax rate for the tax year in which the fiscal year covered by the budget begins if the district elects to adopt a tax rate before receiving the certified appraisal roll for the district. If a district elects to adopt a tax rate before adopting a budget, the district must publish notice and hold a meeting for the purpose of discussing the proposed tax rate as provided above. Following adoption of the tax rate, the district must publish notice and hold another public meeting before the district may adopt a budget. The comptroller shall prescribe the language and format to be used in the notices. The district may use the certified estimate of taxable value in preparing a notice under this provision. *Education Code 44.004(j)*

The board of a district that elects to adopt a tax rate before the adoption of a budget for the fiscal year that begins in the current tax year may adopt a tax rate for the current tax year before receipt of the certified appraisal roll for the district if the chief appraiser of the appraisal district in which the district participates has certified to the assessor for the district an estimate of the taxable value of property in the district as specified at Certified Estimate of Values

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above. If a district adopts a tax rate under this provision, the ~~effective~~no-new-revenue tax rate and the ~~rollback~~voter-approval tax rate of the district shall be calculated based on the certified estimate of taxable value. *Tax Code 26.05(g)*

Tax Rate Adoption Requirements

Deadline

~~Before the later of September 30 or the 60th day after the date the certified appraisal roll is received,~~ The board shall adopt a tax rate for the current tax year and shall notify the assessor of the tax rate adopted. [See Adoption of Tax Roll ~~below]~~ , below] The board must adopt a tax rate before the later of September 30 or the 60th day after the date the certified appraisal roll is received by the district, except that the board must adopt a tax rate that exceeds the voter-approval tax rate not later than the 71st day before the next uniform election date that occurs in November of that year. [Note that Election Code 3.005(c) requires that an election to be held on a uniform date be ordered not later than the 78th day before election day; see Time for Election, below.]

The tax rate consists of two components, each of which must be approved separately. The components are:

1. The interest and sinking fund (debt service) rate calculated under Education Code 44.004(c)(5)(A)(ii)(b); and

2. The rate that, if applied to the total taxable value, will impose the amount of taxes needed to fund maintenance and operation expenditures of the district for the next year.

Tax Code 26.05(a)

Tax Date for Certain Districts

A district that before January 1, 1989, has for at least ten years followed a practice of adopting its tax rate at a different date than as provided by Tax Code Chapter 26 and of billing for and collecting its taxes at different dates than as provided by Chapters 31 and 33 may continue to follow that practice. This does not affect the dates provided by the Property Tax Code (Tax Code Title 1) for other purposes, including those relating to the appraisal and taxability of property, the attachment of tax liens and personal liability for taxes, and administrative and judicial review under Chapters 41 and 42. *Tax Code 26.135*

Vote

A board may not impose property taxes in any year until it has adopted a tax rate for that year, and the annual tax rate must be set by ordinance, resolution, or order. The vote on the ordinance, resolution, or order setting the tax rate must be separate from the vote adopting the budget. The vote on the ordinance, resolution, or order setting a tax rate that exceeds the sum of the district's ~~effective~~no-new-revenue maintenance and operations tax rate and the district's current debt rate must be a record vote, and at least 60

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percent of the members of the board must vote in favor of the ordinance, resolution, or order.

Motion

A motion to adopt an ordinance, resolution, or order setting a tax rate that exceeds the ~~effective~~no-new-revenue tax rate must be made in the following form: "I move that the property tax rate be increased by the adoption of a tax rate of (specify tax rate), which is effectively a (insert percentage by which the proposed tax rate exceeds the ~~effective~~no-new-revenue tax rate) percent increase in the tax rate."

Language and Internet Posting

If the ordinance, resolution, or order sets a tax rate that, if applied to the total taxable value, will impose an amount of taxes to fund maintenance and operation expenditures of the district that exceeds the amount of taxes imposed for that purpose in the preceding year the district must:

1. Include in the ordinance, resolution, or order in type larger than the type used in any other portion of the document:

    a. The following statement: "THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE"; and

    b. If the tax rate exceeds the ~~effective~~no-new-revenue maintenance and operations rate, the following statement: "THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE ~~EFFECTIVE~~NO-NEW-REVENUE MAINTENANCE AND OPERATIONS RATE) PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A $100,000 HOME BY APPROXIMATELY $(Insert amount)."; and

2. Include on the home page of any internet website operated by the district:

    a. The following statement: "(Insert name of unit) ADOPTED A TAX RATE THAT WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE"; and

    b. If the tax rate exceeds the ~~effective~~no-new-revenue maintenance and operations rate, the following statement: "THE TAX RATE WILL EFFECTIVELY BE RAISED BY (INSERT PERCENTAGE BY WHICH THE TAX RATE EXCEEDS THE ~~EFFECTIVE~~NO-NEW-REVENUE MAINTENANCE AND OPERATIONS RATE)

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PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A $100,000 HOME BY APPROXIMATELY $(Insert amount)."

Tax Code 26.05(b)

Adoption of Tax Roll

On receipt of notice of the tax rate for the current tax year, the assessor for a district shall calculate the tax imposed on each property included on the appraisal roll for the district. The assessor shall enter the amount of tax in the appraisal roll and submit it to the board for approval. The appraisal roll with amounts of tax entered as approved by the board constitutes the district's tax roll. *Tax Code 26.09(a), (e)*

Failure to Adopt Tax Rate

If the board does not adopt a tax rate before the date required at Deadline above, the tax rate for the district for that tax year is the lower of the ~~effective~~no-new-revenue tax rate calculated for that tax year or the tax rate adopted by the district for the preceding tax year. A tax rate established by this provision is treated as an adopted tax rate. Before the fifth day after the establishment of a tax rate by this provision, the board must ratify the applicable tax rate in the manner set out at Tax Rate Adoption Requirements above. *Tax Code 26.05(c)*

Taxpayer Injunction

A person who owns taxable property in a district is entitled to an injunction restraining the collection of taxes by the district if the district has not complied with the requirements above at Published Notice, including Form ~~of Notice~~and Contents, Districts with July 1 Fiscal Year, if applicable, and Tax Rate Adoption Requirements, and the failure to comply was not in good faith. An action to enjoin the collection of taxes must be filed before the date a district delivers substantially all of its tax bills. *Education Code 44.004(e); Tax Code 26.05(e)*

A person who owns taxable property in a district is entitled to an injunction restraining the collection of taxes by the district if the district adopts a maintenance tax in violation of the prohibition described above at Restriction on Maintenance Tax Levy. An action to enjoin the collection of taxes must be filed before the date a district delivers substantially all of its tax bills. *Education Code 45.0021(b)*

Tax Information to County

A district shall provide to the county assessor-collector for each county in which all or part of district territory is located the district's adopted tax rate, maintenance and operations rate, debt rate, ~~effective~~no-new-revenue tax rate, ~~effective~~no-new-revenue maintenance and operations rate, and ~~rollback~~voter-approval tax rate for posting on the county's internet website. The district shall provide the information annually following the adoption of a tax rate by the district for the current tax year. *Tax Code 26.16(a)–(b)*

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Appraisal District Property Tax ~~Ratification~~ Database	The officer or employee designated by the board to calculate the no-new-revenue tax rate and the voter-approval tax rate for the district must electronically incorporate into the database created and maintained by the chief appraiser under Tax Code 26.17 the information required by Tax Code 26.17(e). *Tax Code 26.17(e)*
Internet Posting of Tax Rate and Budget Information	Each district shall maintain an internet website or have access to a generally accessible internet website that may be used for the purposes of this provision. Each district shall post or cause to be posted on the internet website the information required by Tax Code 26.18 in a format prescribed by the comptroller. *Tax Code 26.18* [See CE for required information]
Election to Approve Tax Rate	If the board adopts a tax rate that exceeds the district's ~~rollback~~ voter-approval tax rate, the registered voters of the district at an election held for that purpose must determine whether to approve the adopted tax rate. *Tax Code 26.08(a), (n)* ~~If for the preceding tax year~~ [For information on conducting elections, see the BBB series.]
Efficiency Audit	"Efficiency audit" means an investigation of the operations of a district ~~adopted~~to examine fiscal management, efficiency, and utilization of resources. The board shall conduct an efficiency audit before seeking voter approval to adopt a tax rate for the maintenance and operations of the district at an election held for that purpose and may not hold an election without complying with this requirement. The board may select the auditor that conducts the district's annual audit under Education Code 44.008 and may include the efficiency audit as part of the district's annual audit. [See CFC] A district must pay for the costs associated with an efficiency audit required under this provision. A district shall provide all documents, records, and personnel requested by the auditor as needed to conduct the audit in an efficient manner. The board must select an auditor to conduct an efficiency audit not later than four months before the date on which the district proposes to hold an election to adopt a maintenance and operations tax rate ~~that~~. An auditor selected by the board must maintain independence from the district and complete the efficiency audit not later than three months after the date the auditor was ~~less than the district's effective maintenance and operations~~ selected. Before an election at which a district seeks voter approval to adopt a tax rate ~~for that preceding tax year, the rollback tax rate of the district for the current tax year~~, the board must hold an open meeting to discuss the results of the efficiency audit. Not later than 30

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days before the date of the election, the results of an efficiency audit must be posted on the district's internet website.

Education Code 11.184

Disaster Exception

To Efficiency Audit Requirement

The board of a district all or part of which is ~~calculated as if the district adopted~~located in an area declared a disaster area by the governor may hold an election to seek voter approval to adopt a maintenance and operations tax rate ~~for the preceding tax year that was equal to the district's effective maintenance and operations tax rate for that preceding tax year.~~during the two-year period following the date of the declaration without conducting an efficiency audit otherwise required above. *Education Code 11.184(b-1)*

~~*Tax Code 26.08(a), (n), (p); see Att'y Gen. Op. KP-0154 (2017) (addressing calculation of the rollback rate and when a district must hold a tax ratification election)*~~

~~Disaster Exception~~

To Election Requirement

When increased expenditure of money by a district is necessary to respond to a disaster, including a tornado, hurricane, flood, wildfire, or other calamity, but not including a drought, that has impacted a district and the governor has requested federal disaster assistance for the area in which the district is located, an election is not required to approve the tax rate adopted by the board for the year following the year in which the disaster occurs. ~~*Tax Code 26.08(a*~~A tax rate adopted under this provision applies only in the year for which the rate is adopted. If a district adopts a tax rate under this provision, the amount by which that rate exceeds the district's voter-approval tax rate for that tax year may not be considered when calculating the district's voter-approval tax rate for the tax year following the year in which the district adopts the rate. *Tax Code 26.08(a-1)*

Time for Election

The board shall order that the election be held in the district on ~~a~~ the next uniform election date ~~not less than 30 or more than 90 days after the day on which it adopted the tax rate.~~ prescribed by Election Code 41.001 ~~(regarding uniform election dates) does not apply to~~ that occurs after the date of the election ~~unless a uniform election date falls within~~order and that allows sufficient time to comply with the ~~time permitted by this provision.~~requirements of other law. *Tax Code 26.08(b)*

~~*Call for Election*~~

~~Except as provided at Uniform Election Date below, an election shall be ordered not later than the 62nd day before election day.~~

Uniform Election Date

For an election to be held on a uniform election date, the election shall be ordered not later than the 78th day before election day.

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An election to ratify a tax rate adopted by a board under the early adoption method described above shall be ordered not later than the 30th day before election day.

Election Code 3.005 [See BBBA]

Notice to County Clerk

The board shall deliver notice of the election to the county clerk and voter registrar of each county in which the district is located not later than the 60th day before election day.

Exception

A board that orders an election to ratify a tax rate adopted by the board under the early adoption method described above shall deliver notice of the election to the county clerk of each county in which the district is located not later than the 30th day before election day.

Election Code 4.008

Proposition

At the election, the ballots shall be prepared to permit voting for or against the proposition: "~~Approving~~Ratifying the ad valorem tax rate of ~~$_____ per $100 valuation~~ _____ (insert adopted tax rate) in (name of school district) for the current year, a rate that ~~is $_____ higher per $100 valuation than the school district rollback tax rate, for the purpose of (description of purpose of~~will result in an increase~~)." The ballot proposition must include~~ of _____ (insert percentage increase in maintenance and operations tax revenue under the adopted tax rate ~~and~~ as compared to maintenance and operations tax revenue in the preceding tax year) percent in maintenance and operations tax revenue for the district for the ~~difference between that rate and~~ current year as compared to the ~~rollback tax rate in~~ preceding year, which is an additional $ _____ (insert dollar amount of increase in maintenance and operations tax revenue under the ~~appropriate places.~~adopted tax rate as compared to maintenance and operations tax revenue in the preceding tax year)." *Tax Code 26.08(b)*

In addition to any other requirement imposed by law for a proposition, including a provision prescribing the proposition language, a proposition submitted to the voters for approval of the imposition or increase of a tax shall specifically state the amount of or maximum tax rate of the tax or tax increase for which approval is sought. *Election Code 52.072(e)(~~2~~1)*

Each proposition on the ballot must identify the name of the authority ordering the election on the measure. *Election Code 52.095(c)*

Election Outcome

If a majority of the votes cast in an election favor the proposition, the tax rate for the current year is the rate that was adopted by the board. If the proposition is not approved, a board may not adopt a

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tax rate for the current year that exceeds the district's ~~rollback~~ voter-approval tax rate. *Tax Code 26.08(c)–(d)*

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[1] Truth-in-Taxation: Tax Rate Adoption: https://comptroller.texas.gov/taxes/property-tax/truth-in-taxation/index.php

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Note: For more information on property tax exemptions, see the Texas Comptroller's Property Tax Exemptions[1] website.

Exemptions

~~Definitions~~

~~*"Disabled"*~~

~~"Disabled" means under a disability for purposes of payment of disability insurance benefits under Federal Old-Age, Survivors, and Disability Insurance. *Tax Code 11.13(m)(1)*~~

~~*"Disabled Veteran"*~~

~~"Disabled veteran" means a veteran of the armed services of the United States who is classified as disabled by the Veterans' Administration or its successor or the branch of the armed services in which the veteran served and whose disability is service-connected. *Tax Code 11.22(h)(3)*~~

~~*"First Responder"*~~

~~"First responder" means an individual listed under Government Code 615.003. *Tax Code 11.134(a)(1)*~~

~~"Residence~~ Homestead~~"~~

~~"Residence homestead" means a structure (including a mobile home) or a separately secured and occupied portion of a structure (together with the land, not to exceed 20 acres, and improvements used in the residential occupancy of the structure, if the structure and the land and improvements have identical ownership) that is:~~

~~1. Owned by one or more individuals, either directly or through a beneficial interest in a qualifying trust;~~

~~2. Designed or adapted for human residence;~~

~~3. Used as a residence; and~~

~~4. Occupied as the individual's principal residence by an owner, by an owner's surviving spouse who has a life estate in the property, or, for property owned through a beneficial interest in a qualifying trust, by a trustor or beneficiary of the trust who qualifies for the exemption.~~

~~*Tax Code 11.13(j)*~~

~~Homestead Exemptions~~

Mandatory

An adult is entitled to exemption from taxation by a district of $25,000 of the appraised value of the adult's residence homestead, as defined by Tax Code 11.13(j), except that only $5,000 of the exemption applies to an entity operating under former Education Code Chapters 17, 18, 25, 26, 27, or 28, as those chapters existed on May 1, 1995, as permitted by Education Code 11.301. ~~To receive the residence homestead exemption, the person claiming the exemption must apply for the exemption. *Tax Code 11.13(b), .43*~~*Tax Code 11.13(b)*

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Persons 65 or Older or Disabled

In addition to the mandatory exemption above, an adult who is disabled, as defined by Tax Code 11.13(m)(1), or 65 or older is entitled to an exemption of $10,000 of the appraised value of ~~his or her~~the individual's residence homestead. *Tax Code 11.13(c)*

Tax Limitation

A district may not increase the total annual amount of ad valorem tax it imposes on the residence homestead of an individual 65 years of age or older, or on the residence homestead of an individual who is disabled ~~as defined by Tax Code 11.13~~, above the amount of the tax it imposed in the first tax year in which the individual qualified that residence homestead for an applicable exemption. *Tax Code 11.26(a)*

Improvements

If an individual subject to a tax limitation makes improvements to the individual's residence homestead, other than improvements required to comply with governmental requirements or repairs, the district may increase the tax on the homestead in the first year the value of the homestead is increased on the appraisal roll because of the enhancement of value by the improvements. A limitation then applies to the increased amount of tax until more improvements, if any, are made. *Tax Code 11.26(b)*

Exception

An improvement to property that would otherwise constitute an improvement discussed above is not treated as an improvement if it is a replacement structure for a structure that was rendered uninhabitable or unusable by a casualty or by wind or water damage. For purposes of appraising the property in the tax year in which the structure would have constituted an improvement, the replacement structure is considered to be an improvement only if the square footage of the replacement structure exceeds that of the replaced structure as that structure existed before the casualty or damage occurred or the exterior of the replacement structure is of higher quality construction and composition than that of the replaced structure. *Tax Code 11.26(o)*

Portability of Tax Limitation

If an individual who receives a tax limitation, including a surviving spouse, discussed below, subsequently qualifies a different residence homestead for the same exemption, a district may not impose ad valorem taxes on the subsequently qualified homestead in a year in an amount that exceeds the amount of taxes calculated in accordance with Tax Code 11.26(g). *Tax Code 11.26(g)*

Surviving Spouse ~~of Persons 65 or Older~~

If an individual who qualifies for the exemption ~~for an individual~~at Persons 65 ~~years of age~~ or Older or Disabled, above, dies, the surviving spouse of the individual is entitled to the limitation applicable to the residence homestead of the individual if the surviving spouse is 55 years of age or older when the individual dies, and the residence homestead of the individual is the residence homestead of

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the surviving spouse on the date that the individual dies and remains the residence homestead of the surviving spouse. *Tax Code 11.26(i)*

Local Options

All Taxpayers

In addition to other ~~residence homestead~~ exemptions in Tax Code 11.13, an individual is entitled to an exemption from taxation by a district of a percentage of the appraised value of ~~his or her~~the individual's residence homestead if the exemption is adopted by the board before July 1 in the manner provided by law for official action by the board. If the percentage set by the district produces an exemption in a tax year of less than $5,000 when applied to a particular residence homestead, the individual is entitled to an exemption of $5,000 of the appraised value. The percentage adopted by the district may not exceed 20 percent. *Tax Code 11.13(n)*

Disabled or 65 or Older

An individual who is disabled or ~~is~~ 65 or older is entitled to an exemption from taxation by a district of a portion of the appraised value of ~~his or her~~the individual's residence homestead if the exemption is adopted either by the board or by a favorable vote of a majority of the qualified voters of the district at an election called by the board, and the board shall call the election on the petition of at least 20 percent of the number of qualified voters who voted in the preceding election of the district.

Amount

The amount of an exemption adopted as provided at Disabled or 65 or Older is $3,000 of the appraised value of the residence homestead unless a larger amount is specified by the board if the board authorizes the exemption or the petition for the election if the exemption is authorized through an election. Once authorized, an exemption adopted may be repealed or decreased or increased in amount by the board or by the petition and election procedure. In the case of a decrease, the amount of the exemption may not be reduced to less than $3,000 of the market value.

Tax Code 11.13(d)–(f)

Continuation of Exemption during Construction

If a qualified residential structure for which the owner receives a homestead exemption under Tax Code 11.13 is rendered uninhabitable or unusable by a casualty or by wind or water damage, the owner may continue to receive the exemption for the structure and the land and improvements used in the residential occupancy of the structure while the owner constructs a replacement qualified residential structure on the land in accordance with Tax Code 11.135. *Tax Code 11.135~~,~~(a), .26(n); 34 TAC 9.416*

Surviving Spouse of First Responder

~~5.~~ The surviving spouse of a first responder who is killed or fatally injured in the line of duty is entitled to an exemption from taxation of the total appraised value of the surviving spouse's residence homestead if the surviving spouse ~~:~~is an eligible

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survivor for purposes of Government Code Chapter 615 as determined by the Employees Retirement System of Texas~~;~~ and has not remarried since the first responder's death.

~~This exemption applies regardless of the date of the first responder's death if the surviving spouse otherwise meets the qualifications above.~~

~~A surviving spouse who receives an exemption for a residence homestead is entitled to receive an exemption from taxation of a property that the surviving spouse subsequently qualifies as the surviving spouse's residence homestead in an amount equal to the dollar amount of the exemption from taxation of the first property for which the surviving spouse received the exemption in the last year in which the surviving spouse received that exemption if the surviving spouse has not remarried since the death of the first responder.~~

Tax Code 11.134

Veteran Exemptions

100 Percent Disabled

A disabled veteran who receives from the U.S. Department of Veterans Affairs or its successor 100 percent disability compensation due to a service-connected disability and a rating of 100 percent disabled or of individual unemployability is entitled to an exemption from taxation of the total appraised value of the veteran's residence homestead. *Tax Code 11.131(b)*

Partially Disabled with Donated Residence

A disabled veteran who has a disability rating of less than 100 percent is entitled to an exemption from taxation of a percentage of the appraised value of the disabled veteran's residence homestead equal to the disabled veteran's disability rating if the residence homestead was donated to the disabled veteran by a charitable organization at no cost to the disabled veteran, or at some cost to the disabled veteran in the form of a cash payment, a mortgage, or both in an aggregate amount that is not more than 50 percent of the good faith estimate of the market value of the residence homestead made by the charitable organization as of the date of the donation. *Tax Code 11.132(b)*

~~*Exemption for Surviving Spouse*~~

~~The surviving spouse of a 100 percent disabled veteran who qualified for an exemption when the veteran died, of a disabled veteran who would have qualified for an exemption if it had been in effect on the date the veteran died, or of a disabled veteran who qualified for a residence homestead exemption of a percentage of appraised value~~

Surviving Spouse of Veteran

The surviving spouse of a disabled veteran, as defined by Tax Code 11.22(h)(3), is entitled to the same exemption from taxation

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of the same property to which the disabled veteran's exemption applied or would have applied if it had been in effect on the date of death if:

1. The surviving spouse has not remarried since the death of the disabled veteran; and

2. The property was the residence homestead of the surviving spouse when the disabled veteran died and remains the residence homestead of the surviving spouse.

~~If a surviving spouse who qualifies for an exemption subsequently qualifies a different property as the surviving spouse's residence homestead, the surviving spouse is entitled to an exemption from taxation of the subsequently qualified homestead in an amount equal to the dollar amount of the exemption of the former homestead in the last year in which the surviving spouse received an exemption for that homestead if the surviving spouse has not remarried since the death of the disabled veteran.~~

Tax Code 11.131~~(c)–(d),~~, .132~~(c)–(d)~~

Surviving Spouse of Individual Killed in Action

The surviving spouse of a member of the armed services of the United States who is killed in action is entitled to an exemption from taxation of the total appraised value of the surviving spouse's residence homestead if the surviving spouse has not remarried since the death of the member of the armed services. ~~A surviving spouse who receives an exemption for a residence homestead is entitled to receive an exemption from taxation of a property that the surviving spouse subsequently qualifies as the surviving spouse's residence homestead in an amount equal to the dollar amount of the exemption from taxation of the first property for which the surviving spouse received the exemption in the last year in which the surviving spouse received that exemption if the surviving spouse has not remarried since the death of the member of the armed services.~~ *Tax Code 11.133*

Tex. Const. Art. VIII, Sec. ~~1-b~~1-b (Residence Homestead Tax Exemptions and Limitations)

Disabled Veteran

A disabled veteran is entitled to an exemption from taxation of a portion of the assessed value of a property the veteran owns and designates under Tax Code 11.22(f). *Tax Code 11.22*

Exemption for Subsequent Residence

The surviving spouse of a first responder, disabled veteran, or armed services member killed in action who receives an exemption for a residence homestead is entitled to receive an exemption from taxation of a different property that the surviving spouse subsequently qualifies as the surviving spouse's residence homestead in

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an amount equal to the dollar amount of the exemption from taxation of the first property for which the surviving spouse received the exemption in the last year in which the surviving spouse received that exemption if the surviving spouse has not remarried. *Tax Code 11.131(d), .132(d), .133(c), .134(d)*

Optional Exemptions

Among others, a board may grant additional tax exemptions in accordance with applicable law for:

1. Residential property owned by the United States or an agency of the United States and used to provide transitional housing for the indigent under a program operated or directed by the U.S. Department of Housing and Urban Development. *Tax Code 11.111*

2. Land and housing units on the land owned by a community land trust. *Tax Code 11.1827*

3. Certain historic structures or archeological sites and the land necessary to access and use the structure or archeological site. The board may not repeal or reduce the amount of an exemption for a property that otherwise qualifies for the exemption unless the property owner consents to the repeal or reduction or the district provides written notice of the repeal or reduction to the owner not later than five years before the date the board repeals or reduces the exemption. *Tax Code 11.24*

4. Property on which approved water conservation initiatives, desalination projects, or brush control initiatives have been implemented. *Tax Code 11.32*

If a district adopts, amends, or repeals an exemption that the district by law has the option to adopt or not, the district shall notify the appraisal office of its action and of the terms of the exemption within 30 days after the date of its action. *Tax Code 6.08*

Goods-in-Transit

A person is entitled to an exemption from taxation of the appraised value of that portion of the person's property that consists of goods-in-transit, as defined in Tax Code 11.253(a)(2).

A board, by official action, may provide for the taxation of goods-in-transit exempt under Tax Code 11.253(b) and not exempt under other law. The official action to tax the goods-in-transit must be taken before January 1 of the first tax year in which the board proposes to tax goods-in-transit. Before acting to tax the exempt property, a board must conduct a public hearing as required by Texas Constitution Article VIII, Section 1-n(d). If the board provides for the taxation of the goods-in-transit as provided by this provision, the exemption stated above does not apply to that district. The goods-

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in-transit remain subject to taxation by the district until the board, by official action, rescinds or repeals its previous action to tax goods-in-transit, or otherwise determines that the exemption will apply to that district.

Notwithstanding official action that was taken before October 1, 2011, to tax goods-in-transit, a district may not tax such goods-in-transit in a tax year that begins on or after January 1, 2012, unless the board takes official action on or after October 1, 2011, to provide for the taxation of the goods-in-transit.

Exception

If a board, before October 1, 2011, took action to provide for the taxation of goods-in-transit and pledged the taxes imposed on the goods-in-transit for the payment of a debt of the district, the district tax officials may continue to impose the taxes against the goods-in-transit until the debt is discharged, if cessation of the imposition would impair the obligation of the contract by which the debt was created.

Tax Code 11.253(b), (j)–(j-2)

Payment Options

The board may adopt, by official action, one or both of the discount options below. *Tax Code 31.05(a)*

Discounts

Option 1

A district may adopt the following discounts to apply regardless of the date on which the district mails its tax bills:

1. Three percent if the tax is paid in October or earlier.
2. Two percent if the tax is paid in November.
3. One percent if the tax is paid in December.

Tax Code 31.05(b)

This discount does not apply to taxes that are calculated too late for it to be available. *Tax Code 31.04(c)*

Option 2

A district may adopt the following discounts to apply when the district mails its tax bills after September 30:

1. Three percent if the tax is paid before or during the next full calendar month following the date on which the tax bills were mailed.
2. Two percent if the tax is paid during the second full calendar month following the date on which the tax bills were mailed.
3. One percent if the tax is paid during the third full calendar month following the date on which the tax bills were mailed.

Tax Code 31.05(c)

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Both Options — If a board adopts both discounts, the discounts described at Option 1 apply unless the tax bills for the district are mailed after September 30, in which case only the discounts described at Option 2 apply. *Tax Code 31.05(a)*

Rescission — The board may rescind a discount lawfully adopted by the board. The rescission of a discount takes effect in the tax year following the year in which the discount is rescinded. *Tax Code 31.05(d)*

Split Payments — ~~A~~The board of a district that collects its own taxes may provide, by official action, that a person who pays one-half of the district's taxes before December 1 may pay the remaining one-half of the taxes without penalty or interest at any time before July 1 of the following year.

If a board contracts with the appraisal district for collection of taxes, the split-payment option does not apply to taxes collected by the appraisal district unless approved by resolution adopted by a majority of the governing bodies of the taxing units whose taxes the appraisal district collects and filed with the secretary of the appraisal district board of directors. The split-payment option may be revoked in the same manner as provided for adoption.

Tax Code 31.03

This payment option does not apply to taxes that are calculated too late for it to be available. *Tax Code 31~~.03,~~ .04(c)*

In Certain Counties — The board of a district located in a county having a population of not less than 285,000 and not more than 300,000 that borders a county having a population of 3.3 million or more and the Gulf of Mexico that has its taxes collected by another taxing unit that has adopted the split-payment option may provide, by official action, that the split-payment option does not apply to the district's taxes collected by the other taxing unit. *Tax Code 31.03(d)*

~~Performing~~ Installment Payments

Certain Homesteads — An individual who is disabled or at least 65 years of age and qualified for a homestead exemption under Tax Code 11.13(c), or an individual who is a disabled veteran or the unmarried surviving spouse of a disabled veteran and qualified for an exemption under Tax Code 11.132 or 11.22, may pay district taxes imposed on the person's residence homestead property in four equal installments without penalty or interest if paid by the applicable dates set out in Tax Code 31.031. *Tax Code 31.031*

Disaster Area — A person may pay district taxes imposed on certain property the person owns in four equal installments without penalty or interest if paid by the applicable dates set out in Tax Code 31.032. This option applies to real or personal property described in Tax Code 31.032(a) and taxes that are imposed on the property by a district

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before the first anniversary of the disaster, as defined by Government Code 418.004. *Tax Code 31.032*

Services in Lieu of Paying Taxes

The board by resolution may permit certain individuals or business entities to perform certain services for the district in lieu of paying the district property taxes. While performing services for a district, the individual is not an employee of the district and is not entitled to any benefit, including workers' compensation coverage, that the district provides to its employees. *Tax Code 31.035, .036, .037*

Persons 65 and Over

Subject to the requirements of Tax Code 31.035, the board by order or resolution may permit an individual who is at least 65 years of age to perform service for the district in lieu of paying taxes imposed by a district on property owned by the individual and occupied as the individual's residence homestead. Property owners performing services for a district under this provision may only supplement or complement the regular personnel of the district. A district may not reduce the number of persons the district employs or reduce the number of hours to be worked by employees of the district because the district permits property owners to perform services for the district under this provision. *Tax Code 31.035(a), (g)*

Teaching Services

An individual is qualified to perform teaching services for a district under the provisions below only if the individual holds a baccalaureate or more advanced degree in a field related to each course to be taught and:

1. Is certified as a classroom teacher under Education Code Chapter 21, Subchapter B; or
2. Obtains a school district teaching permit under Education Code 21.055.

Tax Code 31.036(h), .037(i)

By Individual

Subject to the requirements of Tax Code 31.036, the board by resolution may permit qualified individuals to perform teaching services for the district at a junior high school or high school of the district in lieu of paying taxes imposed by the district on property owned and occupied by the individual as a residence homestead. *Tax Code 31.036*

By Employee of Business Entity

Subject to the requirements of Tax Code 31.037, a board by resolution may authorize a corporation or other business entity to permit a qualified individual employed by the business entity to perform teaching services in a high school or a junior high school for the district in lieu of paying taxes imposed by the district on property owned by the business entity. *Tax Code 31.037*

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~~Installment Payments~~

~~*Certain Homesteads*~~

~~An individual who is disabled or at least 65 years of age and qualified for a homestead exemption under Tax Code 11.13(c), or an individual who is a disabled veteran or the unmarried surviving spouse of a disabled veteran and qualified for an exemption under Tax Code 11.132 or 11.22, may pay district taxes imposed on the person's residence homestead property in four equal installments without penalty or interest if paid by the applicable dates set out in Tax Code 31.031. *Tax Code 31.031*~~

~~*Disaster Area*~~

~~A person may pay district taxes imposed on certain property the person owns in four equal installments without penalty or interest if paid by the applicable dates set out in Tax Code 31.032. This option applies to:~~

~~3. Real property that is located in a disaster area; has been damaged as a direct result of the disaster; and is:~~

~~a. The residence homestead of the owner or consists of property that is used for residential purposes and that has fewer than five living units; or~~

~~b. Owned or leased by a business entity that had not more than the amount calculated as provided by Tax Code 31.032(h) in gross receipts in the entity's most recent federal tax year or state franchise tax annual period, according to the applicable federal income tax return or state franchise tax report of the entity;~~

~~4. Tangible personal property that is owned or leased by a business entity described above at 1b; and~~

~~5. Taxes that are imposed on the property by a district before the first anniversary of the disaster.~~

~~*Tax Code 31.032(a)–(d)*~~

~~Definitions~~

~~"Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, extreme heat, other public calamity requiring emergency action, or energy emergency. *Gov't Code 418.004(1)*~~

~~"Disaster area" means an area declared a disaster area by the governor under Government Code Chapter 418; or an area declared a disaster area by the president of the United States under 42 U.S.C. Section 5141. *Tax Code 151.350*~~

~~*Tax Code 31.032(g)*~~

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Delinquent Taxes

Delinquency Date

Except as provided by Tax Code 31.02(b) (~~regarding~~ payment by certain eligible persons on active duty in the armed forces), 31.03 (~~regarding~~ split payments), and 31.04 (~~regarding~~ postponement of delinquency date based on mailing date of tax bills), taxes are due on receipt of the tax bill and are delinquent if not paid before February 1 of the year following the year in which imposed. *Tax Code 31.02*

Note: Delinquent taxes incur penalties and accrue interest in accordance with Tax Code 33.01, subject to any waiver by the board pursuant to Tax Code 33.011.

Delinquent Tax Collection

A board may contract with any competent attorney to represent the district to enforce the collection of delinquent taxes. The attorney's compensation is set in the contract, but the total amount of compensation provided may not exceed 20 percent of the amount of delinquent tax, penalty, and interest collected. ~~*Tax Code 6.30(c)*~~ *Tax Code 6.30(c)* [See CH(LEGAL) regarding contingent fee contracts for legal services and Government Code 2254.102(c) for additional requirements.]

Additional Penalties

The board may provide, by official action, that taxes that become delinquent at a certain time incur an additional penalty to defray costs of collection if the board has contracted with an attorney as provided above. *Tax Code 33.07, .08*

[1] Texas Comptroller Property Tax Exemptions website: https://comptroller.texas.gov/taxes/property-tax/exemptions/

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.Appraisal Function

The county appraisal district is responsible for appraising property in the appraisal district for ad valorem tax purposes of each taxing unit in the appraisal district. *Tax Code 6.01(b)*

Restrictions on Employment

An individual may not be employed by an appraisal district if the individual is an officer or employee of a taxing unit that participates in the appraisal district. *Tax Code 6.054*

Notice of Boundary Change

If a new taxing unit is formed or an existing taxing unit's boundaries are altered, the unit shall notify the appraisal office of the new boundaries within 30 days after the date the unit is formed or its boundaries are altered. *Tax Code 6.07*

Appraisal District Board of Directors

The appraisal district is governed by a board of directors. Five directors are appointed by the taxing units that participate in the appraisal district as provided by Tax Code 6.03.

Eligibility

To be eligible to serve on the appraisal district board, an individual other than a county assessor-collector serving as a nonvoting director must be a resident of the appraisal district and must have resided in the appraisal district for at least two years immediately preceding the date the individual takes office. An individual who is otherwise eligible to serve on the appraisal district board is not ineligible because of membership on the governing body of a taxing unit.

An employee of a taxing unit is not eligible to serve on the appraisal district board unless the employee is also a member of the governing body or an elected official of a taxing unit that participates in the appraisal district.

Tax Code 6.03(a)

Restrictions

Nepotism

An individual is ineligible to serve on an appraisal district board if the individual is related within the second degree by consanguinity or affinity, as determined under Government Code Chapter 573 [see DBE], to an individual who is engaged in the business of appraising property for compensation for use in proceedings under Tax Code Title 1 (the Property Tax Code) or of representing property owners for compensation in proceedings under the Property Tax Code in the appraisal district.

Delinquent Taxes

An individual is ineligible to serve on an appraisal district board 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 the delinquent taxes and any penalties and interest are being paid under an installment payment agreement, or a suit to collect the delinquent taxes is deferred or abated.

Tax Code 6.035(a)

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Prior Property Appraiser or Owner Representative

An individual is ineligible to serve on an appraisal district board if the individual has engaged in the business of appraising property for compensation for use in proceedings under the Property Tax Code or of representing property owners for compensation in proceedings under the Property Tax Code in the appraisal district at any time during the preceding ~~five~~three years. *Tax Code 6.035(a-1)*

Conflict of Interest

An individual is not eligible to be appointed to or to serve on an appraisal district board if the individual or a business entity in which the individual has a substantial interest is a party to a contract with ~~:~~the appraisal district~~;~~ or a taxing unit that participates in the appraisal district, if the contract relates to the performance of an activity governed by the Property Tax Code.

A taxing unit may not enter into a contract relating to the performance of an activity governed by the Property Tax Code with a member of the appraisal district board or with a business entity in which an appraisal district board member has a substantial interest.

An individual has a substantial interest in a business entity if the combined ownership of the individual and the individual's spouse is at least ten percent of the voting stock or shares of the business entity, or the individual or the individual's spouse is a partner, limited partner, or officer of the business entity.

"Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or other entity recognized by law.

~~A school district may not enter into a contract relating to the performance of an activity governed by the Property Tax Code with a member of the appraisal district board or with a business entity in which an appraisal district board member has a substantial interest.~~

Tax Code 6.036

Recall

In accordance with Tax Code 6.033, the governing body of a taxing unit, by resolution filed with the chief appraiser, may call for the recall of a member of the appraisal district board for whom the unit cast any of its votes in the appointment of the appraisal district board. *Tax Code 6.033(a)*

~~**Ownership or Lease of Real Property**~~

~~The acquisition or conveyance of real property or the construction or renovation of a building or other improvement by an appraisal district must be approved by the governing bodies of three-fourths of the taxing units entitled to vote on the appointment of appraisal district board members.~~

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~~The appraisal district board by resolution may propose a property transaction or other action for approval of the taxing units. The chief appraiser shall notify the presiding officer of each governing body entitled to vote on the proposal by delivering a copy of the appraisal district board's resolution, together with information showing the costs of other available alternatives to the proposal.~~

~~On or before the 30th day after the date the presiding officer receives notice of the proposal, the governing body of a taxing unit by resolution may approve or disapprove the proposal. If a governing body fails to act on or before that 30th day or fails to file its resolution with the chief appraiser on or before the 10th day after that 30th day, the proposal is treated as if it were disapproved by the governing body.~~

~~Proceeds~~

~~The proceeds of a conveyance of appraisal district real property shall be credited to each taxing unit that participates in the appraisal district in proportion to the unit's allocation of the appraisal district budget in the year in which the transaction occurs.~~

~~*Tax Code 6.051(b), (c)*~~

Budget and Financing

Each year the chief appraiser shall prepare a proposed budget for the operations of the appraisal district for the following tax year as described in Tax Code 6.06(a) and shall submit copies to each taxing unit and the appraisal district board before June 15.

Public Inspection

Each taxing unit shall maintain a copy of the proposed budget for public inspection at its principal administrative office.

Budget Adoption

The appraisal district board shall hold a public hearing to consider the budget. The secretary of the appraisal district board shall deliver to the presiding officer of the governing body of each taxing unit not later than the tenth day before the date of the hearing a written notice of the date, time, and place fixed for the hearing. The appraisal district board of directors shall complete its hearings, make any amendments to the proposed budget it desires, and finally approve a budget before September 15.

If governing bodies of a majority of the taxing units adopt resolutions disapproving a budget and file them with the secretary of the appraisal district board within 30 days after its adoption, the budget does not take effect, and the appraisal district board shall adopt a new budget within 30 days of the disapproval.

Amendments

The appraisal district board may amend the approved budget at any time, but the secretary of the appraisal district board must deliver a written copy of a proposed amendment to the presiding officer of the governing body of each taxing unit not later than the 30th day before the date the appraisal district board acts on it.

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Allocation

Each taxing unit participating in the appraisal district is allocated a portion of the amount of the budget equal to the proportion that the total dollar amount of property taxes imposed in the appraisal district by the unit for the tax year in which the budget proposal is prepared bears to the sum of the total dollar amount of property taxes imposed in the district by each participating unit for that year. Unless the governing body of a unit and the chief appraiser agree to a different method of payment, each taxing unit shall pay its allocation in four equal payments to be made at the end of each calendar quarter, and the first payment shall be made before January 1 of the year in which the budget takes effect.

Tax Code 6.06(a)–(e)

Changes in Method of Financing

The appraisal district board, ~~by resolution adopted and delivered to each taxing unit after June 15 and before August 15,~~in accordance with Tax Code 6.061(a), may prescribe a different method of allocating the costs of operating the appraisal district unless the governing body of any taxing unit adopts a resolution opposing the different method, and files it with the appraisal district board before September 1. ~~If an appraisal district board proposal is rejected, the appraisal district board shall notify, in writing, each taxing unit before September 15.~~

The taxing units may adopt a different method of allocating the costs of operating the appraisal district in accordance with Tax Code 6.061.

Tax Code 6.061

Disapproval of Appraisal District Board Actions

If the governing bodies of a majority of the taxing units adopt resolutions disapproving an action, other than adoption of the budget, by the appraisal district board and file them with the secretary of the appraisal district board within 15 days after the action is taken, the action is revoked effective the day after the day on which the required number of resolutions is filed. *Tax Code 6.10*

Appraisal Review Board

An appraisal review board is established for each appraisal district. This does not preclude the boards of directors of two or more adjoining appraisal districts from providing for the operation of a consolidated appraisal review board by interlocal contract. ~~Except as provided below,~~

Appointment

Counties of Less than 120,000

Members of the appraisal review board are appointed by resolution of a majority of the appraisal district board of directors. ~~*Tax Code 6.41*~~

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~~Exception~~

~~*In a county with a population*~~*Counties of 120,000 or More*

~~, the~~ Members of the ~~appraisal review~~ board are appointed by the local administrative ~~district~~law judge under Government Code Chapter 74, Subchapter D~~,~~ in the county in which the appraisal district is established.

Tax Code 6.41~~(d-1)~~

Eligibility

Appraisal review board members are subject to the eligibility restrictions described in Tax Code 6.412 and the conflict of interest provisions set forth in Tax Code 6.413. *Tax Code 6.412, .413*

Prohibition on Contracts

A school district may not enter into a contract with a member of the appraisal review board established for an appraisal district in which the school district participates or with a business entity in which a member of the appraisal review board has a substantial interest as defined in Tax Code 6.413(d). *Tax Code 6.413(c)*

Auxiliary Appraisal Review Board Members

The appraisal district board by resolution may provide for a number of auxiliary appraisal review board members that the board considers appropriate to hear taxpayer protests before the appraisal review board and to assist the board in performing its duties.

~~An auxiliary board member is appointed in the same manner and for the same term as an appraisal review board member and is subject to the same eligibility requirements and restrictions.~~

Tax Code 6.414(a)

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

Definitions

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

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

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

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

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

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

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

Gov't Code 2256.0208(a)

Repurchase Agreement — "Repurchase agreement" means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations, described ~~at~~ by Government Code 2256.009(a)(1) (obligations of governmental entities~~, below,~~) 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

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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 (~~regarding~~ issuance of obligations for certain public improvements).

Gov't Code 2256.~~0206~~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;

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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

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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:

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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)

~~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)*~~

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 (~~regarding~~ 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

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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

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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)*

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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;

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

d. The district appoints as the district's custodian of the banking deposits issued for the district's account the depository institution selected as described above, an entity described by Government Code 2257.041(d) (~~regarding a~~ 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.

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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) (~~regarding a~~ 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 ~~at~~ by Government Code 2256.009(a)(1) (obligations of governmental entities~~, above;~~) 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

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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) (~~regarding~~ 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

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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 ~~270~~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

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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

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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) (~~regarding~~ 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

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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.

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~~Corporate bonds are not an eligible investment for a public funds investment pool.~~

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) (~~regarding~~ 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 (~~regarding~~ prohibited investments), a district is not required to liquidate investments that were authorized investments at the time of purchase. *Gov't Code 2256.017*

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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)

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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*

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Authorized Expenditures

A district shall not lend its credit or gratuitously grant public money or things of value in aid of any individual, association, or corporation. *Tex. Const. Art. III, Sec. 52; Brazoria County v. Perry, 537 S.W.2d 89 (Tex. Civ. App.—Houston [1st Dist.] 1976, no writ)*

A district shall not grant any extra compensation, fee, or allowance to a public officer, agent, servant, or contractor after service has been rendered or a contract entered into and performed in whole or in part. Nor shall a district pay or authorize the payment of any claim against the district under any agreement or contract made without authority of law. *Tex. Const. Art. III, Sec. 53; Harlingen Indep. Sch. Dist. v. C.H. Page and Bro., 48 S.W.2d 983 (Comm. App. 1932)*

The state and county available funds may be used only for the payment of teachers' and superintendents' salaries and interest on money borrowed on short time to pay those salaries that become due before school funds for the current year become available. Loans for the purpose of payment of teachers may not be paid out of funds other than those for the current year. *Education Code 45.105(b)*

Local funds from district taxes, tuition fees, other local sources, and state funds not designated for a specific purpose may be used for purposes listed above for state and county available funds and for purchasing appliances and supplies; paying insurance premiums; paying janitors and other employees; buying school sites; buying, building, repairing, and renting school buildings, including acquiring school buildings and sites by leasing through annual payments with an ultimate option to purchase [see CHG]; and for other purposes necessary in the conduct of the public schools determined by ~~a~~the board. *Education Code 45.105(c)*

Public funds of a district may not be spent in any manner other than as provided for in the budget adopted by the board, but the board may amend a budget or adopt a supplementary emergency budget to cover necessary unforeseen expenses. *Education Code 44.006(a)*

Fiscal Year

The fiscal year of a district begins on July 1 or September 1 of each year, as determined by the board. *Education Code 44.0011*

Budget Preparation

On or before the date set by the State Board of Education (~~currently August 20 [June 19 for a district with a fiscal year beginning July 1]),~~SBOE), a superintendent shall prepare, or cause to be prepared, a proposed budget covering all estimated revenue and proposed expenditures of a district for the following fiscal year. The budget must be prepared according to generally accepted accounting principles, rules adopted by the SBOE, and adopted policies of

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the board of trustees. *Education Code 44.002; 19 TAC 109.1(a), .41*

Funds for Accelerated Instruction

A district that is required to provide accelerated instruction under Education Code 29.081(b-1) [see EHBC] shall separately budget sufficient funds, including funds under Education Code ~~42.152, for that purpose. A district may not budget funds received under Education Code 42.152 for any other purpose until the district adopts a budget to support additional accelerated instruction.~~48.104, for that purpose. *Education Code 29.081(b-2)*

~~Public Notice~~Itemization of Certain Expenditures

The proposed budget of a district must include ~~a line item indicating expenditures for notices required by law to be published~~, in a ~~newspaper by the district or a representative of the district that allows~~manner allowing for as clear a comparison as practicable between those expenditures in the proposed budget and actual expenditures for the same purpose in the preceding year, a line item indicating expenditures for:~~.~~

1. Notices required by law to be published in a newspaper by the district or a representative of the district; and

2. Directly or indirectly influencing or attempting to influence the outcome of legislation or administrative action, as those terms are defined in Government Code 305.002.

Local Gov't Code 140.0045

Public Meeting on Budget and Proposed Tax Rate

When the budget has been prepared, the board president shall call a board meeting for the purpose of adopting a budget for the succeeding fiscal year. Any taxpayer of a district may be present and participate in the meeting. *Education Code 44.004(a), (f)* [See CCG for provisions governing tax rate adoption.]

The meeting must comply with the notice requirements of the Open Meetings Act. *Gov't Code 551.041, .043* [See BE]

Published Notice

The board president shall provide for publication of notice of the budget and proposed tax rate meeting in ~~a daily, weekly, or bi-weekly newspaper published in a district. If no daily, weekly, or bi-weekly newspaper is published in a district, the president shall provide for publication of notice in at least one newspaper of general circulation in the county in which the district's central administrative office is located. The notice shall be published not earlier than the 30th day or later than the tenth day before the date of the hearing. *Education Code 44.004(b)*~~accordance with Education Code 44.004. [For specific requirements regarding the form, contents, and publication of the notice, see CCG(LEGAL).]

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~~*Form of Notice*~~ ~~The notice of the public meeting to discuss and adopt the budget and the proposed tax rate must meet the size, format, and contents required by law. *Education Code 44.004(c)-(c-1)*~~

~~The notice is not valid if it does not substantially conform to the language and format prescribed by the comptroller. *Education Code 44.004(d)*~~

~~*Taxpayer Injunction*~~ ~~A person who owns taxable property in a district is entitled to an injunction restraining the collection of taxes by the district if the district has not complied with the notice requirements and the failure to comply was not in good faith. An action to enjoin the collection of taxes must be filed before the date the district delivers substantially all of its tax bills. *Education Code 44.004(e)*~~

Publication of Proposed Budget Summary

Concurrently with the publication of notice of the budget under Education Code 44.004, ~~as described above,~~ a district shall post a summary of the proposed budget on the school district's internet website or, if the district has no internet website, in the district's central administrative office.

The budget summary must include a comparison to the previous year's actual spending and information relating to per student and aggregate spending on:

1. Instruction;
2. Instructional support;
3. Central administration;
4. District operations;
5. Debt service; and
6. Any other category designated by the commissioner.

Education Code 44.0041

~~Decrease in Debt Service Rate~~ ~~If the interest and sinking fund rate calculated under Education Code 44.004(c)(5)(A)(ii)(b) decreases after the publication of the required notice, the board president is not required to publish another notice or call another meeting to discuss and adopt the budget and the proposed lower tax rate. *Education Code 44.004(g-1)*~~

Budget Adoption

The board, at the meeting called for that purpose, shall adopt a budget to cover all expenditures for the succeeding fiscal year. The budget must be adopted before the adoption of the tax rate for the tax year in which the fiscal year covered by the budget begins. *Education Code 44.004(f)–(g)*

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Districts with July 1 Fiscal Year

A district with a fiscal year beginning July 1 may use the certified estimate of the taxable value of district property [see CCG(LEGAL)] in preparing the ~~published~~required notice if the district does not receive the certified appraisal roll on or before June 7. A district that uses a certified estimate may adopt a budget at the public meeting designated in the published notice prepared using the estimate, but the district may not adopt a tax rate before the district receives the certified appraisal roll for the district. *Education Code 44.004(h)–(i)*

~~Certified Estimate~~

~~By April 30, the chief appraiser shall prepare and certify an estimate of the taxable value of school district property. *Tax Code 26.01(e)*~~

Budget Adoption After Tax Rate Adoption

Notwithstanding Education Code 44.004(g), (h), and (i), above, a district may adopt a budget after the district adopts a tax rate for the tax year in which the fiscal year covered by the budget begins if the district elects to adopt a tax rate before receiving the certified appraisal roll for the district ~~as provided by Tax Code 26.05(g).~~. If a district elects to adopt a tax rate before adopting a budget, the district must publish notice and hold a meeting for the purpose of discussing the proposed tax rate. Following adoption of the tax rate [see CCG], the district must publish notice and hold another public meeting before the district may adopt a budget. The comptroller shall prescribe the language and format to be used in the notices. The district may use the certified estimate of taxable value in preparing a notice under this provision. *Education Code 44.004(j)*

Publication of Adopted Budget

On final approval of the budget by the board, the district shall post on the district's internet website a copy of the budget adopted by the board. The district's website must prominently display the electronic link to the adopted budget. A district shall maintain the adopted budget on the district's website until the third anniversary of the date the budget was adopted. *Education Code 44.0051*

~~The adopted~~On or before a date set by the SBOE, the budget must be filed with the Texas Education Agency ~~on or before the date~~ according to rules established ~~in the *Financial Accountability System Resource Guide*.~~by the SBOE. *Education Code 44.005~~; 19 TAC 109.1(a)~~*

Internet Posting of Tax Rate and Budget Information

Each district shall maintain an internet website or have access to a generally accessible internet website that may be used for the purposes of these provisions. Each district shall post or cause to be posted on the internet website the following information in a format prescribed by the comptroller:

1. The name of each member of the board;

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2. The mailing address, email address, and telephone number of the district;

3. The official contact information for each member of the board, if that information is different from the information described by item 2;

4. The district's budget for the preceding two years;

5. The district's proposed or adopted budget for the current year;

6. The change in the amount of the district's budget from the preceding year to the current year, by dollar amount and percentage;

7. The tax rate for maintenance and operations adopted by the district for the preceding two years;

8. The interest and sinking fund tax rate adopted by the district for the preceding two years;

9. The tax rate for maintenance and operations proposed by the district for the current year;

10. The interest and sinking fund tax rate proposed by the district for the current year; and

11. The most recent financial audit of the district.

Tax Code 26.18

Amendment of Approved Budget

The board may amend a budget or adopt a supplementary emergency budget to cover necessary unforeseen expenses. Any amendment or supplementary budget must be prepared and filed in accordance with SBOE rules. *Education Code 44.006*

Failure to Comply with Budget Requirements

A board member who votes to approve any expenditure of school funds in excess of the item or items appropriated in the adopted budget or a supplementary or amended budget commits a misdemeanor offense. *Education Code 44.052(c)*

Certain Donations

A district may donate funds or other property or service to the adjutant general's department, the Texas National Guard, or the Texas State Guard. *Gov't Code 437.111(b), .252, .304(a)*

Commitment of Current Revenue

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

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

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

Local Gov't Code 271.903

Prohibited Uses of Resources

Except as provided below or by Education Code 45.109(a-1), (a-2), or (a-3) [see CX], the board may not enter into an agreement authorizing the use of school district employees, property, or resources for the provision of materials or labor for the design, construction, or renovation of improvements to real property not owned or leased by the district.

Improvements to Real Property

This provision does not prohibit the board from entering into an agreement for the design, construction, or renovation of improvements to real property not owned or leased by the district if the improvements benefit real property owned or leased by the district. Benefits to real property owned or leased by the district include the design, construction, or renovation of highways, roads, streets, sidewalks, crosswalks, utilities, and drainage improvements that serve or benefit the real property owned or leased by the district.

Education Code 11.168

Hotels

The board may not impose taxes; issue bonds; use or authorize the use of district employees; use or authorize the use of district property, money, or other resources; or acquire property for the design, construction, renovation, or operation of a hotel. The board may not enter into a lease, contract, or other agreement that obligates the board to engage in an activity prohibited by this provision or obligates the use of district employees or resources in a manner prohibited by this provision.

"Hotel" means a building in which members of the public obtain sleeping accommodations for consideration. The term includes a motel.

Education Code 11.178

Electioneering

~~A board may not use state or local funds or other resources of the district to electioneer for or against any candidate, measure, or political party. *Education Code 11.169*~~For restrictions on using district funds for electioneering, see BBBD.

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Annual Audit

The board shall have a district's fiscal accounts audited annually at district expense by a Texas certified or public accountant holding a permit from the State Board of Public Accountancy.

The audit shall be completed following the close of each fiscal year, and shall meet at least the minimum requirements and be in the format prescribed by the State Board of Education (SBOE), subject to review and comment by the state auditor. The audit shall include an audit of the accuracy of the fiscal information provided by a district through the Public Education Information Management System (PEIMS).

Education Code 44.008(a), (b)

Audit Requirements and Procedures

A district must file with the Texas Education Agency (TEA) an annual financial and compliance report and, if applicable, a state compensatory agreed-upon procedures report. These reports must be audited by an independent auditor, and the audit must be reviewed by TEA, including review of auditors' working papers, in accordance with the *Financial Accountability System Resource Guide* (*FASRG*).

The annual financial audit report and state compensatory agreed-upon procedures report are due 150 days after the end of the fiscal year.

Independent Auditor

A district must hire at its own expense an independent auditor to conduct an independent audit of its financial statements and provide an opinion on its annual financial and compliance report.

The independent auditor must:

1. Be associated with a certified public accountancy (CPA) firm that has a current valid license issued by the Texas State Board of Public Accountancy;
2. Be a certified public accountant with a current valid license issued by the Texas State Board of Public Accountancy, as required under Education Code 44.008; and
3. Adhere to the generally accepted auditing standards (GAAS), adopted by the American Institute of CPAs (AICPA), as amended, and the generally accepted government auditing standards (GAGAS), adopted by the U.S. Government Accountability Office, as amended.

The CPA firm must:

1. Be a member of the AICPA Governmental Audit Quality Center (GAQC);

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2. Adhere to GAQC's membership requirements; and

3. Collectively have the knowledge, skills, and experience to be competent for the audit being conducted, including thorough knowledge of the government auditing requirements and:

   a. Texas public school district environment; or

   b. Public sector; or

   c. Nonprofit sector.

If at any time the TEA division responsible for financial compliance reviews an audit firm's working papers and finds that the firm or the quality of the work does not meet the required standards, the division may require the district to change its audit firm.

19 TAC 109.23

Financial Accountability System Resource Guide

The rules for financial accounting, including the selection of an auditor and the requirements for the audit, are described in the official TEA publication, *Financial Accountability System Resource Guide*, as amended, which is adopted as the SBOE's official rule. *19 TAC 109.41*

Filing of Report

A copy of the annual audit report, approved by the board, shall be filed with TEA not later than the 150th day after the end of the fiscal year for which the audit was made. If a board does not approve the audit report, it shall nevertheless file a copy of it with TEA, accompanied by a statement detailing its reasons for failing to approve the report. *Education Code 44.008(d)*

Internet Posting of Audit

Each district shall maintain an internet website or have access to a generally accessible internet website that may be used for the purposes of this provision. Each district shall post or cause to be posted on the internet website the information required by Tax Code 26.18, including the district's most recent financial audit, in a format prescribed by the comptroller. *Tax Code 26.18* [See CE for other required information]

Note: For information on the efficiency audit required before a district may hold an election to seek voter approval to adopt a maintenance and operations tax rate, see CCG.

Financial Records

Each treasurer receiving or having control of any school fund shall keep a full and separate itemized account of each of the different classes of school funds received, and these records shall be available to audit. *Education Code 44.008(c)*

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Financial Accountability Rating System

TEA will assign a financial accountability rating to each district. The commissioner of education will evaluate the rating system every three years and may modify the system to improve the effectiveness of the rating system. *Education Code 39.082; 19 TAC 109.1001(b), (c)*

Data Reviewed

TEA will use the following sources of data in calculating the financial accountability indicators for school districts:

1. Audited financial data in a district's annual financial report, the audited annual report required by Education Code 44.008 [see Audit Requirements and Procedures above].
2. PEIMS data submitted by a district.
3. Warrant holds as reported by the comptroller.
4. The average daily attendance information used for foundation school program purposes for a district.

19 TAC 109.1001(d)

Basis for Rating

TEA will base the financial accountability rating of a district on its overall performance on the financial measurements, ratios, and other indicators established by the commissioner. Financial accountability ratings for a rating year are based on the data from the immediate prior fiscal year. *19 TAC 109.1001(e)*

Types of Ratings

The types of financial accountability ratings a district may receive are A for superior achievement, B for above standard achievement, C for standard achievement, and F for substandard achievement. A school district receiving territory due to an annexation order by the commissioner under Education Code 13.054, or consolidation under Education Code Chapter 41, Subchapter H, will not receive a rating for two consecutive years beginning with the rating year that is based on financial data from the fiscal year in which the order of annexation becomes effective. After the second rating year, the receiving district will be subject to the financial accountability rating system.

The commissioner may lower a financial accountability rating based on the findings of an action conducted under Education Code Chapter 39, or change a financial accountability rating in cases of disaster, flood, extreme weather conditions, fuel curtailment, or another calamity. A financial accountability rating remains in effect until replaced by a subsequent rating.

19 TAC 109.1001(i), (k), (l)

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Issuance of Ratings

TEA will issue a preliminary financial accountability rating to a district on or before August 8 of each year. TEA will not delay the issuance of a preliminary or final rating if a district fails to meet the statutory deadline under Education Code 44.008 for submitting the annual financial report. Instead, the district will receive an F rating for substandard achievement.

If TEA receives an appeal of a preliminary rating under 19 Administrative Code 109.1001(n), TEA will issue a final rating to a district no later than 60 days after the deadline for submitting appeals. If TEA does not receive an appeal of a preliminary rating, the preliminary rating automatically becomes a final rating 31 days after issuance of a preliminary rating.

19 TAC 109.1001(m)

Appeals

A district may appeal its preliminary financial accountability rating through the appeals process described at 19 Administrative Code 109.1001(n).

A final rating issued by TEA may not be appealed under Education Code 7.057 or any other law or rule. *19 TAC 109.1001(o)*

Annual Audit of Dropout Records

The commissioner shall develop a process for auditing district dropout records electronically. The commissioner shall also develop a system and standards for review of the audit or use systems already available at TEA. The system must be designed to identify districts that are at high risk of having inaccurate dropout records and that, as a result, require on-site monitoring of dropout records.

If the electronic audit of a district's dropout records indicates that the district is not at high risk of having inaccurate dropout records, the district may not be subject to on-site monitoring. If the risk-based system indicates that a district is at high risk of having inaccurate dropout records, the district is entitled to an opportunity to respond to the commissioner's determination before on-site monitoring may be conducted. A district must respond not later than the 30th day after the date the commissioner notifies the district of the commissioner's determination. If a district's response does not change the commissioner's determination that the district is at high risk of having inaccurate dropout records or if the district does not respond in a timely manner, the commissioner shall order TEA staff to conduct on-site monitoring.

Education Code 39.308(a)–(c)

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Income Tax

Except as otherwise provided in 26 U.S.C. 3402, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables or computational procedures prescribed by the Secretary of the Treasury. *26 U.S.C. 3401–3402*

Medicare Tax

The tax imposed by 26 U.S.C. 3101(b) shall be collected by the employer of the taxpayer hired after March 31, 1986, by deducting the amount of the tax from the wages as and when paid. *26 U.S.C. 3102(a), 3121(u)*

Teacher Retirement System

Each payroll period, each employer shall deduct from the compensation of each member employed by the employer the amount required by Government Code 825.402. *Gov't Code 825.403*

Each employer shall pick up the employee contribution required of each of its employees by Government Code 825.403. Employers shall pay to the retirement system the picked-up contributions from the same source of funds that is used in paying earnings to the employees. Such payments shall be in lieu of contributions by the employees. An employer shall pick up these contributions by a corresponding reduction in the cash salary of the employees, by an offset against a future salary increase, or by a combination of a salary reduction and offset against a future salary increase. Employees do not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the retirement system. *Gov't Code 825.409(a)*

Retired School Employees Group Insurance Fund

The employer of an active employee shall monthly:

1. Deduct the employee's contribution from the employee's salary and remit the contribution to the Teacher Retirement System of Texas (TRS) in the manner required by TRS; or
2. Assume and pay the total contributions due from its active employees.

"Active employee" means a contributing member of the TRS who is employed by a public school and is not entitled to coverage under a plan provided under Insurance Code Chapter 1551 (Texas Employees Group Benefits Act) or 1601 (State University Employees Uniform Insurance Benefits Act).

Insurance Code 1575.002(1), (7), .203(b)

Child Support Payments

An employer shall begin to withhold income in accordance with an order or writ of withholding issued under Family Code Chapter 158 not later than the first pay period following the date on which the order or writ was delivered to the employer and shall continue to withhold income as required by the order or writ as long as the obligor is employed by the employer. The employer shall remit the

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amount to be withheld to the person or office named in the order or writ on each pay date. The payment must include the date on which the withholding occurred.

An employer may deduct an administrative fee of not more than $10 from the obligor's disposable earnings in addition to the amount to be withheld as child support.

Family Code 158.202–.204

Spousal Maintenance

An employer shall begin to withhold income in accordance with an order or writ of withholding issued under Family Code Chapter 8 not later than the first pay period after the date the order or writ was delivered to the employer. The employer shall continue to withhold income as required by the order or writ as long as the obligor is employed by the employer. The employer shall remit to the person or office named in the order or writ of withholding the amount of income withheld from an obligor on each pay date. The remittance must include the date on which the withholding occurred.

An employer may deduct an administrative fee of not more than $5 each month from the obligor's disposable earnings in addition to the amount withheld as spousal maintenance.

Family Code 8.202–.204

Professional Dues

A district employee is entitled to have an amount deducted from the employee's salary for membership fees or dues to a professional organization. The employee must:

1. File with the district a signed written request identifying the organization and specifying the number of pay periods per year the deductions are to be made; and
2. Inform the district of the total amount of the fees and dues for each year or have the organization notify the district of the amount.

The district shall deduct the total amount of the fees or dues for a year in equal amounts per pay period for the number of periods specified by the employee. The deductions shall be made until the employee requests in writing that the deductions be discontinued.

The district may charge an administrative fee for making the deduction. A fee imposed may not exceed either the actual administrative cost of making the deduction or the lowest fee the district charges for similar salary deductions, whichever is less.

Education Code 22.001 [But see Atty. Gen. Op. No. GA-774 (2010) (The legislature has not expressly authorized school districts to process payroll deductions for contributions to political committees.)]

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Social Security

The tax imposed by 26 U.S.C. 3101(a) shall be collected by the employer of designated taxpayers by deducting the amount of the tax from the wages as and when paid. *26 U.S.C. 3101–3102, 3121(b)(7)(E); 26 C.F.R. 31.3121(b)(7)-2*

Federal Education Loans

An employer shall pay to the U.S. Secretary of Education or the guaranty agency as directed in a withholding order issued in an action to recover delinquent federal education loan payments. *20 U.S.C. 1095a(a)(6)*

Prepaid Higher Education Tuition Program

An employee of a district may make payments under a prepaid tuition contract by payroll deductions made by the appropriate officer of the district. *Education Code 54.626(c)*

Higher Education Savings Plan

An employee of a district may make contributions to a higher education savings trust account established under the higher education savings plan by payroll deductions made by the appropriate officer of the district. *Education Code 54.701(10), .708(a)*

Assignments

An employee's assignment, pledge, or transfer, as security for indebtedness, of any interest in or part of the employee's salary or wages then due or that may become due under an existing contract of employment is enforceable only:

1. If before or at the time of execution, delivery, or acceptance of an assignment, pledge, or transfer written approval is obtained in accordance with the policy of the employing district; and
2. To the extent that the indebtedness it secures is a valid and enforceable obligation.

A district shall honor an assignment, pledge, or transfer fulfilling the conditions above without incurring any liability to the employee executing the assignment, pledge, or transfer. Payment to any assignee, pledgee, or transferee in accordance with the terms of the instrument constitutes payment to or for the account of the assignor, pledgor, or transferor. An assignment, pledge, or transfer is enforceable only to the extent of salary due or that may become due during continuation of the assignor's employment as a school employee.

Education Code 22.002

Insurance

A district may withhold from an employee's salary contributions for participation in approved insurance programs. *Insurance Code 1579.253; Education Code 22.005* [See CRD]

Deferred Compensation

A district may enter into a salary reduction agreement to reduce an employee's salary for the purpose of making direct contributions to

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or purchases of a qualified investment product only if the qualified investment product is an eligible qualified investment ~~and is registered with TRS under V.A.T.S. Article 6228a-5, Section 8A.~~. To the greatest degree possible, ~~employers of~~ districts that enter into a salary reduction agreement with employees ~~who participate in the program offered~~ under this provision shall require that contributions to eligible qualified investments be made by automatic payroll deduction and deposited directly in the investment accounts. *Art. 6228a-5, Secs. 4(~~7~~5), 5(a), (f) V.A.T.S.*

A district may contract with an employee for the deferment of any part of the employee's compensation. To participate in a deferred compensation plan, an employee must consent in the contract to automatic payroll deductions in an amount equal to the deferred amount. *Gov't Code 609.007(a), (c)* [See CRG]

Cafeteria Plans

A district shall withhold from an employee's salary amounts designated by the employee for participation in the district's cafeteria plan authorized under 26 U.S.C. 125.

"Cafeteria plan" means a written plan under which all participants are employees, and the participants may choose among two or more benefits consisting of cash and qualified benefits.

26 U.S.C. 125

Administrative Fee

A district that is required by state or federal law to deduct from the current wages of an employee an amount garnished under a withholding order may deduct monthly an administrative fee from the employee's disposable earnings in addition to the amount required to be withheld under the withholding order. This does not apply to income withholding under Family Code Chapter 158. [See Child Support Payments, above]

The administrative fee may not exceed the lesser of:

1. The actual administrative cost incurred by the district in complying with the withholding order; or
2. $10.

Civil Practice and Remedies Code 63.006

Child Care

The board may authorize a district employee to enter into an agreement with the district to reduce the periodic compensation paid the employee by the district by an amount to be paid for child-care expenses. *Gov't Code 610.021(a)*

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Note: For additional legal requirements applicable to purchases with federal funds, see CBB. For additional legal requirements applicable to school nutrition procurement, see COA.

Board Authority

A board may adopt rules and procedures for the acquisition of goods and services. *Education Code 44.031(d)*

Delegation of Authority

A board may delegate its authority regarding an action authorized or required to be taken by a district by Education Code Chapter 44, Subchapter B, to a designated person, representative, or committee.

A board may not delegate the authority to act regarding an action authorized or required to be taken by the board by Education Code Chapter 44, Subchapter B.

Disaster Exception

Notwithstanding any other provision of the Education Code, in the event of a catastrophe, emergency, or natural disaster affecting a district, the board may delegate to the superintendent or designated person the authority to contract for the replacement, construction, or repair of school equipment or facilities under Education Code Chapter 44, Subchapter B if emergency replacement, construction, or repair is necessary for the health and safety of district students and staff.

Education Code 44.0312

Purchases Valued at or Above $50,000

All district contracts for the purchase of goods and services, except contracts for the purchase of produce or vehicle fuel, valued at $50,000 or more in the aggregate for each 12-month period, shall be made by the method that provides the best value for a district:

1. Competitive bidding for services other than construction services.
2. Competitive sealed proposals for services other than construction services.
3. A request for proposals for services other than construction services.
4. An interlocal contract.
5. The reverse auction procedure as defined by Government Code 2155.062(d).
6. The formation of a political subdivision corporation under Local Government Code 304.001 (~~regarding the~~ purchase of electricity).

Education Code 44.031(a)

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[See COA for requirements applicable to school nutrition purchases, including produce, using federal funds.]

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

Factors

In awarding a contract, a district shall consider:

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

Education Code 44.031(b)

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

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The factors listed above are the only criteria that may be considered by a district in its decision to award a contract. *R.G.V. Vending v. Weslaco Indep. Sch. Dist., 995 S.W.2d 897 (Tex. App.—Corpus Christi 1999, no pet.)*

Out-of-State Bidders

A board shall not award a contract for services or for purchase of supplies, materials, or equipment to a bidder whose principal place of business is not in this state, unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the greater of the amount by which a resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located, or a state in which a majority of the manufacturing relating to the contract will be performed. *Gov't Code 2252.001–.002*

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

Required Contract Provisions

No Israel Boycott

A district may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it does not boycott Israel and will not during the term of the contract. ~~*Gov't Code 2270.002*~~

The requirement above applies only to a contract that:

1. Is between a district and a company with ten or more full-time employees; and
2. Has a value of $100,000 or more that is to be paid wholly or partly from public funds of the district.

Gov't Code 2271.002

"Company" has the meaning assigned by Government Code 808.001, except that the term does not include a sole proprietorship. *Gov't Code 2271.001(2)*

Retention of Contracting Information

Application

These provisions apply to a contract that:

1. Has a stated expenditure of at least $1 million in public funds for the purchase of goods or services by the district; or
2. Results in the expenditure of at least $1 million in public funds for the purchase of goods or services by the district in a fiscal year of the district.

A board may not accept a bid for a contract described above or award the contract to an entity that the board has determined has

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knowingly or intentionally failed to comply with Government Code Chapter 552, Subchapter J (Additional Provisions Relating to Contracting Information) in a previous bid or contract described above unless the board determines and documents that the entity has taken adequate steps to ensure future compliance with the requirements of that subchapter. [For additional information and requirements, see GBA and GBAA.]

Requirements

A contract described above must require a contracting entity to:

1. Preserve all contracting information related to the contract as provided by the records retention requirements applicable to the district for the duration of the contract;
2. Promptly provide to the district any contracting information related to the contract that is in the custody or possession of the entity on request of the district; and
3. On completion of the contract, either:
   a. Provide at no cost to the district all contracting information related to the contract that is in the custody or possession of the entity; or
   b. Preserve the contracting information related to the contract as provided by the records retention requirements applicable to the district.

Bid and Contract Language

Except as described at Exception, below, a bid for a contract described above and the contract must include the following statement: "The requirements of Subchapter J, Chapter 552, Government Code, may apply to this (include "bid" or "contract" as applicable) and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter."

Notice of Noncompliance

A board that is the party to a contract described above shall provide notice to the entity that is a party to the contract if the entity fails to comply with a requirement of Government Code Chapter 552, Subchapter J applicable to the entity. The notice must:

1. Be in writing;
2. State the requirement that the entity has violated; and
3. Unless the exception described below applies, advise the entity that the board may terminate the contract without further obligation to the entity if the entity does not cure the violation on or before the tenth business day after the date the board provides the notice.

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Contract Termination

Except as provided below, a governmental body may terminate a contract described above if:

1. The board provides the required notice to the entity that is party to the contract;
2. The contracting entity does not cure the violation in the prescribed period;
3. The board determines that the contracting entity has intentionally or knowingly failed to comply with a requirement of Government Code Chapter 552, Subchapter J; and
4. The board determines that the entity has not taken adequate steps to ensure future compliance with the requirements of that subchapter.

An entity has taken adequate steps to ensure future compliance with Government Code Chapter 552, Subchapter J if:~~"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. *Gov't Code 808.001(2)*~~

1. The entity produces contracting information requested by the board that is in the custody or possession of the entity not later than the tenth business day after the date the board makes the request; and
2. The entity establishes a records management program to enable the entity to comply with Government Code Chapter 552, Subchapter J.

Exception

A board may not terminate a contract under these provisions if the contract is related to the purchase or underwriting of a public security, the contract is or may be used as collateral on a loan, or the contract's proceeds are used to pay debt service of a public security or loan.

Gov't Code 552.371(a), .372–.374 [See GBA]

Disclosure of Interested Parties

A district may not enter into a contract ~~that requires an action or vote of the board before the contract may be signed, or has a value of at least $1 million,~~described below with a business entity unless the business entity submits a disclosure of interested parties to the district at the time the business entity submits the signed contract to the district.

The requirement above applies only to a contract of a district that:

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1. Requires an action or vote by the board before the contract may be signed;
2. Has a value of at least $1 million; or
3. Is for services that would require a person to register as a lobbyist under Government Code Chapter 305.

Gov't Code 2252.908

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

Exclusions

The disclosure requirement does not apply to a contract with:

1. A publicly traded business entity, including a wholly owned subsidiary of the entity;
2. An electric utility, as defined by Utilities Code 31.002; or
3. A gas utility, as defined by Utilities Code 121.001.

Gov't Code 2252.908(c)(4)–(6)

Required Form

The disclosure of interested parties must be submitted on a form prescribed by the Texas Ethics Commission (TEC) that includes a list of each interested party for the contract of which the contracting business entity is aware; and a written, unsworn declaration subscribed by the authorized agent of the contracting business entity as true under penalty of perjury that is in substantially the form set out in Government Code 2252.908(e)(2). *Gov't Code 2252.908(e); 1 TAC 46.5(a)*

The certification of filing and the completed disclosure of interested parties form generated by TEC's electronic filing application must be printed, signed by an authorized agent of the contracting business entity, and submitted to the district that is the party to the contract for which the form is being filed. *1 TAC 46.5(b)*

Deadline

A district that receives a completed disclosure of interested parties form and certification of filing shall notify TEC, in an electronic format prescribed by TEC, of the receipt of those documents not later than the 30th day after the date the board receives the disclosure. *1 TAC 46.5(c); Gov't Code 2252.908(f)*

Contract Changes

The disclosure requirements do not apply to a change made to an existing contract, including an amendment, change order, or extension of a contract except as set out below.

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The disclosure requirements apply to a change made to an existing contract, including an amendment, change order, or extension of a contract if:

1. A disclosure of interested parties form was not filed for the existing contract; and either the changed contract requires an action or vote by the board or the value of the changed contract is at least $1 million; or

2. The business entity submitted a disclosure of interested parties form to the district that is a party to the existing contract; and either there is a change to the disclosure; or the changed contract requires an action or vote by the board; or the value of the changed contract is at least $1 million greater than the value of the existing contract.

1 TAC 46.4

Definitions

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

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

"Interested party" means a person who has a controlling interest in a business entity with whom a district contracts or who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity. *Gov't Code 2252.908(a)(3); 1 TAC 46.3(d), (e)*

"Controlling interest" means:

1. An ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds ten percent;

2. Membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than ten members; or

3. Service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than

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four officers. This subsection does not apply to an officer of a publicly held business entity or its wholly owned subsidiaries.

1 TAC 46.3(c)

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

"Value" of a contract is based on the amount of consideration received or to be received by a business entity from a board under the contract. *1 TAC 46.3(g)*

[See BBFA for additional conflict of interest disclosures.]

Contract with Person Indebted to District

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

The term "person" includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that seeks to enter into a contract or other transaction with a district requiring board approval.

Education Code 44.044

Notice Publication

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

Electronic Bids or Proposals

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

An electronic bid or proposal is not required to be sealed. A provision of Education Code Chapter 44 that applies to a sealed bid or

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proposal applies to a bid or proposal received through electronic transmission in accordance with the rules adopted by the board.

Education Code 44.0313

Professional Services

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

A district may contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Government Code 2254.003, in lieu of the methods provided by Education Code 44.031.

Education Code 44.031(f)

~~Competitive bids shall not be solicited for professional services of any licensed or registered~~An interlocal contract between a district and a purchasing cooperative may not be used to purchase engineering or architectural services. *Gov't Code 791.011(h)*

Professional Services Procurement Act

Selection

A district may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price. *Gov't Code 2254.003(a)*

Definition

"Professional services" means services:

1. Within the scope of the practice, as defined by state law, of accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, or professional nursing;

~~1.~~2. Provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant, architect, landscape architect, land surveyor, physician, optometrist, professional engineer, state-certified or state-licensed real estate appraiser, or registered nurse~~. Contracts for these professional services shall be made on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price.~~ ; or ~~*Gov't Code 2254.002, .003(a)*~~

3. Provided by a person lawfully engaged in interior design, regardless of whether the person is registered as an interior designer under Occupations Code 1053.

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Gov't Code 2254.002

Contingent Fee Contract for Legal Services

Government Code Chapter 2254, Subchapter C provides the manner in which and the situations under which a district may compensate a public contractor under a contingent fee for legal services. That subchapter does not apply to a contract for legal services entered into under Tax Code 6.30 (delinquent tax collection) or Government Code 1201.027 (issuance of public securities), except that Government Code sections 2254.1032, 2254.1034, 2254.1036, and 2254.1037 do apply to the contract. *Gov't Code 2254.102*

A district may select an attorney or law firm to award a contingent fee contract only in accordance with Government Code 2254.003(a) [see Selection, above] and Government Code 2254.1032. *Gov't Code 2254.1032(a)*

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

~~Prohibited Contracts~~

~~For provisions regarding prohibited contracts, see CV(LEGAL).~~

Emergency Damage or Destruction

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

Computers

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

Automated Information System

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

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Automated External Defibrillators

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

Sole Source

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

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

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

Education Code 44.031(j)–(k)

Insurance

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

Multiyear Contracts

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

Competitive Bidding

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

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

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

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Education Code 44.0351

Opening Bids

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

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

Safety Record

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

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

Local Gov't Code 271.0275

Identical Bids

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

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

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

Local Gov't Code 271.901

Competitive Sealed Proposals

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

Request for Proposals

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

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Opening Proposals	The district shall receive, publicly open, and read aloud the names of the offerors and, if any are required to be stated, all prices stated in each proposal. Not later than the 45th day after the date on which the proposals are opened, the district shall evaluate and rank each proposal submitted in relation to the published selection criteria.
Selection	The district shall select the offeror that offers the best value for the district based on the published selection criteria and on its ranking evaluation. The district shall first attempt to negotiate a contract with the selected offeror. The district may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If the district is unable to negotiate a satisfactory contract with the selected offeror, the district shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.
Best Value Determination	In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria. *Education Code 44.0352*

Interlocal Agreements

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

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

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

Gov't Code 791.011(d)–(f), (i)

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

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to services provided by firefighters, police officers, or emergency medical personnel.

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

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

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

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

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

Gov't Code 791.011(j)

State Purchasing Program

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

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

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

Local Gov't Code 271.082

District Requirements

A district may participate in the purchasing program, including participation in purchases that use the reverse auction procedure, by filing with the comptroller a resolution adopted by the board requesting that the district be allowed to participate on a voluntary

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basis, to the extent the comptroller deems feasible, and stating that the board shall:

1. Designate an official to act for the district in all matters relating to the program, including the purchase of items from the vendor under any contract.
2. Direct the decisions of its representative.
3. Be responsible for:
    a. Submitting requisitions to the commission under contract(s) and for payment directly to the vendor; and
    b. Electronically sending purchase orders directly to vendors, or complying with procedures governing a reverse auction purchase, and electronically sending the comptroller reports on actual purchases.
4. Be responsible for the vendor's compliance with all conditions of delivery and quality of the purchased item.

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

Local Gov't Code 271.083

Multiple Award Contract Schedule

The comptroller shall develop a schedule of multiple award contracts that have been previously awarded using a competitive process by the federal government or any other governmental entity in any state. *Gov't Code 2155.502*

A district may purchase goods or services directly from a vendor under a contract listed on a schedule. A district contracting for the purchase of an automated information system under a contract listed on a schedule shall comply with Government Code 2157.068(e-1) (~~regarding~~ purchase of information technology commodity items) [see Automated Information System, above]. An authorized purchase satisfies any requirement of state law relating to competitive bids or proposals.

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

Gov't Code 2155.504

Cooperative Purchasing Program

A district may participate in a cooperative purchasing program with another local government of this state or another state or with a lo-

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

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

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

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

Contract-Related Fee

A school district that enters into a purchasing contract valued at $25,000 or more under Education Code 44.031(a)(5) (interlocal contract), under Local Government Code Chapter 271, Subchapter F (cooperative purchasing program), or under any other cooperative purchasing program authorized for school districts by law shall document any contract-related fee, including any management fee, and the purpose of each fee under the contract.

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

Education Code 44.0331

Reverse Auction

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

Reverse auction procedure means:

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

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previously scheduled internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services.

Gov't Code 2155.062(d)

Commitment of Current Revenue

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

1. Retains to the board the continuing right to terminate the contract at the expiration of each budget period during the term of the contract.
2. Is conditioned on a best efforts attempt by the board to obtain and appropriate funds for payment of the contract.

Local Gov't Code 271.903

Change Orders

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

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

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

Education Code 44.0411

Energy or Water Conservation Measures

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

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

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

Recycled Products

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

1. Eliminate procedures and specifications that explicitly discriminate against products made of recycled materials.
2. Encourage the use of products made of recycled materials.
3. Ensure to the maximum extent economically feasible that the district ~~purchase~~purchases products that may be recycled when they have served their intended use.

~~A~~ In developing new procedures and specifications, the district shall encourage the use of recycled products and products that may ~~seek an exemption~~be recycled or reused.

The Texas Commission on Environmental Quality (TCEQ) by order shall exempt from compliance ~~if it has~~with these provisions a ~~population of less~~district with a student enrollment of fewer than ~~5~~10,000 ~~within its geographic boundaries and demonstrates to the Water Commission that compliance would work a hardship on the district~~students.

Health and Safety Code 361.426

Agricultural Products

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

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

Vegetation for Landscaping

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

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Education Code 44.042

Bus Purchase or Lease

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

Right to Work

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

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

Education Code 44.043

Lobbying Restriction—Tobacco Education Grant Funds

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

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

Gov't Code 403.1067

Criminal History

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

Impermissible Practices

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

"Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be made in

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

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

Education Code 44.032

Injunction

A court may enjoin performance of a contract made in violation of Education Code Chapter 44, Subchapter B. A county attorney, district attorney, criminal district attorney, citizen of the county in which a district is located, or any interested party may bring an action for an injunction. A party who prevails in an action brought under this subsection is entitled to reasonable attorney’s fees as approved by the court. *Education Code 44.032(f)*

Prohibitions

Entertainment Event Contracts

A person, including a board, may not include a provision in a contract related to a parade, concert, or other entertainment event paid for in whole or in part with public funds that prohibits or would otherwise prevent the disclosure of information relating to the receipt or expenditure of public or other funds by a board for the event. A contract provision that violates Government Code 552.104(c) is void. *Gov’t Code 552.104(c)* [See GBA for information related to competition or bidding.]

Taxpayer Resource Transactions

A district may not enter into a taxpayer resource transaction with an abortion provider or an affiliate of an abortion provider. *Gov’t Code 2272.003(a)*

"Taxpayer resource transaction" means a sale, purchase, lease, donation of money, goods, services, or real property, or any other transaction between a governmental entity and a private entity that provides to the private entity something of value derived from state or local tax revenue, regardless of whether the governmental entity receives something of value in return.

"Affiliate" means a person or entity who enters into with another person or entity a legal relationship created or governed by at least

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one written instrument, including a certificate of formation, a franchise agreement, standards of affiliation, bylaws, or a license, that demonstrates:

1. Common ownership, management, or control between the parties to the relationship;

2. A franchise granted by the person or entity to the affiliate; or

3. The granting or extension of a license or other agreement authorizing the affiliate to use the other person's or entity's brand name, trademark, service mark, or other registered identification mark.

Gov't Code 2272.001(3), (5)

Prohibited Contracts

For provisions regarding other prohibited contracts, see CV(LEGAL).

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Safety and Security Committee

Responsibilities

In accordance with guidelines established by the Texas School Safety Center (TxSSC), each district shall establish a school safety and security committee. The committee shall:

1. Participate on behalf of the district in developing and implementing emergency plans consistent with the district ~~multihazard~~multihazard emergency operations plan to ensure that the plans reflect specific campus, facility, or support services needs;

2. Periodically provide recommendations to the board and district administrators regarding updating the district multihazard emergency operations plan [see CKC] in accordance with best practices identified by the Texas Education Agency (TEA), the TxSSC, or a person included in the registry of persons providing school safety or security consulting services established by the TxSSC;

~~2.~~3. Provide the district with any campus, facility, or support services information required in connection with a safety and security audit, a safety and security audit report, or another report required to be submitted by the district to the TxSSC; ~~and~~

~~3.~~4. Review each report required to be submitted by the district to the TxSSC to ensure that the report contains accurate and complete information regarding each campus, facility, or support service in accordance with criteria established by the center~~.~~; and

5. Consult with local law enforcement agencies on methods to increase law enforcement presence near district campuses.

Membership

The committee, to the greatest extent practicable, must include:

1. One or more representatives of an office of emergency management of a county or city in which the district is located;

2. One or more representatives of the local police department or sheriff's office;

3. One or more representatives of the district's police department, if applicable;

4. The president of the board;

5. A member of the board other than the president;

6. The superintendent;

7. One or more designees of the superintendent, one of whom must be a classroom teacher in the district;

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8. If the district partners with an open-enrollment charter school to provide instruction to students, a member of the open-enrollment charter school's governing body or a designee of the governing body; and

9. Two parents or guardians of students enrolled in the district.

Meetings

Except as otherwise provided for year-round schools, the committee shall meet at least once during each academic semester and at least once during the summer. A committee established by a district that operates schools on a year-round system or in accordance with another alternative schedule shall meet at least three times during each calendar year, with an interval of at least two months between each meeting.

The committee is subject to the Open Meetings Act (Government Code Chapter 551), and may meet in executive session as provided by that chapter. Notice of a committee meeting must be posted in the same manner as notice of a board meeting. [See BE]

Education Code 37.109

Safety and Security Audit

At least once every three years, each district shall conduct a safety and security audit of the district's facilities. To the extent possible, a district shall follow safety and security audit procedures developed by the TxSSC or a ~~comparable public or private entity. A school~~person included in the registry of persons providing school safety or security consulting services established by TxSSC.

In a district's safety and security audit, the district must certify that the district used the funds provided through the school safety allotment only for the purposes provided by Education Code 42.168.

A district shall report the results of the safety and security audit to the board and, in the manner required by the TxSSC, to the TxSSC. ~~*Education Code 37.108 (b)–(c)*~~The report provided to the TxSSC must be signed by the board and the superintendent.

Education Code 37.108(b), (b-1), (c)

In addition to a review of a district's multihazard emergency operations plan under Education Code 37.2071 [see CKC], the TxSSC may require a district to submit its plan for immediate review if the district's audit results indicate that the district is not complying with applicable standards. *Education Code 37.207(c)*

Failure to Report Audit Results

If a district fails to report the results of its audit, the TxSSC shall provide the district with written notice that the district has failed to report its audit results and must immediately report the results to the center.

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If six months after the date of the initial notification the district has still not reported the results of its audit to the TxSSC, the TxSSC shall notify TEA and the district of the district's requirement to conduct a public hearing under Education Code 37.1081. [See CKC]

Education Code 37.207(d)–(e)

Disclosure

Except as provided by Education Code 37.108(c-2) ~~regarding certain emergency operations plans~~ [see CKC], any document or information collected, developed, or produced during a safety and security audit is not subject to disclosure under Government Code Chapter 552. *Education Code 37.108(c-1)*

Agreements

Each ~~school~~ district that enters into a memorandum of understanding or mutual aid agreement addressing issues that affect school safety and security shall, at the TxSSC's request, provide the following information to the TxSSC:

1. The name of each entity with which the ~~school~~ district has entered into a memorandum of understanding or mutual aid agreement;
2. The effective date of each memorandum or agreement; and
3. A summary of each memorandum or agreement.

Education Code 37.2121

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Notice of Bomb Threat or Terroristic Threat

A district that receives a bomb threat or terroristic threat relating to a campus or other district facility at which students are present shall provide notification of the threat as soon as possible to the parent or guardian of or other person standing in parental relation to each student who is assigned to the campus or who regularly uses the facility, as applicable. *Education Code 37.113*

Emergency Operations Plan

Each district shall adopt and implement a multihazard emergency operations plan for use in the district's facilities. The plan must address prevention, mitigation, preparedness, response, and recovery as defined by the ~~commissioner~~Texas School Safety Center (TxSSC) in conjunction with the governor's office of homeland security and the commissioner. The plan must provide for:

1. ~~District employee~~ Training in responding to an emergency for district employees, including substitute teachers;

2. Measures to ensure district employees, including substitute teachers, have classroom access to a telephone, including a cellular telephone, or another electronic communication device allowing for immediate contact with district emergency services or emergency services agencies, law enforcement agencies, health departments, and fire departments;

3. Measures to ensure district communications technology and infrastructure are adequate to allow for communication during an emergency;

~~2.~~4. Mandatory school drills and exercises, including drills required under Education Code 37.114 (emergency evacuations), to prepare district students and employees for responding to an emergency;

~~3.~~5. Measures to ensure coordination with the Texas Department of State Health Services (TDSHS) and local emergency management agencies, law enforcement, health departments, and fire departments in the event of an emergency; and

~~4.~~6. The implementation of a required safety and security audit [see CK].

Education Code 37.108(a)

A district shall include in its multihazard emergency operations plan:

1. A chain of command that designates the individual responsible for making final decisions during a disaster or emergency situation and identifies other individuals responsible for making those decisions if the designated person is unavailable;

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2. Provisions that address physical and psychological safety for responding to a natural disaster, active shooter, and any other dangerous scenario identified for purposes of these provisions by the Texas Education Agency (TEA) or TxSSC;

3. Provisions for ensuring the safety of students in portable buildings;

4. Provisions for ensuring that students and district personnel with disabilities are provided equal access to safety during a disaster or emergency situation;

5. Provisions for providing immediate notification to parents, guardians, and other persons standing in parental relation in circumstances involving a significant threat to the health or safety of students, including identification of the individual with responsibility for overseeing the notification;

6. Provisions for supporting the psychological safety of students, district personnel, and the community during the response and recovery phase following a disaster or emergency situation that:

   a. Are aligned with best practice-based programs and research-based practices recommended under Health and Safety Code 161.325;

   b. Include strategies for ensuring any required professional development training for suicide prevention and grief-informed and trauma-informed care is provided to appropriate school personnel;

   c. Include training on integrating psychological safety and suicide prevention strategies into the district's plan, such as psychological first aid for schools training, from an approved list of recommended training established by the commissioner and TxSSC for:

      (1) Members of the district's school safety and security committee [see CK];

      (2) District school counselors and mental health professionals; and

      (3) Educators and other district personnel as determined by the district;

   d. Include strategies and procedures for integrating and supporting physical and psychological safety that align with the provisions described by item 2, above; and

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e. Implement trauma-informed policies;

7. A policy for providing a substitute teacher access to school campus buildings and materials necessary for the substitute teacher to carry out the duties of a district employee during an emergency or a mandatory emergency drill; and

8. The name of each individual on the district's school safety and security committee and the date of each committee meeting during the preceding year. [See CK]

Education Code 37.108(f)

Active Shooter Emergency

A district shall include in its multihazard emergency operations plan a policy for responding to an active shooter emergency. The district may use any available community resources in developing the policy. *Education Code 37.108(g)*

Train Derailment

A district shall include in its multihazard emergency operations plan a policy for responding to a train derailment near a district school. A district is only required to adopt the policy if a district school is located within 1,000 yards of a railroad track, as measured from any point on the school's real property boundary line. A district may use any available community resources in developing the policy. *Education Code 37.108(d)*

Polling Place Security

A district shall include in its multihazard emergency operations plan a policy for district property selected for use as a polling place under Election Code 43.031. In developing the policy, the board may consult with the local law enforcement agency with jurisdiction over the district property selected as a polling place regarding reasonable security accommodations that may be made to the property. This requirement may not be interpreted to require the board to obtain or contract for the presence of law enforcement or security personnel for the purpose of securing a polling place located on district property. Failure to comply with this subsection does not affect the requirement of the board to make a school facility available for use as a polling place under Election Code 43.031. *Education Code 37.108(e)* [See GKD]

Disclosure

A document relating to a school multihazard emergency operations plan is subject to disclosure ~~under Government Code Chapter 552~~ if the document enables a person to:

1. Verify that the district has established a plan and determine the agencies involved in the development of the plan and the agencies coordinating with the district to respond to an emergency, including TDSHS, local emergency services agencies, law enforcement agencies, health departments, and fire departments;

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2. Verify that the district's plan was reviewed within the last 12 months and determine the specific review dates;

3. Verify that the plan addresses the four phases of emergency management listed above at Emergency Operations Plan;

4. Verify that district employees have been trained to respond to an emergency and determine the types of training, the number of employees trained, and the person conducting the training;

5. Verify that each campus in the district has conducted mandatory emergency drills and exercises in accordance with the plan and determine the frequency of the drills;

6. Verify that the district has established a plan for responding to a train derailment if required [see Train Derailment, above];

7. Verify that the district has completed a safety and security audit and determine the date the audit was conducted, the person conducting the audit, and the date the district presented the results of the audit to the board [see CK];

8. Verify that the district has addressed any recommendations by the board for improvement of the plan and determine the district's progress within the last 12 months; and

9. Verify that the district has established a visitor policy and identify the provisions governing access to a district building or other district property.

Education Code 37.108(c-2)

[See GRC for emergency management training requirements and response to requests from other governmental entities for mutual aid]

Plan Review

A district shall submit its multihazard emergency operations plan to the TxSSC on request and in accordance with the TxSSC review cycle developed under Education Code 37.2071(a).

Any document or information collected, developed, or produced during the review and verification of multihazard emergency operations plans is not subject to disclosure under the Public Information Act (Government Code Chapter 552).

Notice of Noncompliance

Plan Deficiencies

The TxSSC shall review each district's multihazard emergency operations plan and verify the plan meets the requirements or provide the district with written notice describing the plan's deficiencies and stating that the district must correct the deficiencies in its plan and resubmit the revised plan to the TxSSC.

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The TxSSC may approve a district multihazard emergency operations plan that has deficiencies if the district submits a revised plan that the center determines will correct the deficiencies.

Failure to Submit Plan

If a district fails to submit its multihazard emergency operations plan to the TxSSC for review, the TxSSC shall provide the district with written notice stating that the district has failed to submit a plan and must submit a plan to the center for review and verification.

Failure to Comply after Notice

Three Months

If three months after the date of initial notification outlined at Notice of Noncompliance, above, a district has not corrected the plan deficiencies or has failed to submit a plan, the TxSSC shall provide written notice to the district and TEA that the district has not complied with the requirements and must comply immediately.

Six Months

If a district still has not corrected the plan deficiencies or has failed to submit a plan six months after the date of initial notification, the TxSSC shall provide written notice to the district stating that the district must hold a public hearing as outlined at Public Hearing on Noncompliance, below.

If a school district has failed to submit a plan, the notice must state that the commissioner is authorized to appoint a conservator under Education Code 37.1082.

Education Code 37.2071

Public Hearing on Noncompliance

If the board receives notice of noncompliance under Education Code 37.207(e) [see CK] or 37.2071(g) [see above at Six Months], the board shall hold a public hearing to notify the public of:

1. The district's failure to submit or correct deficiencies in a multihazard emergency operations plan or report the results of a safety and security audit to the TxSSC as required by law;
2. The dates during which the district has not been in compliance; and
3. The names of each member of the board and the superintendent serving in that capacity during the dates the district was not in compliance. The district shall provide this information in writing to each person at the hearing.

The board shall give members of the public a reasonable opportunity to appear before the board and to speak on the issue of the district's failure to submit or correct deficiencies in a multihazard emergency operations plan or report the results of a safety and se-

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curity audit during a hearing held under this provision. A district required to hold a public hearing shall provide written confirmation to the TxSSC that the district held the hearing.

Education Code 37.1081

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Traumatic Injury Response Protocol

Each district shall develop and annually make available a protocol for employees and volunteers to follow in the event of a traumatic injury. The protocol must:

1. Provide for a district to maintain and make available to employees and volunteers bleeding control stations, as described below, for use in the event of a traumatic injury involving blood loss;
2. Ensure that bleeding control stations are stored in easily accessible areas of the campus that are selected by the district's school safety and security committee;
3. Require that TEA-approved training on the use of a bleeding control station in the event of an injury to another person be provided to:
   a. Each district peace officer commissioned under Education Code 37.081 or school security personnel employed under that section who provides security services at the campus;
   b. Each school resource officer who provides law enforcement at the campus; and
   c. All other district personnel who may be reasonably expected to use a bleeding control station; and
4. Require the district to annually offer instruction on the use of a bleeding control station from a school resource officer or other appropriate district personnel who has received the training described above to students enrolled at the campus in grade seven or higher.

Bleeding Control Stations

Location

A district's school safety and security committee may select, as easily accessible areas of the campus at which bleeding control stations may be stored, areas of the campus where automated external defibrillators are stored.

Contents

A bleeding control station must contain all of the following required supplies in quantities determined appropriate by the superintendent:

1. Tourniquets approved for use in battlefield trauma care by the armed forces of the United States;
2. Chest seals;
3. Compression bandages;
4. Bleeding control bandages;

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5. Space emergency blankets;

6. Latex-free gloves;

7. Markers;

8. Scissors; and

9. Instructional documents developed by the American College of Surgeons or the United States Department of Homeland Security detailing methods to prevent blood loss following a traumatic event.

A district may also include in a bleeding control station any medical material or equipment that:

1. May be readily stored in a bleeding control station;

2. May be used to adequately treat an injury involving traumatic blood loss; and

3. Is approved by local law enforcement or emergency medical services personnel.

Immunity

The good faith use of a bleeding control station by a district employee to control the bleeding of an injured person is incident to or within the scope of the duties of the employee's position of employment and involves the exercise of judgment or discretion on the part of the employee for purposes of Education Code 22.0511, and a district and district employees are immune from civil liability, as provided by that section, from damages or injuries resulting from that good faith use of a bleeding control station. A district volunteer is immune from civil liability from damages or injuries resulting from the good faith use of a bleeding control station to the same extent as a professional employee of the district or school, as provided by Education Code 22.053.

Education Code 38.030

Automated External Defibrillators

Availability

Campus

Each school district shall make available at each campus in the district at least one automated external defibrillator, as defined by Health and Safety Code 779.001. A campus defibrillator must be readily available during any University Interscholastic League (UIL) athletic competition held on the campus. In determining the location at which to store a campus defibrillator, the principal shall consider the primary location on campus where students engage in athletic activities.

Athletic Practice

To the extent practicable, each school district, in cooperation with the UIL, shall make reasonable efforts to ensure that a defibrillator is available at each UIL athletic practice held at a district campus. If

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a school district is not able to make a defibrillator available in such a manner, the district shall determine the extent to which a defibrillator must be available at each UIL athletic practice held at a district campus. The determination must be based, in addition to any other appropriate considerations, on relevant medical information.

Athletic Competition

Each school district, in cooperation with the UIL, shall determine the extent to which a defibrillator must be available at each UIL athletic competition held at a location other than a district campus. The determination must be based, in addition to any other appropriate considerations, on relevant medical information and whether emergency services personnel are present at the athletic competition under a contract with the school district.

Trained Staff

Each school district shall ensure the presence at each location at which a defibrillator is required above of at least one campus or district employee trained in the proper use of the defibrillator at any time a substantial number of district students are present at the location.

Use and Maintenance

A school district shall ensure that an automated external defibrillator is used and maintained in accordance with standards established under Health and Safety Code Chapter 779.

Education Code 38.017

Instruction

A school district shall annually make available to district employees and volunteers instruction in the principles and techniques of cardiopulmonary resuscitation and the use of an automated external defibrillator, as defined by Health and Safety Code 779.001. The instruction must meet the guidelines approved under Health and Safety Code 779.002.

Each school nurse, assistant school nurse, athletic coach or sponsor, physical education instructor, marching band director, cheerleading coach, and any other school employee specified by the Commissioner and each student who serves as an athletic trainer must participate and must receive and maintain certification in the use of an automated external defibrillator from the American Heart Association, the American Red Cross, or a similar nationally recognized association.

Education Code 22.902

[See CH for information regarding purchase and lease of automated external defibrillators~~]~~.]

Response to Cardiac Arrest

Each school district shall develop safety procedures for a district or school employee or student to follow in responding to a medical

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emergency involving cardiac arrest, including the appropriate response time in administering cardiopulmonary resuscitation, using an automated external defibrillator, as defined by Health and Safety Code 779.001, or calling a local emergency medical services provider. *Education Code 38.018*

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School District Peace Officers, School Resource Officers, and Security Personnel

The board may employ security personnel, enter into a memorandum of understanding with a local law enforcement agency for the provision of school resource officers, and commission peace officers to carry out ~~the provisions of~~ Education Code Chapter 37, Subchapter C, relating to law and order.

Jurisdiction

~~A board shall determine~~ The jurisdiction of a peace officer, a school resource officer, or security personnel~~, which~~ shall be determined by the board and may include all territory in the boundaries of the district and all property outside the boundaries of the district that is owned, leased, or rented by or otherwise under the control of the district and the board that employ the peace officer or security personnel or that enter into a memorandum of understanding for the provision of a school resource officer.

~~Commissioned Peace Officers~~ Duties

~~If~~ *Education Code 37.081(a)*

The board ~~authorizes~~shall determine the law enforcement duties of peace officers, school resource officers, and security personnel ~~to carry weapons, they~~. The duties must be included in:~~commissioned peace officers.~~

1. The district improvement plan under Education Code 11.252 [see BQ];
2. The student code of conduct adopted under Education Code 37.001 [see FO];
3. Any ~~peace~~ memorandum of understanding providing for a school resource officer ~~commissioned by~~; and
4. Any other campus or district document describing the role of peace officers, school resource officers, or security personnel in the district.

A district peace officer, a school resource officer, and security personnel shall perform law enforcement duties for the school district that must include protecting the safety and welfare of any person in the jurisdiction of the peace officer, resource officer, or security personnel; and the property of the school district.

In determining the law enforcement duties, the board ~~must meet all minimum standards for peace officers established by the Texas Commission on Law Enforcement (TCOLE).~~shall coordinate with district campus behavior coordinators and other district employees to ensure that district peace officers, school resource officers, and security personnel are tasked only with duties related to law enforcement intervention and not tasked with behavioral or administrative duties better addressed by other district employees.

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Education Code 37.081(~~a), (h~~d), (d-1), (d-4)

~~Powers and Duties~~

~~*Code*~~*Prohibited Duties*

~~Criminal Procedure~~

A district may not assign or require as duties of a district peace officer, a school resource officer, or security personnel:

~~Officers commissioned by the board are subject to the general duties of officers set out in Chapter 2 of the Code of Criminal Procedure. *Code of Criminal Procedure 2.12(8)*~~

~~A has the duty to preserve the peace within the officer's jurisdiction by using all lawful means.~~

~~The peace shall~~

1. ~~In every case authorized by~~ Routine student discipline or school administrative tasks; or

~~1. Criminal Procedure, interfere without warrant to prevent or suppress crime;~~

~~2. Execute all lawful process issued to~~ the ~~officer by any magistrate or court;~~

~~3. Give notice to some magistrate of all offenses committed within the officer's jurisdiction, where the officer has good reason to believe there has been a violation of the penal law; and~~

~~4. Arrest offenders without warrant in every case where the officer is authorized by law, in order that they may be taken before the proper magistrate or court and be tried.~~

~~It is the duty of every officer to take possession of a missing child under Code of Criminal Procedure 63.009(g).~~

~~5.~~2. Contact with students unrelated to the ~~Code~~law enforcement duties of ~~On a request made by the Texas Civil Commitment Office, a~~ peace officer ~~shall execute an emergency detention order issued by that office under Health and Safety Code 841.0837~~, resource officer, or security personnel.

~~In the course of investigating an alleged criminal offense, a may inquire as to the nationality or immigration status of a victim or witness to the offense only if the officer determines that the inquiry is necessary to:~~

~~6. Investigate the offense; or~~

~~7. Provide the victim or witness with information about federal visas designed to protect individuals providing assistance to law enforcement.~~

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~~This does not prevent a peace~~ This provision does not prohibit a district peace officer, a school resource officer, or security personnel from informal contact with a student unrelated to:~~conducting a separate investigation of any other alleged criminal offense, or inquiring as to the nationality or immigration status of a victim of or witness to a criminal offense if the officer has probable cause to believe that the victim or witness has engaged in specific conduct constituting a separate criminal offense.~~

~~*Code of Criminal Procedure 2.13*~~

~~Determined by the Board~~

~~A district peace officer shall also perform law enforcement duties as determined by the board, which shall include protecting the safety and welfare of any person in the officer's jurisdiction and protecting property of the district. *Education Code 37.081(d)*~~

~~Within the officer's jurisdiction, a peace officer commissioned by the board~~

~~1. Has powers, privileges, and immunities of peace officers;~~

~~2. May enforce all laws, including municipal ordinances, county ordinances, and state laws;~~

~~3. May take a child into custody in accordance with Chapter 52 of the Family Code [see GRA]~~officer or ~~Article 45.058 of the Code of Criminal Procedure; and~~

~~4.~~1. The assigned duties of the ~~May dispose of cases in accordance with Family Code 52.03~~security personnel; or ~~52.031.~~

2. An incident involving student behavior or law enforcement.

Education Code 37.081(~~b); Family Code 52.01(a~~d-2), (d-3)

~~A board shall determine the scope of the on-duty and off-duty law enforcement activities of its peace officers, and a district must authorize in writing any off-duty law enforcement activities performed by a district peace officer. *Education Code 37.081(e)*~~

~~A district peace officer may provide assistance to another law enforcement agency, and a district may contract with a political subdivision for the jurisdiction of district peace officers to include all territory in the jurisdiction of the political subdivision. *Education Code 37.081(c)*~~

Refusal or Removal ~~by Peace Officer~~from District Property

A school resource officer or district peace officer may refuse to allow a person to enter on or may eject a person from property under the district's control in accordance with Education Code 37.105. *Education Code 37.105(a); 19 TAC 103.1207* [See GKA]

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~~Chief of Police~~

~~A district police department's chief of police is accountable to the superintendent and shall report to the superintendent. District police officers shall be licensed by TCOLE and be supervised by the district chief of police or the chief's designee. *Education Code 37.081(f)*~~

~~Memorandum of Understanding~~

Weapons

If a board authorizes a person employed as security personnel to carry a weapon, the person must be a commissioned peace officer. *Education Code 37.081(a)* [See CKEA]

Training

A district peace officer or school resource officer shall complete an active shooter response training program approved by the Texas Commission on Law Enforcement (TCOLE).

~~police department and the law enforcement agencies with which it has overlapping jurisdiction shall enter into a memorandum of understanding that outlines reasonable communication and coordination efforts among the department and the agencies. *Education Code 37.081(g)*~~

~~Training~~

~~A district with an enrollment of 30,000 or more students~~ A district that commissions a school district peace officer or at which a school resource officer provides law enforcement shall adopt a policy requiring the officer to complete the education and training program ~~developed by TCOLE as~~ required by Occupations Code 1701.263.

Education Code 37.0812

TCOLE shall require a district peace officer or school resource officer to successfully complete an education and training program under Occupations Code 1701.263 before or within ~~120~~180 days of the ~~officer's~~officer's commission by or placement in the district or a campus of the district. ~~*Education Code 37.0812; Occupations Code 1701.262, .263*~~

~~Body-Worn Cameras~~

~~A law enforcement agency that operates a body-worn camera program shall adopt a policy for the use of body-worn cameras that must ensure that a body-worn camera is activated only for a law enforcement purpose and must include guidelines and provisions required by~~ *Occupations Code 1701.~~655~~263(b~~).~~)*

~~A policy may not require a peace officer to keep a body-worn camera activated for the entire period of the officer's shift.~~

~~A policy must be consistent with the Federal Rules of Evidence and Texas Rules of Evidence.~~

~~Before a law enforcement agency may operate a body-worn camera program, the agency must provide training to peace officers~~

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who will wear the body-worn cameras and any other personnel who will come into contact with video and audio data obtained from the use of body-worn cameras.

Peace officers equipped with a body-worn camera must act consistent with policy and Occupations Code Chapter 1701, Subchapter N.

Occupations Code 1701.655, .656, .657

Motor Vehicle Stops

Reports Required

A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency that employs the officer information relating to the stop, including:

5. A physical description of any person operating the motor vehicle who is detained as a result of the stop, including:

   a. The person's gender; and

   b. The person's race or ethnicity, as stated by the person or, if the person does not state his or her race or ethnicity, as determined by the officer to the best of the officer's ability;

6. The initial reason for the stop;

7. Whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

8. Whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;

9. The reason for the search, including whether:

   a. Any contraband or other evidence was in plain view;

   b. Any probable cause or reasonable suspicion existed to perform the search; or

   c. The search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;

10. Whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

11. The street address or approximate location of the stop;

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12. Whether the officer issued a verbal or written warning or a ticket or citation as a result of the stop; and

13. Whether the officer used physical force that resulted in bodily injury, as defined under Penal Code 1.07, during the stop.

The district chief of police is responsible for auditing these reports to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

Code of Criminal Procedure 2.133

A district police department shall compile and analyze the incident-based data contained in each report received by the department. Not later than March 1 of each year, each district police department shall submit a report containing the information compiled during the previous calendar year, in accordance with Code of Criminal Procedure 2.134, to TCOLE and to the governing body of each county or municipality served by the department. *Code of Criminal Procedure 2.134*

Civil Penalty

If a district's chief of police intentionally fails to submit the incident-based data as required by Code of Criminal Procedure 2.134, the department is liable to the state for a civil penalty in an amount not to exceed $5,000 for each violation. *Code of Criminal Procedure 2.1385(a)*

Racial Profiling

Prohibition

A peace officer may not engage in racial profiling. *Code of Criminal Procedure 2.131*

Departmental Policy Required

Each district police department that employs peace officers who make traffic stops in the routine performance of the officer's official duties shall adopt a detailed written policy on racial profiling. The policy must:

14. Clearly define acts constituting racial profiling;

15. Strictly prohibit peace officers employed by the department from engaging in racial profiling;

16. Implement a process by which an individual may file a complaint with the department if the individual believes that a peace officer employed by the department has engaged in racial profiling with respect to the individual;

17. Provide public education relating to the department's compliment and complaint process, including providing the telephone number, mailing address, and email address to make a compliment or complaint with respect to each ticket, citation, or warning issued by a peace officer;

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~~18. Require appropriate corrective action to be taken against a peace officer employed by the department who, after an investigation, is shown to have engaged in racial profiling in violation of the department's policy adopted under this article;~~

~~19. Require collection of information relating to motor vehicle stops in which a ticket, citation, or warning is issued and to arrests made as a result of those stops, including information relating to:~~

~~a. The race or ethnicity of the individual detained;~~

~~b. Whether a search was conducted and, if so, whether the individual detained consented to the search;~~

~~c. Whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual;~~

~~d. Whether the peace officer used physical force that resulted in body injury, as defined in Penal Code 1.07, during the stop;~~

~~e. The location of the stop; and~~

~~f. The reason for the stop; and~~

~~20. Require the district's chief of police to submit an annual report of the information collected under item 6 to:~~

~~a. TCOLE; and~~

~~b. The governing body of each county or municipality served by the agency.~~

~~On adoption of a racial profiling policy, the department shall examine the feasibility of installing video camera and transmitter-activated equipment in each department law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each department law enforcement motorcycle regularly used to make motor vehicle stops. The department also shall examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body-worn camera. [See Body-Worn Cameras, above] If the department installs video or audio equipment or equips peace officers with body-worn cameras as provided by this provision, the policy adopted by the department must include standards for reviewing video and audio documentation.~~

~~A department shall review the data collected under item 6 above to identify any improvements the department could make in its practices and policies regarding motor vehicle stops.~~

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~~A report required under item 7 above may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer.~~

~~*Code of Criminal Procedure 2.132*~~

~~Mental Health Crisis or Substance Abuse Issue~~

~~A law enforcement agency shall make a good faith effort to divert a person suffering a mental health crisis or suffering from the effects of substance abuse to a proper treatment center in the agency's jurisdiction if:~~

~~21. There is an available and appropriate treatment center in the agency's jurisdiction to which the agency may divert the person;~~

~~22. It is reasonable to divert the person;~~

~~23. The offense that the person is accused of is a misdemeanor, other than a misdemeanor involving violence;~~

~~24. The mental health crisis or substance abuse issue is suspected to be the reason the person committed the alleged offense; and~~

~~25. The person is not accused of specified offenses involving intoxication.~~

~~*Code of Criminal Procedure 16.23*~~

~~Officer-Involved Injury or Death~~

~~"Officer-involved injury or death" means an incident during which a peace officer discharges a firearm causing injury or death to another.~~

~~Not later than the 30th day after the date of an officer-involved injury or death, the law enforcement agency employing an officer involved in the incident must complete and submit a written or electronic report to the office of the attorney general. The report must include all information required by Code of Criminal Procedure 2.139(b).~~

~~*Code of Criminal Procedure 2.139*~~

~~Not later than the 30th day after the date of the occurrence of an incident in which, while a peace officer is performing an official duty, a person who is not a peace officer discharges a firearm and causes injury or death to the officer, the law enforcement agency employing the injured or deceased officer at the time of the incident must complete and submit a written or electronic report to the office of the attorney general. The report must include all information required by Code of Criminal Procedure 2.1395(a). *Code of Criminal Procedure 2.1395(b)*~~

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~~*Failure to Report*~~	~~A law enforcement agency that fails to submit the required report on or before the seventh day after the date of receiving notice of failure to report from the office of the attorney general, is liable for a civil penalty in the amount of $1,000 for each day after the seventh day that the agency fails to submit the report. Beginning on the day after the date of receiving notice of failure to report, a law enforcement agency that, in the preceding five-year period, has been liable for a civil penalty is liable for a civil penalty for each day the agency fails to submit the required report in the amount of $10,000 for the first day and $1,000 for each additional day that the agency fails to submit the report. *Code of Criminal Procedure 2.13951(b), (c)*~~
~~Bonding~~	~~A commissioned and assigned peace officer shall take and file the oath required of peace officers and execute and file the required $1,000 bond, payable to the board, conditioned on the officer's performance of his or her duties. *Education Code 37.081(h)*~~
~~Continuing Education~~	~~If a district employs peace officers, it shall provide each officer with a continuing education program as required by Occupations Code Title 10, Chapter 1701, Subchapter H. *Occupations Code 1701, Subch. H*~~
~~Complaints Against Peace Officers~~	~~To be considered by the head of the district's police department, a complaint against a district peace officer must be in writing and signed by the person making the complaint. A copy of the complaint shall be given to the officer within a reasonable time after it is filed. Disciplinary action may not be taken against the officer unless a copy of the signed complaint is given to the officer. The officer may not be indefinitely suspended or terminated based on the subject matter of the complaint unless the complaint is investigated and there is evidence to prove the allegation of misconduct. *Gov't Code Ch. 614, Subch. B; Colorado County v. Staff, 510 S.W.3d 435 (Tex. 2017); Atty. Gen. Op. GA-251 (2004)*~~ ~~On the commencement of an investigation by a district police department of a complaint that alleges that a peace officer employed by the department has engaged in racial profiling with respect to an individual and in which a video or audio recording of the occurrence on which the complaint is based was made, the department shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer. *Code of Criminal Procedure 2.132(f)*~~ ~~[See DGBA, FNG, and GF for appeals]~~
~~Legal Representation~~	~~A district shall provide a district employee who is a peace officer with legal counsel without cost to the employee to defend the em-~~

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~~ployee against a suit for damages by a party other than a governmental entity if legal counsel is requested by the employee, and the suit involves an official act of the employee within the scope of the employee's authority.~~

~~To defend the employee against the suit, the district may provide counsel already employed by it or may employ private counsel.~~

~~An employee may recover from a district that fails to provide counsel as required the reasonable attorney's fees incurred in defending the suit if the trier of fact finds that the fees were incurred in defending a suit and the employee is without fault or that the employee acted with a reasonable good faith belief that the employee's actions were proper.~~

~~*Local Gov't Code 180.002(b)–(d)*~~

Notice of Exposure to Communicable Disease

A district that employs emergency medical service employees, paramedics, firefighters, law enforcement officers or correctional officers must post the required notice ~~in the form specified by administrative rule,~~regarding work-related exposure to communicable disease in its workplace to inform employees about Health and Safety Code requirements which may affect qualifying for workers' compensation benefits following a work-related exposure to a reportable communicable disease. *28 TAC 110.108*

~~**School Marshals**~~

~~A school marshal is a person who is appointed to serve as a school marshal by the board under Education Code 37.0811, is licensed under Occupations Code 1701.260, and has powers and duties described by Code of Criminal Procedure Article 2.127. *Occupations Code 1701.001(8)*~~

~~Eligibility~~

~~The board may appoint a person as a school marshal if person is an employee of the district and certified by TCOLE as eligible for appointment. TCOLE shall license an eligible person who:~~

Handgun Licensees

A board may promulgate written regulations or written authorization allowing the holder of a handgun license to carry a handgun on school premises pursuant to Penal Code 46.03(a)(1).

A board may appoint a school marshal [see CKEB] and authorize another person to serve under the district's regulations and authorization ~~.~~ under Penal Code 46.03(a)(1~~); *Education Code 11.151(b)*~~).

~~26. Completes required training; and~~

~~27. Is psychologically fit to carry out the duties of a school marshal as indicated by the results of a required psychological examination.~~

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The TCOLE training program is open to any employee of a school district who holds a license to carry a handgun issued under Government Code Chapter 411, Subchapter H.

A person may not serve as a school marshal unless the person is licensed by TCOLE and appointed by the board. A school district shall not appoint or employ an ineligible person as a school marshal.

Reimbursement for Training

The board may, but shall not be required to, reimburse the amount paid by the applicant to participate in the training program under Occupations Code 1701.260.

Education Code 37.0811(b); Occupations Code 1701.260, .301; Code of Criminal Procedure 2.127(d); 37 TAC 227.1(b), .3(a), .5(a)

District Responsibilities

A district shall:

28. Submit and receive approval for an application to appoint a person as a school marshal;

29. Upon authorization, notify TCOLE using approved format prior to appointment;

30. Report to TCOLE, within seven days, when a person previously authorized to act as a school marshal is no longer employed with the district;

31. Report to TCOLE, within seven days, when a person previously authorized to act as a school marshal is no longer authorized to do so by the district, TCOLE standards, another state agency, or under other law; and

32. Immediately report to the commission a school marshal's violation of any commission standard, including the discharge of a firearm carried under the of these provisions outside of a training environment.

For five years, the district must retain documentation that the district has met all requirements under law in a format readily accessible to TCOLE. This requirement does not relieve a district from retaining all other relevant records not otherwise listed.

37 TAC 227.1

Limitation on Number

The board may appoint not more than the greater of one school marshal per 200 students in average daily attendance per campus; or for each campus, one school marshal per building of the campus at which students regularly receive classroom instruction. *Education Code 37.0811(a)*

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~~Powers and Duties~~

~~A school marshal may make arrests and exercise all authority given to peace officers under the Code of Criminal Procedure, subject to written regulations adopted by the board.~~

~~A school marshal may only act as necessary to prevent or abate the commission of an offense that threatens serious bodily injury or death of students, faculty, or visitors on school premises.~~

~~A school marshal may not issue a traffic citation for a violation of the Transportation Code.~~

~~*Code of Criminal Procedure 2.127*~~

~~*Reporting Requirements*~~

~~Once appointed, a school marshal shall:~~

~~33. Immediately report to TCOLE and the district any circumstance which would render them unauthorized to act as a school marshal by virtue of their employment with the district, failure to meet the standards of TCOLE, another state agency, or under law;~~

~~34. Immediately report to TCOLE any violation of applicable TCOLE standards, including any discharge of a firearm carried under the authorization of these provisions outside of training environment; and~~

~~35. Comply with all requirements under law, including Education Code 37.0811.~~

~~*37 TAC 227.3(b)*~~

~~Handgun Possession~~

~~A school marshal may carry or possess a handgun on the physical premises of a school, but only:~~

~~36. In the manner provided by written regulations adopted by the board; and~~

~~37. At a specific school as specified by the board.~~

~~Accessing Handgun~~

~~A school marshal may access a handgun only under circumstances that would justify the use of deadly force under Penal Code 9.32 or 9.33.~~

~~Board Regulations~~

~~*Locked Gun Safe*~~

~~A board's written regulations must provide that if the primary duty of the school marshal involves regular, direct contact with students, the marshal may not carry a concealed handgun but may possess a handgun on the physical premises of a school in a locked and secured safe within the marshal's immediate reach when conducting the marshal's primary duty.~~

~~*Frangible Ammunition*~~

~~The written regulations must also require that a handgun carried by or within access of a school marshal may be loaded only with frangible duty ammunition approved for that purpose by TCOLE.~~

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~~Inactive Status~~

~~A school district employee's status as a school marshal becomes inactive on:~~

~~38. Expiration of the employee's school marshal license under Occupations Code 1701.260;~~

~~39. Suspension or revocation of the employee's handgun license;~~

~~40. Termination of the employee's employment with the district; or~~

~~41. Notice from the board that the employee's services as school marshal are no longer required.~~

~~*Education Code 37.0811(c)–(f)*~~

~~Identity Confidential~~

~~The identity of a school marshal is confidential and is not subject to a request under the Public Information Act, except that the person's name, date of birth, and handgun license number, and the address of the person's place of employment must be provided by TCOLE to:~~

~~42. The director of the Department of Public Safety;~~

~~43. The district;~~

~~44. The chief law enforcement officer of the local municipal law enforcement agency if the person is employed at a campus of a district located within a municipality;~~

~~45. The sheriff of the county if the person is employed at a campus of a district that is not located within a municipality; and~~

~~46. The chief administrator of any school district-commissioned peace officer, if the person is employed at a district that has commissioned peace officers.~~

~~If a parent or guardian of a student enrolled at a school inquires in writing, the district shall provide the parent or guardian written notice indicating whether any employee of the school is currently appointed as a school marshal. The notice may not disclose information that is confidential.~~

~~*Education Code 37.0811(g), (h); Occupations Code 1701.260(j)*~~

~~No State Benefits~~

~~A school marshal is not entitled to state benefits normally provided by the state to a peace officer. *Code of Criminal Procedure 2.127(c)*~~

~~**Handgun Licensees**~~

~~Written Permission~~

~~By written regulations or written authorization, a district may permit a person to possess a firearm on the physical premises of a~~

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~~school, any grounds or building on which a school-sponsored activity is being conducted, or a passenger transportation vehicle of a school~~

The holder of a handgun license does not commit a criminal offense under Penal Code 46.035 by carrying a handgun in a building where a high school sporting event or interscholastic event is taking place or at ~~any~~an open meeting of the board when the person is lawfully carrying a handgun pursuant to a board's written regulations and authorization.

~~A board may appoint a school marshal and authorize another person to serve under the district's regulations and authorization under Penal Code 46.03(a)(1).~~

Att'y Gen. Op. GA-1051 (2014) (citing Education Code11.151(b))

~~School Resource Officers~~

~~Definition~~

~~A school resource officer is a peace officer who is assigned by the officer's employing political subdivision to provide:~~

~~47. A police presence at a public school;~~

~~48. Safety or drug education to students of a public school; or~~

~~49. Other similar services.~~

~~*Occupations Code 1701.601*~~

~~Refusal or Removal by School Resource Officer~~

~~A school resource officer may refuse to allow a person to enter on or may eject a person from property under the district's control in accordance with 37.105. *Education Code 37.105(a)); 19 TAC 103.1207* [See GKA]~~

~~License Required~~

~~A peace officer who is a visiting school resource officer in a public school must be licensed as provided by Occupations Code Chapter 1701. *Occupations Code 1701.602*~~

~~Firearms Accident Prevention Program~~

~~A peace officer who is a visiting school resource officer in a public elementary school shall at least once each school year offer to provide instruction to students in a firearms accident prevention program, as determined by the district.~~

~~A firearms accident prevention program must include the safety message, "Stop! Don't Touch. Leave the Area. Tell an Adult.", and may include instructional materials from the National Rifle Association Eddie Eagle Gun Safe Program, including animated videos and activity books.~~

~~*Occupations Code 1701.603*~~

~~Training~~

~~A district with an enrollment of 30,000 or more students at which a school resource officer provides law enforcement shall require the~~

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~~officer to complete the education and training program developed by TCOLE. [See Training, above] *Education Code 37.0812; Occupations Code 1701.262, .263*~~

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Note: For general provisions applicable to district security personnel, including district peace officers, see CKE.

Powers and Duties

Code of Criminal Procedure

Any peace officer commissioned by the board must meet all minimum standards for peace officers established by the Texas Commission on Law Enforcement (TCOLE). *Education Code 37.081(h)*

Officers commissioned by a board are peace officers. *Code of Criminal Procedure 2.12(8)*

It is the duty of every peace officer to preserve the peace within the officer's jurisdiction. To effect this purpose, the officer shall use all lawful means. *Code of Criminal Procedure 2.13(a)*

The peace officer shall perform the duties listed in Code of Criminal Procedure 2.13.

Determined by the Board

A district peace officer shall perform law enforcement duties for the district as determined by the board. Those duties must include protecting the safety and welfare of any person in the officer's jurisdiction and protecting the property of the district. *Education Code 37.081(d)*

The board may authorize any officer commissioned by the board to enforce rules adopted by the board. Education Code Chapter 37, Subchapter D (protection of buildings and grounds) is not intended to restrict the authority of each district to adopt and enforce appropriate rules for the orderly conduct of the district in carrying out its purposes and objectives or the right of separate jurisdiction relating to the conduct of its students and personnel. *Education Code 37.103*

In a peace officer's jurisdiction, a peace officer commissioned by the board:

1. Has the powers, privileges, and immunities of peace officers;
2. May enforce all laws, including municipal ordinances, county ordinances, and state laws;
3. May take a child into custody in accordance with Family Code Chapter 52 [see GRA] or Code of Criminal Procedure 45.058; and
4. May dispose of cases in accordance with Family Code 52.03 or 52.031.

Education Code 37.081(b); Family Code 52.01(a)(3)

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The board shall determine the scope of the on-duty and off-duty law enforcement activities of district peace officers. A district must authorize in writing any off-duty law enforcement activities performed by a district peace officer.

A district peace officer may provide assistance to another law enforcement agency. A district may contract with a political subdivision for the jurisdiction of a district peace officer to include all territory in the jurisdiction of the political subdivision.

Education Code 37.081(c), (e)

Chief of Police

The chief of police of a district police department shall be accountable to the superintendent and shall report to the superintendent. District police officers shall be supervised by the district chief of police or the chief's designee and shall be licensed by TCOLE. *Education Code 37.081(f)*

Oath and Bond

A peace officer assigned to duty and commissioned by a board shall take and file the oath required of peace officers and shall execute and file a bond in the sum of $1,000, payable to the board, with two or more sureties, conditioned that the peace officer will fairly, impartially, and faithfully perform all the duties that may be required of the peace officer by law. *Education Code 37.081(h)*

Memorandum of Understanding

A district police department and the law enforcement agencies with which it has overlapping jurisdiction shall enter into a memorandum of understanding that outlines reasonable communication and coordination efforts between the department and the agencies. *Education Code 37.081(g)*

Body-Worn Cameras

A law enforcement agency that operates a body-worn camera program shall adopt a policy for the use of body-worn cameras that must ensure that a body-worn camera is activated only for a law enforcement purpose and must include guidelines and provisions required by Occupations Code 1701.655(b).

A policy may not require a peace officer to keep a body-worn camera activated for the entire period of the officer's shift.

Before a law enforcement agency may operate a body-worn camera program, the agency must provide training to peace officers who will wear the body-worn cameras and any other personnel who will come into contact with video and audio data obtained from the use of body-worn cameras.

Occupations Code 1701.655, .656

Motor Vehicle Stops

A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency

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that employs the officer information relating to the stop, including the information required by Code of Criminal Procedure 2.133.

The chief administrator of a law enforcement agency is responsible for auditing these reports to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

Code of Criminal Procedure 2.133

A law enforcement agency shall compile and analyze the information contained in each report received by the agency. Not later than March 1 of each year, each law enforcement agency shall submit a report containing the incident-based data compiled during the previous calendar year to TCOLE. *Code of Criminal Procedure 2.134*

Civil Penalty

If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Code of Criminal Procedure 2.134, the department is liable to the state for a civil penalty in an amount not to exceed $5,000 for each violation. *Code of Criminal Procedure 2.1385(a)*

Racial Profiling

A peace officer may not engage in racial profiling. *Code of Criminal Procedure 2.131*

Each law enforcement agency that employs peace officers who make traffic stops in the routine performance of the officer's official duties shall adopt a detailed written policy on racial profiling that complies with Code of Criminal Procedure 2.132(b). *Code of Criminal Procedure 2.132*

Mental Health Crisis or Substance Abuse Issue

A law enforcement agency shall make a good faith effort to divert a person suffering a mental health crisis or suffering from the effects of substance abuse to a proper treatment center in the agency's jurisdiction if:

1. There is an available and appropriate treatment center in the agency's jurisdiction to which the agency may divert the person;
2. It is reasonable to divert the person;
3. The offense that the person is accused of is a misdemeanor, other than a misdemeanor involving violence; and
4. The mental health crisis or substance abuse issue is suspected to be the reason the person committed the alleged offense.

This requirement does not apply to a person who is accused of specified offenses involving intoxication.

Code of Criminal Procedure 16.23

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Administration of Epinephrine

A law enforcement agency may acquire and possess epinephrine auto-injectors and a peace officer may possess and administer an epinephrine auto-injector in accordance with Occupations Code Chapter 1701, Subchapter O. *Occupations Code 1701.702(a)* [See FFAC regarding district maintenance and administration of epinephrine auto-injectors.]

Officer-Involved Injury or Death

"Officer-involved injury or death" means an incident during which a peace officer discharges a firearm causing injury or death to another.

Not later than the 30th day after the date of an officer-involved injury or death, the law enforcement agency employing an officer involved in the incident must complete and submit a written or electronic report to the office of the attorney general. The report must include all information required by Code of Criminal Procedure 2.139(b).

Code of Criminal Procedure 2.139

Not later than the 30th day after the date of the occurrence of an incident in which, while a peace officer is performing an official duty, a person who is not a peace officer discharges a firearm and causes injury or death to the officer, the law enforcement agency employing the injured or deceased officer at the time of the incident must complete and submit a written or electronic report to the office of the attorney general. The report must include all information required by Code of Criminal Procedure 2.1395(a). *Code of Criminal Procedure 2.1395(b)*

Failure to Report

A law enforcement agency that fails to submit the required report on or before the seventh day after the date the agency received notice of failure to report from the office of the attorney general, is liable for a civil penalty in the amount of $1,000 for each day after the seventh day that the agency fails to submit the report. Beginning on the day after the date of receiving notice of failure to report, a law enforcement agency that, in the five-year period preceding the date the agency received the notice, has been liable for a civil penalty is liable for a civil penalty for each day the agency fails to submit the required report in the amount of $10,000 for the first day and $1,000 for each additional day that the agency fails to submit the report. *Code of Criminal Procedure 2.13951(b), (c)*

Complaints Against Peace Officers

To be considered by the head of the district's police department, a complaint against a district peace officer must be in writing and signed by the person making the complaint. A copy of the complaint shall be given to the officer within a reasonable time after it is filed. Disciplinary action may not be taken against the officer unless a copy of the signed complaint is given to the officer. The officer

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may not be indefinitely suspended or terminated based on the subject matter of the complaint unless the complaint is investigated and there is evidence to prove the allegation of misconduct. *Gov't Code 614.021–.023; Colorado County v. Staff, 510 S.W.3d 435 (Tex. 2017); Atty. Gen. Op. GA-251 (2004)*

On the commencement of an investigation by a law enforcement agency of a complaint that alleges that a peace officer employed by the department has engaged in racial profiling with respect to an individual and in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer. *Code of Criminal Procedure 2.132(f)*

[See DGBA, FNG, and GF for appeals]

Legal Representation

A district shall provide a district employee who is a peace officer with legal counsel without cost to the employee to defend the employee against a suit for damages by a party other than a governmental entity if legal counsel is requested by the employee, and the suit involves an official act of the employee within the scope of the employee's authority.

To defend the employee against the suit, the district may provide counsel already employed by it or may employ private counsel.

An employee may recover from a district that fails to provide counsel as required the reasonable attorney's fees incurred in defending the suit if the trier of fact finds that the fees were incurred in defending a suit covered by these provisions and the employee is without fault or that the employee acted with a reasonable good faith belief that the employee's actions were proper.

Local Gov't Code 180.002(b)–(d)

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Note: For general provisions applicable to district security personnel, including school marshals, see CKE.

Board Authority

The board may appoint one or more school marshals for each campus. *Education Code 37.0811(a)*

Definition

A school marshal is a person who is appointed to serve as a school marshal by the board under Education Code 37.0811, is licensed under Occupations Code 1701.260, and has powers and duties described by Code of Criminal Procedure Article 2.127. *Occupations Code 1701.001(8)*

Eligibility

The board may select for appointment as a school marshal an applicant who is an employee of the district and certified as eligible for appointment under Occupations Code 1701.260. *Education Code 37.0811(b)*

To be eligible for appointment as a school marshal, an applicant shall:

1. Successfully complete all prerequisite Texas Commission on Law Enforcement (TCOLE) training;
2. Pass the state licensing exam;
3. Be employed and appointed by an authorized school district; and
4. Meet all statutory requirements, including psychological fitness.

37 TAC 227.3(a); Code of Criminal Procedure 2.127(d)

A school marshal training program is open to any employee of a district who holds a license to carry a handgun issued under Government Code Chapter 411, Subchapter H. *37 TAC 227.5(a)*

TCOLE shall license an eligible person who:

1. Completes required training to the satisfaction of TCOLE staff; and
2. Is psychologically fit to carry out the duties of a school marshal as indicated by the results of the psychological examination administered under Occupations Code 1701.260(d).

Occupations Code 1701.260(f)

Reimbursement for Training

The board may, but shall not be required to, reimburse the amount paid by the applicant to participate in the training program under Occupations Code 1701.260. *Education Code 37.0811(b)*

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District Responsibilities

A district shall:

1. Submit and receive approval for an application to appoint a person as a school marshal;
2. Upon authorization, notify TCOLE using approved format prior to appointment;
3. Report to TCOLE, within seven days, when a person previously authorized to act as a school marshal is no longer employed with the district;
4. Report to TCOLE, within seven days, when a person previously authorized to act as a school marshal is no longer authorized to do so by the district, TCOLE standards, another state agency, or under other law; and
5. Immediately report to the commission a school marshal's violation of any commission standard, including the discharge of a firearm carried under the authorization of these provisions outside of a training environment.

For five years, the district must retain documentation that the district has met all requirements under law in a format readily accessible to TCOLE. This requirement does not relieve a district from retaining all other relevant records not otherwise listed.

37 TAC 227.1

Powers and Duties

A school marshal may make arrests and exercise all authority given to peace officers under the Code of Criminal Procedure, subject to written regulations adopted by the board.

A school marshal may only act as necessary to prevent or abate the commission of an offense that threatens serious bodily injury or death of students, faculty, or visitors on school premises.

A school marshal may not issue a traffic citation for a violation of the Transportation Code.

Code of Criminal Procedure 2.127

Reporting Requirements

Once appointed, a school marshal shall:

1. Immediately report to TCOLE and the district any circumstance which would render them unauthorized to act as a school marshal by virtue of their employment with the district, failure to meet the standards of TCOLE, another state agency, or under law;

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2. Immediately report to TCOLE any violation of applicable TCOLE standards, including any discharge of a firearm carried under the authorization of these provisions outside of training environment; and

3. Comply with all requirements under law, including Education Code 37.0811.

37 TAC 227.3(b)

Handgun Possession

A school marshal may carry or possess a handgun on the physical premises of a school, but only:

1. In the manner provided by written regulations adopted by the board; and

2. At a specific school as specified by the board.

Accessing Handgun

A school marshal may access a handgun only under circumstances that would justify the use of deadly force under Penal Code 9.32 or 9.33.

Board Regulations

Locked Gun Safe

A board's written regulations must provide that a school marshal may carry a concealed handgun, except that if the primary duty of the school marshal involves regular, direct contact with students, the marshal may not carry a concealed handgun but may possess a handgun on the physical premises of a school in a locked and secured safe within the marshal's immediate reach when conducting the marshal's primary duty.

Frangible Ammunition

The written regulations must also require that a handgun carried by or within access of a school marshal may be loaded only with frangible duty ammunition approved for that purpose by TCOLE.

Inactive Status

A district employee's status as a school marshal becomes inactive on:

1. Expiration of the employee's school marshal license under Occupations Code 1701.260;

2. Suspension or revocation of the employee's license to carry a handgun;

3. Termination of the employee's employment with the district; or

4. Notice from the board that the employee's services as school marshal are no longer required.

Education Code 37.0811(c)–(f)

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Identity Confidential

The identity of a school marshal is confidential and is not subject to a request under the Public Information Act, except that the person's name, date of birth, and handgun license number, and the address of the person's place of employment must be provided by TCOLE to:

1. The director of the Department of Public Safety;
2. The district;
3. The chief law enforcement officer of the local municipal law enforcement agency if the person is employed at a campus of a district located within a municipality;
4. The sheriff of the county if the person is employed at a campus of a district that is not located within a municipality; and
5. The chief administrator of any school district-commissioned peace officer, if the person is employed at a district that has commissioned peace officers.

If a parent or guardian of a student enrolled at a school inquires in writing, the district shall provide the parent or guardian written notice indicating whether any employee of the school is currently appointed as a school marshal. The notice may not disclose information that is confidential.

Education Code 37.0811(g), (h); Occupations Code 1701.260(j)

No State Benefits

A school marshal is not entitled to state benefits normally provided by the state to a peace officer. *Code of Criminal Procedure 2.127(c)*

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Note: For general provisions applicable to district security personnel, including school resource officers, see CKE.

Definition

A school resource officer is a peace officer who is assigned by the officer's employing political subdivision to provide:

1. A police presence at a public school;
2. Safety or drug education to students of a public school; or
3. Other similar services.

Occupations Code 1701.601

License Required

A peace officer who is a visiting school resource officer in a public school must be licensed as provided by Occupations Code Chapter 1701. *Occupations Code 1701.602*

Firearms Accident Prevention Program

A peace officer who is a visiting school resource officer in a public elementary school shall at least once each school year offer to provide instruction to students in a firearms accident prevention program, as determined by the district.

A firearms accident prevention program must include the safety message, "Stop! Don't Touch. Leave the Area. Tell an Adult.", and may include instructional materials from the National Rifle Association Eddie Eagle Gun Safe Program, including animated videos and activity books.

Occupations Code 1701.603

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Reduction of Energy Consumption

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

1. Strategies for achieving energy efficiency, including facility design and construction, that:
    a. Result in net savings for the district; or
    b. Can be achieved without financial cost to the district; and
2. For each strategy identified above, the initial, short-term capital costs and lifetime costs and savings that may result from implementation of the strategy.

In determining whether a strategy may result in financial cost to the district, the board shall consider the total net costs and savings that may occur over the seven-year period following implementation of the strategy.

The board may submit the plan to the State Energy Conservation Office for the purposes of determining whether funds available through loan programs administered by the office or tax incentives administered by the state or federal government are available to the district. The board may not disallow any proper allocation of incentives.

Education Code 44.902

Energy or Water Conservation Measures

"Energy savings performance contract" has the meaning assigned by Local Government Code 302.001.

Each energy or water conservation measure must comply with current local, state, and federal construction, plumbing, and environmental codes and regulations. An energy savings performance contract may not include improvements or equipment that allow or cause water from any condensing, cooling, or industrial process or any system of nonpotable usage over which the public water supply system officials do not have sanitary control, to be returned to the potable water supply.

The board may enter into energy savings performance contracts only with persons who are experienced in the design, implementation, and installation of the energy or water conservation measures addressed by the contract.

The contracting and delivery procedures for construction projects described at Government Code Chapter 2269 do not apply to energy savings performance contracts.

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Performance Bond	Before entering an energy savings performance contract, a board shall require the provider of the energy or water conservation measures to file a payment and performance bond relating to the installation of the measures in accordance with Government Code Chapter 2253. A board may also require a separate bond to cover the value of the guaranteed savings on the contract.
Financing	An energy savings performance contract may be financed: 1. Under a lease/purchase contract that has a term not to exceed 20 years from the final date of installation and that meets federal tax requirements for tax-free municipal leasing or long-term financing. 2. With the proceeds of bonds. 3. Under a contract with the provider of the energy or water conservation measures that has a term not to exceed the lesser of 20 years from the final date of installation or the average useful life of the energy or water conservation or usage measures. Notwithstanding other law, the board may use any available money to pay the provider of the energy or water conservation measures, and the board is not required to pay for such costs solely out of the savings realized by the district under an energy savings performance contract. An energy savings performance contract for energy or water conservation measures shall contain provisions requiring the provider of the energy or water conservation measures to guarantee the amount of the savings to be realized by a district under the contract. If the term of an energy savings performance contract exceeds one year, the district's contractual obligations in any one year during the term of the contract beginning after the final date of installation may not exceed the total energy, water, wastewater, and operating cost savings, including electrical, gas, water, wastewater, or other utility cost savings and operating cost savings resulting from the measures as determined by the district, divided by the number of years in the contract term.
Contract Procurement	An energy savings performance contract shall be let according to the procedures established for professional services by Government Code 2254.004 (the Professional Services Procurement Act). [See CH] Notice of the request for qualifications shall be published in the manner provided for competitive bidding.

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The board may contract with the provider of the energy or water conservation measures to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

Cost Savings Review

Before entering into an energy savings performance contract, the board must require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who has a minimum of three years of experience in energy calculation and review, is not an officer or employee of an offeror for the contract under review, and is not otherwise associated with the contract. In conducting the review, the engineer shall focus primarily on the proposed improvements from an engineering perspective, the methodology and calculations related to cost savings, increases in revenue, and, if applicable, efficiency or accuracy of metering equipment. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract.

Education Code 44.901

~~**Energy Usage Report**~~

~~A district shall record in an electronic repository the district's metered amount of electricity, water, or natural gas consumed for which it is responsible to pay and the aggregate costs for those utility services. A district shall report the recorded information on a publicly accessible Internet website with an interface designed for ease of navigation if available, or at another publicly accessible location. *Gov't Code 2265.001*~~

~~**Light Bulbs**~~

~~A district shall purchase for use in each type of light fixture in an instructional facility the commercially available model of light bulb that:~~

~~4. Uses the fewest watts for the necessary luminous flux or light output;~~

~~5. Is compatible with the light fixture; and~~

~~6. Is the most cost-effective, considering the factors described above.~~

~~*Education Code 44.903*~~

~~[See CS for energy conservation measures related to outdoor lighting fixtures]~~

Recycling Program

In cooperation with the comptroller or the Texas Commission on Environmental Quality (TCEQ), a district shall establish a program for the separation and collection of all recyclable materials generated by the district's operations, including at a minimum, aluminum,

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steel containers, aseptic packaging, polycoated paperboard cartons, high-grade office paper, and corrugated cardboard. "Recyclable materials" includes materials in a district's possession that have been abandoned or disposed of by the district's officers or employees or by any other person.

A district shall also:

1. Provide procedures for collecting and storing recyclable materials, ~~provide~~ containers for recyclable materials, and ~~provide~~ procedures for making contractual or other arrangements with buyers of recyclable materials.
2. Evaluate the amount of recyclable material recycled and modify the recycling program as necessary to ensure that all recyclable materials are effectively and practicably recycled.
3. Establish educational and incentive programs to encourage maximum employee participation.

~~A district may seek an exemption~~ TCEQ by order shall exempt from compliance with these provisions: ~~if it has~~

1. A district with a ~~population~~student enrollment of ~~less~~fewer than ~~5~~10,000 ~~within its geographic boundaries~~students; and ~~demonstrates to~~

~~1.~~2. A district if the ~~TCEQ~~district petitions TCEQ for an exemption and TCEQ finds that compliance would work a hardship on the district.

Health and Safety Code 361.425

Certificate of Mold Remediation

When a district sells property, the district shall provide to the buyer a copy of any certificate of mold remediation that has been issued for the property during the five years preceding the date the district sells the property. *Occupations Code 1958.154(b); 16 TAC 78.150(e)*

Pools

Generally

An owner, manager, operator, or other attendant in charge of a public swimming pool, wading pool, baby pool, hot tub, in-ground spa, spray fountain, or other artificial body of water typically used for recreational swimming, bathing, or play shall comply with relevant pool safety standards necessary to prevent drowning adopted by the executive commissioner of the Health and Human Services Commission. *Health and Safety Code 341.0645; 25 TAC 265.181–.208*

Drains

Each public pool and spa shall comply with the drain cover standards found at 15 U.S.C. Section 8003. "Public pool and spa" means a swimming pool or spa that is open to the public generally, whether for a fee or free of charge. *15 U.S.C. 8003*

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Note: For provisions regarding selection and adoption of instructional materials, see EFA.

Instructional Materials and Technology

Instructional materials selected for use in the public schools shall be furnished without cost to the students attending those schools. Except as provided by Education Code 31.104(d), a district may not charge a student for instructional material or technological equipment purchased by the district with the district's technology and instructional materials allotment. *Education Code 31.001*

Each instructional material, including electronic instructional material only to the extent of any applicable licensing agreement, purchased as provided by Education Code Chapter 31 for a district is the property of the district. *Education Code 31.102(a)–(b)*

Allotment

A district is entitled to an allotment each biennium from the state instructional materials and technology fund for each student enrolled in the district on a date during the last year of the preceding biennium specified by the commissioner of education. The commissioner shall determine the amount of the allotment per student each biennium on the basis of the amount of money available in the state instructional materials and technology fund to fund the allotment. The allotment shall be transferred from the state instructional materials and technology fund to the credit of the district's instructional materials and technology account as provided by Education Code 31.0212. *Education Code 31.0211(a)*

The commissioner shall, as early as practicable during each biennium, notify each district of the estimated amount to which the district will be entitled during the next fiscal biennium. *Education Code 31.0215(a)*

No Appeal

The amount of the allotment determined by the commissioner is final and may not be appealed. *19 TAC 66.1307(d)*

Delayed Publisher Payment Option

A district may requisition and receive state-adopted instructional materials before allotment funds for those materials are available. The total cost of delayed-payment-option materials requisitioned may not exceed 80 percent of the district's expected allotment for the subsequent biennium.

When a district submits a requisition for instructional materials under this provision, the Texas Education Agency (TEA) will expend a district's existing allotment balance before applying the delayed payment option. TEA will make payment for any remaining balance for a district's order as the allotment funds become available and will prioritize payment for requisitions over reimbursement of purchases made directly by a district.

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The commissioner shall ensure that publishers of instructional materials are informed of any potential delay in payment and that payment is subject to the availability of appropriated funds. Publishers may decline orders for which payments could be delayed. A publisher's decision to decline an order shall affect all of that publisher's orders for which payments could be delayed. Publishers may not selectively decline individual orders or orders from individual districts. Government Code Chapter 2251 does not apply to requisitions under this provision.

Education Code 31.0215; 19 TAC 66.1312

Allotment Adjustment

Change in Enrollment

Not later than May 31 of each school year, a district may request that the commissioner adjust the number of students for which the district is entitled to receive an allotment on the grounds that the number of students attending school in the district will increase or decrease during the school year for which the allotment is provided. The commissioner may also adjust the number of students for which a district is entitled to receive an allotment, without a request by the district, if the commissioner determines a different number of students is a more accurate reflection of students who will be attending school in the district. The commissioner's determination is final. *Education Code 31.0211(e)*

High Enrollment Growth

Each year the commissioner shall adjust the instructional materials and technology allotment of districts experiencing high enrollment growth. *Education Code 31.0214(a)*

High-enrollment growth adjustments will be based on the difference between the district's percentage of enrollment growth and that of the state. Enrollment growth calculations will be determined each fiscal year based on fall Texas Student Data Systems Public Education Information Management System (TSDS PEIMS) enrollment data. The amount of the adjustment determined by the commissioner is final and may not be appealed.

If sufficient funds are available, high-enrollment growth adjustments will be granted once each fiscal year. Notwithstanding this, a district that experiences an unexpected growth:

1. Of at least two percent due to a natural or man-made disaster or catastrophic event may apply for additional funding at any time during a fiscal year.

2. In its bilingual population of at least ten percent in any school year may apply for additional bilingual funding at any time during a fiscal year.

Any additional funding will be dependent on the availability of funds.

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The per-student high-enrollment growth adjustment granted in the second year of a biennium shall not exceed one-half of the per-student amount established as the biennial allotment.

19 TAC 66.1309

Permitted Expenditures

The allotment may be used to purchase:

1. ~~Instructional~~ Materials on the list adopted by the commissioner under Education Code 31.0231;

2. Instructional materials, regardless of whether the instructional materials are on the list adopted ~~by the State Board of Education (SBOE)~~ under Education Code 31.024;

~~3. Non-adopted instructional materials;~~

~~4.~~3. Consumable instructional materials, including workbooks;

~~5.~~4. Instructional materials for use in bilingual education classes, as provided by Education Code 31.029;

~~6. Versions of non-adopted instructional materials that are fully accessible to students with disabilities;~~

~~7.~~5. Instructional materials for use in college preparatory courses under Education Code 28.014, as provided by Education Code 31.031;

~~8.~~6. Supplemental instructional materials, as provided by Education Code 31.035;

~~9.~~7. State-developed open education resource instructional materials, as provided by Education Code Chapter 31, Subchapter B-1;

~~10.~~8. Instructional materials and technological equipment under any continuing contracts of the district in effect on September 1, 2011;

~~11. Activities related to the local review and adoption of instructional materials;~~

~~12.~~9. Technological equipment ~~that contributes to student learning, including equipment that supports~~necessary to support the use of materials included on the list adopted by the commissioner under Education Code 31.0231 or any instructional materials~~.~~ purchased with an allotment under these provisions; and

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10. Inventory software or systems for storing, managing, and accessing instructional materials and analyzing the usage and effectiveness of the instructional materials.

The allotment may be used to pay:

~~1.~~ For training educational personnel directly involved in student learning in the appropriate use of instructional materials~~;~~

~~2.~~1. ~~Providing~~ and for providing for access to technological equipment for instructional use; and

~~3.~~2. The salary and other expenses of an employee who provides technical support for the use of technological equipment directly involved in student learning.

Education Code 31.0211(c); 19 TAC 66.1307(f)

Prohibited Expenditures

The allotment may not be used to pay for:

1. Services for installation;
2. The physical conduit that transmits data such as cabling and wiring or electricity;
3. Office and school supplies; or
4. Items that are not directly related to student instruction such as furniture, athletic equipment, extension cords, temporary contractors, or video surveillance equipment;
5. Travel expenses; or
6. Equipment or software used for moving, storing, tracking, or taking inventory of instructional materials.

19 TAC 66.1307(g)

Certification of Allotment

A district shall annually certify to the commissioner that the district's allotment has been used only for permitted expenses. *Education Code 31.0213*

Priority of Purchase

Each biennium a district shall use the district's allotment to purchase, in the following order:

1. Instructional materials necessary to permit the district to certify that the district has instructional materials that cover all elements of the essential knowledge and skills of the required curriculum, other than physical education, for each grade level.
2. Any other instructional materials or technological equipment as determined by the district.

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Education Code 31.0211(d); 19 TAC 66.1307(e)

Instructional Materials and Technology Account

The commissioner shall maintain an instructional materials and technology account for each district. In the first year of each biennium, the commissioner shall deposit the district's allotment in the account. The commissioner shall pay the cost of instructional materials requisitioned by a district under Education Code 31.103 using funds from the district's instructional materials and technology account.

A district may also use funds in the district's account to purchase electronic instructional materials or technological equipment. The district shall submit to the commissioner a request for funds for this purpose from the district's account in accordance with the commissioner's rules.

Money deposited in a district's instructional materials and technology account during each state fiscal biennium remains in the account and available for use by the district for the entire biennium. At the end of each biennium, a district with unused money in the district's account may carry forward any remaining balance to the next biennium.

Education Code 31.0212

Access to Allotment

The allotment for each biennium will be made available for district use through the state's online instructional material ordering system (EMAT) as early as possible in the fiscal year preceding the beginning of the biennium for which the funds have been appropriated. A district may access its allotment for any upcoming school year upon completion of:

1. Submission to the commissioner certification that:
    a. The district has instructional materials that cover all the required Texas essential knowledge and skills (TEKS), except those for physical education, as required by Education Code 31.004 [see Certification of Instructional Materials, below]; and
    b. The district has used its allotment for only the allowable expenditures [see Permitted Expenditures and Certification of Allotment Use, above]; and
2. Preparation by TEA of EMAT for the new school year with the new allotment amounts.

Upon completion of these requirements, a district may access its funds by correctly providing all information required in EMAT.

19 TAC 66.1307(h)–(j)

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Online Requisition System (EMAT)

The commissioner shall maintain an online requisition system (EMAT) for districts to requisition instructional materials to be purchased with the district's allotment. *Education Code 31.101(f)*

Delegation of Authority

The board may delegate to an employee the authority to requisition, distribute, and manage the inventory of instructional materials, consistent with Education Code Chapter 31 and rules adopted under that chapter. *Education Code 31.104(a)*

Local Funds

A district may use local funds to purchase any instructional materials in addition to those selected under Education Code Chapter 31. *Education Code 31.106*

Requisitions, Use, and Distribution

A district shall make a requisition for instructional materials using the online requisition program (EMAT) maintained by the commissioner ~~not later than June 1 of each year.~~. A district may requisition instructional materials on the State Board of Education (SBOE) instructional materials list for grades above the grade level in which a student is enrolled. *Education Code 31.103(b)–(c)*

Distribution

The board shall distribute printed instructional materials to students in the manner that the board determines is most effective and economical. *Education Code 31.102(c)*

Supplemental Instructional Materials

A district may requisition supplemental instructional material adopted by the SBOE but not on the instructional material list adopted under Education Code 31.023 only if the district requisitions the supplemental instructional material along with other supplemental instructional materials or instructional materials on the list adopted under Education Code 31.023 that in combination cover each element of the essential knowledge and skills for the course for which the district is requisitioning the supplemental instructional materials. *Education Code 31.035(d)*

Availability of Open Education Resource Instructional Materials

A district that selects open education resource instructional material shall requisition a sufficient number of printed copies for use by students unable to access the instructional material electronically unless the district provides to each student:

1. Electronic access to the instructional material at no cost to the student; or
2. Printed copies of the portion of the instructional material that will be used in the course.

Education Code 31.103(d)

Employee Training

The board shall require the employee responsible for ordering instructional materials to complete TEA-developed training in the use of the allotment and the use of the instructional materials ordering

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system (EMAT). Training shall be completed prior to ordering instructional materials for the first time and again each time the district is notified by TEA that the training has been updated. The district shall maintain documentation of the completion of the required training. *19 TAC 66.107(d)*

Special Instructional Materials

All laws and rules applying to instructional materials provided to students with no disabilities that are not in conflict with Education Code 31.028 or 19 Administrative Code 66.1311 shall apply to the distribution and control of special instructional materials. Special instructional materials include braille, large-print, and audio books and any other formats designed specifically to provide equal access to students with disabilities.

Requisitions for special instructional materials shall be based on actual student enrollment but may include up to two copies per student if necessary to meet individual need.

Special instructional materials are the property of the state. A district is responsible for replacing or reimbursing the state for lost, stolen, or damaged special instructional materials.

For Teachers

Adopted instructional materials needed by a teacher with a print disability to carry out his or her instructional duties shall be furnished in the required format without cost. The materials are to be loaned to the district as long as needed and are to be returned to the state when they are no longer needed.

For Parents

Adopted instructional materials in a specialized format that are requested by a parent with a print disability shall be furnished without cost by the state. Requests for electronic files shall be filled by TEA after the parent signs and TEA receives a statement, through the district, promising that the parent will safeguard the security of the files and observe all current copyright laws, including those that forbid reproduction of the files and their transfer to other parties. All specialized instructional material formats and electronic files that have been provided must be returned to the local school district at the end of the school year.

19 TAC 66.1311

Bilingual Instructional Materials

A district shall purchase with its allotment or otherwise acquire instructional materials for use in bilingual education classes. The commissioner shall determine the amount of the allotment for bilingual education based on TSDS PEIMS bilingual enrollment data from the fall collection of the school year preceding the first year of each biennium. *Education Code 31.029; 19 TAC 66.1307(c)*

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Certification of Instructional Materials

Prior to the beginning of each school year, a district shall submit to the SBOE and commissioner certification that for each subject in the required curriculum under Education Code 28.002, other than physical education, and each grade level, the district provides each student with instructional materials that cover all elements of the essential knowledge and skills adopted by the SBOE for that subject and grade level. The certification shall be submitted in a format approved by the commissioner and can be based on both state-adopted and non-state-adopted materials.

To determine whether each student has instructional materials that cover all elements of the essential knowledge and skills, a district may consider:

1. Instructional materials adopted by the SBOE;
2. Materials adopted or purchased by the commissioner under Education Code 31.0231 or Education Code Chapter 31, Subchapter B-1;
3. Open education resource instructional materials submitted by eligible institutions and adopted by the SBOE;
4. Open education resource instructional materials made available by other public schools;
5. Instructional materials developed or purchased by the district; and
6. Open education resource instructional materials and other electronic instructional materials included in the repository under Education Code 31.083.

The certifications shall be ratified by the board in a public, noticed meeting.

Education Code 31.004; 19 TAC 66.105

Ownership

Except as otherwise provided, a student must return all instructional materials to the teacher at the end of the school year or when the student withdraws from school. At the end of the school year for which open education resource instructional material that a district does not intend to use for another student is distributed, the printed copy of the open education resource instructional material becomes the property of the student to whom it is distributed.

This provision does not apply to an electronic copy of open education resource instructional material.

Education Code 31.104(c), (g)–(h); 19 TAC 66.107(b)

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Responsibility for Instructional Materials and Equipment

Each student or the student's parent or guardian is responsible for all instructional material and technological equipment not returned in an acceptable condition by the student. A student who fails to return in an acceptable condition all instructional materials and technological equipment forfeits the right to free instructional materials and technological equipment until all instructional materials and technological equipment previously issued but not returned in an acceptable condition are paid for by the student, parent, or guardian.

As provided by board policy, a district may waive or reduce the payment required if the student is from a low-income family. [See FP] The district shall allow the student to use instructional materials and technological equipment at school during each school day.

If instructional materials or technological equipment is not returned in an acceptable condition or paid for, a district may withhold the student's records. A district may not prevent the student from graduating, participating in a graduation ceremony, or receiving a diploma. [See FL and GBA regarding student and parental right to access records; and FD, FFAB, and FL regarding a district's duties to provide records to another district]

The board may not require an employee of the district who acts in good faith to pay for instructional materials or technological equipment that is stolen, misplaced, or not returned by a student. [See DG]

These provisions do not apply to an electronic copy of open education resource instructional material.

Education Code 31.104(d), (e), (h); 19 TAC 66.107(c) [See also EF]

Acceptable Condition

Printed instructional materials are considered to be in acceptable condition if:

1. The cover, binding, pages, spine, and all integral components of the instructional materials are wholly intact and the instructional materials are fully usable by students; and
2. No component of the instructional materials is soiled, torn, or damaged (whether intentionally or by lack of appropriate care) to the extent that any portion of the content is too disfigured or obscured to be fully accessible to other students.

Electronic instructional materials are considered to be in acceptable condition if:

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1. All components or applications that are a part of the electronic instructional materials are returned;
2. The electronic materials perform as they did when they were new;
3. The electronic instructional materials do not contain computer code (e.g., bug, virus, worm, or similar malicious software) that has been designed to self-replicate, damage, change, or otherwise hinder the performance of any computer's memory, file system, or software; and
4. The electronic instructional materials have not been installed with plug-ins, snap-ins, or add-ins without the prior approval of the district.

Technological equipment is considered to be in acceptable condition if:

1. The equipment is returned with the software and hardware in their original condition unless the district authorized changes; and
2. The physical condition of the equipment is fully usable as it was originally intended to be used.

19 TAC 66.1310

Lost or Damaged Instructional Materials

A district may order replacements for instructional materials that have been lost or damaged directly from the publisher of the instructional materials or any source for a printed copy of open education resource instructional material. *Education Code 31.104*

Sale or Disposal

The board shall determine how the district will dispose of discontinued printed instructional materials, electronic instructional materials, and technological equipment.

Sale

The board may sell printed instructional materials on the date the instructional material is discontinued for use in the public schools by the SBOE or the commissioner. The board may also sell electronic instructional materials and technological equipment owned by the district.

Use of Proceeds

Any funds received by a district from a sale must be used to purchase instructional materials and technological equipment allowed under Education Code 31.0211.

Disposal

The board may dispose of printed instructional material before the date the instructional material is discontinued for use in the public schools by the SBOE if the board determines that the instructional

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material is not needed by the district and the board does not reasonably expect that the instructional material will be needed. A district must notify the commissioner of any instructional material the district disposes of under this provision.

Education Code 31.105

Annual Inventory

A district shall conduct an annual physical inventory of all currently adopted instructional materials that have been requisitioned by and delivered to the district. The results of the inventory shall be recorded in the district's files. *19 TAC 66.107(a)*

Local Handling Expenses

School districts shall not be reimbursed from state funds for expenses incurred in local handling of instructional materials. *19 TAC 66.104(d)*

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Definitions

For purposes of this policy:

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

Education Code 34.003(d), (e); Transp. Code 541.201(3)(A), (12), (15), (16)

Authority

A district may establish and operate an economical public school transportation system in the district or outside the district, if the district enters into an interlocal contract as provided by Government Code Chapter 791. In establishing and operating the transportation system, a board shall employ bus drivers certified in accordance with standards and qualifications adopted by the Department of Public Safety. *Education Code 34.007*

Transportation Allotment for Eligible Students

Each district operating a regular transportation system is entitled to an allotment based on ~~the daily cost~~a rate per mile per regular eligible student ~~of operating and maintaining~~set by the legislature in

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the ~~regular transportation system and the linear density of that system.~~General Appropriations Act. *Education Code ~~42.155~~48.151(c)*

"Regular eligible student" means a student who resides two or more miles from the student's campus of regular attendance, measured along the shortest route that may be traveled on public roads, and who is not classified as a student eligible for special education services~~.~~; or is a homeless child or youth, as defined by 42 U.S.C. 11434a. *Education Code ~~42.155~~48.151(b)(1)*

The commissioner of education may not reduce the allotment because a district provides transportation for an eligible student to and from a child-care facility or a grandparent's residence instead of the student's residence, ~~if the transportation is provided within the approved routes of the district for the school the student attends. *Education Code 42.155*~~as authorized by Education Code 34.007. *Education Code 48.151(k)*

~~A board may require payment of a reasonable fee for transportation to and from school of a student who lives within two miles of the school the student attends, except that a board may not charge a fee for transportation for which a district receives funds under Education Code 42.155(d). *Education Code 11.158(a)(14)*~~

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

Fees for Transportation

For information regarding fees a district may charge for transportation, see FP(LEGAL).

Hazardous Conditions or High Risk of Violence

A district may apply for and on approval of the commissioner receive an additional amount of up to ten percent of its regular transportation allotment to be used for the transportation of children living within two miles of the school they attend who would be subject to hazardous traffic conditions or a high risk of violence if they walked to school. *Education Code ~~42.155~~48.151(d); 19 TAC 61.1016*

Definitions

"Hazardous traffic condition" means an area within two miles of a campus where no walkway is provided and children must walk along or cross a freeway or expressway, an underpass, an overpass or a bridge, an uncontrolled major traffic artery, an industrial or commercial area, or another comparable condition.

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"Area presenting a high risk of violence" means an area within two miles of a campus that law enforcement records indicate presents a high incidence of violent crimes.

19 TAC 61.1016(b)

Community Walking Transportation Programs

A district may use all or part of any additional funds received to support community walking transportation programs, including walking school bus programs, provided that the district requires each supported program to submit a financial report each semester that covers services provided by the program for the benefit of the district. *Education Code ~~42.155~~48.151(d-2)*

Eligibility

A district or county is eligible to report hazardous area service annual mileage in the Foundation School Program (FSP) transportation application if the district submits to the Texas Education Agency (TEA) a policy adopted by the board that:

1. Explains the specific hazardous traffic conditions or areas presenting high risk for violence that apply to the district and exist within two miles of its campuses; and

2. If a district elects to implement community walking transportation programs or innovative school safety projects, requires such district-supported community walking transportation programs or innovative school safety projects to:

    a. Utilize trained adults with current background checks to either walk students to their home or school or to stand guard along safe routes; and

    b. Provide financial reports to the district each semester.

19 TAC 61.1016(c)

Reporting

A district is required to submit a hazardous area policy prior to the start of the school year and to report annual hazardous area service mileage by August 1 of each school year on the home-to-school/school-to-home section of the FSP transportation route services report. Districts requesting funds for an area presenting a high risk of violence must provide to TEA, contemporaneously with the explanation required at Eligibility above, consolidated law enforcement records that document violent crimes identified by reporting agencies within the relevant jurisdiction. *19 TAC 61.1016(d)*

Career and Technology Program

The cost of transporting career and technology education students from one campus to another inside a district ~~or~~, from a sending district to another secondary public school for a career and technology program or an area career and technology school~~,~~ or to an approved postsecondary institution under a contract for instruction

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approved by TEA, or from a district campus to a location at which students are provided work-based learning under the district's career and technology program shall be reimbursed based on the number of actual miles traveled times the district's official extracurricular travel per mile rate as set by the board and approved by TEA. *Education Code ~~42.155~~48.151(f)*

Dual Credit Students

A district shall be reimbursed on a per-mile basis for the cost of transporting a dual credit student to another campus in the district, a campus in another district, or a postsecondary educational institution for purposes of attending the course, if the course is not available at the student's campus. *Education Code 48.151(m)*

Bus Operation

A person may not operate a school bus if:

1. The door of the school bus is open; or
2. The number of passengers on the bus is greater than the manufacturer's design capacity for the bus.

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

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

Transp. Code 545.426

Transporting Students to School

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

Bus Passes or Cards

A school district may use the state transportation allotment to provide a bus pass or card for another transportation system to each student who is eligible to use the regular transportation system of the district but for whom the regular transportation system of the district is not a feasible method of providing transportation. *Education Code ~~42.155~~48.151(l)*

Designation of Child-Care Facility or Grandparent's Residence

A board, after determining eligibility for transportation services, shall allow a parent to designate a child-care facility or the residence of a grandparent of the child instead of the child's residence as the regular location for purposes of obtaining transportation under the system to and from the child's school, if the location is an approved stop on an approved route. *Education Code 34.007(b)(2)*

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

Transportation of Homeless Students

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

1. If the child continues to live in the area served by the district in which the school of origin is located, the district of origin will provide the child's transportation to and from the school of origin.

2. If the child's living arrangements in the area served by the district of origin terminate and the child, though continuing his or her education in the school of origin, begins living in an area served by another district, the district of origin and the district in which the child is living shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the districts are unable to agree, the responsibility and costs shall be shared equally.

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

Transportation of Students in Foster Care

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

1. Ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with 42 U.S.C. 675(4)(A); and

2. Ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their schools of origin, the district will provide transportation to the school of origin if:

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a. The local child welfare agency agrees to reimburse the district for the cost of such transportation;

b. The district agrees to pay the cost of transportation; or

c. The district and the local welfare agency agree to share the cost of such transportation.

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

School Activities

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

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

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

Education Code 34.003(b)

In all circumstances in which passenger cars or passenger vans are used to transport students, the operator of the vehicle shall ensure that the number of passengers does not exceed the designed capacity of the vehicle and that each passenger is secured by a safety belt. *Education Code 34.003(c)*

Accelerated Instruction Programs

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

Transportation Company or System

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

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

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

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

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

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

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

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

Education Code 34.008

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

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Safety Standards

A district shall meet or exceed the safety standards for school buses established by the Department of Public Safety (DPS), with the advice of the Texas Education Agency (TEA). A district that fails or refuses to meet these safety standards for school buses is ineligible to share in the transportation allotment until the first anniversary of the date the district begins complying with the safety standards. *Education Code 34.002; Transp. Code 547.102; 37 TAC 14.51–.52*

Student Safety

Prohibitions

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

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

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

Transp. Code 545.426

Seat Belts

Required on Buses

A bus, including a school bus, a school activity bus, multifunction school activity bus, or school-chartered bus, operated by or contracted for use by a district for the transportation of schoolchildren shall be equipped with a three-point seat belt for each passenger, including the operator. This requirement does not apply to:

1. A bus purchased by a school district that is a model year 2017 or earlier; or
2. A bus purchased by a school district that is a model year 2018 or later if the board:
    a. Determines that the district's budget does not permit the district to purchase a bus that is equipped with the required seat belts; and
    b. Votes to approve that determination in a public meeting.

Transp. Code 547.701(e)

Student Requirement

A district shall require a student riding a bus operated by or contracted for operation by the district to wear a seat belt if the bus is equipped with seat belts for all passengers on the bus. A school district may implement a disciplinary policy to enforce the use of seat belts by students. *Education Code 34.013*

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Donations

A board shall consider any offer made by a person to donate three-point seat belts or money for the purchase of three-point seat belts for a district's school buses. A board may accept or decline the offer after adequate consideration.

A board may acknowledge a person who donates three-point seat belts or money for the purchase of three-point seat belts for a school bus by displaying a small, discreet sign on the side or back of the bus recognizing the person who made the donation. The sign may not serve as an advertisement for the person who made the donation.

Education Code 34.014

School Bus Emergency Evacuation Training

Pursuant to the safety standards established by DPS under Education Code 34.002, each school district may conduct a training session for students and teachers concerning procedures for evacuating a school bus during an emergency. A district that chooses to conduct a training session is encouraged to conduct the school bus emergency evacuation training session in the fall of the school year. "Fall" is defined as July 1 to December 31. The district is also encouraged to structure the training session so that the session applies to school bus passengers, a portion of the session occurs on a school bus, and the session lasts for at least one hour.

The training must be based on the recommendations of the most recent edition of the National School Transportation Specifications and Procedures, as adopted by the National Congress on School Transportation, or a similar school transportation safety manual.

Immediately before each field trip involving transportation by school bus, a district is encouraged to review school bus emergency evacuation procedures with the school bus passengers, including a demonstration of the school bus emergency exits and the safe manner to exit.

Not later than the 30th day after the date that a school district completes a training session, the district shall provide DPS with a record certifying the district's completion of the training.

Note: The Reporting of School Bus Evacuation Training form[1] is available on the DPS website.

Education Code 34.0021; 37 TAC 14.54

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Wireless Communication Devices

An operator commits an offense if the operator uses a portable wireless communication device to read, write, or send an electronic message while operating a motor vehicle unless the vehicle is stopped. *Transp. Code 545.4251(b)*

General Rule

School Property

An operator may not use a wireless communication device while operating a motor vehicle within a school crossing zone or on the property of a public elementary, middle, junior high, or high school served by a school crossing zone, during the time a reduced speed limit is in effect for the school crossing zone, unless:

1. The vehicle is stopped; or
2. The wireless communication device is used with a hands-free device.

Transp. Code 545.4252

An operator may not use a wireless communication device while operating a school bus or passenger bus with a minor passenger on the bus unless the bus is stopped. This provision does not apply to an operator of a school bus or passenger bus ~~is stopped.~~

using a wireless communication device in the performance of the operator's duties as a bus driver and in a manner similar to using a two-way radio. *Transp. Code 545.425(c), ~~.4252~~(e-1)*

Definitions

"Hands-free device" means speakerphone capability, a telephone attachment, or another function or other piece of equipment, regardless of whether permanently installed in or on a wireless communication device or in a motor vehicle, that allows use of the wireless communication device without use of either of the operator's hands, except to activate or deactivate a function of the wireless communication device or hands-free device. The term includes voice-operated technology and a push-to-talk function. *Transp. Code 545.425(a)(1)*

"Electronic message" means data that is read from or entered into a wireless communication device for the purpose of communicating with another person. *Transp. Code 545.4251(a)(1)*

Disruption of Transportation

Any person other than a primary or secondary grade student who intentionally disrupts, prevents, or interferes with the lawful transportation of students to and from school on a vehicle owned or operated by a district or to or from activities sponsored by a school on a vehicle owned and/or operated by a district shall be guilty of a misdemeanor. It is an exception to the application of the offense that, at the time the person engaged in the prohibited conduct, the person was younger than 12 years of age. *Education Code 37.126*

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Exhibition of Firearm

For information regarding offenses pertaining to firearms on buses, see GKA(LEGAL).

Accident Reports

Notice to DPS

A district shall provide DPS written notification of any accident directly or indirectly involving a school bus operated by or for the district that bears advertising or another paid announcement. *37 TAC 14.65(a)(2)*

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

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

37 TAC 14.65(c)

Notices to DPS may be delivered by facsimile, electronic mail, or mailed to School Bus Transportation, Texas Department of Public Safety, P.O. Box 4087, Austin, TX 78773-0525. *37 TAC 14.65(d)*

Notice to TEA

A district shall report annually to TEA the number of accidents in which its buses were involved in the past year in a manner prescribed by the commissioner of education. A district shall file the annual report to TEA only in the period beginning July 1 and ending July 31 and shall include the following information in the report:

1. The total number of bus accidents;
2. The date each accident occurred;
3. The type of bus, as specified in 19 Administrative Code 61.1028(a), involved in each accident;
4. Whether the bus involved in each accident was equipped with seat belts and, if so, the type of seat belts;
5. The number of students and adults involved in each accident;
6. The number and types of injuries that were sustained by the bus passengers in each accident; and
7. Whether the injured passengers in each accident were wearing seat belts at the time of the accident and, if so, the type of seat belts.

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A school district shall report a bus accident involving a school bus, a multifunction school activity bus, a school activity bus, or a motor bus if:

1. The bus is owned, leased, contracted, or chartered by a school district and was transporting school district personnel, students, or a combination of personnel and students; or
2. The bus was driven by a school district employee or by an employee of the school district's bus contractor with no passengers on board and the accident involved a collision with a pedestrian.

Exceptions

A school district shall not report a bus accident involving a school bus, a multifunction school activity bus, a school activity bus, or a motor bus if:

1. The bus was driven by a school district employee or by an employee of the school district's bus contractor, the accident occurred when no passenger other than the school district's driver or bus contractor's driver was on board the bus, and the accident did not involve a collision with a pedestrian; or
2. The accident involved a bus chartered by a school district for a school activity trip and no school district personnel or students were on board the bus at the time of the accident.

A school district shall not report an accident that occurred in a vehicle that is owned, contracted, or chartered by a school district and is not a school bus, a multifunction school activity bus, a school activity bus, or a motor bus.

Education Code 34.015(b); 19 TAC 61.1028(b)

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[1] Reporting of School Bus Evacuation Training: http://www.dps.texas.gov/internetforms/Forms/SBT-7.pdf

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Note: For information regarding security breaches, see CQB(LEGAL).

Definitions

Custodian

"Custodian" means the appointed or elected public officer who by the state constitution, state law, ordinance, or administrative policy is in charge of an office that creates or receives local government records.

Essential Record

"Essential record" means any district record necessary to the resumption or continuation of district operations in an emergency or disaster, to the re-creation of the legal and financial status of the district, or to the protection and fulfillment of obligations to the people of the state.

Local Government Record

"Local government record" means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information-recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a district or any of its officers or employees, pursuant to law or in the transaction of public business. The term does not include:

1. Extra identical copies of documents created only for convenience of reference or research by district officers or employees;
2. Notes, journals, diaries, and similar documents created by a district officer or employee for his or her own personal convenience;
3. Blank forms, stocks of publications, and library and museum materials acquired solely for the purposes of reference or display; or
4. Copies of documents in any media furnished to the public under the ~~Open Records~~Public Information Act or other state law.

Permanent Record

"Permanent record" or "record of permanent value" means any local government record for which the retention period on a records retention schedule issued by the Texas State Library and Archives Commission (TSLAC) is given as permanent.

Records Control Schedule

"Records control schedule" means a document prepared by or under the authority of a records management officer listing the records maintained by a district, their retention periods, and other records disposition information that the records management program in each district may require.

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Records Management	"Records management" means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.
Records Management Officer	"Records management officer" means the person identified under Local Government Code 203.025 as the records management officer. [See Designation, below]
Records Retention Schedule	"Records retention schedule" means a document issued by TSLAC under authority of Subchapter J, Chapter 441, Government Code, establishing mandatory retention periods for local government records.
Retention Period	"Retention period" means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

Local Gov't Code 201.003

District's Duties

Each district shall:

1. Submit to the director and librarian of TSLAC the name of the district's records management officer and the name of the new officer in the event of a change;
2. File a plan or an ordinance or order establishing a records management program and any amendments to the plan or ordinance or order with the director and librarian;
3. Notify TSLAC at least ten days before destroying a district record that does not appear on a records retention schedule issued by TSLAC; and
4. File with the director and librarian a written certification as provided by Local Government Code 203.041 that the district has prepared a records control schedule that:
   a. Establishes a retention period for each district record as required by Local Government Code Chapter 203, Subchapter C; and
   b. Complies with a local government records retention schedule distributed by the director and librarian under

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Government Code 441.158 and any other state and federal requirements.

Gov't Code 441.169

Board's Responsibilities

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

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

Local Gov't Code 203.021

Custodians of Records

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

1. Cooperate with the records management officer in carrying out the policies and procedures established by a district for the efficient and economical management of records and in carrying out the requirements of ~~the~~ Local Government ~~Records Act~~Code Title 6, Subtitle C;
2. Adequately document the transaction of district business and the services, programs, and duties for which they and their staff are responsible; and
3. Maintain the records in their care and carry out the preservation, microfilming, destruction, or other disposition of the records only in accordance with the policies and procedures of

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the district's records management program and the requirements of ~~the~~ Local Government ~~Records Act~~Code Title 6, Subtitle C and rules adopted under it.

Local Gov't Code 203.022

Records Management Officer

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

Designation

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

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

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

Local Gov't Code 203.025

Duties

~~In implementing the Local Government Records Act, the~~The district's records management officer shall:

1. Assist in establishing and developing policies and procedures for a district's records management program;

2. Administer the records management program and provide assistance to ~~the~~ custodians ~~in order to reduce~~for the purposes of reducing costs and ~~improve record-keeping~~improving recordkeeping efficiency;

3. In cooperation with the custodians of the records~~, prepare and file~~ :

   a. Prepare the records control schedules~~,~~ and amended schedules ~~, and lists of obsolete records, as~~ required by ~~the~~ Local Government ~~Records Act~~Code 203.041 and the list of obsolete records as provided by Local Government Code 203.044;

~~3. In cooperation with the custodians of records, prepare or direct the preparation of requests for authorization to destroy records, when such requests are required under the Local Government Records Act;~~

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~~a.~~b. ~~In cooperation with the custodians of records,~~ Identify and take adequate steps to preserve district records of permanent value;

~~b.~~c. ~~In cooperation with the custodians of records,~~ Identify and take adequate steps to protect essential district records;

~~c.~~d. ~~In cooperation with the custodians of records,~~ Ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with a district's records management program and the requirements of ~~the~~ Local Government ~~Records Act~~Code Title 6, Subtitle C and rules adopted under it;

4. Disseminate to the board and custodians of records information concerning state laws, administrative rules, and government policies relating to ~~a district's~~district records; and

5. In cooperation with the custodians of records, establish procedures to ensure that the handling of records in any context of the records management program is carried out with due regard for the duties and responsibilities of custodians that may be imposed by law and the confidentiality of information in records to which access is restricted by law.

Local Gov't Code 203.023

Records Management Program

A board by ordinance or order shall establish a records management program to be administered by the records management officer. The ordinance or order must provide methods and procedures to enable the board, custodians, and the records management officer to fulfill the statutory duties and responsibilities concerning management and preservation of records. The ordinance or order may prescribe any policies or procedures for the operation of the records management program that are consistent with the requirements of ~~the~~ Local Government ~~Records Act and~~ Code Title 6, Subtitle C rules adopted under it. A copy of the ordinance or order must be filed by the records management officer with TSLAC within 30 days after the date of its adoption. *Local Gov't Code 203.026(a)–(c)*

Records Control Schedules

The records management officer shall: ~~prepare and file with TSLAC~~

1. Prepare a records control schedule listing the following records and establishing a retention period for~~:~~ each:

   a. All records created or received by the district;

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b. Any record no longer created or received by the district that is still in its possession and for which the retention period on a records retention schedule issued by TSLAC has not expired; and

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

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

Amendment of Schedules

The records management officer shall review the district's records control schedules and prepare amendments to the schedules as needed to reflect new records created or received by the district or revisions to retention periods established in a records retention schedule issued by TSLAC. The records management officer shall file with the director and librarian a written certification of compliance that the district has amended the records control schedules to comply with the minimum requirements established on records retention schedules issued by TSLAC.

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

Local Gov't Code 203.041

Retention Periods

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

TSLAC Retention Schedules

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

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Note: Local government records retention schedules[1] are available on the TSLAC website.

~~TSLAC Review~~

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

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

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

Destruction of Records

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

1. The record is listed on a valid records control schedule ~~filed with TSLAC~~ and either its retention period has expired or it has been microfilmed or electronically stored in accordance with legal requirements;
2. The record appears on a list of obsolete records ~~approved by TSLAC~~as provided by Local Government Code 203.044;
3. ~~A destruction request is filed with and approved by TSLAC for a~~ The record is not listed on ~~an approved control~~a records retention schedule issued by TSLAC and the district provides notice to TSLAC at least ten days before destroying the record as required by Government Code 441.169;
4. A court issues an expunction order for the destruction or obliteration of the records, pursuant to state law; and
5. The records are defined as exempt from scheduling or filing requirements or listed as exempt in a records retention schedule issued by TSLAC.

Local Gov't Code 202.001

Exceptions

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

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may not be destroyed until the request is resolved. *Local Gov't Code 202.002*

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

Recordkeeping

As a board may require, the records management officer shall keep accurate lists of records destroyed, their volume, and other information of records management activities. *Local Gov't Code 203.046*

Preservation of Records

Permanent records shall be stored under conditions that meet the requirements of 13 Administrative Code 7.164.

Permanent Records

Microfilming

District records may be maintained on microfilm in addition to or instead of paper or other media, subject to the requirements of Chapter 204, Local Government Code and rules adopted by TSLAC. *Local Gov't Code 204.002*

Electronic Storage

District record data may be stored electronically in addition to or instead of source documents in paper or other media, subject to the requirements of Chapter 205, Local Government Code and rules adopted by TSLAC. *Local Gov't Code 205.002*

Records Offenses

Destruction or Alienation of Record

A board member or district employee commits an offense if the board member or employee knowingly or intentionally violates Local Government Code Title 6, Subtitle C (~~regarding~~ local government records) or rules adopted under it by destroying or alienating a local government record in contravention of Local Government Code Subtitle C or by intentionally failing to deliver records to a successor in office as provided by Local Government Code 201.006(a). *Local Gov't Code 202.008*

Tampering with Governmental Record

A person commits an offense if the person:

1. Knowingly makes a false entry in, or false alteration of, a governmental record;
2. Makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record;
3. Intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a governmental record;

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4. Possesses, sells, or offers to sell a governmental record or a blank governmental record form with intent that it be used unlawfully;

5. Makes, presents, or uses a governmental record with knowledge of its falsity; or

6. Possesses, sells, or offers to sell a governmental record or a blank governmental record form with knowledge that it was obtained unlawfully.

It is an exception to the application of item 3, above, that the governmental record is destroyed pursuant to legal authorization or transferred under Government Code 441.204. With regard to the destruction of a local government record, legal authorization includes compliance with the provisions of Local Government Code Title 6, Subtitle C.

Penal Code 37.10

Federal Investigations

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any bankruptcy case, or in relation to or contemplation of any such matter or case, shall be fined, imprisoned not more than 20 years, or both. *18 U.S.C. 1519*

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[1] Local Government Retention Schedules: https://www.tsl.texas.gov/slrm/recordspubs/localretention.html

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~~**PEIMS**~~

~~A district shall participate in the Public Education Information Management System (PEIMS) and through that system shall provide information required for the administration of the Foundation School Program and of other appropriate provisions of the Education Code. The PEIMS data standards, established by the commissioner of education, shall be used by a district to submit information. *Education Code 42.006; 19 TAC 61.1025*~~

Next Generation Technology

A district, in the administration of the district, shall consider using next generation technologies, including cryptocurrency, blockchain technology, and artificial intelligence. *Gov't Code 2054.601*

Children's Internet Protection Act

Under the Children's Internet Protection Act (CIPA), a district must, as a prerequisite to receiving universal service discount rates, implement certain internet safety measures and submit certification to the Federal Communications Commission (FCC). *47 U.S.C. 254*
[See Universal Service Discounts, below, for details]

Districts that do not receive universal service discounts but do receive certain federal funds under the Elementary and Secondary Education Act (ESEA) must, as a prerequisite to receiving these funds, implement certain internet safety measures and submit certification to the Department of Education (DOE). *20 U.S.C. 7131*
[See ESEA Funding, below, for details]

Definitions

Harmful to Minors

"Harmful to minors" means any picture, image, graphic image file, or other visual depiction that:

1. Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;
2. Depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and
3. Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

47 U.S.C. 254(h)(7)(G); 20 U.S.C. 7131(e)(6)

Technology Protection Measure

"Technology protection measure" means a specific technology that blocks or filters internet access. *47 U.S.C. 254(h)(7)(I)*

Universal Service Discounts

An elementary or secondary school having computers with internet access may not receive universal service discount rates unless a district submits to the FCC the certifications described below at Certifications to the FCC and a certification that an internet safety policy has been adopted and implemented as described at Internet

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Safety Policy, below, and ensures the use of computers with internet access in accordance with the certifications. *47 U.S.C. 254(h)(5)(A); 47 C.F.R. 54.520*

Certifications to the FCC

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

With Respect to Minors

A district must submit certification that the district:

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

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

With Respect to Adults

A district must submit certification that the district:

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

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

Disabling for Adults

An administrator, supervisor, or other person authorized by a district may disable the technology protection measure during use by an adult to enable access for bona fide research or other lawful purpose. *47 U.S.C. 254(h)(5)(D)*

Internet Safety Policy

A district shall adopt and implement an internet safety policy that addresses:

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1. Access by minors to inappropriate matter on the internet and the World Wide Web;
2. The safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;
3. Unauthorized access, including "hacking," and other unlawful activities by minors online;
4. Unauthorized disclosure, use, and dissemination of personal identification information regarding minors; and
5. Measures designed to restrict minors' access to materials harmful to minors.

47 U.S.C. 254(l)

Public Hearing — A district shall provide reasonable public notice and hold at least one public hearing or meeting to address the proposed internet safety policy. *47 U.S.C. 254(h)(5)(A)(iii), (l)(1)(B)*

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

ESEA Funding — Federal funds made available under Title IV, Part A of the ESEA for an elementary or secondary school that does not receive universal service discount rates may not be used to purchase computers used to access the internet, or to pay for direct costs associated with accessing the internet unless a district:

1. Has in place a policy of internet safety for minors that includes the operation of a technology protection measure that protects against access to visual depictions that are obscene, child pornography, or harmful to minors; and enforces the operation of the technology protection measure during any use by minors of its computers with internet access; and
2. Has in place a policy of internet safety that includes the operation of a technology protection measure that protects against access to visual depictions that are obscene or child pornography; and enforces the operation of the technology protection measure during any use of its computers with internet access.

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

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

20 U.S.C. 7131

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Transfer of Equipment to Students

A district may transfer to a student enrolled in the district:

1. Any data processing equipment donated to the district, including equipment donated by a private donor, a state eleemosynary institution, or a state agency under Government Code 2175.905;

2. Any equipment purchased by the district; and

3. Any surplus or salvage equipment owned by the district.

Education Code 32.102(a)

Before transferring data processing equipment to a student, a district must:

1. Adopt rules governing transfers, including provisions for technical assistance to the student by the district;

2. Determine that the transfer serves a public purpose and benefits the district; and

3. Remove from the equipment any offensive, confidential, or proprietary information, as determined by the district.

Education Code 32.104

Donations

A district may accept:

1. Donations of data processing equipment for transfer to students; and

2. Gifts, grants, or donations of money or services to purchase, refurbish, or repair data processing equipment.

Education Code 32.102(b)

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

Use of Public Funds

A district may spend public funds to:

1. Purchase, refurbish, or repair any data processing equipment transferred to a student; and

2. Store, transport, or transfer data processing equipment under this policy.

Education Code 32.105

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~~Eligibility~~

~~A student is eligible to receive data processing equipment under this policy only if the student does not otherwise have home access to data processing equipment, as determined by a district. A district shall give preference to educationally disadvantaged students. *Education Code 32.103*~~

~~Return of Equipment~~

~~Except as provided below, a student who receives data processing equipment from a district under this policy shall return the equipment to the district not later than the earliest of:~~

~~1. Five years after the date the student receives the equipment;~~

~~2. The date the student graduates;~~

~~3. The date the student transfers to another district; or~~

~~4. The date the student withdraws from school.~~

~~If, at the time the student is required to return the equipment, the district determines that the equipment has no marketable value, the student is not required to return the equipment.~~

~~*Education Code 32.106*~~

Uniform Electronic Transactions Act

A district may agree with other parties to conduct transactions by electronic means. Any such agreement or transaction must be done in accordance with the Uniform Electronic Transactions Act. *Business and Commerce Code Chapter 322; 1 TAC 203*

Digital Signature

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

~~**Security Breach Notification**~~

~~To Individuals~~

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

~~To the Owner or License Holder~~

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

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security immediately after discovering the breach, if the sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

To a Consumer Reporting Agency

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

Criminal Investigation Exception

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

Information Security Policy

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

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

Definitions

"Breach of System Security"

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

"Sensitive Personal Information"

"Sensitive personal information" means:

1. An individual's first name or first initial and last name in combination with any one or more of the following items, if the name and the items are not encrypted:

   a. Social security number;

   b. Driver's license number or government-issued identification number; or

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c. Account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account; or

2. Information that identifies an individual and relates to:

a. The physical or mental health or condition of the individual;

b. The provision of health care to the individual; or

c. Payment for the provision of health care to the individual.

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

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

Access to Electronic Communications

Electronic Communication Privacy Act

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

1. Intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept any wire, oral, or electronic communication;

2. Intentionally uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when:

a. Such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication; or

b. Such device transmits communications by radio, or interferes with the transmission of such communication; or

c. Such person knows, or has reason to know, that such device or any component thereof has been sent through the mail or transported in interstate or foreign commerce; or

d. Such use or endeavor to use takes place on the premises of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or obtains or is for the purpose of obtaining information relating to the operations of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or

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e. Such person acts in the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;

3. Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the prohibited interception of a wire, oral, or electronic communication;

4. Intentionally uses, or endeavors to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the prohibited interception of a wire, oral, or electronic communication; or

5. Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by 18 U.S.C. 2511(2)(a)(ii), 2511(2)(b)–(c), 2511(2)(e), 2516, and 2518; knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation; having obtained or received the information in connection with a criminal investigation; and with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation.

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

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

Stored Wire and Electronic Communications and Transactional Records Access Act

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

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

Exceptions

This section does not apply with respect to conduct authorized:

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6. By the person or entity providing a wire or electronic communications service;

7. By a user of that service with respect to a communication of or intended for that user; or

8. By sections 18 U.S.C. 2703, 2704, or 2518.

18 U.S.C. 2701(c)

Definitions

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

"Electronic Storage" "Electronic storage" means:

9. Any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and

10. Any storage of such communication by an electronic communication service for purposes of backup protection of such communication.

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

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

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

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

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

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"Person"	"Person" means any employee, or agent of the United States or any state or political subdivision thereof, and any individual, partnership, association, joint stock company, trust, or corporation. *18 U.S.C. 2510(6), 2711(1)*
Cybersecurity Information Sharing Act	A district may, for a cybersecurity purpose and consistent with the protection of classified information, share with, or receive from, any other non-federal entity or the federal government a cyber threat indicator or defensive measure. A district receiving a cyber threat indicator or defensive measure from another entity shall comply with otherwise lawful restrictions placed on the sharing or use of such cyber threat indicator or defensive measure by the sharing entity. *6 U.S.C. 1503(c)*
Protection and Use of Information *Security*	A district monitoring an information system, operating a defensive measure, or providing or receiving a cyber threat indicator or defensive measure under 6 U.S.C. 1503 shall implement and utilize a security control to protect against unauthorized access to or acquisition of such indicator or measure. *6 U.S.C. 1503(d)(1)*
Removal of Personal Information	A district sharing a cyber threat indicator pursuant to these provisions shall, prior to sharing: 11. Review such indicator to assess whether it contains any information not directly related to a cybersecurity threat that the district knows at the time of sharing to be personal information of a specific individual or information that identifies a specific individual and remove such information; or 12. Implement and utilize a technical capability configured to remove any information not directly related to a cybersecurity threat that the district knows at the time of sharing to be personal information of a specific individual or information that identifies a specific individual. *6 U.S.C. 1503(d)(2)*
Use of Information	A cyber threat indicator or defensive measure shared or received may, for cybersecurity purposes: 13. Be used by a district to monitor or operate a defensive measure that is applied to an information system of the district, or an information system of another non-federal entity or a federal entity upon written consent of that other entity; and 14. Be otherwise used, retained, and further shared by a district subject to an otherwise lawful restriction placed by the sharing entity on such indicator or measure, or an otherwise applicable provision of law. *6 U.S.C. 1503(d)(3)*

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~~Exception~~	~~A cyber threat indicator or defensive measure shared with a state, tribal, or local government under Title 6, United States Code, may not be used by any such government to regulate, including an enforcement action, the lawful activity of any non-federal entity or any activity taken by a non-federal entity pursuant to mandatory standards, including an activity relating to monitoring, operating a defensive measure, or sharing of a cyber threat indicator. A cyber threat indicator or defensive measure shared as described in this provision may, consistent with a state, tribal, or local government regulatory authority specifically relating to the prevention or mitigation of cybersecurity threats to information systems, inform the development or implementation of a regulation relating to such information systems. *6 U.S.C. 1503(d)(4)(C)*~~
~~*Law Enforcement Use*~~	~~A district that receives a cyber threat indicator or defensive measure under Title 6, United States Code, may use such indicator or measure for the purposes described in 6 U.S.C. 1504(d)(5)(A). *6 U.S.C. 1503(d)(4)(B)* [See CKE]~~
~~*Exemption from Public Disclosure*~~	~~A cyber threat indicator or defensive measure shared by or with a state, tribal, or local government under 6 U.S.C. 1503 shall be deemed voluntarily shared information and exempt from disclosure under any state or local freedom of information law, open government law, open meetings law, open records law, sunshine law, or similar law requiring disclosure of information or records. *6 U.S.C. 1503(d)(4)(B)*~~ ~~A cyber threat indicator or defensive measure shared with the federal government under Title 6, United States Code, shall be:~~ ~~15. Deemed voluntarily shared information and exempt from disclosure under federal public information law and any state or local provision of law requiring disclosure of information or records; and~~ ~~16. Withheld, without discretion, from the public under federal public information law and any state or local provision of law requiring disclosure of information or records.~~ ~~*6 U.S.C. 1504(d)(3)* [See GBA]~~
~~No Duty~~	~~Nothing in these provisions creates a duty to share a cyber threat indicator or defensive measure or to warn or act based on receipt of a cyber threat indicator or defensive measure; or undermines or limits the availability of otherwise applicable common law or statutory defenses. *6 U.S.C. 1505(c)*~~
~~Definitions~~ ~~*"Non-Federal Entity"*~~	~~"Non-federal entity" means any private entity, non-federal government agency or department, or state, tribal, or local government~~

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

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

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

~~*"Cyber Threat Indicator"*~~ ~~"Cyber threat indicator" means information that is necessary to describe or identify:~~

~~17. Malicious reconnaissance, as defined in 6 U.S.C. 1501(12), including anomalous patterns of communications that appear to be transmitted for the purpose of gathering technical information related to a cybersecurity threat or security vulnerability;~~

~~18. A method of defeating a security control or exploitation of a security vulnerability;~~

~~19. A security vulnerability, including anomalous activity that appears to indicate the existence of a security vulnerability;~~

~~20. A method of causing a user with legitimate access to an information system or information that is stored on, processed by, or transiting an information system to unwittingly enable the defeat of a security control or exploitation of a security vulnerability;~~

~~21. Malicious cyber command and control, as defined in 6 U.S.C. 1501(11);~~

~~22. The actual or potential harm caused by an incident, including a description of the information exfiltrated as a result of a particular cybersecurity threat;~~

~~23. Any other attribute of a cybersecurity threat, if disclosure of such attribute is not otherwise prohibited by law; or~~

~~24. Any combination thereof.~~

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

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

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Information Required on Website

A district that at any time on or after January 1, 2019, maintained a publicly accessible internet website shall post on a publicly accessible website the following information:

1. The district's contact information, including a mailing address, telephone number, and email address;
2. Each member of the board;
3. The date and location of the next election for board members [see BB series];
4. The requirements and deadline for filing for candidacy of board member, which shall be continuously posted for at least one year before the election day for the office [see BB series];
5. Each notice of a meeting of the political subdivision's governing body under the Open Meetings Act (Government Code Chapter 551, Subchapter C) [see BE]; and
6. Each record of a meeting of the political subdivision's governing body under Government Code 551.021 [see BE].

Items 5 and 6 above do not apply to a district with a population of less than 5,000 in the district's boundaries and located in a county with a population of less than 25,000.

Gov't Code 2051.151

Trustee Information

Each district that maintains an internet website shall post on the website the name, email address, and term of office, including the date the term began and the date the term expires, of each member of the district's board of trustees. If a district does not maintain an internet website, the district shall submit the information required above to the Texas Education Agency (TEA). On receipt of the district's information, TEA shall post the information on TEA's internet website.

Each time there is a change in the membership of a district's board, the district shall update the information required above and, as applicable post the updated information on the district's internet website or submit the updated information to TEA for posting on TEA's internet website.

Education Code 11.1518

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

Other Required Internet Postings

The following posting requirements apply to a district that maintains an internet website:

1. A board may not vote on adoption of a proposed local innovation plan unless the final version of the proposed plan has been available on the district website for at least 30 days, under Education Code 12A.005(a)(1) and 19 Administrative Code 102.1307(a)(1). [See AF]
2. A district designated as a district of innovation shall ensure that a copy of its current local innovation plan is available to the public by posting and maintaining the plan in a prominent location on the district's website, under Education Code 12A.0071(a) and 19 Administrative Code 102.1305(e), .1307(f). [See AF]
3. Not later than 30 days after an accreditation status of accredited-warned, accredited-probation, or not accredited-revoked is assigned, a district must post notice on the home page of its website with a link to the required notification under 19 Administrative Code 97.1055(f), and maintain this until the district is assigned the accredited status. [See AIA]
4. A board shall disseminate its Texas Academic Performance Report (TAPR) by posting it on the district website under 19 Administrative Code 61.1022(f). [See AIB]
5. Not later than the tenth day after the first day of instruction of each school year, a district shall make available each campus report card, the district's performance report, the district's accreditation status and performance rating, and a definition and explanation of each accreditation status, under Education Code 39.362. [See AIB]
6. A district shall post its annual federal report card under 20 U.S.C. 6311(h)(2). [See AIB]
7. A district shall post a targeted improvement plan for a campus assigned an unacceptable performance rating on its website before the board hearing on the plan under Education Code 39A.057(b). [See AIC]

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8. A district shall notify stakeholders of their ability to review the completed campus turnaround plan on the district website at least 30 days before the final plan is submitted to the board of trustees, under 19 Administrative Code 97.1064(d)(1). [See AIC]

9. A district shall post an election notice required under Election Code 85.007. [See BBBA]

10. Each day early voting is conducted, the district shall post the branch daily register under Election Code 85.072. [See BBBA]

11. A district shall post early voting rosters under Election Code 87.121. [See BBBA]

~~10.~~12. A district shall post the minutes of the last regular board meeting held before an election of trustees if the minutes reflect that a trustee is deficient in meeting the trustee's training requirement, under Education Code 11.159(b) and 19 Administrative Code 61.1(j). [See BBD]

~~11.~~13. A district that is located wholly or partly in a municipality with a population of more than 500,000 and with a student enrollment of more than 15,000 shall post a report filed pursuant to Election Code Chapter 254 by a board member, a candidate for membership on the board, or a specific-purpose committee for supporting, opposing, or assisting a candidate or member of a board under Election Code 254.04011. [See BBBC]

~~12.~~14. A district shall provide access to the conflicts disclosure statements and questionnaires under Local Government Code 176.009. [See BBFA, CHE]

~~13.~~15. A district shall post the statements regarding activities to support and promote student health under Education Code 28.004. [See BDF]

~~14.~~16. A board must post notice of a board meeting and, if the district contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more, the board must also post the agenda for a board meeting under Government Code 551.056. [See BE]

~~15.~~17. A district that has a student enrollment of 10,000 or more shall post the archived recording, or a link thereto, of its meetings under Government Code 551.128(b-1). [See BE]

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18. A district conducting a bond election shall post the election order, the election notice, the contents of the proposition, and any sample ballot under Election Code 4.003(f). [See CCA]

19. A district conducting a bond election shall post the voter information document beginning not later than the 21st day before election day and ending on the day after the election, under Government Code 1251.052(d). [See CCA]

~~16.~~20. A district issuing capital appreciation bonds shall post the information required by Government Code 1201.0245. [See CCA]

21. Not later than 30 days before the date of an election to approve a tax rate, a district must post the results of an efficiency audit under Education Code 11.184. [See CCG]

~~17.~~22. A district shall include on the home page of its website the prescribed statement if the district increases the amount of taxes to fund maintenance and operation expenditures under Tax Code 26.05(b). [See CCG]

~~18.~~23. A district shall post a summary of its proposed budget concurrently with publication of the proposed budget under Education Code 44.0041. [See CE]

24. In the format prescribed by the comptroller, a district shall post or cause to be posted tax rate and budget information under Tax Code 26.18. [See CE]

~~19.~~25. A district shall maintain its adopted budget on the district's website until the third anniversary of the date the budget was adopted, under Education Code 44.0051. [See CE]

~~20.~~26. A district shall continuously post its annual financial report under Local Government Code 140.008 on its website until the district posts the next annual report, or, as an alternative, the district may post a link to the comptroller's website where the district's financial information may be viewed. [See CFA]

~~21.~~27. A district shall continuously post on its website the contact information for the district's main office, including the physical address, the mailing address, the main telephone number, and an email address, under Local Government Code 140.008(f)(2). [See CFA]

~~22. A district shall report its energy usage information on a publicly accessible internet website with an interface designed for ease of navigation, if available, under Government Code 2265.001. [See CL]~~

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~~23.~~28. A district that does not participate in the uniform group health insurance program (TRS ActiveCare) shall post its comparability report, together with the policy or contract for the group health coverage plan, under Education Code 22.004(d). [See CRD]

~~24.~~29. A district shall post the board's employment policies under Education Code 21.204(d). [See DCB]

30. The board shall adopt and post on the district's website early childhood literacy and mathematics plans that set specific annual goals under Education Code 11.185. [See EA]

31. The board shall post on the district's website and on the website, if any, of each campus the annual report of progress toward the goals set under the early childhood literacy and mathematics plans under Education Code 11.185. [See EA]

32. The board shall post on the district's website and on the website, if any, of each campus the annual report of progress toward the goals set under the college, career, and military readiness plans under Education Code 11.186. [See EA]

~~25.~~33. A district shall post the transition and employment guide for students enrolled in special education programs and their parents in order to provide information on statewide services and programs that assist in the transition to life outside the public school system, under Education Code 29.0112. [See EHBAD]

~~26.~~34. Annually, a district shall post any agreement between the district and a public institution of higher education to provide a dual credit program, under Education Code 28.009(b-2). [See EHDD]

~~27.~~35. A district shall publish information from TEA under Education Code 28.02121 explaining the advantages of the distinguished level of achievement and each endorsement. [See EIF]

~~28.~~36. A district shall post the date the PSAT/NMSQT will be administered and the date any college advanced placement tests will be administered, under Education Code 29.916. [See EK]

~~29.~~37. A district that receives funds under Title 1, Part A shall post on its website and the website of each campus for each grade served, information on each assessment required by the state to comply with 20 U.S.C. 6311, other assessments required by the state, and assessments required district-wide, under 20 U.S.C. 6312(e)(2)(B). [See EKB]

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~~30.~~38. A district shall post information regarding local programs and services, including charitable programs and services, available to assist students who are homeless ~~students~~, under Education Code 33.906. [See FDC]

~~31.~~39. A district shall prominently post information about required and recommended immunizations and procedures for claiming an exemption from immunization requirements under Education Code 38.019. [See FFAB]

40. Each school year, the board shall post a summary of the Guidelines for the Care of Students With Food Allergies At-Risk for Anaphylaxis[1] on the district's website with instructions for obtaining access to the complete guidelines document, under Education Code 38.0151. [See FFAF]

~~32.~~41. To the extent practicable, a district must post the procedure for reporting bullying established by the district's bullying policy, under Education Code 37.0832(e). [See FFI]

42. A district shall post on its website, for each district campus, the email address and dedicated phone number of the campus behavior coordinator under Education Code 26.015. [See FO]

43. If the board designates a method for making a written request for public information, other than mail, email, or hand-delivery, the board must include a statement that a request may be made by that method on its website under Government Code 552.234(b) unless the statement is on the sign required by Government Code 552.205. [See GBAA]

44. A board that allows requestors to use the public information request form created by the attorney general must post the form on the district website under Government Code 552.235. [See GBAA]

~~33.~~45. A district shall post on its website and each campus shall post on any campus website a notice regarding the district's ability to refuse entry or eject certain persons under Education Code 37.105 and 19 Administrative Code 103.1207(g), including the appeal process. [See GKA]

Optional Internet Postings

A district that maintains an internet website may post the following:

1. A campus intervention team may give the required notice of the public meeting for input prior to the development of a targeted improvement plan fifteen days prior to the meeting by way of the district and campus website, under 19 Administrative Code 97.1061(d)(3)(A)(ii). [See AIB]

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2. A board may broadcast an open meeting over the internet, under Government Code 551.128. [See BE]

3. A district may publish the superintendent's employment contract on the district's website instead of publishing it in the annual financial management report under 19 Administrative Code 109.1001(q)(3)(B)(i). [See CFA]

4. Notice of a vacant position for which a certificate or license is required may be provided by posting the position on the district's internet website, rather than on a bulletin board, under Education Code 11.1513. [See DC]

5. A district may place on its internet website a current copy of the procedural safeguards notice regarding special education and related services, under 34 C.F.R. 300.504(b). [See EHBAE]

6. A district may provide the annual notice to the parent of each student enrolled in grade 9 or above of the availability of programs under which a student may earn college credit, under Education Code 28.010. [See EHDD]

7. A board may post a mailing address and email address designated for receiving written requests for public information on its website under Government Code 552.234(d). [See GBAA]

Geospatial Data Products

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

Notice

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

1. Is created or hosted by the district;

2. Appears to represent property boundaries; and

3. Was not produced using information from an on-the-ground survey conducted by or under the supervision of a registered professional land surveyor or land surveyor authorized to perform surveys under laws in effect when the survey was conducted.

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

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

Gov't Code 2051.102

Exemption

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

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

Gov't Code 2051.103

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[1] TDSHS Guidelines for the Care of Students with Food Allergies At-Risk for Anaphylaxis: https://www.dshs.texas.gov/uploadedFiles/Content/Prevention_and_Preparedness/schoolhealth/SHAC/Guidelines-Food%20Allergy-Final.pdf

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Cybersecurity Policy

Each district shall adopt a cybersecurity policy to:

1. Secure district cyberinfrastructure against cyber attacks and other cybersecurity incidents; and

2. Determine cybersecurity risk and implement mitigation planning.

A district's cybersecurity policy may not conflict with the information security standards for institutions of higher education adopted by the Department of Information Resources (DIR) under Government Code Chapters 2054 and 2059.

Cybersecurity Coordinator

The superintendent shall designate a cybersecurity coordinator to serve as a liaison between the district and the Texas Education Agency (TEA) in cybersecurity matters.

Report to TEA

The district's cybersecurity coordinator shall report to TEA any cyber attack or other cybersecurity incident against the district cyberinfrastructure that constitutes a breach of system security as soon as practicable after the discovery of the attack or incident.

Report to Parent

The district's cybersecurity coordinator shall provide notice to a parent of or person standing in parental relation to a student enrolled in the district of an attack or incident for which a report is required to TEA involving the student's information.

Definitions

For purposes of the district's cybersecurity policy, the following definitions apply:

Breach of System Security

"Breach of system security" means an incident in which student information that is sensitive, protected, or confidential, as provided by state or federal law, is stolen or copied, transmitted, viewed, or used by a person unauthorized to engage in that action.

Cyber Attack

"Cyber attack" means an attempt to damage, disrupt, or gain unauthorized access to a computer, computer network, or computer system.

Cybersecurity

"Cybersecurity" means the measures taken to protect a computer, computer network, or computer system against unauthorized use or access.

Education Code 11.175

Cybersecurity Training

At least once each year, a district shall identify district employees who have access to a district computer system or database and require those employees and board members to complete a cybersecurity training program certified under Government Code 2054.519 (state-certified cybersecurity training programs) or offered by the

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district as described at District Training Program, below. *Gov't Code 2054.5191(a-1)*

The board may select the most appropriate state-certified cybersecurity training program or district training program for employees of the district to complete. The board shall:

1. Verify and report on the completion of a cybersecurity training program by district employees to the DIR; and

2. Require periodic audits to ensure compliance with these provisions.

Gov't Code 2054.5191(b)

District Training Program

A district that employs a dedicated information resources cybersecurity officer may offer to its employees a cybersecurity training program that satisfies the requirements described by Government Code 2054.519(b). *Gov't Code 2054.519(f)*

Security Breach Notification

A district that owns, licenses, or maintains computerized data that includes sensitive personal information shall disclose any breach of system security, after discovering or receiving notification of the breach, to any individual whose sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made without unreasonable delay and in each case not later than the 60th day after the date on which the district determines that the breach occurred, except as provided at Criminal Investigation Exception, below, or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

To Individuals

Resident of Other State

If the individual whose sensitive personal information was or is reasonably believed to have been acquired by an unauthorized person is a resident of a state that requires a person that owns or licenses computerized data to provide notice of a breach of system security, the notice of the breach of system security required under Notice, below, may be provided under that state's law or under Notice, below.

To the Owner or License Holder

A district that maintains computerized data that includes sensitive personal information not owned by the district shall notify the owner or license holder of the information of any breach of system security immediately after discovering the breach, if the sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

Notice

A district may give the required notice to individuals or the owner or license holder by providing:

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1. Written notice at the last known address of the individual;

2. Electronic notice, if the notice is provided in accordance with 15 U.S.C. Section 7001 (electronic records and signatures); or

3. If the district demonstrates that the cost of providing notice would exceed $250,000, the number of affected persons exceeds 500,000, or the district does not have sufficient contact information, by:

   a. Electronic mail, if the district has electronic mail addresses for the affected persons;

   b. Conspicuous posting of the notice on the district's website; or

   c. Notice published in or broadcast on major statewide media.

Information Security Policy

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

To the Attorney General

A district that is required to disclose or provide notification of a breach of system security under these provisions shall notify the attorney general of that breach not later than the 60th day after the date on which the district determines that the breach occurred if the breach involves at least 250 residents of this state. The notification must include:

1. A detailed description of the nature and circumstances of the breach or the use of sensitive personal information acquired as a result of the breach;

2. The number of residents of this state affected by the breach at the time of notification;

3. The measures taken by the district regarding the breach;

4. Any measures the district intends to take regarding the breach after the notification described at Notice, above; and

5. Information regarding whether law enforcement is engaged in investigating the breach.

To a Consumer Reporting Agency

If a district is required to notify at one time more than 10,000 persons of a breach of system security, the district shall also notify each consumer reporting agency, as defined by 15 U.S.C. 1681a,

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that maintains files on consumers on a nationwide basis, of the timing, distribution, and content of the notices. The district shall provide the notice without unreasonable delay.

Criminal Investigation Exception

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

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

Definitions

For purposes of security breach notifications, the following definitions apply:

Breach of System Security

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

Sensitive Personal Information

"Sensitive personal information" means:

1. An individual's first name or first initial and last name in combination with any one or more of the following items, if the name and the items are not encrypted:
   a. Social security number;
   b. Driver's license number or government-issued identification number; or
   c. Account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account; or
2. Information that identifies an individual and relates to:
   a. The physical or mental health or condition of the individual;
   b. The provision of health care to the individual; or

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c. Payment for the provision of health-care to the individual.

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

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

Cybersecurity Information Sharing Act

A district may, for a cybersecurity purpose and consistent with the protection of classified information, share with, or receive from, any other non-federal entity or the federal government a cyber threat indicator or defensive measure in accordance with the Cybersecurity Information Sharing Act, 6 U.S.C. Subchapter I (sections 1501–1510). *6 U.S.C. 1503(c)*

Removal of Personal Information

A district sharing a cyber threat indicator pursuant to these provisions shall, prior to sharing:

1. Review such indicator to assess whether it contains any information not directly related to a cybersecurity threat that the district knows at the time of sharing to be personal information of a specific individual or information that identifies a specific individual and remove such information; or

2. Implement and utilize a technical capability configured to remove any information not directly related to a cybersecurity threat that the district knows at the time of sharing to be personal information of a specific individual or information that identifies a specific individual.

6 U.S.C. 1503(d)(2)

Definitions

For purposes of the Cybersecurity Information Sharing Act, the following definitions apply:

Cybersecurity Purpose

"Cybersecurity purpose" means the purpose of protecting an information system or information that is stored on, processed by, or transiting an information system from a cybersecurity threat or security vulnerability. *6 U.S.C. 1501(4)*

Cybersecurity Threat

"Cybersecurity threat" means an action, not protected by the First Amendment to the United States Constitution, on or through an information system that may result in an unauthorized effort to adversely impact the security, availability, confidentiality, or integrity of an information system or information that is stored on, processed by, or transiting an information system. The term does not include any action that solely involves a violation of a consumer term of service or a consumer licensing agreement. *6 U.S.C. 1501(5)*

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Cyber Threat Indicator

"Cyber threat indicator" means information that is necessary to describe or identify:

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

6 U.S.C. 1501(6)

Defensive Measure

"Defensive measure" means an action, device, procedure, signature, technique, or other measure applied to an information system or information that is stored on, processed by, or transiting an information system that detects, prevents, or mitigates a known or suspected cybersecurity threat or security vulnerability. The term does not include a measure that destroys, renders unusable, provides unauthorized access to, or substantially harms an information system or information stored on, processed by, or transiting such information system not owned by the private entity operating the measure or another entity that is authorized to provide consent and has provided consent to that private entity for operation of such measure. *6 U.S.C. 1501(7)*

Information System

"Information system" has the meaning given the term in 44 U.S.C. 3502 and includes industrial control systems, such as supervisory

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control and data acquisition systems, distributed control systems, and programmable logic controllers. *6 U.S.C. 1501(9)*

Security Control — "Security control" means the management, operational, and technical controls used to protect against an unauthorized effort to adversely affect the confidentiality, integrity, and availability of an information system or its information. *6 U.S.C. 1501(16)*

Security Vulnerability — "Security vulnerability" means any attribute of hardware, software, process, or procedure that could enable or facilitate the defeat of a security control. *6 U.S.C. 1501(17)*

Access to Electronic Communications

Electronic Communication Privacy Act

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

1. Intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept any wire, oral, or electronic communication;

2. Intentionally uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when:

    a. Such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication; or

    b. Such device transmits communications by radio, or interferes with the transmission of such communication; or

    c. Such person knows, or has reason to know, that such device or any component thereof has been sent through the mail or transported in interstate or foreign commerce; or

    d. Such use or endeavor to use takes place on the premises of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or obtains or is for the purpose of obtaining information relating to the operations of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or

    e. Such person acts in the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;

3. Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information

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was obtained through the prohibited interception of a wire, oral, or electronic communication;

4. Intentionally uses, or endeavors to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the prohibited interception of a wire, oral, or electronic communication; or

5. Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by 18 U.S.C. 2511(2)(a)(ii), 2511(2)(b)–(c), 2511(2)(e), 2516, and 2518; knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation; having obtained or received the information in connection with a criminal investigation; and with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation.

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

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

Stored Wire and Electronic Communications and Transactional Records Access Act

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

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

Exceptions

This section does not apply with respect to conduct authorized:

1. By the person or entity providing a wire or electronic communications service;

2. By a user of that service with respect to a communication of or intended for that user; or

3. By sections 18 U.S.C. 2703, 2704, or 2518.

18 U.S.C. 2701(c)

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Definitions	"Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce. *18 U.S.C. 2510(12), 2711(1)*
Electronic Communication	
Electronic Storage	"Electronic storage" means: 1. Any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and 2. Any storage of such communication by an electronic communication service for purposes of backup protection of such communication. *18 U.S.C. 2510(17), 2711(1)* The term encompasses only the information that has been stored by an electronic communication service provider. Information that an individual stores to the individual's hard drive or cell phone is not in electronic storage under the statute. *Garcia v. City of Laredo, 702 F.3d 788 (5th Cir. 2012)*
Electronic Communications System	"Electronic communications system" means any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications. *18 U.S.C. 2510(14), 2711(1)*
Electronic Communication Service	"Electronic communication service" means any service which provides to users thereof the ability to send or receive wire or electronic communications. *18 U.S.C. 2510(15), 2711(1)*
Facility	"Facility" includes servers operated by electronic communication service providers for the purpose of storing and maintaining electronic storage. The term does not include technology, such as cell phones and computers, that enables the use of an electronic communication service. *Garcia v. City of Laredo, 702 F.3d 788 (5th Cir. 2012)*
Person	"Person" means any employee, or agent of the United States or any state or political subdivision thereof, and any individual, partnership, association, joint stock company, trust, or corporation. *18 U.S.C. 2510(6), 2711(1)*

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Technology Lending Program Grant

A district may apply to the commissioner of education to participate in the technology lending grant program established under Education Code 32.301. *Education Code 32.301(b)*

A district may use a grant awarded under this program or other local funds to purchase, maintain, and insure equipment for a technology lending program. Equipment purchased by a district with a grant is the property of the district. *Education Code 32.303*

Transfer of Equipment to Students

A district may transfer to a student enrolled in the district:

1. Any data processing equipment donated to the district, including equipment donated by a private donor, or a state eleemosynary institution or state agency under Government Code 2175.905 [see Fees, below];
2. Any equipment purchased by the district, to the extent consistent with the provisions at Use of Public Funds, below; and
3. Any surplus or salvage equipment owned by the district.

Education Code 32.102(a)

Before transferring data processing equipment to a student, a district must:

1. Adopt rules governing transfers, including provisions for technical assistance to the student by the district;
2. Determine that the transfer serves a public purpose and benefits the district; and
3. Remove from the equipment any offensive, confidential, or proprietary information, as determined by the district.

Education Code 32.104

Donations

A district may accept:

1. Donations of data processing equipment for transfer under these provisions; and
2. Gifts, grants, or donations of money or services to purchase, refurbish, or repair data processing equipment.

Education Code 32.102(b)

Fees

A state eleemosynary institution or institution or agency of higher education or other state agency may not collect a fee or other reimbursement from a district for surplus or salvage data processing equipment transferred to the district. *Gov't Code 2175.905(c)*

Use of Public Funds

A district may spend public funds to:

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1. Purchase, refurbish, or repair any data processing equipment transferred to a student; and

2. Store, transport, or transfer data processing equipment under these provisions.

Education Code 32.105

Eligibility

A student is eligible to receive data processing equipment under these provisions only if the student does not otherwise have home access to data processing equipment, as determined by the district. A district shall give preference to educationally disadvantaged students. *Education Code 32.103*

Return of Equipment

Except as provided below, a student who receives data processing equipment from a district under these provisions shall return the equipment to the district not later than the earliest of:

1. Five years after the date the student receives the equipment;

2. The date the student graduates;

3. The date the student transfers to another district; or

4. The date the student withdraws from school.

The requirements above do not apply if, at the time the student is required to return the equipment, the district determines that the equipment has no marketable value.

Education Code 32.106

Data Processing

"Data processing" means information technology equipment and related services designed for the automated storage, manipulation, and retrieval of data by electronic or mechanical means. *Gov't Code 2054.003(3); Education Code 32.101*

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Deferred Compensation—Section 457

A district, either alone or by contract with other political subdivisions, may create and administer for its employees a deferred compensation plan, the federal income tax treatment of which is governed by Section 457 of the Internal Revenue Code of 1986, and its subsequent amendments, and may assess a fee on each participating employee for administering the plan. *Gov't Code 609.001(11), .102, .112*

Such a deferred compensation plan shall be established and administered in accordance with Government Code Chapter 609, Subchapter B. *Gov't Code Ch. 609*

A district may contract with an employee for the deferment of any part of the employee's compensation.

Except as provided by Government Code 609.5025, to participate in a deferred compensation plan, an employee must consent in the contract to automatic payroll deductions in an amount equal to the deferred amount.

Gov't Code 609.007(a), (c)

Plan Administrator

A district that creates a deferred compensation plan shall designate a plan administrator for the plan. Districts that create a single plan shall designate jointly a plan administrator for the plan. A plan administrator may be an employee, a nonprofit corporation, an individual, a trustee, a private entity, another political subdivision, or an association of political subdivisions. *Gov't Code 609.103*

"Plan administrator" means the person responsible for administering a deferred compensation plan. *Gov't Code 609.001(5)*

Duties Regarding Qualified Vendors

A plan administrator shall:

1. Develop and implement criteria and procedures for evaluating a vendor's application to become a qualified vendor. *Gov't Code 609.113(a)*

2. Determine the minimum and maximum number of vendors that may be qualified vendors at any given time. *Gov't Code 609.114*

3. Develop and implement requirements for qualified vendors and their employees concerning disclosure, reporting, standards of conduct, solicitation, advertising, relationships with participating employees, the nature and quality of services provided to those employees, and other matters. *Gov't Code 609.116*

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Qualified Investment Product

To be classified as a qualified investment product for a deferred compensation plan, an investment product must be approved by the plan administrator to receive investments under the plan. The approval of an investment product for a 457 plan must be in writing. A qualified investment product may be offered only by a qualified vendor of the deferred compensation plan. *Gov't Code 609.003*

Roth Contribution Programs

A district may, if authorized by federal law, establish a program in accordance with the applicable federal law under which an employee may designate all or a portion of the employee's contribution under a 457 plan as a Roth contribution at the time the contribution is made or convert all or a portion of the employee's previous contribution under the plan to a Roth contribution. *Gov't Code 609.1025*

Annuities—Section 403(b)

A district may enter into a salary reduction agreement only if the qualified investment product is an eligible qualified investment ~~and is registered with the Teacher Retirement System (TRS) under V.A.T.S. Article 6228a-5, Section 8A.~~. *Art. 6228a-5, Sec. 5(a), V.A.T.S.*

Definitions

"Eligible qualified investment product" means a qualified investment product offered by a company that is eligible to offer the product under V.A.T.S. Article 6228-5, Section 6. *Art. 6228a-5, Sec.* ~~certified with TRS and offers:~~*4(2), V.A.T.S.*

~~1. Qualified investment products that are annuity contracts; or~~

~~2. Qualified investment products other than annuity contracts.~~

~~*34 TAC 53.1(10);4(3), V.A.T.S.*~~

~~A "certified company" is a company that meets all certification requirements that has certified to TRS and been placed on the TRS list of certified companies, and whose certification is not expired, suspended, surrendered, denied, or revoked. *34 TAC 53.1(4)*~~

"Qualified investment product" means ~~a product~~ an annuity or investment that:

~~4.~~1. Meets the requirements of Section 403(b), Internal Revenue Code of 1986, and its subsequent amendments;

~~5.~~2. Complies with applicable federal insurance and securities laws and regulations; and

~~6.~~3. Complies with applicable state insurance and securities laws and rules.

~~*34 TAC 53.1(17);*~~ *Art. 6228a-5, Sec. 4(*~~5~~4*), V.A.T.S.*

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"Salary reduction agreement" means an agreement between a district and an employee to reduce the employee's salary for the purpose of making direct contributions to or purchases of a qualified investment product. ~~*34 TAC 53.1(23);*~~ *Art. 6228a-5, Sec. 4(~~7~~5), V.A.T.S.*

~~Employee Designation~~

Eligible Company

An ~~employee is entitled to designate any agent, broker, or~~insurance company ~~through which a~~ is eligible to offer qualified investment products to the employees of districts under these provisions if the company satisfies the following criteria:~~product may be purchased or contributions may be made~~

1. The company is licensed by the Texas Department of Insurance and is in compliance with minimum capital and surplus requirements, including applicable risk-based capital and surplus requirements prescribed by rules adopted by the department; and

2. The company has experience in providing qualified investment products and has a specialized department dedicated to the service of qualified investment products, as determined by the district.

A company that offers qualified investment products other than annuity contracts, including a company that offers custodial accounts under Section 403(b)(7), Internal Revenue Code of 1986, is eligible to offer qualified investment products to employees of educational institutions under these provisions.

Art. 6228a-5, Sec. 6(a), (b), V.A.T.S.

Payroll Deduction

To the greatest degree possible, ~~a district~~districts that enter into a salary reduction agreement with employees shall require that contributions to eligible qualified investments be made by automatic payroll deduction and deposited directly in the investment accounts. *Art. 6228a-5, Sec. 5~~(e),~~ (f), V.A.T.S.*

Prohibitions

A district may not:

1. Refuse to enter into a salary reduction agreement with an employee if the qualified investment product that is the subject of the salary reduction is an eligible qualified investment ~~and is registered with TRS under V.A.T.S. Article 6228-5, Section 8A~~, except as provided below at item 8 and Exceptions;

2. Require or coerce an employee's attendance at any meeting at which qualified investment products are marketed;

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3. Limit the ability of an employee to initiate, change, or terminate a qualified investment product at any time the employee chooses;

4. Grant exclusive access to an employee by discriminating against or imposing barriers to any agent, broker, or company that provides qualified investment products;

5. Grant exclusive access to information about an employee's financial information, including information about an employee's qualified investment products, to a company or agent or affiliate of a company offering qualified investment products unless the employee consents in writing to the access;

6. Accept any benefit from a company or from an agent or affiliate of a company that offers qualified investment products;

7. Use public funds to recommend a qualified investment product offered by a company or an agent or affiliate of a company that offers a qualified investment product; or

8. Enter into or continue a salary reduction agreement with an employee if the qualified investment product that is the subject of the salary reduction agreement is not an eligible qualified investment~~, including the investment product of a company whose certification has been denied, suspended, or revoked~~ without first providing the employee with notice in writing that:

   a. Indicates the reason the subject of the salary reduction agreement is no longer an eligible qualified investment ~~or why certification has been denied, suspended, or revoked~~; and

   b. Clearly states that by signing the notice the employee is agreeing to enter into or continue the salary reduction agreement.

Exceptions

A district may refuse to enter into a salary reduction agreement with an employee if:

1. The eligible qualified investment product that is the subject of the salary reduction agreement is offered by a company that does not comply with the district's administrative requirements;

2. The district imposes the administrative requirements uniformly on all companies that offer eligible qualified investment products; and

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3. The administrative requirements are necessary to comply with employer responsibilities imposed by:

   a. Section 403(b), Internal Revenue Code of 1986, and its subsequent amendments;

   b. Any other provision of the Internal Revenue Code of 1986 that applies to Section 403(b);

   c. Any regulation adopted in relation to a law described by item (a) or (b) that is effective after December 31, 2007; or

   d. Any change to V.A.T.S. Article 6228a-5 that becomes effective after January 1, 2007.

Art. 6228a-5, Sec. 9, V.A.T.S.

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Note: For information on procuring goods and services under Education Code Chapter 44, see CH(LEGAL).

For additional legal requirements applicable to purchases with federal funds, see CBB.

For information on the new instructional facilities allotment, see CBA.

Board Authority

A district may adopt rules as necessary to implement Government Code Chapter 2269. *Gov't Code 2269.051*

Delegation of Authority

The board may delegate its authority under Government Code Chapter 2269 regarding an action authorized or required by Chapter 2269 to a designated representative, committee, or other person.

The board shall provide notice of the delegation, the limits of the delegation, and the name or title of each designated person by rule or in the request for bids, proposals, or qualifications or in an addendum to the request.

Gov't Code 2269.053

[For information regarding delegation in the event of a catastrophe, emergency, or natural disaster, see CH.]

Contracts Valued at or Above $50,000

All district contracts valued at $50,000 or more in the aggregate for each 12-month period shall be made by the method that provides the best value for a district [see also CH]:

1. An interlocal contract. [See CH]
2. Competitive bidding. [See CVA]
3. Competitive sealed proposals. [See CVB]
4. Construction manager-agent method. [See CVC]
5. Construction manager-at-risk method. [See CVD]
6. Design-build method. [See CVE]
7. Job order contract. [See CVF]
8. The reverse auction procedure as defined by Government Code 2155.062(d). [See CH]

Education Code 44.031(a); Gov't Code Ch. 2269

[For information on contract-related fees, see CH.]

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Selecting a Contracting Method

A board that considers a construction contract using a method authorized by Government Code Chapter 2269 other than competitive bidding must, before advertising, determine which method provides the best value for the district. *Gov't Code 2269.056(a)*

Exceptions

Emergency Damage or Destruction

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

Contracts Requiring a Bond

A reverse auction procedure, whether the same or similar to that described by Government Code 2155.062, may not be used to obtain services related to a public work contract for which a bond is required under Government Code 2253.021 [see Payment and Performance Bonds, below]. *Gov't Code 2253.021(h)*

Public Notice

Notice of the time by when and place where the bids or proposals, or the responses to a request for qualifications, will be received and opened shall be published in the county in which a district's central administrative office is located, once a week for at least two weeks before the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is not a newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which a district's central administrative office is located. In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately. *Education Code 44.031(g); Gov't Code 2269.052(a)–(b)*

Contract Selection Criteria

In determining the award of a contract, the district shall consider and apply:

1. Any existing laws, including any criteria, related to historically underutilized businesses; and
2. Any existing laws, rules, or applicable municipal charters, including laws applicable to local governments, related to the use of women, minority, small, or disadvantaged businesses.

In determining the award of a contract, the district may consider:

1. Price.

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2. The offeror's experience and reputation.
3. The quality of the offeror's goods or services.
4. The impact on the ability of the district to comply with rules relating to historically underutilized businesses.
5. The offeror's safety record.
6. The offeror's proposed personnel.
7. Whether the offeror's financial capability is appropriate to the size and scope of the project.
8. Any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

Gov't Code 2269.055

Out-of-State Bidders

A board shall not award a contract for general construction, improvements, services, or public works projects or for purchase of supplies, materials, or equipment to a bidder whose principal place of business is not in this state, unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the greater of the amount by which a resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located or a state in which a majority of the manufacturing relating to the contract will be performed. *Gov't Code 2252.001–.002*

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

Publishing Criteria

A district shall publish in the request for proposals or qualifications the criteria that will be used to evaluate the offerors and the applicable weighted value for each criterion. *Gov't Code 2269.056(b)*

Submission

A person who submits a bid, proposal, or qualification to a governmental entity shall seal it before delivery. *Gov't Code 2269.059*

Selection

A district shall base its selection among offerors on applicable criteria listed for the particular method used. *Gov't Code 2269.056(b)*

Making Evaluations Public

A district shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded. *Gov't Code 2269.056(c), .105*

Required Contract Provisions

~~A district may not enter into a contract with a company for goods and services unless the contract contains a written verification from~~

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~~the company that it does not boycott Israel and will not during the term of the contract. *Gov't Code 2270.002*~~

~~"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. *Gov't Code 808.001(2)*~~

For information on required contract provisions, see CH(LEGAL).

Change Orders

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

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

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

Education Code 44.0411

Inspection, Verification, and Testing

Independently of the contractor, construction manager-at-risk, or design-build firm, a district shall provide or contract for the construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the district. The district shall select the services for which it contracts in accordance with Government Code 2254.004. *Gov't Code 2269.058*

Impact Fees

A district is not required to pay impact fees imposed under Local Government Code Chapter 395 unless the board consents to the payment of the fees by entering a contract with the political subdivision that imposes the fees. The contract may contain terms the board considers advisable to provide for the payment of the fees. *Local Gov't Code 395.022*

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Energy Savings Performance Contracts

The contracting and delivery procedures for construction projects described at Government Code Chapter 2269 do not apply to energy savings performance contracts described at Education Code 44.901. *Education Code 44.901(j)* [See CL]

Professional Services

Architects and Engineers

An architect or engineer required to be selected or designated under Government Code Chapter 2269 has full responsibility for complying with Occupations Code Chapter 1051 or 1001, as applicable.

If the selected or designated architect or engineer is not a full-time employee of the district, the district shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Government Code 2254.004 [see Procuring Professional Services, below].

Gov't Code 2269.057

Registered Architect

An architectural plan or specification for any of the following may be prepared only by an architect registered in accordance with Occupations Code, Title 6, Chapter 1051:

1. A new building constructed and owned by a district that will be used for education, assembly, or office occupancy when the total projected construction costs at the commencement of construction exceed $100,000.

2. Any alteration or addition to an existing building owned by a district that is, or will be, used for education, assembly, or office occupancy when the total projected construction costs of alteration or addition at the commencement of construction exceed $50,000 and the alteration or addition requires the removal, relocation, or addition of any walls or partitions or the alteration or addition of an exit.

This section does not prohibit a district from choosing a registered architect or a registered professional engineer as the prime design professional for a building construction, alteration, or addition project. Designation as the prime design professional does not expand, limit, or otherwise alter the scope of a design professional's practice nor does it allow a design professional to prepare an architectural plan or specification described above.

Occupations Code 1051.703; 22 TAC 1.212

Registered Engineer

Electrical or mechanical engineering plans, specifications, and estimates for a district construction project whose contemplated cost at completion is more than $8,000 and that involves public health, welfare, or safety must be prepared by a registered professional

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engineer, and the engineering construction executed under the supervision of such an engineer. *Occupations Code 1001.053; Atty. Gen. Op. C-791 (1966)*

A district is not required to secure the services of a registered professional engineer to prepare plans for or supervise a construction project that does not involve electrical or mechanical engineering and for which the contemplated cost does not exceed $20,000. *Occupations Code 1001.053*

Certification for Purchases Through Purchasing Cooperatives

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

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

2. The plans and specifications required under Chapters 1001 and 1051, Occupations Code, have been prepared.

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

Gov't Code 791.011(j)

Procuring Professional Services

The purchasing requirements of Education Code 44.031 do not apply to a contract for professional services rendered, including the services of an architect. A district may contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Government Code 2254.003, in lieu of the methods provided by Education Code 44.031. *Education Code 44.031(f)*

Competitive bids shall not be solicited for professional services of any architect, landscape architect, land surveyor, professional engineer, or state-certified or state-licensed real estate appraiser. Contracts for these professional services shall be made on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price. *Gov't Code 2254.002, .003(a)*

In procuring architectural, engineering, or land-surveying services, a district shall:

1. First select the most highly qualified provider on the basis of demonstrated competence and qualifications; and

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2. Then attempt to negotiate a contract with that provider at a fair and reasonable price.

If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land-surveying services, a district shall formally end negotiations with that provider, select the next most highly qualified provider, and attempt to negotiate a contract with that provider at a fair and reasonable price. A district shall continue this process until the parties enter into a contract.

Gov't Code 2254.004

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

Contracts for Engineering or Architectural Services

A covenant or promise in, in connection with, or collateral to a contract for engineering or architectural services to which the district is a party is void and unenforceable if the covenant or promise provides that a licensed engineer or registered architect whose work product is the subject of the contract must indemnify or hold harmless the district against liability for damage, other than liability for damage to the extent that the damage is caused by or results from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the indemnitor or the indemnitor's agent, consultant under contract, or another entity over which the indemnitor exercises control.

Indemnification

Duty to Defend

Except as provided below, a covenant or promise in, in connection with, or collateral to a contract for engineering or architectural services to which the district is a party is void and unenforceable if the covenant or promise provides that a licensed engineer or registered architect whose work product is the subject of the contract must defend a party, including a third party, against a claim based wholly or partly on the negligence of, fault of, or breach of contract by the district, the district's agent, the district's employee, or other entity, excluding the engineer or architect or that person's agent, employee, or subconsultant, over which the district exercises control. A covenant or promise may provide for the reimbursement of the district's reasonable attorney's fees in proportion to the engineer's or architect's liability.

District as Additional Insured

The district may require in a contract for engineering or architectural services that the engineer or architect name the district as an additional insured under the engineer's or architect's general liability insurance policy and provide any defense provided by the policy.

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Standard of Care

A contract for engineering or architectural services to which a governmental agency is a party must require a licensed engineer or registered architect to perform services:

1. With the professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license; and

2. As expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect.

In a contract for engineering or architectural services to which the district is a party, a provision establishing a different standard of care than a standard described above is void and unenforceable. If a contract contains a void and unenforceable provision, the standard of care described above applies.

Nothing in these provisions prohibits a district in a contract for engineering or architectural services to which the district is a party from including and enforcing conditions that relate to the scope, fees, and schedule of a project in the contract.

Local Gov't Code 271.904

Right to Work

While engaged in procuring goods or services, awarding a contract, or overseeing procurement or construction for a public work or public improvement under Government Code Chapter 2269, a district:

1. May not consider whether a person is a member of or has another relationship with any organization; and

2. Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to an organization.

Gov't Code 2269.054

Collective Bargaining

A district awarding a public work contract funded with state money, including the issuance of debt guaranteed by the state, may not:

1. Prohibit, require, discourage, or encourage a person bidding on the public work contract, including a contractor or subcontractor, from entering into or adhering to an agreement with a collective bargaining organization relating to the project; or

2. Discriminate against a person described by item 1 based on the person's involvement in the agreement, including the person's status or lack of status as a party to the agreement or willingness or refusal to enter into the agreement.

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Gov't Code 2269.0541

Accessibility

Each facility or part of a facility constructed by, on behalf of, or for the use of a district shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities. Alterations of facilities that affect or could affect their usability shall, to the maximum extent feasible, be altered in such manner that the altered portion is readily accessible to and usable by individuals with disabilities. *28 C.F.R. 35.151, 34 C.F.R. 104.23*

Payment and Performance Bonds

When a board makes a public work contract for constructing, altering, or repairing a public building or carrying out or completing any public work, it shall require the contractor, before beginning the work, to execute payment and/or performance bonds as specified below. The bonds shall be executed by a corporate surety in accordance with Insurance Code 7.19-1. The bond shall be payable to the board and in a form approved by the board. *Gov't Code 2253.021(a), (d)–(e)*

For a contract in excess of $100,000, a performance bond shall be executed in the amount of the contract conditioned on the faithful performance of the work according to the plans, specifications, and contract documents. The bond is solely for the protection of a district. *Gov't Code 2253.021(b)*

For a contract in excess of $25,000, a payment bond shall be executed in the amount of the contract solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the prime contractor or a subcontractor to supply public work labor or material. *Gov't Code 2253.021(c)*

Failure to Obtain Payment Bond

If a board fails to obtain a payment bond covering a contract in excess of $25,000 from the prime contractor, it is subject to the same liability as a surety would be, and a payment bond beneficiary is entitled to a lien on money due to the prime contractor in the same manner and to the same extent as if the contract were subject to Subchapter J, Chapter 53, Property Code. *Gov't Code 2253.027*

No Bond for Design Services Only

A payment or performance bond is not required and may not provide coverage for the design portion of the design-build contract with the design-build firm. *Gov't Code 2269.311(a)* [See CVE for more information on design/build contracts, including bond amounts.]

Bond for Insured Loss

A board shall ensure that an insurance company that is fulfilling its obligation under a contract of insurance by arranging for the replacement of a loss, rather than by making a cash payment directly

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to the governmental entity, furnishes or has furnished by a contractor:

1. A performance bond for the benefit of a district, as described above; and

2. A payment bond, as described above. If the payment bond is not furnished, a district is subject to the same liability that a surety would have if the surety had issued the payment bond and the district had required the bond to be provided.

These bonds shall be furnished before the contractor begins work. It is an implied obligation under a contract of insurance for the insurance company to furnish these bonds.

Exception to Bond Requirement

The requirement that a district secure a performance or payment bond from an insurance company, above, does not apply when a surety company is complying with an obligation under a bond that had been issued for the benefit of the district.

Gov't Code 2253.022

Prevailing Wage on Public Works

A worker, laborer, or mechanic employed on a public work, exclusive of maintenance work, by or on behalf of a district shall be paid not less than the general prevailing rate of per diem wages. The general prevailing rate of per diem wages is the rate of per diem wages for work of a similar character in the locality in which the work is performed, and also includes the rate of per diem wages for legal holiday and overtime work. A worker is employed on a public work if the worker is employed by a contractor or subcontractor in the execution of a contract for public work with a district. *Gov't Code 2258.001, .021*

A board shall determine, as a sum certain, the general prevailing rate of per diem wages in a district for each craft or type of worker needed to execute the contract and also for legal holiday and overtime work. To ascertain the general prevailing rate of per diem wages, a board shall either conduct a survey of the wages received by classes of workers, laborers, and mechanics employed on projects of a character similar to the contract work in a district or adopt the prevailing wage rate as determined by the U.S. Department of Labor. A board shall specify the prevailing rate of per diem wages in the call for bids and in the contract itself. A board's determination of the general prevailing rates of per diem wages shall be final. *Gov't Code 2258.001, .022*

Enforcement

A board, and an agent or officer of the board, shall receive complaints regarding violations of the prevailing wage requirements of Chapter 2258, and withhold money from the contractor as required by statute. Upon receipt of a complaint, a board shall determine,

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before the 31st day after the date the information is received, whether good cause exists to believe that a contractor or subcontractor has failed to pay the prevailing wage and shall provide written notice of its determination to the contractor or subcontractor and any affected laborer, worker, or mechanic of its initial determination. *Gov't Code 2258.051–.052*

Retainage and Reimbursement

A board shall retain any amounts due under the contract pending a final determination of the violation. Upon a final determination that violations have occurred, a board shall use those retained amounts to pay the laborer, worker, or mechanic the difference between the amount the worker received in wages and the amount the worker would have received at the prevailing rate of per diem wages provided in the arbitrator's award. A board may adopt rules, orders, or ordinances relating to the manner in which the reimbursement is made. *Gov't Code 2258.052(d), .056*

Penalty for Noncompliance

The contractor to whom the contract is awarded or any subcontractors of the contractor shall pay not less than the specified rates to all laborers, workers, and mechanics employed in the execution of the contract. A contractor or subcontractor who fails to pay the specified rates as required shall pay to a district $60 for each worker, laborer, or mechanic employed for each calendar day or part of a calendar day the worker is paid less than the wage rates specified in the contract. A board must specify this penalty in the contract. If a district does not determine the prevailing wage rates and specify them in the contract, the contractor or subcontractor may not be fined. A board shall use any penalty money collected to offset the costs incurred in administering Government Code Chapter 2258. *Gov't Code 2258.023*

Required Workers' Compensation Coverage

A district that enters into a building or construction contract shall require the contractor to certify in writing that the contractor provides workers' compensation insurance coverage for each employee of the contractor employed on the public project. Each subcontractor shall provide such a certificate relating to coverage of the subcontractor's employees to the general contractor, who shall provide the subcontractor's certificate to the district. *Labor Code 406.096*

"Project" includes the provision of all services related to a building or construction contract for a district. A district that enters into a building or construction contract on a project shall:

1. Include in the bid specifications all the duties and responsibilities of contractors pertaining to required workers' compensation coverage, using the language required by 28 Administrative Code 110.110(c)(7).

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2. As part of the contract, using the language required by 28 Administrative Code 110.110(c)(7), require the contractor to perform the duties and responsibilities pertaining to required workers' compensation coverage as set out in 28 Administrative Code 110.110(d).

3. Obtain from the contractor a certificate of coverage for each person providing services on the project, prior to that person beginning work on the project. This provision includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, but is not limited to, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity furnishing persons to perform services on the project. "Services" includes, but is not limited to, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

4. Obtain from the contractor a new certificate of coverage showing extension of coverage:

   a. Before the end of the current coverage period, if the contractor's current certificate shows that the coverage period ends during the duration of the project; and

   b. No later than seven days after the expiration of the coverage for each other person providing services on the project whose current certificate shows that the coverage period ends during the duration of the project.

5. Retain certificates of coverage on file for the duration of the project and for three years thereafter.

6. Provide a copy of the certificate of coverage to the Texas Department of Insurance, Division of Workers' Compensation upon request and to any person entitled to a copy by law.

7. Use the language contained in 28 Administrative Code 110.110(c)(7) for bid specifications and contracts, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation.

28 TAC 110.110(a)(7), (8), (c)

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Exception — This coverage requirement does not apply to sole proprietors or partners of a covered business entity or certain corporate officers, if the sole proprietor, partner or officer is explicitly excluded from the coverage of their business entity through an endorsement to the insurance policy or certificate of authority to self-insure. *Labor Code 406.097; 28 TAC 110.110(i)*

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

Impermissible Practices — A board member, employee, or agent of a district who knowingly or with criminal negligence violates the purchasing laws found in Education Code Chapter 44 as described at Education Code 44.032 is subject to criminal penalties. *Education Code 44.032* [See CH]

Enforcement Actions — Government Code Chapter 2269 may be enforced through an action for declaratory or injunctive relief filed not later than the tenth day after the date on which the contract is awarded. *Gov't Code 2269.452*

Defects in ~~Instructional~~ Facilities — A district that brings an action for recovery of damages for the defective design, construction, renovation, or improvement of a district facility financed by bonds shall provide the commissioner with written notice of the action by registered or certified mail, return receipt requested, not later than the 30th day after the date the action is filed. If the district fails to comply with this provision, the court or an arbitrator or other adjudicating authority shall dismiss the action without prejudice. The dismissal of an action under this provision extends the statute of limitations on the action for a period of 90 days.

The notice must include a copy of the petition and an itemized list of the defects in the design, construction, renovation, or improvement for which the district is seeking damages under the action.

In an action involving an instructional facility financed by bonds for which the district receives state assistance under Education Code Chapter 46, Subchapter A (Instructional Facilities Allotment~~) shall provide the commissioner with written notice of the action.~~), the commissioner may join in the action on behalf of the state to protect the state's share.

~~The~~A district that brings an action under these provisions shall use the net proceeds from the action for:~~to~~

1. The repair ~~the defect or to replace the facility.~~ of the defective design, construction, renovation, or improvement of the facility on which the action is brought, including the repair of any ancillary damage to furniture and fixtures;

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2. The replacement of the facility on which the action is brought;

3. The reimbursement of the district for a repair or replacement; or

4. Any other purpose with written approval from the commissioner.

Education Code 46.008 applies to the repair. A district shall provide to the commissioner an itemized accounting of any repairs made.

The state's share ~~is state property.~~ resulting from an action brought under these provisions involving an instructional facility financed by bonds for which the school district receives state assistance under Education Code Chapter 46, Subchapter A is state property. The district shall send to the comptroller any portion of the state's share not used by the ~~school~~ district to repair the ~~defect~~defective design, construction, renovation, or improvement of the instructional facility on which the action is brought or to replace the facility. Education Code ~~42.258~~48.272 applies to the state's share.

~~*"Net Proceeds"*~~ *Definitions*

"Net proceeds" means the difference between the amount recovered by or on behalf of a school district in an action, by settlement or otherwise, and the legal fees and litigation costs incurred by the district in prosecuting the action.

~~*"State's Share"*~~

"State's share" means an amount equal to the district's net proceeds from the recovery multiplied by a percentage determined by dividing the amount of state assistance under Education Code Chapter 46, Subchapter A used to pay the principal of and interest on bonds issued in connection with the instructional facility that is the subject of the action by the total amount of principal and interest paid on the bonds as of the date of the judgment or settlement.

Attorney General Enforcement

If the attorney general believes that a district has violated or is violating Education Code 44.151(d), (e), or (f) (use of proceeds, accounting, and the state's share), the attorney general may, after providing at least two weeks' notice to the district, bring an action on behalf of the state to enjoin the district from violating those sections.

In such an action, the attorney general may request and the court may order any other appropriate relief that is in the public interest, including payment of:~~*Education Code 46.0111*~~

1. A civil penalty in an amount not to exceed $20,000 for each violation;

2. The attorney general's reasonable costs for investigating and prosecuting the violation; or

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3. If applicable, the amount of the state's share.

Education Code 44.151

Attorney Fees

A governmental contract for general construction, an improvement, a service, or a public works project may not provide for the award of attorney's fees to a district in a dispute in which the district prevails unless the contract provides for the award of attorney's fees to each other party to the contract if that party prevails in the dispute. *Gov't Code 2252.904*

The term includes a contract to obtain professional services subject to Government Code 2254. *Gov't Code 2252.151(3)*

Construction Liability Claims

To assert a claim against a contractor, subcontractor, supplier, or design professional for damages arising from damage to or loss of real or personal property caused by an alleged construction defect in an improvement to real property that is a public building or public work in which the district has an interest, the district must comply with Government Code Chapter 2272. *Gov't Code 2272.002(a)*

Prohibited Contracts

A district may not enter into a governmental contract with a company identified on a list prepared and maintained under Government Code 806.051 (now Government Code 2270.0201) (companies with business operations in Sudan), 807.051 (now Government Code 2270.0102) (companies with business operations in Iran), and 2252.153 (companies known to have contracts with or provide supplies or services to foreign terrorist organization). *Gov't Code 2252.152*

"Governmental contract" means a contract awarded by a governmental entity for general construction, an improvement, a service, or a public works project or for a purchase of supplies, materials, or equipment. The term includes a contract to obtain professional services subject to Government Code 2254. *Gov't Code 2252.151(3)*

[For other prohibitions, see CH(LEGAL).]

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SECTION D: PERSONNEL

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SECTION D: PERSONNEL

DFFA	Financial Exigency
DFFB	Program Change
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DG	EMPLOYEE RIGHTS AND PRIVILEGES
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DGB	Personnel-Management Relations
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DHC	Reports to Texas Education Agency
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DI	EMPLOYEE WELFARE
DIA	Freedom from Discrimination, Harassment, and Retaliation
DJ	EMPLOYEE RECOGNITION AND AWARDS
DK	ASSIGNMENT AND SCHEDULES
DL	WORK LOAD
DLA	Staff Meetings
DLB	Required Plans and Reports
DM	PROFESSIONAL DEVELOPMENT
DMA	Required Staff Development
DMB	Career Advancement
DMC	Continuing Professional Education
DMD	Professional Meetings and Visitations
DME	Research and Publication
DN	PERFORMANCE APPRAISAL
DNA	Evaluation of Teachers
DNB	Evaluation of Campus Administrators
DP	PERSONNEL POSITIONS
DPB	Substitute, Temporary, and Part-Time Positions

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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 insolvent before the commencement of a bankruptcy case or

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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)*

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*

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;

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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*

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

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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)*

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.

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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*"

"Physical or mental impairment" means:

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

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

29 C.F.R. 1630.2(h)

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~~"~~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:

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

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qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

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

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

Discrimination Based on Relationship

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

Illegal Drugs and Alcohol

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

Drug Testing

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

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

Alcohol Use

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

Qualification Standards

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

Direct Threat to Health or Safety

As a qualification standard, a district may require that an individual not pose a direct threat to the health or safety of other individuals in the workplace. "Direct threat" means a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation. *42 U.S.C. 12111(3); 29 C.F.R. 1630.2(r); Labor Code 21.002(6)(B)*

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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 Section 504	A district that receives federal financial assistance and that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act. *34 C.F.R. 104.7(b), .11*
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*

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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); North Haven Board of Education v. Bell, 456 U.S. 512 (1982)*
Compliance Coordinator	A district shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, the Age Act, and the ADA. The district shall notify all employees of the name, office 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 C.F.R. 106.8(b)*
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*

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Definitions

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

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

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

"Request for CHRI" is the processing and entry of a person's complete set of fingerprints in DPS's tenprint database and the comparison of those prints to DPS's latent print database and if authorized the entry into FBI's tenprint and comparison to the FBI's latent print database. *37 TAC 27.172*

Participation in the Criminal History Clearinghouse

The purpose of the clearinghouse is to:

1. Provide authorized entities with the Texas and FBI fingerprint-based criminal history results.
2. Provide authorized entities with subscription and notification service to disseminate updated criminal history information.

Districts shall only submit a request for CHRI on a person who has authorized the access of their information.

Districts may subscribe to a person in the clearinghouse, if the entity has the authority to view the record. Entities shall unsubscribe from a person when it no longer has authority to view a record.

Districts shall validate their subscriptions in accordance with DPS policies. "Validation" is a process whereby the subscriber reviews a subscription to determine whether they are still authorized to receive CHRI on that individual and updates the subscription accordingly. Validations are required on a yearly basis.

Districts shall maintain compliance with the FBI Criminal Justice Information Services Security Policy. Districts shall allow DPS and

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the FBI to conduct audits of their clearinghouse accounts to prevent any unauthorized access, use, or dissemination of the information.

37 TAC 27.171, .172(8), .174

Certified Persons

The State Board for Educator Certification (SBEC) shall review the NCHRI of a person who is an applicant for or holder of a certificate and who is employed by or is an applicant for employment by a district. *Education Code 22.0831(c)*

Noncertified Employees

Applicability

This section applies to a person who is not an applicant for or holder of a certificate from SBEC and who, on or after January 1, 2008, is offered employment by:

1. A district; or
2. A shared services arrangement, if the employee's or applicant's duties are or will be performed on school property or at another location where students are regularly present.

[For noncertified employees of a district or shared services arrangement hired before January 1, 2008, see All Other Employees, below.]

Information to DPS and TEA

Before or immediately after employing or securing the services of a person subject to this section, a district shall send or ensure that the person sends to DPS information that DPS requires for obtaining NCHRI, which may include fingerprints and photographs.

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

Employment Pending Review

After the required information is submitted, the person may begin employment, but that employment is conditional upon the review of that person's CHRI by TEA and must be terminated if TEA makes a determination that the employee or applicant is ineligible for employment.

Criminal History

A district shall obtain all CHRI that relates to a person subject to this section through the clearinghouse and shall subscribe to the CHRI of that person. A district may require the person to pay any fees related to obtaining the CHRI.

Education Code 22.0833; 19 TAC 153.1109(d)

Districts of Innovation

A prohibition, restriction, or requirement imposed by Education Code Chapter 22, Subchapter C (Criminal History Records) on an

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open-enrollment charter school applies to the same extent to a district of innovation or other charter entity.

The failure of a district of innovation to provide information required under Education Code 22.0832 may result in termination of the district 's designation as a district of innovation. [See AF]

Education Code 22.0815

Substitute Teachers

This section applies to a person who is a substitute teacher for a district or shared services arrangement.

Applicability

For purposes of the CHRI review requirements, a "substitute teacher" is a teacher who is on call or on a list of approved substitutes to replace a regular teacher and has no regular or guaranteed hours. A substitute teacher may be certified or noncertified.

Information to DPS and TEA

A district shall send or ensure that a person to whom this section applies sends to DPS information required for obtaining NCHRI, which may include fingerprints and photographs.

A district shall provide TEA with the name of a person to whom this section applies. TEA shall examine the CHRI and certification records of the person and notify the district if the person:

1. May not be hired or must be discharged as provided by Education Code 22.085; or
2. May not be employed as a substitute teacher because the person's educator certification has been revoked or is suspended.

Employment Pending Review

After the required information is submitted, the person may begin employment, but that employment is conditional upon the review of that person's CHRI by TEA and must be terminated if TEA makes a determination that the employee or applicant is ineligible for employment.

Criminal History

A district shall obtain all CHRI that relates to a person to whom this section applies through the clearinghouse. A district may require the person to pay any fees related to obtaining the CHRI.

Education Code 22.0836; 19 TAC 153.1101(5), .1111(d)

Student Teachers

This section applies to a person participating in an internship consisting of student teaching to receive a teaching certificate.

Applicability

Criminal History

A student teacher may not perform any student teaching until:

1. The student teacher has provided to a district a driver's license or another form of identification containing the person's

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photograph issued by an entity of the United States government; and

2. The district has obtained from DPS all CHRI that relates to a student teacher. A district may also obtain CHRI relating to a student teacher from any other law enforcement agency, criminal justice agency, or private consumer reporting agency. A district may require a student teacher to pay any costs related to obtaining the CHRI.

Education Code 22.0835

Coordination of Efforts

TEA, SBEC, a district, and a shared services arrangement may coordinate as necessary to ensure that criminal history reviews authorized or required under Education Code Chapter 22, Subchapter C are not unnecessarily duplicated. *Education Code 22.0833(h)*

All Other Employees

A district shall obtain CHRI that relates to a person who is not subject to an NCHRI review under Education Code Chapter 21, Subchapter C and who is an employee of:

1. The district; or
2. A shared services arrangement, if the employee's duties are performed on school property or at another location where students are regularly present.

A district may obtain the CHRI from:

1. DPS;
2. A law enforcement or criminal justice agency; or
3. A private consumer reporting agency [see Consumer Credit Reports, below].

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

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

Confidentiality of Record

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

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

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

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

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

Gov't Code 411.084

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

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

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

Destruction of CHRI

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

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

Gov't Code 411.097(d)(3)

Confidentiality of Information Obtained from Applicant or Employee

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

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

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

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

Education Code 22.08391

Unauthorized Disclosure of CHRI

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

1. Obtains CHRI in an unauthorized manner, uses the information for an unauthorized purpose, or discloses the information to a person who is not entitled to the information; or

2. Violates a DPS rule adopted under Government Code Chapter 411, Subchapter F.

A person commits a second degree felony if the person:

1. Obtains, uses, or discloses CHRI for remuneration or for the promise of remuneration; or

2. Employs another person to obtain, use, or disclose CHRI for remuneration or for the promise of remuneration.

Gov't Code 411.085

Refusal to Hire Convicted Applicants

A district shall discharge or refuse to hire an employee or applicant for employment if the district obtains information through a CHRI review that ~~:~~the employee or applicant has been:

~~1. Convicted of:~~

~~a. A felony under Penal Code Title 5;~~

~~2.~~1. or placed on deferred adjudication community supervision for an offense requiring registration as a sex offender under Code of Criminal Procedure Chapter 62; or

2. Convicted of:

a. A felony under Title 5, Penal Code, if the victim of the offense was under 18 years of age at the time the offense was committed; or

~~a.~~b. An offense under the laws of another state or federal law that is equivalent to an offense under ~~paragraphs a~~item 1 or ~~b; and~~2a, above.

~~3. At the time the offense occurred, the victim of the offense was under 18 years of age or was enrolled in a public school.~~

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Exception

However, a district is not required to refuse to hire an applicant if the person committed an offense under Title 5, Penal Code and:

1. The date of the offense is more than 30 years before the date the person's employment will begin; and
2. The applicant for employment satisfied all terms of the court order entered on conviction.

Certification to Commissioner

Each school year, the superintendent shall certify to the commissioner that the district has complied with the above provisions.

Sanctions

SBEC may impose a sanction on an educator who does not refuse to hire an applicant for employment if the educator knew that the applicant had been adjudicated for or convicted of having an inappropriate relationship with a minor in accordance with Education Code 21.009(e), or knew or should have known, through a CHRI review, that the applicant has been convicted of or placed on deferred adjudication community supervision for an offense described above.

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

Termination for Failure to Disclose

A district may discharge an employee if the district obtains information of the employee's conviction of a felony or misdemeanor involving moral turpitude that the employee did not disclose to SBEC or to the district. An employee so discharged is considered to have been discharged for misconduct for the purposes of Labor Code 207.044 (unemployment compensation).

Education Code 22.085; 19 TAC 249.15(b)(12), (14) [See DF ~~for Discharge of Convicted Employees~~]

Consumer Credit Reports

Definitions

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

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

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

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

15 U.S.C. 1681a

Obtaining Reports

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

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

Adverse Action

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

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

Address Discrepancies

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

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

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

16 C.F.R. 641.1

Disposal of Records

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

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

Examples of reasonable measures include:

1. Burning, pulverizing, or shredding papers containing a consumer report so the information cannot practicably be read or reconstructed;

2. Destroying or erasing electronic media containing a consumer report so that the information cannot practicably be read or reconstructed; or

3. After due diligence, entering into and monitoring compliance with a contract with another party engaged in the business of record destruction to dispose of the consumer report.

16 C.F.R. 682.3

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Employment Policies

A board shall adopt a policy providing for the employment and duties of district personnel. The policy shall provide that:

1. A board employs and evaluates the superintendent;
2. A superintendent has sole authority to make recommendations to a board regarding the selection of all personnel, except that the board may delegate final authority for those decisions to the superintendent [see Superintendent Recommendation, below];
3. Each principal must approve each teacher or staff appointment to the principal's campus as provided by Education Code 11.202 [see DK and DP];
4. Notice will be provided of vacant positions [see Posting of Vacancies, below]; and
5. Each employee has the right to present grievances to the board. [See Grievances, below]

Education Code 11.1513

Tax Identifier

A board shall adopt a policy prohibiting the use of social security numbers as employee identifiers other than for tax purposes [see Social Security Numbers, below]. *Education Code 11.1514* [See DBA]

Contract Positions

A board shall establish a policy designating specific positions of employment, or categories of positions based on considerations such as length of service, to which continuing contracts or term contracts apply. *Education Code 21.002(c)* [See DCB and DCC]

Delegation of Authority

A district's employment policy may specify the terms of district employment or delegate to the superintendent the authority to determine the terms of employment with the district. *Education Code 11.1513(c)* [For nepotism implications, see BBFB and DBE]

Internal Auditor

If a district employs an internal auditor, the board shall select the internal auditor and the internal auditor shall report directly to the board. *Education Code 11.170* [See CFC]

Superintendent Recommendation

A board may accept or reject a superintendent's recommendation regarding the selection of district personnel and shall include the board's acceptance or rejection in the minutes of the board's open meeting, in the certified agenda or tape recording of a closed meeting, or in the recording required under Government Code 551.125 or 551.127, as applicable. If a board rejects a superintendent's recommendation, the superintendent shall make alternative recommendations until the board accepts a recommendation. *Education Code 11.1513(b)*

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Pre-employment Affidavit

An applicant for a certified or licensed position [see Professional Personnel at DBA(LEGAL)] with a school district, including a district of innovation, must submit, using a form adopted by the Texas Education Agency (TEA), a pre-employment affidavit disclosing whether the applicant has ever been charged with, adjudicated for, or convicted of having an inappropriate relationship with a minor.

An applicant who answers affirmatively concerning an inappropriate relationship with a minor must disclose in the affidavit all relevant facts pertaining to the charge, adjudication, or conviction, including, for a charge, whether the charge was determined to be true or false.

An applicant is not precluded from being employed based on a disclosed charge if the district determines based on the information disclosed in the affidavit that the charge was false.

A determination that an employee failed to disclose required information is grounds for termination of employment.

The State Board for Educator Certification (SBEC) may revoke the certificate of an administrator if the board determines it is reasonable to believe that the administrator employed an applicant for a position described by Education Code 21.003(a) or (b) despite being aware that the applicant had been adjudicated for or convicted of having an inappropriate relationship with a minor.

Education Code 21.009

TEA Internet Portal

TEA shall develop and maintain an internet portal through which required reports may be confidentially and securely filed and TEA makes available:

1. The registry of persons who are not eligible to be employed in public schools; and

2. Information indicating that a person is under investigation.

Education Code 22.095

Registry of Persons Not Eligible for Employment

TEA shall maintain and make available through its internet portal a registry of persons who are not eligible to be employed by a district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement.

A district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement shall discharge or refuse to hire a person listed on the registry.

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The registry must list:

1. An employee of an open enrollment charter school determined by TEA under Education Code 22.0832 as a person who would not be eligible for educator certification based on their national criminal history record information (NCHRI);

2. A noncertified person determined by TEA to be not eligible for employment based on the person's criminal history record information (CHRI), as provided by Education Code 22.0833 [see DBAA];

3. A person who is not eligible for employment based on CHRI received by TEA under Education Code 21.058(b) indicating that a certified employee is required to register as a sex offender;

4. A person whose certification or permit is revoked by SBEC on a finding that the person engaged in misconduct described by Education Code 21.006(b)(2)(A) or (A-1) [see DHB]; and

5. A noncertified person who is determined by the commissioner under Education Code 22.094 to have engaged in misconduct described by Education Code 22.093(c)(1)(A) or (B) [see DHC].

Education Code 22.092

Posting of Vacancies

A district's employment policy must provide that not later than the tenth school day before the date on which a district fills a vacant position for which a certificate or license is required as provided by Education Code 21.003 [see DBA], other than a position that affects the safety and security of students as determined by the board, the district must provide to each current district employee:

1. Notice of the position by posting the position on:

   a. A bulletin board at:

      (1) A place convenient to the public in the district's central administrative office, and

      (2) The central administrative office of each campus during any time the office is open; or

   b. The district's internet website, if the district has a website; and

2. A reasonable opportunity to apply for the position.

Education Code 11.1513(d)

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Exception

If, during the school year, a district must fill a vacant position held by a teacher, as defined by Education Code 21.201 [see DCB], in less than ten school days, the district must provide notice of the position in the manner described above as soon as possible after the vacancy occurs. However, a district is not required to provide the notice for ten school days before filling the position or to provide a reasonable opportunity to apply for the position. *Education Code 11.1513(e)*

Grievances

A district's employment policy must provide each employee with the right to present grievances to the board. The policy may not restrict the ability of an employee to communicate directly with a member of the board regarding a matter relating to the operation of a district, except that the policy may prohibit ex parte communication relating to:

1. A hearing under Education Code Chapter 21, Subchapter E (Term Contracts) or F (Hearing Examiners); and
2. Another appeal or hearing in which ex parte communication would be inappropriate pending a final decision by the board.

Education Code 11.1513(i)–(j) [See DGBA]

Transfers

A district's employment policy may include a provision for providing each current district employee with an opportunity to participate in a process for transferring to another school in or position with the district. *Education Code 11.1513(c)(3)* [See DK]

Contract Employees

A district shall employ each classroom teacher, principal, librarian, nurse, or school counselor under a probationary contract, a continuing contract, or a term contract. A district is not required to employ a person other than these listed employees under a probationary, continuing, or term contract. *Education Code 21.002*

~~"~~Classroom Teacher~~"~~

"Classroom teacher" means an educator who is employed by a district and who, not less than an average of four hours each day, teaches in an academic instructional setting or a career and technology instructional setting. The term does not include a teacher's aide or a full-time administrator. *Education Code 5.001(2)*

Minimum Length of Contract

A contract between a district and an educator must be for a minimum of ten months of service. An educator employed under a ten-month contract must provide a minimum of 187 days of service. ~~The commissioner of education may reduce the number of days of service, but such a reduction by the commissioner does not reduce an educator's salary. *Education Code 21.401*~~*Education Code 21.401(a), (b)*

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Proportionate Reduction

If a district anticipates providing less than 180 days of instruction for students during a school year, as indicated by the district's academic calendar, the district may reduce the number of days of service proportionately. A reduction by the district does not reduce an educator's salary. *Education Code 21.401(c-1)*

Commissioner Waiver

The commissioner of education may reduce the number of days of service if disaster, flood, extreme weather conditions, fuel curtailment, or another calamity causes the closing of schools. A reduction by the commissioner does not reduce an educator's salary. *Education Code 21.401(c), 25.081(b)*

Educational Aides

A board shall establish a plan to encourage the hiring of educational aides who show a willingness to become certified teachers. *Education Code 54.363(f)*

Employment of Retirees

A district shall file a monthly certified statement of employment of a retiree in the form and manner required by TRS. A district shall inform TRS of changes in status of the district that affect the district's reporting responsibilities.

The certified statement must include information regarding:

1. Employees of third party entities if the employees are service or disability retirees who were first employed by the third party entity on or after May 24, 2003, and are performing duties or providing services on behalf of or for the benefit of the district that employees of the district would otherwise perform or provide; and

2. Retirees who retired within twelve full, consecutive calendar months of the month of the monthly certified statement and are performing duties or providing services for or on behalf of the district that employees of the district would otherwise perform or provide, and are:

    a. Waiving, deferring, or forgoing compensation for the services or duties;

    b. Performing the duties or providing the services as an independent contractor; or

    c. Serving as a volunteer without compensation and performing the same duties or providing the same services for a reporting entity that the retiree performed or provided immediately before retiring and the retiree has an agreement to perform those duties or provide those services after the first 12 full, consecutive calendar months after the retiree's effective date of retirement.

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A district that fails to attain a completed status for the monthly certified statement as required by 34 Administrative Code 31.2 shall pay to TRS, in addition to the required employer surcharges and any applicable penalty interest on the unpaid amounts, the late fee established in 34 Administrative Code 31.2(d) for each business day that the monthly certified statement fails to attain a completed status.

An administrator of a district who is responsible for filing the statement, and who knowingly fails to file the statement, commits an offense.

Gov't Code 824.6022, 825.403(k); 34 TAC 31.2

Former Board Member Employment

A board member is prohibited from accepting employment with the district until the first anniversary of the date the board member's membership on a board ends. *Education Code 11.063* [See BBC]

New Hires

I-9 Forms

A district shall ensure that an employee properly completes section 1—"Employee Information and Verification"—on Form I-9 at the time of hire.

A district must verify employment eligibility, pursuant to the Immigration Reform and Control Act, and complete Form I-9 by the following dates:

1. Within three business days of initial hiring. If a district hires an individual for employment for a duration of less than three business days, the district must verify employment at the time of hire. A district shall not be deemed to have hired an individual if the individual is continuing in his or her employment and has a reasonable expectation of employment at all times. When a district rehires an individual, the district may, in lieu of completing a new I-9, inspect a previously completed I-9 executed within three years of the date of rehire, to determine whether the individual is still eligible to work.
2. For an individual whose employment authorization expires, not later than the date of expiration.

8 C.F.R. 274a.2(b)(1)(ii), (iii), (vii), (viii)

New Hire Reporting

A district shall furnish to the Directory of New Hires (Texas Attorney General's Office) a report that contains the name, address, and social security number of each newly hired employee. The report shall also contain a district's name, address, and employer identification number.

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A district may also provide, at its option, the employee's date of hire, date of birth, expected salary or wages, and the district's payroll address for mailing of notice to withhold child support.

A district shall report new hire information on a Form W-4 or an equivalent form, by first class mail, telephonically, electronically, or by magnetic media, as determined by the district and in a format acceptable to the attorney general.

Deadline

New hire reports are due:

1. Not later than 20 calendar days after the date a district hires the employee; or
2. In the case of a district transmitting reports magnetically or electronically, by two monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.

New hire reports shall be considered timely if postmarked by the due date or, if filed electronically, upon receipt by the agency.

Penalties

A district that knowingly violates the new hire provisions may be liable for a civil penalty, as set forth at Family Code 234.105.

42 U.S.C. 653a(b), (c); Family Code 234.101–.105; 1 TAC 55, Subch. I

Social Security Numbers

A board shall adopt a policy prohibiting the use of the social security number of an employee of the district as an employee identifier other than for tax purposes. *Education Code 11.1514* [See DBA]

Federal Law

A district shall not deny to any individual any right, benefit, or privilege provided by law because of the individual's refusal to disclose his or her social security number.

Exceptions

The federal law does not apply to:

1. Any disclosure that is required by federal statute. The United States Internal Revenue Code provides that the social security number issued to an individual for purposes of federal income tax laws shall be used as the identifying number for taxpayers;
2. Any disclosure to a district maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted before such date to verify the identity of an individual; or
3. Any use for the purposes of establishing the identity of individuals affected by any tax, general public assistance, driver's license, or motor vehicle registration law within a district's jurisdiction.

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Statement of Uses

A district that requests disclosure of a social security number shall inform that individual whether the disclosure is mandatory or voluntary, by what statutory authority such number is solicited, and what uses will be made of it.

Privacy Act of 1974, Pub. L. No. 93-579, Sec. 7, 88 Stat. 1896, 1897 (1974)

Employment Assistance Prohibited

Federal Law

A district that receives Title I funds shall have regulations or policies that prohibit any individual who is a school employee, contractor, or agent, or a district, from assisting a school employee in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or district knows, or has probable cause to believe, that such school employee engaged in sexual misconduct regarding a minor or student in violation of the law.

This requirement shall not apply if the information giving rise to probable cause has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct; and has been properly reported to any other authorities as required by federal, state, or local law, including Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and the implementing regulations under Part 106 of Title 34, Code of Federal Regulations, or any succeeding regulations; and:

1. The matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct has investigated the allegations and notified school officials that there is insufficient information to establish probable cause that the school employee engaged in sexual misconduct regarding a minor or student in violation of the law;

2. The school employee has been charged with and acquitted or otherwise exonerated of the alleged misconduct; or

3. The case or investigation remains open and there have been no charges filed against, or indictment of, the school employee within four years of the date on which the information was reported to a law enforcement agency.

20 U.S.C 7926 [See also CJ]

State Law

SBEC may suspend or revoke a certificate, impose other sanctions against the person, or refuse to issue a certificate to the person if:

1. The person assists another person in obtaining employment at a school district, private school, or open-enrollment charter school, other than by the routine transmission of administrative and personnel files; and

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2. The person knew that the other person has previously engaged in sexual misconduct with a minor or student in violation of the law.

The commissioner may require a school district to revoke or decline to issue a school district teaching permit under Education Code 21.055 issued to or requested by a person subject to SBEC action above.

Education Code 21.0581; 19 TAC 249.15(b)(13)

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Minimum Salary Schedule — Educators

A district shall pay each classroom teacher, full-time librarian, full-time school counselor, or full-time nurse not less than the minimum monthly salary, based on the employee's level of experience, specified in Education Code 21.402 and 19 Administrative Code 153.1021.

Definitions

Classroom Teacher

"Classroom teacher" means an educator who teaches an average of at least four hours per day in an academic or career and technology instructional setting, focusing on the delivery of the Texas Essential Knowledge and Skills, and who holds the relevant certificate from the State Board for Educator Certification (SBEC). Although noninstructional duties do not qualify as teaching, necessary functions related to the educator's instructional assignment, such as instructional planning and transition between instructional periods, should be applied to creditable classroom time.

Librarian

"Librarian" means an educator who provides full-time library services and holds the relevant certificate from SBEC.

Counselor

"Counselor" means an educator who provides full-time counseling and guidance services and holds the relevant certificate from SBEC.

Nurse

"Nurse" means an educator employed to provide full-time nursing and health-care services and who meets all the requirements to practice as a registered nurse (RN) pursuant to the Nursing Practice Act and the rules and regulations relating to professional nurse education, licensure, and practice and has been issued a license to practice professional nursing in Texas.

Full-Time

"Full-time" means contracted employment for at least ten months (187 days) for 100 percent of the school day, in accordance with the definitions of school day in Education Code 25.082, employment contract in Education Code 21.002, and school year in Education Code 25.081.

19 TAC 153.1022(a)

Placement on Salary Schedule

The Commissioner's rules determine the experience for which a teacher, librarian, school counselor, or nurse is to be given credit in placing the teacher, librarian, school counselor, or nurse on the minimum salary schedule. A district shall credit the teacher, librarian, school counselor, or nurse for each year of experience, whether or not the years are consecutive. *Education Code 21.402(a), .403(c); 19 TAC 153.1022*

Employees Formerly on Career Ladder

A teacher or librarian who received a career ladder supplement on August 31, 1993, is entitled to at least the same gross monthly salary the teacher or librarian received for the 1994–95 school year as long as the teacher or librarian is employed by the same district.

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In addition, a teacher or librarian who was on level two or three of the career ladder is entitled, as long as he or she is employed by the same district, to placement on the minimum salary schedule according to the guidelines at Education Code 21.403(d). *Education Code 21.402(f), .403(d)*

Pay Increases

A district shall not grant any extra compensation, fee, or allowance to a public officer, agent, servant, or contractor after service has been rendered or a contract entered into and performed in whole or in part. *Tex. Const. Art. III, Sec. 53*

Public Hearing—Contract Employees

A district may not pay an employee or former employee more than an amount owed under a contract with the employee unless the district holds at least one public hearing. Notice of the hearing must be given in accordance with notice of a public meeting under the Texas Open Meetings Act [see BE].

The board must state the following at the public hearing:

1. The source and exact amount of the payment;
2. The reason the payment is being offered including the public purpose that will be served by making the payment; and
3. The terms for distribution of the payment that effect and maintain the public purpose.

Local Gov't Code 180.007

Increase in Basic Allotment

During any school year for which the maximum amount of the basic allotment provided under Education Code 48.015(a) or (b) is greater than the maximum amount provided for the preceding school year, a district must use at least 30 percent of the district's increased funding to provide compensation increases to full-time district employees other than administrators as follows:

1. 75 percent must be used to increase the compensation paid to classroom teachers, full-time librarians, full-time school counselors certified under Education Code Chapter 21, Subchapter B and full-time school nurses, prioritizing differentiated compensation for classroom teachers with more than five years of experience; and
2. 25 percent may be used as determined by the district to increase compensation paid to full-time district employees.

"Compensation" includes benefits such as insurance premiums.

Education Code 48.051(c), (d)

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Salary Advances and Loans

A district shall not lend its credit or gratuitously grant public money or things of value in aid of any individual, association, or corporation. *Tex. Const. Art. III, Sec. 52; Brazoria County v. Perry, 537 S.W.2d 89 (Tex. Civ. App.—Houston [1st Dist.] 1976, no writ)*

Designation of Compensation for Benefits

An employee who is covered by a cafeteria plan or who is eligible to pay health-care premiums through a premium conversion plan may elect to designate a portion of the employee's compensation to be used as health-care supplementation. The amount designated may not exceed the amount permitted under federal law. *Education Code 22.103*

Use

An employee may use the compensation designated for health-care supplementation for any employee benefit, including depositing the designated amount into a cafeteria plan in which the employee is enrolled or using the designated amount for health-care premiums through a premium conversion plan. *Education Code 22.106*

Annual Election

Each school year, an active employee must elect in writing whether to designate a portion of the employee's compensation to be used as health-care supplementation. The election must be made at the same time that the employee elects to participate in a cafeteria plan, if applicable. *Education Code 22.105*

Definition

For purposes of the designation of compensation as health-care supplementation, "employee" means an active, contributing member of the Teacher Retirement System (TRS) who:

1. Is employed by a district;
2. Is not a retiree eligible for coverage under Insurance Code Chapter 1575 (retiree group health benefits);
3. Is not eligible for coverage by a group insurance plan under Insurance Code Chapter 1551 (state employee health insurance) or Chapter 1601 (state university employee health insurance); and
4. Is not an individual performing personal services for the district as an independent contractor.

Education Code 22.101(2)

TRS Contributions for New Hires

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

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

On a monthly basis, a district shall:

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

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

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

Gov't Code 825.4041

TRS Surcharge for Rehired Retirees

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

TRS Fund Contributions

1. The current contribution amount that would be contributed by the retiree if the retiree were an active, contributing member; and

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

Gov't Code 825.4092(b)

Health Insurance Contributions

In addition, each payroll period and for each rehired retiree who is enrolled in TRS Care (retiree group health insurance), a district shall contribute to the TRS Care trust fund an amount established by TRS. In determining the amount to be contributed by the district, TRS shall consider the amount a retiree is required to pay for the retiree and any enrolled dependents to participate in the group program and the full cost of the retiree's and enrolled dependents' participation in the group program. If more than one employer reports the retiree to TRS during a month, the amount of the required payment shall be prorated among employers.

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Exception

A district is not required to contribute these amounts for a retiree who retired from the retirement system before September 1, 2005.

Gov't Code 825.4092(c), (e); Insurance Code 1575.204(b)

Notice Regarding Earned Income Tax Credit

Not later than March 1 of each year, a district shall provide employees with information regarding general eligibility requirements for the federal earned income tax credit by one of the following means:

1. In person;
2. Electronically at the employee's last known email address;
3. Through a flyer included, in writing or electronically, as a payroll stuffer; or
4. By first class mail to the employee's last known address.

A district may not satisfy this requirement solely by posting information in the workplace.

In addition, a district may provide employees with IRS publications and forms, or information prepared by the comptroller, relating to the earned income tax credit.

Labor Code 104.001–.003

Decreasing Pay

The Commissioner has held that a district may reduce educator compensation if it gives sufficient warning of a possible reduction in pay when educators can still unilaterally resign from their contracts. A sufficient warning must be both formal enough and specific enough to give educators a meaningful opportunity to decide whether to continue employment with a district. *Brajenovich v. Alief Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 021-R1O-1106 (2009)*

Widespread Salary Reductions

The following provisions apply only to a widespread reduction in the amount of annual salaries paid to classroom teachers in a district based primarily on district financial conditions rather than on teacher performance.

For any school year in which a district has reduced the amount of the annual salaries paid to classroom teachers from the amount paid for the preceding school year, the district shall reduce the amount of the annual salary paid to each district administrator or other professional employee by a percent or fraction of a percent that is equal to the average percent or fraction of a percent by which teacher salaries have been reduced.

Education Code 21.4032

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A board may not reduce salaries until the district has complied with the requirements at Education Code 21.4022 [see Salary Reduction/Furlough Process, below]. *Education Code 21.4022*

Furlough Program

In accordance with district policy [see DFFA], a board may implement a furlough program and reduce the number of days of service otherwise required under Education Code 21.401 [see DC] by not more than six days of service during a school year if the Commissioner certifies that the district will be provided with less state and local funding for that year than was provided to the district for the 2010–11 school year. *Education Code 21.4021(a)*

A board may not implement a furlough program until the district has complied with the requirements at Education Code 21.4022 [see Salary Reduction/Furlough Process, below]. *Education Code 21.4022*

Funding Levels

Not later than July 1 of each year, the Commissioner shall determine for each district whether the estimated amount of state and local funding per student in weighted average daily attendance to be provided to the district under the Foundation School Program for maintenance and operations for the following school year is less than the amount provided to the district for the 2010–11 school year. If the amount estimated to be provided is less, the Commissioner shall certify the percentage decrease in funding to be provided to the district. *Education Code ~~42.009~~48.010*

Salaries

Notwithstanding Education Code 21.402 (minimum salary schedule), a board may reduce the salary of an employee who is furloughed in proportion to the number of days by which service is reduced. Any reduction in the amount of the annual salary must be equally distributed over the course of the employee's current contract with the district.

Furlough Days

A furlough program must subject all contract personnel to the same number of furlough days. An educator may not be furloughed on a day that is included in the number of days of instruction required under Education Code 25.081 [see EB]. Implementation of a furlough program may not result in an increase in the number of required teacher workdays. An educator may not use personal, sick, or any other paid leave while the educator is on a furlough.

Contract Resignation

If a board adopts a furlough program after the date by which a teacher must give notice of resignation from a probationary, term, or continuing contract [see DFE], an employee who subsequently resigns is not subject to sanctions imposed by SBEC.

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No Appeal

A decision by a board to implement a furlough program is final and may not be appealed and does not create a cause of action or require collective bargaining.

Education Code 21.4021

Salary Reduction / Furlough Process

A board may not implement a furlough program under Education Code 21.4021 or reduce salaries until the district has complied with the requirements below.

Employee Involvement

A district must use a process to develop a furlough program or other salary reduction proposal, as applicable, that:

1. Includes the involvement of the district's professional staff; and
2. Provides district employees with the opportunity to express opinions regarding the furlough program or salary reduction proposal, as applicable, at the public meeting described below.

Public Meeting

A board must hold a public meeting at which the board and district administration present:

1. Information regarding the options considered for managing the district's available resources, including consideration of a tax rate increase and use of the district's available fund balance;
2. An explanation of how the district intends, through implementation of a furlough program or salary reductions, as applicable, to limit the number of district employees who will be discharged or whose contracts will not be renewed. Any explanation of a furlough program must state the specific number of furlough days proposed to be required; and
3. Information regarding the local option residence homestead exemption.

The public and district employees must be provided with an opportunity to comment at the public meeting.

Education Code 21.4022

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Incentive Grants—Contract Provision

A district shall provide in employment contracts that qualifying employees may receive an incentive payment under an awards program established under Education Code Chapter 21, Subchapter O (Educator Excellence Award Program and Educator Excellence Innovation Program) if the district participates in the program. A district shall indicate that any incentive payment distributed is considered a payment for performance and not an entitlement as part of an employee's salary. *Education Code 21.415*

Educator Excellence Innovation Program

The Educator Excellence Innovation Program (EEIP) is a grant program under which a district may receive a competitive grant for the purposes of systematically transforming educator quality and effectiveness. The Texas Education Agency (TEA) will give priority to districts that receive Title I funding and have at a majority of district campuses a student enrollment that is at least 50 percent educationally disadvantaged.

Eligibility

A district is eligible to apply for EEIP grant funds if the district:

1. Completes and submits a Notice of Intent to Apply to TEA by the date established by the commissioner of education;
2. Complies with all assurances in the Notice of Intent to Apply and grant application;
3. Participates in the required technical assistance activities established by the commissioner, including establishing leadership teams, master teachers, mentor teachers, and instructional coaches and developing career pathways;
4. Agrees to participate for four years; and
5. Complies with any other activities set forth in the program requirements.

An eligible district must submit an application in a form prescribed by the commissioner. Each eligible applicant must meet all deadlines, requirements, and assurances specified in the application. The commissioner may waive any eligibility requirements as specified in 19 Administrative Code 102.1073.

Local Plan

An eligible district that intends to participate in the EEIP shall submit a local educator excellence innovation plan to TEA. A local educator excellence innovation plan must address the elements at 19 Administrative Code 102.1073(e)(2).

A district must act pursuant to its local board policy [see DEAA (LOCAL)] for submitting a local educator excellence innovation plan and grant application to TEA. A local decision to approve and

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submit a plan and grant application may not be appealed to the commissioner.

A district may renew its local educator excellence innovation plan for three consecutive school years without resubmitting a full grant application to TEA. With TEA approval, a district may amend its local plan in accordance with 19 Administrative Code 102.1073(c) and (h) for each school year the district receives a program grant.

Use of Grant Funds

A district may use grant funds only to carry out purposes of the program as described at Education Code 21.7011, in accordance with the district's local plan, which may include the following specific methods or procedures:

1. Implementation and administration of a high-quality mentoring program for teachers in the first three years of classroom teaching using mentors who meet the qualifications prescribed by Education Code 21.458 [see Mentor Teachers, below];
2. Implementation of a teacher evaluation system using multiple measures that include:
    a. The results of classroom observation, which may include student comments;
    b. The degree of student educational growth and learning; and
    c. The results of teacher self-evaluation;
3. To the extent permitted under Education Code Chapter 25, Subchapter C, restructuring of the school day or school year to provide for embedded and collaborative learning communities for the purpose of professional development [see EC];
4. Establishment of an alternative teacher compensation or retention system; and
5. Implementation of incentives designed to reduce teacher turnover.

Waiver Request

A district may apply to the commissioner in writing for a waiver to exempt the district or one or more district campuses from one or more of the statutory sections listed at Education Code 21.7061(a).

The application for the waiver must demonstrate:

1. Why waiving the identified section of the Education Code is necessary to carry out the purposes of the program;

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2. Approval for the waiver by a vote of a majority of the members of the board;

3. Approval for the waiver by a vote of a majority of the educators employed at each campus for which the waiver is sought; and

4. Evidence that the voting occurred during the school year and in a manner that ensured that all educators entitled to vote had a reasonable opportunity to participate in the voting.

Neither the board nor the superintendent may compel a waiver of rights under Education Code 21.7061.

Not later than April 1 of the year in which the waiver application is submitted, the commissioner shall notify the district in writing whether the application has been granted or denied. A waiver expires when the waiver is no longer necessary to carry out the purposes of the program, in accordance with the district's local educator excellence innovation plan.

Education Code Ch. 21, Subch. O; 19 TAC 102.1073

Local Optional Teacher Designation System

A district may designate a certified classroom teacher as a master, exemplary, or recognized teacher for a five-year period based on the results from single year or multiyear appraisals that comply with Education Code 21.351 or 21.352 [see DNA].

Standards

The commissioner shall establish performance and validity standards for each local optional teacher designation system that:

1. Must provide a mathematical possibility that all teachers eligible for a designation may earn the designation; and

2. May not require a district to use an assessment instrument adopted under Education Code 39.023 to evaluate teacher performance.

A classroom teacher that holds a National Board Certification issued by the National Board for Professional Teaching Standards may be designated as recognized.

Assistance

TEA shall develop and provide technical assistance for districts that request assistance in implementing a local optional teacher designation system, including assistance in prioritizing high needs campuses.

No Property Right

A teacher has no vested property right in a teacher designation assigned under a local optional teacher designation system. A teacher designation is void in the determination that the designation was issued improperly, and the Administrative Procedure Act

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does not apply to the voiding of a local optional teacher designation.

Teacher Incentive Allotment

For each classroom teacher with a local optional teacher designation, a school district is entitled to an allotment, adjusted by high needs and rural factors, as determined under Education Code 48.112.

A district shall annually certify that:

1. Funds received were used as follows:

   a. At least 90 percent was used for the compensation of teachers employed at the campus at which the teacher for whom the district received the allotment is employed; and

   b. Any other funds were used for costs associated with implementing the local optional teacher designation system, including efforts to support teachers in obtaining designations; and

2. The district prioritized high needs campuses in the district in using funds.

Evaluations

TEA shall periodically conduct evaluations of the effectiveness of the local optional teacher designation systems and the teacher incentive allotment and report the results of the evaluations to the legislature. A school district that has implemented a local optional teacher designation system or received funds under the teacher incentive allotment shall participate in the evaluations.

Education Code 21.3521, 48.112

Mentor Teachers

A district may assign a mentor teacher to each classroom teacher who has less than two years of teaching experience in the subject or grade level to which the teacher is assigned. A teacher assigned as a mentor must:

1. To the extent practicable, teach in the same school;
2. To the extent practicable, teach the same subject or grade level, as applicable; and
3. Meet the qualifications prescribed by commissioner's rules.

Assignment of Mentor

To be assigned as a mentor, a teacher must agree to serve as a mentor teacher for at least one school year. The assignment must begin not later than the 30th day of employment of the classroom teacher to whom the mentor teacher is assigned. A district must agree to assign a mentor to a new classroom teacher for at least two school years.

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Requirements for Mentor

The commissioner's rules must require that a mentor teacher:

1. Complete a research-based mentor and induction training program approved by the commissioner;
2. Complete a training program provided by the district; ~~and~~
3. Have at least three complete years of teaching experience with a superior record of assisting students, as a whole, in achieving improvement in student performance~~.~~; and
4. Demonstrate interpersonal skills, instructional effectiveness, and leadership skills.

Training

A district ~~may apply~~must provide training to ~~the Commissioner for funds for a~~ mentor teachers and any appropriate district and campus employees who work with the classroom teacher ~~program.~~or supervise the classroom teacher. The training must be completed by the mentor teacher and the district and campus employees before the beginning of the school year. A district shall also provide supplemental training to mentor teachers and employees during the school year. The training must include content related to best mentorship practices.

Mentoring Sessions

A mentor teacher must meet with each classroom teacher assigned to the mentor not less than 12 hours each semester. Observations of the mentor by the classroom teacher being mentored or of the classroom teacher being mentored by the mentor may count toward the 12 hours of meeting time required for the semester.

Unless the district has created a mentoring curriculum as provided below, the mentoring sessions must address the following topics:

1. Orientation to the context, policies, and practices of the school district;
2. Data-driven instructional practices;
3. Specific instructional coaching cycles, including coaching regarding conferences between parents and the classroom teacher;
4. Professional development; and
5. Professional expectations.

Subject to approval by TEA, in determining the topics to be addressed in the mentoring sessions, a school district may create an appropriate curriculum that meets the district needs.

A district must:~~use the funds~~

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1. Designate a specific time during the regularly contracted school day for meetings between mentor teachers and classroom teachers assigned to a mentor; and

2. Schedule release time or a reduced teaching load for mentor teachers and classroom teachers under this section to facilitate mentoring activities, including classroom observations or participation in supportive coaching.

Allotment

A school district that has implemented a mentoring program is entitled to an allotment to fund the mentoring program and provide stipends for mentor teachers under a formula adopted by the commissioner.

Funding may be used only for providing:

1. Mentor teacher stipends;

2. Scheduled release time for mentor teachers and the classroom teachers to whom they are assigned for meeting and engaging in mentoring activities; and

3. Mentoring support through providers of mentor training.

Education Code 21.458, 48.114; 19 TAC 153.1011

~~**Master Teacher Grant Programs**~~

~~The Commissioner shall establish master reading, mathematics, technology, and science teacher grant programs to encourage teachers to become certified as master teachers and to work with other teachers and students to improve student performance. *Education Code 21.410–.413*~~

~~Application~~

~~A district may apply to the Commissioner for grants for each identified high-need campus to be used to pay year-end stipends to certified master teachers.~~

~~Use of Funds~~

~~Grant funds may be used only for the purpose of paying a year-end stipend to a master teacher whose primary duties are to teach reading, mathematics, technology, or science and to serve as a reading, mathematics, technology, or science teacher mentor for the amount of time and in the manner established by the district.~~

~~Payments~~

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

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

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~~Education Code sections 21.410–.413 do not create a property right to a grant or stipend. A master teacher stipend is not considered in determining whether the district is paying the teacher the minimum monthly salary under Education Code 21.402.~~

~~Designation of Teacher~~

~~A district that employs more certified master teachers than the number of grants available shall designate which certified master teacher(s) to assign the duties required to receive the state stipends. The designation is based on a written policy adopted by the board. A district's decision is final and may not be appealed.~~

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

~~*Education Code 21.410–.413; 19 TAC Ch. 102, Subch. BB*~~

Achievement Academy Stipends

A stipend received by a teacher who attends a literacy achievement, mathematics achievement, or a reading-to-learn academy is not considered in determining whether a district is paying the teacher the minimum monthly salary under Education Code 21.402. *Education Code 21.4552(d), .4553(d), .4554(d)*

A stipend received by a school counselor or teacher who attends a postsecondary education and career counseling academy under Education Code 33.009 is not considered in determining whether a district is paying the school counselor or teacher the minimum monthly salary under Education Code 21.402. *Education Code 33.009(h)*

Autism Training

A district may provide a salary incentive or similar compensation to a teacher who completes training provided by a regional education service center (ESC) relating to autism. A school district that decides to provide an incentive or compensation shall adopt a policy to implement this section. *Education Code 21.465*

Retirement Incentives

A district may not offer or provide a financial or other incentive to an employee to encourage the employee to retire from the Teacher Retirement System of Texas. *Education Code 22.007*

Attendance Supplement

A district shall not deny an educator a salary bonus or similar compensation given in whole or in part on the basis of educator attendance because of the educator's absence from school for observance of a religious holy day observed by a religion whose places of worship are exempt from property taxation under Tax Code 11.20. *Education Code 21.406*

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Duty Weapon and Badge

On the death of a peace officer employed by a district, the district shall provide, at no cost, the officer's duty weapon, if any, and badge to the officer's designated beneficiary or, if there is no designated beneficiary, to the officer's estate. A district shall provide peace officers with a form on which they may designate their beneficiaries for this purpose. If a district peace officer dies and is to be buried in the person's uniform, the district shall provide the uniform at no cost. *Gov't Code 615.102–.103*

Survivor Benefits

The following provisions apply to a person employed by a district as a peace officer or in another position listed at Government Code 615.001 and who dies as a result of a personal injury, as defined at Government Code 615.021 and 615.072, sustained in the line of duty.

Notice to ERS

The surviving spouse and children of the deceased employee may be eligible for benefits under Government Code Chapter 615, Subchapter B. ~~As soon as practicable~~Not later than the 30th day after the date of the death of a peace officer or other covered employee that occurs in the performance of duties in the individual's position or as a result of an action that occurs while the individual is performing those duties, a district shall furnish proof of death to the Employees Retirement System (ERS). A district shall furnish any evidence and information required by ERS regardless of whether the district believes the individual's death satisfies eligibility requirements. If a district fails to furnish proof of death as required, the attorney general may use any means authorized by law, including filing suit for a writ of mandamus against the district, to compel compliance. *Gov't Code 615.041*

Continuation of Health Insurance

The surviving spouse and any dependents of the deceased employee may be entitled to purchase or continue health insurance benefits through the district under Government Code Chapter 615, Subchapter D. A district shall provide written notice to an eligible survivor of the survivor's rights not later than the tenth day after the date of the employee's death. Not later than the 150th day after the employee's death, the district shall send a subsequent written notice by certified mail to any eligible survivor who has not already elected to purchase or continue coverage on or before that date.

If an eligible survivor is a minor child, the district shall also provide notice, at the same time, to the child's parent or guardian unless, after reasonable effort, the parent or guardian cannot be located.

Gov't Code 615.075

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Note: This policy addresses leaves in general. For provisions regarding the Family and Medical Leave Act (FMLA), including FML for an employee seeking leave because of a relative's military service, see DECA. For provisions addressing leave for an employee's military service, see DECB.

State Leave

State Personal Leave

A district shall provide employees with five days per year of state personal leave, with no limit on accumulation and no restrictions on transfer among districts. A district may provide additional personal leave beyond this minimum.

A board may adopt a policy governing an employee's use of state personal leave, except that the policy may not restrict the purposes for which the leave may be used.

Education Code 22.003(a)

State Sick Leave (Accumulated Prior to 1995)

District employees retain any sick leave accumulated as state minimum sick leave under former Section 13.904(a) of the Education Code. Accumulated state sick leave shall be used only for the following:

1. Illness of the employee.
2. Illness of a member of the employee's immediate family.
3. Family emergency.
4. Death in the employee's immediate family.
5. During military leave [see Use During Military Leave, below].

Acts of the 74th Legislative Session, Senate Bill 1, Sec. 66

Former Education Service Center Employees

A district shall accept the sick leave accrued by an employee who was formerly employed by a regional education service center (ESC), not to exceed five days per year for each year of employment. *Education Code 8.007*

Order of Use

A board's policy governing an employee's use of state personal leave may not restrict the order in which an employee may use state personal leave and any additional personal leave provided by the school district.

An employee who retains any state sick leave is entitled to use the state sick leave, state personal leave, or local personal leave in any order to the extent that the leave the employee uses is appropriate to the purpose of the leave.

Education Code 22.003(a), (f)

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Use During Military Leave

An employee with available personal leave is entitled to use the leave for compensation during a term of active military service. "Personal leave" includes personal or sick leave available under former law or provided by local policy. *Education Code 22.003(d), (e)* [See DECB]

Temporary Disability

Each full-time educator shall be given a leave of absence for temporary disability at any time the educator's condition interferes with the performance of regular duties. The contract or employment of the educator may not be terminated while the educator is on a leave of absence for temporary disability. For purposes of temporary disability leave, pregnancy is considered a temporary disability.

At Employee's Request

A request for a leave of absence for temporary disability must be made to a superintendent. The request must:

1. Be accompanied by a physician's statement confirming inability to work;
2. State the date requested by the educator for the leave to begin; and
3. State the probable date of return as certified by the physician.

By Board Authority

A board may adopt a policy providing for placing an educator on leave of absence for temporary disability if, in the board's judgment in consultation with a physician who has performed a thorough medical examination of the educator, the educator's condition interferes with the performance of regular duties. The educator shall have the right to present to the board testimony or other information relevant to the educator's fitness to continue in the performance of regular duties. [See DBB]

Return to Active Duty

Notice

The educator shall notify the superintendent of a desire to return to active duty no later than the 30th day before the expected date of return. The notice must be accompanied by a physician's statement indicating the educator's physical fitness for the resumption of regular duties.

Placement

An educator returning to active duty after a leave of absence for temporary disability is entitled to an assignment at the school where the educator formerly taught, subject to the availability of an appropriate teaching position. In any event, the educator shall be placed on active duty no later than the beginning of the next school year. A principal at another campus voluntarily may approve the appointment of an employee who wishes to return from leave of absence. However, if no other principal approves the assignment by the beginning of the next school year, a district must place the

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employee at the school at which the employee formerly taught or was assigned.

Length of Absence

A superintendent shall grant the length of leave of absence for temporary disability as required by the individual educator. A board may establish a maximum length for a leave of absence for temporary disability, but the maximum length may not be less than 180 calendar days.

Education Code 21.409; Atty. Gen. Op. DM-177 (1992); Atty. Gen. Op. H-352 (1974)

Sick Leave Different from Temporary Disability Leave

An employee's entitlement to sick leave is unaffected by any concurrent eligibility for a leave of absence for temporary disability. The two types of leave are different, and each must be granted by its own terms. *Atty. Gen. Op. H-352 (1974)*

Assault Leave

In addition to all other days of leave, a district employee who is physically assaulted during the performance of regular duties is entitled to the number of days of leave necessary to recuperate from physical injuries sustained as a result of the assault. The leave shall be paid as set forth below at Coordination with Workers' Compensation Benefits.

A district employee is physically assaulted if the person engaging in the conduct causing injury to the employee:

1. Could be prosecuted for assault; or
2. Could not be prosecuted for assault only because the person's age or mental capacity makes the person a nonresponsible person for purposes of criminal liability.

Notice of Rights

Any informational handbook a district provides to employees in an electronic or paper form or makes available by posting on the district's website must include notification of an employee's rights regarding assault leave, in the relevant section of the handbook. Any form used by a district through which an employee may request personal leave must include assault leave as an option.

Assignment to Assault Leave

At the request of an employee, a district must immediately assign the employee to assault leave. Days of assault leave may not be deducted from accrued personal leave. Assault leave may not extend more than two years beyond the date of the assault. Following an investigation of the claim, a district may change the assault leave status and charge the leave against the employee's accrued personal leave or against the employee's pay if insufficient accrued personal leave is available.

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Coordination with Workers' Compensation Benefits

Notwithstanding any other law, assault leave benefits due to an employee shall be coordinated with temporary income benefits due from workers' compensation so the employee's total compensation from temporary income benefits and assault leave benefits will equal 100 percent of the employee's weekly rate of pay.

Education Code 22.003(b)–(c-1)

Religious Observances

A district shall reasonably accommodate an employee's request to be absent from duty in order to participate in religious observances and practices, so long as it does not cause undue hardship on the conduct of district business. Such absence shall be without pay unless applicable paid leave is available. *42 U.S.C. 2000e(j), 2000e-2(a); Ansonia Bd. of Educ. v. Philbrook, 479 U.S. 60, (1986); Pinsker v. Joint Dist. No. 28J of Adams and Arapahoe Counties, 735 F.2d 388 (10th Cir. 1984)*

Compliance with a Subpoena

An employer may not discharge, discipline, or penalize in any manner an employee because the employee complies with a valid subpoena to appear in a civil, criminal, legislative, or administrative proceeding. *Labor Code 52.051(a)*

Note: A Texas federal court held that by omitting any reference to governmental entities from Labor Code 52.051, the state legislature intended to exclude governmental entities from the definition of "employer" contained within that section. Therefore, the statute did not waive a county's governmental immunity from liability for claims of retaliatory discharge of an employee for complying with a subpoena. *Alcala v. Texas Webb County*, 620 F. Supp. 2d 795 (S.D. Tex. 2009)

Jury Duty

~~A district may not discharge, discipline, reduce the salary of, or otherwise penalize or discriminate against an employee because of the employee's compliance with a summons to appear as a juror. For each regularly scheduled workday on which a nonsalaried employee serves in any phase of jury service, a district shall pay the employee the employee's normal daily compensation.~~ An employee's accumulated personal leave may not be reduced because of the employee's service in compliance with a summons to appear as a juror~~.~~ [see DG]. *Education Code 22.006*

Attendance at Truancy Hearing

A district may not terminate the employment of a permanent employee because the employee is required under Family Code 65.062(b) to attend a truancy court hearing. *Family Code 65.063*

Developmental Leaves of Absence

A board may grant a developmental leave of absence for study, research, travel, or other suitable purpose to an employee working in

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a position requiring a permanent teaching certificate who has served in a district at least five consecutive school years.

A developmental leave of absence may be granted for one school year at one-half salary or for one-half of a school year at full salary paid to the employee in the same manner, on the same schedule, and with the same deductions as if the employee were on full-time duty.

An employee on developmental leave shall continue to be a member of the Teacher Retirement System of Texas and shall be an employee of a district for purposes of participating in programs, holding memberships, and receiving benefits afforded by employment in a district.

Education Code 21.452

Leave for Sick Foster Child

An employer commits an unlawful employment practice under Labor Code, Chapter 21 if:

1. The employer administers a leave policy under which an employee is entitled to personal leave to care for or otherwise assist the employee's sick child; and
2. The leave policy does not treat in the same manner as an employee's biological or adopted minor child any foster child of the employee who:
    a. Resides in the same household as the employee; and
    b. Is under the conservatorship of the Texas Department of Family and Protective Services.

Labor Code 21.0595

Absence Control

Uniform enforcement of a reasonable absence-control rule is not retaliatory discharge. For example, a district that terminates an employee for violating a reasonable absence-control provision cannot be liable for retaliatory discharge as long as the rule is uniformly enforced. *Howell v. Standard Motor Prods., Inc., 2001 U.S. Dist LEXIS 12332 (N. D. Tex. 2001) (Family and Medical Leave Act case); Specialty Retailers v. DeMoranville, 933 S.W.2d 490 (Tex. 1996) (age discrimination case); Continental Coffee Products Co. v. Cazarez, 937 S.W.2d 444 (Tex. 1996) (workers' compensation claim); Gonzalez v. El Paso Natural Gas Co., 40 F.E.P. Cases (BNA) 353 (Tex. App.—El Paso 1986, no pet.) (sex discrimination case)*

[Some employees may have protected status even after the expiration of all other leave. See DAA.]

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Note: For a detailed treatment of termination and nonrenewal of educator contracts, see policies DFAA and DFAB (Probationary Contracts), DFBA and DFBB (Term Contracts), and DFCA (Continuing Contracts).

Withholding Information

An attempt by any district employee to encourage or coerce a child to withhold information from the child's parent is grounds for discharge or suspension under Education Code 21.104 (probationary contracts), 21.156 (continuing contracts), and 21.211 (term contracts). *Education Code 26.008(b)*

Registry of Persons Not Eligible for Employment

A district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement shall discharge or refuse to hire a person listed on TEA's registry of persons who are not eligible to be employed. [See DC] *Education Code 22.092*

Discharge of Convicted Employees

A district shall discharge or refuse to hire an employee or applicant for employment if the district obtains information through a criminal history record information (CHRI) review that the employee or applicant has been:

~~1. The employee has been~~ Convicted of~~:~~

~~a. A felony under Penal Code Title 5;~~

~~2.~~1. or placed on deferred adjudication community supervision for an offense requiring registration as a sex offender under Code of Criminal Procedure Chapter 62; or

2. Convicted of:

a. A felony under Title 5, Penal Code, if the victim of the offense was under 18 years of age at the time the offense was committed; or

~~a.~~b. An offense under the laws of another state or federal law that is equivalent to an offense under ~~paragraphs a~~item 1 or ~~b; and~~2a, above.

~~3. At the time the offense occurred, the victim of the offense was under 18 years of age or was enrolled in a public school.~~

Exception

However, a district is not required to discharge an employee if the person committed an offense under Title 5, Penal Code, and:

1. The date of the offense is more than 30 years before ~~June 15, 2007~~the date the person's employment will begin; and

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2. The employee satisfied all terms of the court order entered on conviction.

Certification to Commissioner

Each school year, a superintendent shall certify to the commissioner that the district has complied with the above provisions.

Sanctions

The State Board for Educator Certification (SBEC) may impose a sanction on an educator who does not discharge an employee if the educator knew that the employee had been adjudicated for or convicted of having an inappropriate relationship with a minor in accordance with Education Code 21.009(e), or knew or should have known, through a CHRI review, that the employee has been convicted of or placed on deferred adjudication community supervision for an offense described above.

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

Termination for Failure to Disclose

A district may discharge an employee if the district obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not disclose to SBEC or the district. An employee so discharged is considered to have been discharged for misconduct for purposes of Labor Code 207.044 (unemployment compensation).

Education Code 22.085; 19 TAC 249.15(b)(12), (14) [See DBAA for Refusal to Hire Convicted Applicants]

Certain Offenses Against Students

Mandatory Termination

If a district receives notice that SBEC has revoked the certificate of a person based on conviction of or placement on deferred adjudication community supervision for an offense for which the person is required to register as a sex offender under Code of Criminal Procedure, Chapter 62, or a conviction of a felony under Penal Code Title 5 if the victim of the offense was under 18 years of age at the time the offense was committed, the district shall:

1. Immediately remove the person whose certificate has been revoked from campus or from an administrative office, as applicable, to prevent the person from having any contact with a student; and

2. If the person is employed under a probationary, continuing, or term contract, with the approval of the board or its designee:

   a. Suspend the person without pay;

   b. Provide the person with written notice that the person's contract is void [see Notice to Employee, below]; and

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c. Terminate the employment of the person as soon as practicable.

Education Code 21.058(a), (c)

Discretionary Termination

If a district becomes aware that a person employed by the district under a probationary, continuing, or term contract has been convicted of or received deferred adjudication for a felony offense, and the person is not subject to the mandatory termination provision above, the district may, with the approval of the board or its designee:

1. Suspend the person without pay;
2. Provide the person with written notice that the person's contract is void [see Notice to Employee, below]; and
3. Terminate the employment of the person as soon as practicable.

Education Code 21.058(c-1)

Notice to Employee

A person's probationary, continuing, or term contract is void if, with the approval of the board or its designee, the district provides written notice to the person, under the mandatory or discretionary termination provisions above, that the person's contract is void. *Education Code 21.058(c-2)*

No Appeal

Action taken by a district under the mandatory or discretionary terminations provisions above is not subject to appeal under Education Code Chapter 21 and the notice and hearing requirements of Chapter 21 do not apply to the action. *Education Code 21.058(e)*

Invalid or Expired Certification

An employee's probationary, term, or continuing contract is void if the employee:

1. Does not hold a valid certificate or permit issued by SBEC;
2. Fails to fulfill the requirements necessary to renew or extend the employee's temporary, probationary, or emergency certificate or any other certificate or permit issued under Education Code Chapter 21, Subchapter B; or
3. Fails to comply with any requirement under Education Code Chapter 22, Subchapter C [criminal history review, see DBAA], if the failure results in suspension or revocation of the employee's certificate.

Education Code 21.0031(a)

A certificate or permit is not considered to have expired if:

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1. The employee has completed the requirements for renewal of the certificate or permit;
2. The employee submitted the request for renewal before the expiration date; and
3. The date the certificate or permit would have expired is before the date SBEC takes action to approve the renewal of the certificate or permit.

Education Code 21.0031(f)

District's Options

If a district has knowledge that an employee's contract is void under Education Code 21.0031(a), the district may:

1. Terminate the employee;
2. Suspend the employee with or without pay; or
3. Retain the employee for the remainder of the school year on an at-will employment basis in a position that does not require a contract under Education Code 21.002, at the employee's existing rate of pay or at a reduced rate.

The employee is not entitled to the minimum salary prescribed by Education Code 21.402.

Education Code 21.0031(b)

Exception

A district may not terminate or suspend an employee under 21.0031(b) because of the employee's lack of a valid certificate or permit, or failure to renew or extend a certificate or permit, if:

1. The employee requests an extension from SBEC to renew, extend, or otherwise validate the employee's certificate or permit; and
2. Not later than the tenth day after the date the contract is void, the employee takes necessary measures to renew, extend, or otherwise validate the employee's certificate or permit, as determined by SBEC.

Education Code 21.0031(b-1)

No Appeal or Chapter 21 Hearing

A school district's decision under Education Code 21.0031(b) is not subject to appeal under Education Code Chapter 21, and the notice and hearing requirements of that chapter do not apply to the decision. *Education Code 21.0031*

Applicability

These void contract provisions do not affect the rights and remedies of a party in an at-will employment relationship and do not apply to a certified teacher assigned to teach a subject for which the

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teacher is not certified. *Education Code 21.0031; Nunez v. Simms, 341 F.3d 385 (5th Cir. 2003)*

Report to SBEC

A superintendent shall report the educator's termination to SBEC if the conditions set forth at Education Code 21.006 exist. [See DHB]

Report to Superintendent

A principal shall report the educator's termination to the superintendent if the conditions set forth at Education Code 21.006 exist. [See DP]

Falsification of Military Record

A district may discharge an employee, regardless of whether the employee is employed under an employment contract, if the district determines, based on a reasonable factual basis, that the employee, in obtaining the employee's employment or any benefit relating to the employee's employment, falsified or otherwise misrepresented any information regarding the employee's military record in a manner that would constitute an offense under Penal Code 32.54.

An employment contract entered into by a district with an employee discharged by the employer under Labor Code Chapter 105 is void and unenforceable as against public policy. [See DF series]

Labor Code Ch. 105

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Employee Free Speech

District employees do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.

However, neither an employee nor anyone else has an absolute constitutional right to use all parts of a school building or its immediate environs for unlimited expressive purposes. When a public employee makes statements pursuant to his or her official duties, the employee is not speaking as a citizen for First Amendment purposes, and the Constitution does not insulate the communications from employer discipline.

Garcetti v. Ceballos, 547 U.S. 410 (2006); Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503 (1969) [See also GKD]

Whistleblower Protection

A board or its agents shall not suspend or terminate the employment of, or take other adverse personnel action against, an employee who in good faith reports a violation of law by a district or another public employee to an appropriate law enforcement authority.

A "report" is made to an "appropriate law enforcement authority" if the authority is a part of a state or local governmental entity or the federal government that the employee in good faith believes is authorized to:

1. Regulate under or enforce the law alleged to be violated in the report; or
2. Investigate or prosecute a violation of criminal law.

Gov't Code 554.002

A supervisor who suspends or terminates the employment of or takes an adverse personnel action against an employee for reporting a violation of law shall be subject to civil penalties. *Gov't Code 554.008*

Definitions

"Employee" means an employee or appointed officer who is paid to perform services for a district. It does not include independent contractors. *Gov't Code 554.001(4)*

"Law" means a state or federal statute, an ordinance of a local governmental entity, or a rule adopted under a statute or ordinance. *Gov't Code 554.001(1)*

A "good faith" belief that a violation of the law occurred means that:

1. The employee believed that the conduct reported was a violation of law; and
2. The employee's belief was reasonable in light of the employee's training and experience.

Wichita County v. Hart, 917 S.W.2d 779 (Tex. 1996)

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A "good faith" belief that a law enforcement authority is an appropriate one means:

1. The employee believed the governmental entity was authorized to:
   a. Regulate under or enforce the law alleged to be violated in the report, or
   b. Investigate or prosecute a violation of criminal law; and
2. The employee's belief was reasonable in light of the employee's training and experience.

Tex. Dep't of Transp. v. Needham, 82 S.W.3d 314 (Tex. 2002)

Whistleblower Complaints

An employee who alleges a violation of whistleblower protection may sue a district for injunctive relief, actual damages, court costs, and attorney's fees, as well as other relief specified in Government Code 554.003. *Gov't Code 554.003*

Initiate Grievance

Before suing, an employee must initiate action under a district's grievance policy or other applicable policies concerning suspension or termination of employment or adverse personnel action.

The employee must invoke a district's grievance procedure not later than the 90th day after the date on which the alleged suspension, termination, or other adverse employment action occurred or was discovered by the employee through reasonable diligence.

Legal Action

If a board does not render a final decision before the 61st day after grievance procedures are initiated, the employee may elect to:

1. Exhaust a district's grievance procedures, in which case the employee must sue not later than the 30th day after the date those procedures are exhausted to obtain relief under Government Code Chapter 554; or
2. Terminate district grievance procedures and sue within the time lines established by Government Code 554.005 and 554.006.

Gov't Code 554.005, 554.006 [See DGBA regarding grievance procedures]

Burden of Proof

If the employee brings a lawsuit, the employee has the burden of proof unless the suspension, termination, or adverse personnel action occurred within 90 days after the employee reported a violation of law, in which case the suspension, termination, or adverse personnel action is presumed, subject to rebuttal, to be because the employee made the report.

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Affirmative Defense

It is an affirmative defense to a whistleblower suit that the district would have taken the action against the employee that forms the basis of the suit based solely on information, observation, or evidence that is not related to the fact that the employee made a report protected under the whistleblower law.

Gov't Code 554.004

Notice of Rights

A board shall inform its employees of their rights regarding whistleblower protection by posting a sign in a prominent location in the workplace. The design and content of the sign shall be as prescribed by the attorney general. *Gov't Code 554.009*

Right to Report a Crime

A district employee may report a crime witnessed at the school to any peace officer with authority to investigate the crime. A district may not adopt a policy requiring a school employee to refrain from reporting a crime witnessed at the school or to report a crime witnessed at the school only to certain persons or peace officers. *Education Code 37.148*

Protection for Reporting Child Abuse

A ~~board or its agents~~district may not suspend or terminate the employment of, ~~or otherwise~~ discriminate against, or take other adverse employment action against a professional employee who in good faith:

1. Reports child abuse or neglect to:
    a. The person's supervisor,
    b. An administrator of the facility where the person is employed,
    c. A state regulatory agency, or
    d. A law enforcement agency; or
2. Initiates or cooperates with an investigation or proceeding by a governmental entity relating to an allegation of child abuse or neglect.

~~A person whose~~"Adverse employment ~~is suspended or terminated~~ action" means an action that affects an employee 's compensation, promotion, transfer, work assignment, or performance evaluation, or ~~who is otherwise discriminated against in violation~~any other employment action that would dissuade a reasonable employee from making or supporting a report of ~~the foregoing~~ abuse or neglect under Family Code 261.101.

A person may sue for injunctive relief, damages, or both~~.~~ if the person is suspended or terminated from the person's employment; is

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discriminated against; or suffers any other adverse employment action.

A district employee who has a cause of action under the provisions at Whistleblower Protection, above, may not bring an action under Protection for Reporting Child Abuse.

Family Code 261.110

Protection from Disciplinary Proceedings

For purposes of the following provisions, "disciplinary proceeding" means discharge or suspension of a professional employee, or termination or nonrenewal of a professional employee's term contract. [See DGC regarding immunity] *Education Code 22.0512(b)*

Reporting Child Abuse or Maltreatment

A district employee may not be subject to any disciplinary proceeding resulting from an action taken in compliance with Education Code 38.0041 [prevention of child abuse and other maltreatment, see FFG]. *Education Code 38.0041(g)*

Use of Physical Force

A professional employee may not be subject to disciplinary proceedings for the employee's use of physical force against a student to the extent justified under Penal Code 9.62. This provision does not prohibit a district from enforcing a policy relating to corporal punishment or bringing a disciplinary proceeding against a professional employee of the district who violates the district policy relating to corporal punishment. *Education Code 22.0512(a); Tex. Att'y Gen. Op. GA-0202 (2004)*

Penal Code 9.62 provides that the use of force, other than deadly force, against a person is justified:

1. If the actor is entrusted with the care, supervision, or administration of the person for a special purpose; and
2. When and to the degree the actor reasonably believes the force is necessary to further the special purpose or to maintain discipline in a group.

Penal Code 9.62

Failure to Follow Scope and Sequence

A district may not penalize a teacher who does not follow a recommended or designated scope and sequence for a subject in the required curriculum under Education Code 28.002(a) in a particular grade level based on the teacher's determination that the teacher's students need more or less time in a specific area to demonstrate proficiency in the essential knowledge and skills for that subject and grade level [see EHAA].

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A district may take appropriate action with respect to a teacher for conduct described above based on documented evidence of a deficiency in classroom instruction obtained through observation or substantiated and documented third-party information.

Education Code 28.0027(b), (c)

Instructional Materials and Technological Equipment

A board may not require an employee who acts in good faith to pay for instructional materials or technological equipment that is damaged, stolen, misplaced, or not returned. An employee may not waive this provision by contract or any other means.

Exception

A district may enter into a written agreement with an employee whereby the employee assumes financial responsibility for electronic instructional material or technological equipment usage off school property or outside of a school-sponsored event in consideration for the ability of the employee to use the electronic instructional material or technological equipment for personal business.

The written agreement shall be separate from the employee's contract of employment, if applicable, and shall clearly inform the employee of the amount of the financial responsibility and advise the employee to consider obtaining appropriate insurance. An employee may not be required to enter into such an agreement as a condition of employment.

Education Code 31.104(e); 19 TAC 66.107(c)

Jury Duty

A district may not discharge, threaten to discharge, intimidate, or coerce any permanent employee because the employee serves as a juror or grand juror, or for the employee's attendance or scheduled attendance in connection with the service, in any court in the United States. An employee who is discharged, threatened with discharge, intimidated, or coerced is entitled to return to the same employment that the employee held when summoned for jury or grand jury service if the employee, as soon as practical after release from jury or grand jury service, gives the employer actual notice that the employee intends to return. *Civ. Prac. and Rem. Code 122.001*

A district may not discharge, discipline, reduce the salary of, or otherwise penalize or discriminate against a school district employee because of the employee's compliance with a summons to appear as a juror. For each regularly scheduled workday on which a nonsalaried employee serves in any phase of jury service, a school district shall pay the employee the employee's normal daily compensation [see DEC]. *Education Code 22.006*

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Breaks for Nursing Mothers—Nonexempt Employees

A district shall provide a nonexempt employee a reasonable break to express breast milk, each time the employee needs to express breast milk for her nursing child, for one year after the child's birth. The district shall provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

A district is not required to compensate the employee receiving reasonable break time for any work time spent for such purpose.

A district that employs fewer than 50 employees is not subject to these requirements if the requirements would impose an undue hardship by causing the district significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the district.

29 U.S.C. 207(r)

Right to Express Breast Milk

A district employee is entitled to express breast milk at the employee's workplace. *Gov't Code 619.002*

The district shall develop a written policy on the expression of breast milk by employees under Government Code Chapter 619. The policy must state that the district shall support the practice of expressing breast milk and make reasonable accommodations for the needs of employees who express breast milk.

A district shall provide a reasonable amount of break time for an employee to express breast milk each time the employee has need to express the milk. The district shall provide a place, other than a multiple user bathroom, that is shielded from view and free from intrusion from other employees and the public where the employee can express breast milk.

A district may not suspend or terminate the employment of, or otherwise discriminate against, an employee because the employee has asserted the employee's rights under Government Code Chapter 619. Government Code Chapter 619 does not create a private or state cause of action against a district.

Gov't Code Ch. 619

Charitable Contributions

A board or a district employee may not directly or indirectly require or coerce any district employee to:

1. Make a contribution to a charitable organization or in response to a fund-raiser; or
2. Attend a meeting called for the purpose of soliciting charitable contributions.

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A board or district employee may not directly or indirectly require or coerce any district employee to refrain from the same acts.

Education Code 22.011

Protection of Nurses

A district may not suspend, terminate, or otherwise discipline or discriminate against a nurse who refuses to engage in an act or omission relating to patient care that:

1. Would constitute grounds for reporting the nurse to the Board of Nurse Examiners under Occupations Code Chapter 301, Subchapter I;
2. Constitutes a minor incident, as defined at Occupations Code 301.419; or
3. Would violate Occupations Code Chapter 301 or a rule of the Board of Nurse Examiners, if the nurse notifies the district at the time of the refusal that this is the reason for refusing to engage in the act or omission.

Occupations Code 301.352(a)

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Educator Ethics

Educators shall comply with standard practices and ethical conduct toward students, professional colleagues, school officials, parents, and members of the community and shall safeguard academic freedom.

The State Board for Educator Certification (SBEC) shall provide for the adoption, amendment, and enforcement of an educator's code of ethics [see DH(EXHIBIT)]. SBEC is solely responsible for enforcing the ethics code for purposes related to certification disciplinary proceedings.

Education Code 21.041(b)(8); 19 TAC 247.1(b), (c)

Public Servants

All district employees are "public servants" and therefore subject to Title VIII of the Penal Code, regarding offenses against public administration, including restrictions on the acceptance of illegal gifts, honoraria and expenses, and abuse of office. *Penal Code 1.07(a)(41), Title VIII* [See DBD and BBFA]

Electronic Communication Policy

"Electronic communication" means any communication facilitated by the use of any electronic device, including a telephone, cellular telephone, computer, computer network, personal data assistant, or pager. The term includes ~~e-mails~~emails, text messages, instant messages, and any communications made through a website, including a social media website or a social networking website.

A school district shall adopt a written policy concerning electronic communications between a school employee and a student enrolled in the district.

The policy adopted under this section must:

1. Include provisions designed to prevent improper electronic communications between a school employee and a student;
2. Allow a school employee to elect to not disclose to students the employee's personal telephone number or ~~e-mail~~email address; and
3. Include provisions instructing a school employee about the proper method for notifying appropriate local administrators about an incident in which a student engages in improper communications with the school employee.

Education Code 38.027

Public Information on Private Device

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

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1. Forward or transfer the public information to the district or a district server to be preserved as provided by Government Code 552.004(a); or

2. Preserve the public information in its original form in a backup or archive and on the privately owned device for the time described under 552.004(a).

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

Loss of Retirement Annuity for Conviction of Certain Felonies

A person is not eligible to receive a service retirement annuity from the Teacher Retirement System (TRS) if the person is convicted of a qualifying felony and the victim is a student.

"Qualifying felony" means an offense that is punishable as a felony under the following sections of the Penal Code:

1. Section 21.02 (continuous sexual abuse of young child or children);

2. Section 21.12 (improper relationship between educator and student); or

3. Section 22.011 (sexual assault) or Section 22.021 (aggravated sexual assault).

The term includes any federal offense that contains elements that are substantially similar to the elements of a felony offense described above.

Not later than the 30th day after the date of a person's conviction for a qualifying felony, the school at which the person was employed shall provide written notice of the conviction to TRS. The notice must comply with rules adopted by TRS.

Gov't Code 824.009

Transportation or Storage of Firearm in School Parking Area

A district may not prohibit a school employee who holds a license to carry a handgun under Government Code, Chapter 411, Subchapter H, from transporting or storing a handgun or other firearm or ammunition in a locked, privately owned or leased motor vehicle in a parking lot, parking garage, or other parking area provided by the district and may not regulate the manner in which the handgun, firearm, or ammunition is stored in the vehicle, provided that the handgun, firearm, or ammunition is not in plain view.

This does not authorize a person to possess, transport, or store a handgun, a firearm, or ammunition in violation of Education Code 37.125 or Penal Code 46.03 or 46.035, or other law. [See GKA]

Education Code 37.0815

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Tobacco and E-Cigarettes

A board shall prohibit smoking or using e-cigarettes or tobacco products at a school-related or school-sanctioned activity on or off school property.

Enforcement

A board shall ensure that district personnel enforce the policies on school property.

Education Code 38.006(b) [See also FNCD and GKA]

Drug and Alcohol Abuse Program

A board shall prohibit the use of alcoholic beverages at school-related or school-sanctioned activities on or off school property. *Education Code 38.007(a)*

Federal Drug-Free Workplace Act

A district that receives a direct federal grant must agree to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the district's workplace and specifying the actions that will be taken against employees for violations of the prohibition;
2. Establishing a drug-free awareness program to inform employees about:
    a. The dangers of drug abuse in the workplace;
    b. The district's policy of maintaining a drug-free workplace;
    c. Available drug counseling, rehabilitation, and employee assistance programs; and
    d. The penalties that may be imposed on employees for drug abuse violations;
3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the required statement;
4. Notifying the employee in the required statement that as a condition of employment in the grant the employee will:
    a. Abide by the terms of the statement; and
    b. Notify the district of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after the conviction;
5. Notifying the granting agency within 10 days after receiving notice from an employee or otherwise receiving actual notice of a conviction;

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6. Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is convicted, as required by 41 U.S.C. section 8104; and

7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of the above requirements.

41 U.S.C. 8103(a)(1)

Dietary Supplements

Except as provided at Education Code 38.011(b), a district employee may not:

1. Knowingly sell, market, or distribute a dietary supplement that contains performance-enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's duties; or

2. Knowingly endorse or suggest the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance-enhancing compounds by a primary or secondary student with whom the employee has contact as part of the employee's duties.

An employee who violates items 1 or 2, above, commits a Class C misdemeanor offense.

Education Code 38.011

Low-THC Cannabis

A district may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the possession of low-THC cannabis, as authorized by Health and Safety Code Chapter 487. *Health and Safety Code 487.201*

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Note: This policy applies to a district of innovation under Education Code, Chapter 12A. [See AF]

Permissive Reports

The superintendent may notify the State Board for Educator Certification (SBEC) of any educator misconduct that he or she believes in good faith may be subject to sanctions under 19 Administrative Code, Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, and/or Chapter 247, Educators' Code of Ethics. *19 TAC 249.14(d)*

Required Reports

A superintendent shall notify SBEC if:

1. An educator employed by or seeking employment with the district, or an applicant or holder of an SBEC certificate, has a criminal record and the district obtained information about the educator's criminal record by a means other than the criminal history clearinghouse established by the Texas Department of Public Safety under Government Code 411.0845;
2. An educator's employment at the district was terminated and there is evidence that the educator engaged in misconduct listed below [see Reportable Misconduct, below];
3. The educator submitted a notice of resignation and there is evidence that the educator engaged in misconduct listed below [see Reportable Misconduct, below]; or
4. The educator engaged in conduct that violated the assessment instrument security procedures established under Education Code 39.0301.

Education Code 21.006, 22.087; 19 TAC 249.14(d)

Reportable Misconduct

A superintendent shall make a report to SBEC under items 2 and 3, above, if an educator was terminated or resigned and there is evidence that the educator:

1. Sexually or physically abused a student or minor or engaged in any other illegal conduct with a student or minor;
2. Possessed, transferred, sold, or distributed a controlled substance, as defined by Health and Safety Code Chapter 481 or by 21 U.S.C. 801 et seq.;
3. Illegally transferred, appropriated, or expended school property or funds;
4. Attempted by fraudulent or unauthorized means to obtain or alter any certificate or permit that would entitle the individual

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to be employed in a position requiring such certificate or permit or to receive additional compensation associated with a position;

5. Committed a crime, any part of such crime having occurred on school property or at a school-sponsored event; or

6. Solicited or engaged in sexual conduct or a romantic relationship with a student or minor.

Education Code 21.006(b); 19 TAC 249.14(d)

Investigation

A superintendent shall complete an investigation of an educator that involves evidence that the educator may have engaged in misconduct described above at Reportable Misconduct, items 1 and ~~2~~6, despite the educator's resignation from employment before completion of the investigation. *Education Code 21.006(b-1); 19 TAC 249.14(d)(3)(C)*

Deadline to Report

The superintendent shall promptly notify SBEC in writing by filing a report within seven business days after the date the superintendent receives a report from a principal [see DP(LEGAL)] or knew of the circumstances described above. *Education Code 21.006(c); 19 TAC 249.14(d)* [See Required Reports, above]

Contents of Report

The report must be in writing and in a form prescribed by SBEC~~.~~ and may be filed through a confidential and secure internet portal developed and maintained by SBEC. The report shall include the name or names of any student or minor who is the victim of abuse or unlawful conduct by an educator and the factual circumstances requiring the report and the subject of the report by providing the following available information:

1. Name and any aliases;

2. Certificate number, if any, or social security number;

3. Last known mailing address and home and daytime phone numbers;

4. All available contact information for any alleged victim or victims;

5. Name or names and any available contact information of any relevant witnesses to the circumstances requiring the report;

6. Current employment status of the subject, including any information about proposed termination, notice of resignation, or pending employment actions; and

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7. Involvement by a law enforcement or other agency, including the name of the agency.

Education Code 21.006(c-1); 19 TAC 249.14(f)

The name of the student or minor is not public information under the Public Information Act. [See GBAA] *Education Code 21.006(h)*

Notice

To the Board and Educator

A superintendent shall notify the board and the educator of the filing of a written report with SBEC. The superintendent shall notify the board before filing the report. *Education Code 21.006(d); 19 TAC 249.14(d)(3)(B)*

Before Accepting Resignation

Before accepting an employee's resignation that requires filing a report, the superintendent shall inform the educator in writing that a report will be filed and that sanctions against his or her certificate may result as a consequence. *19 TAC 249.14(d)(3)(A)*

Exception to Notice Requirements

A superintendent is not required to notify SBEC or file a report with the board if, before the educator's termination or resignation, the superintendent:

1. Completes an investigation into an alleged incident of misconduct for:
   a. Abuse or unlawful act with a student or minor; or
   b. Involvement in a romantic relationship with or solicitation or engagement in sexual contact with a student or minor; and
2. Determines the educator did not engage in the alleged incident of misconduct.

Education Code 21.006(c-2)

Policy to Notify Parents

The board shall adopt a policy under which notice is provided to the parent or guardian of a student with whom an educator is alleged to have abused or otherwise committed an unlawful act with a student or minor. [See FFF] *Education Code 21.0061*

Sanctions for Failure to Report

SBEC shall determine whether to impose sanctions, including an administrative penalty against a superintendent who fails to file a report. *Education Code 21.006(f); 19 TAC 249.14(d), (h), .15(b)(4)*

Administrative Penalty

If a superintendent is required to file a report and fails to file the report by the required date, SBEC may impose an administrative penalty of not less than $500 and not more than $10,000. SBEC may not renew the certification of an educator against whom an administrative penalty is imposed until the penalty is paid. *Education Code 21.006(i)*

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Criminal Offense

A superintendent required to file a report commits a state jail felony if the superintendent fails to file the report by the required date with intent to conceal an educator's criminal record or alleged incident of misconduct. *Education Code 21.006(j)*

Immunity

A superintendent or principal who, in good faith and while acting in an official capacity, files a report with SBEC or communicates with another superintendent or principal concerning an educator's criminal record or alleged incident of misconduct is immune from civil or criminal liability that might otherwise be incurred or imposed. *Education Code 21.006(e)*

Definitions

"Abuse" includes the following acts or omissions:

"~~"~~Abuse~~"~~

1. Mental or emotional injury to a student or minor that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;
2. Causing or permitting a student or minor to be in a situation in which the student or minor sustains a mental or emotional injury that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;
3. Physical injury that results in substantial harm to a student or minor, or the genuine threat of substantial harm from physical injury to the student or minor, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline; or
4. Sexual conduct harmful to a student's or minor's mental, emotional, or physical welfare.

19 TAC 249.3(1)

"~~"~~Reported Criminal History~~"~~

"Reported criminal history" means information concerning any formal criminal justice system charges and dispositions. The term includes arrests, detentions, indictments, criminal informations, convictions, deferred adjudications, and probations in any state or federal jurisdiction. *19 TAC 249.3(44)*

"~~"~~Solicitation of a Romantic Relationship~~"~~

"Solicitation of a romantic relationship" means deliberate or repeated acts that can be reasonably interpreted as the solicitation by an educator of a relationship with a student that is romantic in nature. A romantic relationship is often characterized by a strong emotional or sexual attachment and/or patterns of exclusivity, but does not include appropriate educator-student relationships that arise out of legitimate contexts such as familial connections or longtime acquaintance. The following acts, considered in context,

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may constitute prima facie evidence of the solicitation by an educator of a romantic relationship with a student:

1. Behavior, gestures, expressions, or communications with a student that are unrelated to the educator's job duties and evidence a romantic intent or interest in the student, including statements of love, affection, or attraction. Factors that may be considered in determining the romantic intent of such communications or behavior include:
    a. The nature of the communications;
    b. The timing of the communications;
    c. The extent of the communications;
    d. Whether the communications were made openly or secretly;
    e. The extent that the educator attempts to conceal the communications;
    f. If the educator claims to be counseling a student, SBEC may consider whether the educator's job duties included counseling, whether the educator reported the subject of the counseling to the student's guardians or to the appropriate school personnel, or, in the case of alleged abuse or neglect, whether the educator reported the abuse or neglect to the appropriate authorities; and
    g. Any other evidence tending to show the context of the communications between educator and student.
2. Making inappropriate comments about a student's body, creating or transmitting sexually suggestive photographs or images, or encouraging the student to transmit sexually suggestive photographs or images.
3. Making sexually demeaning comments to a student.
4. Making comments about a student's potential sexual performance.
5. Requesting details of a student's sexual history.
6. Requesting a date, sexual contact, or any activity intended for the sexual gratification of the educator.
7. Engaging in conversations regarding the sexual problems, preferences, or fantasies of either party.
8. Inappropriate hugging, kissing, or excessive touching.

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9. Providing the student with drugs or alcohol.

10. Violating written directives from school administrators regarding the educator's behavior toward a student.

11. Suggestions that a romantic relationship is desired after the student graduates, including post-graduation plans for dating or marriage.

12. Any other acts tending to show that the educator solicited a romantic relationship with the student.

19 TAC 249.3(51)

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Note: The provisions of this policy apply to a district of innovation under Education Code, Chapter 12A. [See AF]

Misconduct of Noncertified Employees

Education Code 22.093 applies to a district employee who does not hold certification issued by the State Board for Educator Certification (SBEC) or a school district teaching permit.

Notice to TEA of Termination or Resignation

A superintendent shall notify the Texas Education Agency (TEA) if an employee was terminated or resigned and there is evidence that the employee:

1. Abused or otherwise committed an unlawful act with a student or minor; or
2. Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor.

Investigation

A superintendent shall complete an investigation of an employee that involves evidence that the employee may have engaged in misconduct described above, despite the employee's resignation from employment before completion of the investigation.

Principal Notification

A principal must notify the superintendent not later than the seventh business day after the date of an employee's termination or resignation following an alleged incident of misconduct described above.

Deadline to Report

A superintendent must notify TEA by filing a report not later than the seventh business day after the date the superintendent receives a report from a principal or knew about an employee's termination of employment or resignation following an alleged incident of misconduct described above.

Form of Report

The report must be in writing and in a form prescribed by the commissioner of education. The name of a student or minor who is the victim of abuse or unlawful conduct by an employee must be included in the report, but the name of the student or minor is not public information under the Public Information Act (PIA).

Notice to the Board and Employee

A superintendent shall notify the board and the employee of the filing of the report.

Immunity

A superintendent or principal who in good faith and while acting in an official capacity files a report or makes a notification is immune from civil or criminal liability that might otherwise be incurred or imposed.

Sanctions for Failure to Report

The commissioner shall refer an educator who fails to file a report to SBEC, who will determine whether to impose sanctions against the educator.

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Criminal Offense

A superintendent commits an offense if the superintendent fails to timely file the report with intent to conceal an employee's criminal record or alleged incident of misconduct.

A principal commits an offense if the principal fails to timely provide notice with intent to conceal an employee's alleged incident of misconduct.

An offense under Education Code 22.093(k) is a state jail felony.

Review of District Records

The commissioner may review district records to ensure compliance with the requirement to report misconduct.

Education Code 22.093

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Staff Development

Educator

The staff development provided by a district to an educator other than a principal must be conducted in accordance with standards developed by the district and designed to improve education in the district.

Principal

The staff development provided by a district to a principal shall be governed by Education Code 21.3541 and rules adopted under that section. [See DNB]

Education Code 21.451(a), (a-1)

Training Specifics—Educators

Staff development shall be predominantly campus-based, related to achieving campus performance objectives, and developed and approved by the campus-level committee.

A district may use district-wide staff development that has been developed and approved through the district-level decision process. [See BQA and BQB, as appropriate]

Staff development may include:

1. Training in technology, conflict resolution, and discipline strategies, including classroom management, district discipline policies, and the Student Code of Conduct;
2. Training in preventing, identifying, responding to, and reporting incidents of bullying;
3. Digital learning; and
4. Instruction as to what is permissible under law, including opinions of the United States Supreme Court, regarding prayer in public school.

The digital learning training must discuss basic technology proficiency expectations and methods to increase an educator's digital literacy; and assist an educator in the use of digital technology in learning activities that improve teaching, assessment, and instructional practices.

Education Code 21.451(b)–(d), (d-3), (g)

Students with Disabilities

Staff development must include training that is evidence-based, as defined by Section 8101, Every Student Succeeds Act (20 USC 7801), that relates to the instruction of students with disabilities and is designed for educators who work primarily outside the area of special education.

A district is required to provide such training only if the educator does not possess the knowledge and skills necessary to implement

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the individualized education program developed for a student receiving instruction from the educator. A district may determine the time and place at which the training is delivered.

In developing or maintaining such training, a district must consult persons with expertise in research-based practices for students with disabilities, including colleges, universities, private and nonprofit organizations, regional education service centers, qualified district personnel, and any other persons identified as qualified by the district.

Education Code 21.451(d)(2), (e)–(f)

Suicide Prevention

Staff development must include suicide prevention training that must be provided to all new district educators on an annual basis, as part of a new employee orientation and to existing district educators on the following schedule adopted by Texas Education Agency (TEA) rule:

1. All districts shall provide the training to all new educators as a part of new employee orientation during the 2016–17 school year.
2. Each subsequent school year, districts shall provide the training to all new educators as a part of new employee orientation.
3. Districts shall provide the training to all currently employed educators on or by September 30, 2016.

The suicide prevention training must use a best practice-based program recommended by the Texas Department of State Health Services (TDSHS) in coordination with TEA. The training may be satisfied through independent review of suicide prevention training material that complies with guidelines developed by TEA and is offered online.

Suicide prevention training that was provided to existing educators by a district on or after September 1, 2013, may be used to meet the requirements if the training program is on the recommended best practice-based list, or is an online program that meets the TEA guidelines for independent review.

Districts shall maintain records that include the name of each educator who participated in the training.

Education Code 21.451(d)(3)–(d-2); 19 TAC 153.1013

Staff Development Account

A district that receives resources from the commissioner of education's staff development account must pay to the commissioner for

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deposit in the account an amount equal to one-half of the cost of the resources provided to the district. *Education Code 21.453(c)*

Mental Health Support Programs

The Texas Department of State Health Services (DSHS), in coordination with TEA and regional education service centers (ESCs), shall provide and annually update a list of recommended best practice-based programs and research-based practices in the areas specified below for implementation in public elementary, junior high, middle, and high schools within the general education setting. Each school district may select from the list a program or programs appropriate for implementation in the district:

1. Early mental health intervention;
2. Mental health promotion;
3. Building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;
4. Substance abuse prevention and intervention;
5. Suicide prevention;
6. Grief-informed and trauma-informed practices;
7. Positive behavior interventions and supports and positive youth development; and
8. Safe, supportive, and positive school climate.

"School climate" means the quality and character of school life, including interpersonal relationships, teaching and learning practices, and organizational structures, as experienced by students enrolled in the district, parents of those students, and personnel employed by the district.

The programs on the list must include components that provide for training counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students, to:

1. Recognize students at risk of committing suicide, including students who are or may be the victims of or who engage in bullying;
2. Recognize students displaying early warning signs and a possible need for early mental health or substance abuse intervention, which warning signs may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others; and

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3. Intervene effectively with students described above by providing notice and referral to a parent or guardian so appropriate action, such as seeking mental health or substance abuse services, may be taken by a parent or guardian.

Required Training

A district shall provide training described in components 1–3, above, for teachers, counselors, principals, and all other appropriate personnel. The district may use a program from the DSHS list above to satisfy the training requirements. [See Mental Health Support Programs, above]

A district is required to provide the training at an elementary school campus only to the extent that sufficient funding and programs are available. A school district may implement a program on the list described at Health and Safety Code 161.325 to satisfy the training requirements. [See FFB]

If a district provides the training, a district employee must participate in the training at least one time, and the district shall maintain records that include the name of each district employee who participated in the training.

Health and Safety Code 161.325

Child Abuse, Sex Trafficking, and Maltreatment

A district's methods for increasing awareness of issues regarding sexual abuse, sex trafficking, and other maltreatment of children [see BQ, district improvement plan, and FFG] must ~~address employee~~include training concerning prevention techniques for and recognition of sexual abuse, sex trafficking, and all other maltreatment of children, including the sexual abuse, sex trafficking, and other maltreatment of children with significant cognitive disabilities.

The training must be provided as part of employee orientation to all new employees and to existing district employees on a schedule adopted by TEA until all district employees have taken the training. The training may be included in staff development under Education Code 21.451.

The training shall address:

1. Factors indicating a child is at risk for sexual abuse, sex trafficking, or other maltreatment;

2. Likely warning signs indicating a child may be a victim of sexual abuse, sex trafficking, or other maltreatment;

3. Internal procedures for seeking assistance for a child who is at risk for sexual abuse, sex trafficking, or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;

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4. Techniques for reducing a child's risk of sexual abuse, sex trafficking, or other maltreatment; and

5. Community organizations that have relevant existing research-based programs and that are able to provide training or other education for district employees, students, and parents.

A district shall maintain records of the training that include the name of each employee who participated.

If a district determines that the district does not have sufficient resources to provide the required training, the district shall work with a community organization to provide the training at no cost to the district.

Education Code 38.0041(c)–(f)

Trauma-Informed Care

A district's efforts to increase awareness and implementation of trauma-informed care must include training to new and existing employees. [See BQ, FFBA] *Education Code 38.036(c)*

Student Discipline

Each principal or other appropriate administrator who oversees student discipline shall, at least once every three school years, attend professional development training regarding Education Code Chapter 37, Subchapter G. The professional development shall include training relating to the distinction between a discipline management technique used at the principal's discretion under Education Code 37.002(a) and the discretionary authority of a teacher to remove a disruptive student under Education Code 37.002(b) [see FOA].

The professional development training may be provided in coordination with an education service center through the use of distance learning methods, such as telecommunications networks, and using available TEA resources.

Education Code 37.0181

Test Administration Procedures

A district shall ensure that test coordinators and administrators receive training to ensure that testing personnel have the necessary skills and knowledge required to administer assessment instruments in a valid, standardized, and secure manner. *19 TAC 101.3031(c)*

Cybersecurity Training

Employees identified by the district with access to a district computer system or database must complete a cybersecurity training program selected by the board. [See CQB] *Gov't Code 2054.5191(a-1)*

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Special Programs Training

Texas Adolescent Literacy Academies

A teacher shall attend a Texas adolescent literacy academy under 19 Administrative Code 102.1101 if:

1. The teacher teaches at a campus that receives a rating that reflects unacceptable performance and that fails to meet the state system safeguard performance target in reading for one or more student groups; and

2. The teacher teaches in general education, special education, or English as a second language for students in grade 6, 7, or 8, and:

    a. The teacher is a certified, full-time English language arts and reading teacher who instructs English language arts and/or reading for at least 50 percent of the teacher's instructional duties; or

    b. The teacher is a certified, full-time content area teacher who instructs mathematics, science, and/or social studies for at least 50 percent of the teacher's instructional duties.

A teacher described above is required to complete the training not later than December 31 of the calendar year in which the rating that reflects unacceptable performance is assigned.

A teacher who is required to attend an academy is eligible for a teacher stipend upon completion of face-to-face training if funds have been appropriated and are available for that purpose. A teacher who completes online training is not eligible for a stipend.

The stipend shall not be considered in determining whether a district is paying the teacher the state minimum monthly salary [see DEA and DEAA].

Each school district with teachers required to attend and complete Texas adolescent reading academies must maintain records to verify teacher attendance and completion in accordance with the district's record retention policy.

Education Code 21.4551(c), (e); 19 TAC 102.1101

Teacher Literacy Achievement Academies

A district shall ensure that:

1. Not later than the 2021–22 school year, each classroom teacher in kindergarten or first, second, or third grade and each principal at a campus with kindergarten or first, second, or third grade has attended a teacher literacy achievement academy developed under Education Code 21.4552; and

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2. Each classroom teacher and each principal initially employed in a grade level or at a campus described above for the 2021–22 school year or a subsequent school year has attended a teacher literacy achievement academy developed under Education Code 21.4552 before the teacher's or principal's first year of placement in that grade level or campus.

Education Code 28.0062(a)(2)

[See EHAB for kindergarten–grade 3 reading standards]

Gifted and Talented Education

A district shall ensure that:

1. Before assignment to the program for gifted students, teachers who provide instruction and services that are part of the program have a minimum of 30 hours of staff development that includes nature and needs of gifted/talented students, assessment of student needs, and curriculum and instruction for gifted students.
2. Teachers without the required training who provide instruction and services that are part of the gifted/talented program complete the 30-hour training requirement within one semester.
3. Teachers who provide instruction and services that are part of a program for gifted students receive a minimum of six hours annually of professional development in gifted education.
4. Administrators and counselors who have authority for program decisions have a minimum of six hours of professional development that includes nature and needs of gifted/talented students and program options.

19 TAC 89.2

Elective Bible Course

A teacher of an elective Bible course offered under Education Code 28.011 [see EMI] must hold a minimum of a High School Composite Certification in language arts, social studies, or history with, where practical, a minor in religious or biblical studies. The teacher must successfully complete the staff development training developed by the commissioner ~~of education~~ with respect to Bible elective courses. *Education Code 28.011(f)*

Automated External Defibrillators

A district shall annually make available to employees and volunteers instruction in the principles and techniques of cardiopulmonary resuscitation and the use of an automated external defibrillator (AED).

The instruction provided in the use of AEDs must meet guidelines for approved AED training under Health and Safety Code 779.002.

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Each school nurse, assistant school nurse, athletic coach or sponsor, physical education instructor, marching band director, cheerleading coach, and any other employee specified by the commissioner, and each student who serves as an athletic trainer, must:

1. Participate in the instruction; and
2. Receive and maintain certification in the use of an AED from the American Heart Association, the American Red Cross, or a similar nationally recognized association.

Education Code 22.902

Extracurricular Activity Safety Training

The following persons must satisfactorily complete ~~the~~an extracurricular activity safety training program ~~developed by the commissioner:~~:

1. A coach or sponsor for an extracurricular athletic activity;
2. A trainer, unless the trainer has completed the educational requirements for licensure as a licensed athletic trainer set forth at 22 Administrative Code 871.7 and the continuing education requirements at 22 Administrative Code 871.12;
3. A physician who is employed by a district or who volunteers to assist with an extracurricular athletic activity, unless the physician attends a continuing medical education course that specifically addresses emergency medicine; and
4. A director responsible for a school marching band.

The training ~~may~~must be conducted by ~~a district, the American Red Cross, the American Heart Association, or a similar organization, or by~~ the University Interscholastic League (UIL~~).~~) or by another organization as determined by the UIL.

Education Code 33.202(b), (e), (f); 19 TAC 76.1003

Records

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

A campus that is determined by a superintendent to be out of compliance with the safety training requirements shall be subject to the range of penalties determined by the UIL.

Education Code 33.206; 19 TAC 76.1003(e)

Steroids

A district shall require that each employee who serves as an athletic coach at or above the seventh grade level for an extracurricular athletic activity sponsored or sanctioned by the UIL complete:

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1. The educational program developed by the UIL regarding the health effects of steroids; or
2. A comparable program developed by the district or a private entity with relevant expertise.

Education Code 33.091(c-1)

Concussions

At least once every two years, the following employees shall take a training course from an authorized provider in the subject matter of concussions:

1. A coach of an interscholastic athletic activity shall take a course approved by the UIL.
2. An athletic trainer who serves as a member of a district's concussion oversight team shall take a course approved by the Texas Department of Licensing and Regulation (TDLR) or a course approved for continuing education credit by the licensing authority for athletic trainers.
3. A school nurse or licensed health-care professional, other than an athletic trainer, who serves as a member of a district's concussion oversight team shall take a course approved by the UIL, TDLR, or the appropriate licensing authority for the profession.

The employee must submit proof of timely completion of an approved course to the superintendent or designee. A school nurse or licensed health-care professional who is not in compliance with these training requirements may not serve on a concussion oversight team in any capacity. [See FM]

Education Code 38.158

~~**Resources for Staff Development**~~

Seizure Recognition and Related First Aid

A school nurse employed by a district ~~receives resources from the commissioner's staff development account, it~~ must ~~pay to the commissioner for deposit in the account an amount equal to one-half~~complete a TEA-approved online course of ~~the cost of the resources provided to the~~instruction for school nurses regarding managing students with seizure disorders that includes information about seizure recognition and related first aid.

A district~~.~~ employee, other than a school nurse, whose duties at the school include regular contact with students must complete a TEA-approved online course of instruction for school personnel regarding awareness of students with seizure disorders that includes information about seizure recognition and related first aid.

Education Code ~~21.453~~38.033(a), (b)

[See FFAF for information about a seizure management and treatment plan.]

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Teacher Appraisal

The employment policies adopted by the board must require a written evaluation of each teacher at annual or more frequent intervals.

A teacher appraisal must be done at least once ~~during~~for each school year. A teacher may be appraised less frequently if the teacher agrees in writing and the teacher's most recent evaluation rated the teacher as at least proficient, or the equivalent, and did not identify any area of deficiency. A teacher who is appraised less frequently than annually must be appraised at least once during each period of five school years.

Education Code 21.203, .352(c)

Interim Evaluations and Guidance

In addition to conducting a complete appraisal as frequently as required by Education Code 21.352(c), a district shall require that appropriate components of the appraisal process, such as classroom observations and walk-throughs, occur more frequently as necessary to ensure that a teacher receives adequate evaluation and guidance. A district shall give priority to conducting appropriate components more frequently for inexperienced teachers or experienced teachers with identified areas of deficiency. *Education Code 21.352(c-1)*

Required Components

The statutorily required components of teacher appraisal are defined as follows:

1. The implementation of discipline management procedures is the teacher's pedagogical practices that produce student engagement and establish the learning environment.
2. The performance of teachers' students is how the individual teacher's students progress academically in response to the teacher's pedagogical practice as measured at the individual teacher level by one or more student growth measures.

19 TAC 150.1001(f)

Notice and Use of Evaluations

A district shall use a teacher's consecutive appraisals from more than one year, if available, in making employment decisions and developing career recommendations for the teacher. *Education Code 21.352(e)*

The district shall notify a teacher of the results of any appraisal of the teacher in a timely manner so that the appraisal may be used as a developmental tool by the district and the teacher to improve the overall performance of the teacher. *Education Code 21.352(f)*

Role of Extracurricular Activities

A teacher who directs extracurricular activities in addition to performing classroom teaching duties shall be appraised only on the

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basis of classroom teaching performance and not on performance in connection with extracurricular activities. *Education Code 21.353*

Disciplinary Referrals

A district may not assign an area of deficiency to a teacher solely on the basis of disciplinary referrals made by the teacher or documentation regarding student conduct submitted by the teacher under Education Code 37.002. [See FOA for discretionary removal] A district is not prohibited from assigning an area of deficiency to a teacher based on documented evidence of a deficiency in classroom management obtained through observation or a substantiated report. *Education Code 21.352(a-1)*

Access to Evaluations

A district shall maintain a written copy of the evaluation of each teacher's performance in the teacher's personnel file.

Each teacher is entitled to receive a written copy of the evaluation promptly on its completion. The evaluation and any rebuttal may be given to another school district at which the teacher has applied for employment at the request of that district.

Education Code 21.352(c)

Confidentiality

A document evaluating the performance of a teacher or administrator is confidential and is not subject to disclosure under the Public Information Act, Government Code 552. ~~[~~*Education Code 21.355(a)* [For disclosure requirements on evaluations, see GBA]

~~A district may give TEA a document evaluating the performance of a teacher employed by the district for purposes of an investigation conducted by TEA. A document provided to TEA remains confidential unless the document becomes part of the record in a contested case under the Administrative Procedures Act, Government Code, Chapter 2001.~~

~~Except as provided by a court order prohibiting disclosure, a document provided to TEA may be used in a disciplinary proceeding against a teacher if the document may be admitted under rules of evidence applicable to a contested case under Government Code 2001.081.~~

~~*Education Code 21.355*~~

Two Appraisal Methods

A district shall use one of the following methods to appraise teachers:

1. The teacher appraisal system recommended by the commissioner of education [see State Method (T-TESS), below]; or
2. A local teacher appraisal system [see District Option and Campus Option, below].

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Education Code 21.352(a); 19 TAC 150.1001(a)

Selection of Appraisal Method

A superintendent, with the approval of a board, may select the state appraisal method. Each district or campus wanting to select or develop an alternative teacher appraisal system must follow the requirements set forth below at District Option or Campus Option. *19 TAC 150.1001(c)*

Notice to Service Center

A superintendent shall notify the executive director of the district's regional education service center in writing of the district's choice of appraisal system when using an alternative to the state appraisal method and detail the components of that system by the first day of instruction for the school year in which the alternative system is used.

A district shall submit annually to its service center a summary of the campus-level evaluation scores from the state appraisal method or the district's locally adopted appraisal system, in a manner prescribed by the commissioner.

19 TAC 150.1008

Note: The following provisions apply to teacher appraisal using the state appraisal method.

State Method (T-TESS)

The commissioner's recommended teacher appraisal system, the Texas Teacher Evaluation and Support System (T-TESS), was developed in accordance with Education Code 21.351. *19 TAC 150.1001(b), .1002(a)*

Orientation and Annual Review

A district shall ensure that all teachers are provided with an orientation to the T-TESS no later than the final day of the first three weeks of school and at least two weeks before the first observation when:

1. The teacher is new to the district;
2. The teacher has never been appraised under the T-TESS; or
3. District policy regarding teacher appraisal has changed since the last time the teacher was provided with an orientation to the T-TESS.

The teacher orientation shall be conducted in a face-to-face setting during a district's first year of T-TESS implementation and include all state and local appraisal policies and the local appraisal calendar. In addition to the orientation, campuses may hold other sessions sufficient in length allowing teachers to actively participate in a discussion of the T-TESS specifics and to have their questions answered.

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19 TAC 150.1006

Appraisers

The teacher appraisal process requires at least one certified appraiser. An appraiser must be the teacher's supervisor or a person approved by the board.

Campus Administrator

Only a campus administrator may act as a certified appraiser, except as provided below.

Under the T-TESS, a "campus administrator" includes a principal, an assistant principal, an administrator who holds a comparable administrator/supervisor certificate established by the State Board for Educator Certification, or supervisory staff whose job description includes the appraisal of teachers and who is not a classroom teacher.

An individual other than a campus administrator may act as a certified appraiser if:

1. The individual has been certified by completing the required training prior to conducting appraisals; and
2. In the case where the certified appraiser is a classroom teacher, the certified appraiser:
    a. Conducts appraisals at the same school campus at which the certified appraiser teaches if the certified appraiser is the chair of a department or grade level whose job description includes classroom observation responsibilities; or
    b. Does not conduct appraisals of classroom teachers who teach at the same campus as the certified appraiser if the certified appraiser is not a department or grade-level chair.

Training and Certification

Before conducting appraisals, an appraiser must be certified by having satisfactorily completed the state-approved T-TESS appraiser training and having passed the T-TESS certification examination, and must have received Instructional Leadership Training (ILT), Instructional Leadership Development (ILD), or Advanced Educational Leadership (AEL) certification. Appraisers without ILT, ILD, or AEL certification before January 1, 2016, may not take ILT or ILD to satisfy the requirement. Periodic recertification and training shall be required.

Education Code 21.351(c); 19 TAC 150.1005

Appraisal Calendar

A district shall establish a calendar for teacher appraisals and provide that calendar to teachers within three weeks from the first day

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of instruction. The appraisal period for each teacher must include all of the days of the teacher's contract.

Observations during the appraisal period must be conducted during the required days of instruction for students during one school year.

The appraisal calendar shall:

1. Exclude observations in the two weeks after the day of completion of the T-TESS orientation in the school years when an orientation is required; and

2. Indicate a period for end-of-year conferences that ends no later than 15 working days before the last day of instruction for students.

19 TAC 150.1003(d)

A teacher may be given advance notice of the date or time of an appraisal, but advance notice is not required. *Education Code 21.352(d); 19 TAC 150.1003(c)*

Assessment of Teacher Performance

Each teacher must be appraised each school year, except as provided below at Less-Than-Annual Appraisal. Whenever possible, an appraisal shall be based on the teacher's performance in fields and teaching assignments for which he or she is certified. *19 TAC 150.1003(a)*

During the appraisal period, the certified appraiser shall evaluate and document teacher performance specifically related to the domain criteria as identified in 19 Administrative Code 150.1002(a) and the performance of teachers' students as defined in 19 Administrative Code 150.1001(f)(2). *19 TAC 150.1003(e)*

Less-Than-Annual Appraisal

A teacher may receive a full appraisal less than annually if the teacher agrees in writing and the teacher's most recent full appraisal resulted in the teacher receiving summative ratings of at least proficient on nine of the sixteen dimensions and did not identify any area of deficiency, defined as a rating of Improvement Needed or its equivalent, on any of the sixteen dimensions identified in 19 Administrative Code 150.1002(a) or the performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2). A teacher who receives a full appraisal less than annually must receive a full appraisal at least once during each period of five school years.

District policy may stipulate:

1. Whether the option to receive a full appraisal less frequently than annually is to be made available to teachers;

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2. Whether the option to receive a full appraisal less frequently than annually is to be adopted district-wide or is to be campus specific;

3. If the appraisal accompanying a teacher new to a district or campus meets this option, whether the appraisal is to be accepted or whether that teacher is to be appraised by the new campus administrator; and

4. Whether a certified appraiser may place a teacher on the traditional appraisal cycle as a result of performance deficiencies documented in accordance with 19 Administrative Code 150.1003(b)(6) and (f) (~~related to~~ cumulative data regarding teacher performance in addition to formal classroom observations).

A school district may choose annually to review the written agreement to have less frequent full appraisals with the teacher. However, at the conclusion of the school year, the district may modify appraisal options through board policy and may make changes to expectations for appraisals that apply to all teachers regardless of a teacher's participation in the appraisal option in the previous year(s).

In a year in which a teacher does not receive a full appraisal due to meeting the requirements, a teacher shall participate in:

1. The Goal-Setting and Professional Development Plan process;

2. The performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2); and

3. A modified end-of-year conference that addresses:

   a. The progress on the Goal-Setting and Professional Development Plan;

   b. The performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2); and

   c. The following year's Goal-Setting and Professional Development plan.

19 TAC 150.1003(l)

Domains and Dimensions

Each teacher shall be appraised on the following domains and dimensions of the T-TESS rubric that is aligned to the Texas Teacher Standards in 19 Administrative Code Chapter 149 (~~relating to~~ Commissioner's Rules Concerning Educator Standards):

1. Domain I. Planning, which includes the following dimensions:

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a. Standards and alignment;

b. Data and assessment;

c. Knowledge of students; and

d. Activities.

2. Domain II. Instruction, which includes the following dimensions:

a. Achieving expectations;

b. Content knowledge and expertise;

c. Communication;

d. Differentiation; and

e. Monitor and adjust.

3. Domain III. Learning Environment, which includes the following dimensions:

a. Classroom environment, routines, and procedures;

b. Managing student behavior; and

c. Classroom culture.

4. Domain IV. Professional Practices and Responsibilities, which includes the following dimensions:

a. Professional demeanor and ethics;

b. Goal setting;

c. Professional development; and

d. School community involvement.

The evaluation of each of the dimensions above shall consider all data generated in the appraisal process. The data for the appraisal of each dimension shall be gathered from pre-conferences, observations, post-conferences, end-of-year conferences, the Goal-Setting and Professional Development Plan process, and other documented sources.

Each teacher shall be evaluated on the 16 dimensions in Domains I–IV identified above using the following categories:

1. Distinguished;

2. Accomplished;

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3. Proficient;

4. Developing; and

5. Improvement needed.

Student Performance

Beginning with the 2017–18 school year, each teacher appraisal shall include the performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2) (~~relating to~~ student growth measures).

If calculating a single overall summative appraisal score for teachers, the performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2), shall count for at least 20 percent of a teacher's summative score.

Each teacher shall be evaluated on the performance of teachers' students using one of the terms from the following categories:

1. Distinguished or well above expectations;

2. Accomplished or above expectations;

3. Proficient or at expectations;

4. Developing or below expectations; or

5. Improvement needed or well below expectations.

19 TAC 150.1002

Appraisal Process

The annual teacher appraisal, or full appraisal, shall include:

1. A completed and appraiser-approved Goal-Setting and Professional Development Plan that shall be:

   a. Submitted to the teacher's appraiser within the first six weeks from the day of completion of the T-TESS orientation for teachers in their first year of appraisal under the T-TESS or for teachers new to the district; or

   b. Initially drafted in conjunction with the teacher's end-of-year conference from the previous year, revised as needed based on changes to the context of the teacher's assignment during the current school year, and submitted to the teacher's appraiser within the first six weeks of instruction; and

   c. Maintained throughout the course of the school year by the teacher to track progress in the attainment of goals and participation in professional development activities detailed in the approved plan;

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d. Shared with the teacher's appraiser prior to the end-of-year conference; and

e. Used after the end-of-year conference in the determination of ratings for the goal setting and professional development dimensions of the T-TESS rubric;

2. For a teacher in the first year of appraisal under the T-TESS or for teachers new to the district, a Goal-Setting and Professional Development Plan conference prior to the teacher submitting the plan to the teacher's appraiser;

3. After a teacher's first year of appraisal under the T-TESS within the district, an observation pre-conference conducted prior to announced observations;

4. At least one classroom observation of a minimum of 45 minutes, with additional walk-throughs and observations conducted at the discretion of the certified appraiser and in accordance with the Education Code 21.352(c-1). Additional observations and walk-throughs do not require an observation post-conference. Additional observations and walk-throughs do require a written summary if the data gathered during the additional observation or walk-through will impact the teacher's summative appraisal ratings, in which case the written summary shall be shared within ten working days after the completion of the additional observation or walk-through. Title 19 Administrative Code 150.1004 (~~relating to~~ Teacher Response and Appeals) applies to a written summary of an additional observation or walk-through that will impact the teacher's summative appraisal ratings;

5. An observation post-conference that:

a. Shall be conducted within ten working days after the completion of an observation;

b. Is diagnostic and prescriptive in nature;

c. Includes a written report of the rating of each dimension observed that is presented to the teacher only after a discussion of the areas for reinforcement and areas for refinement; and

d. Can allow for, at the discretion of the appraiser, a revision to an area for reinforcement or refinement based on the post-conference discussion with the teacher;

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6. Cumulative data from written documentation collected regarding job-related teacher performance, in addition to formal classroom observations;

7. An end-of-year conference that:

   a. Reviews the appraisal data collected throughout the current school year and previous school years, if available;

   b. Examines and discusses the evidence related to the teacher's performance on the four dimensions of Domain IV of the T-TESS rubric;

   c. Examines and discusses evidence related to the performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2) (~~relating to~~ student growth measures), when available; and

   d. Identifies potential goals and professional development activities for the teacher for the next school year; and

8. A written summative annual appraisal report to be provided to the teacher within ten working days of the conclusion of the end-of-year conference.

19 TAC 150.1003(b)

Shorter Observations

By written, mutual consent of the teacher and the certified appraiser, the required 45 minutes of observation may be conducted in shorter time segments. The time segments must aggregate to at least 45 minutes. *19 TAC 150.1003(g)*

Cumulative Data

The certified appraiser is responsible for documentation of cumulative data. Any third-party information from a source other than the certified appraiser that the certified appraiser wishes to include as cumulative data shall be verified and documented by the certified appraiser. Any documentation that will influence the teacher's summative annual appraisal report must be shared in writing with the teacher within ten working days of the certified appraiser's knowledge of the occurrence. The principal shall also be notified in writing of the cumulative data when the certified appraiser is not the teacher's principal. *19 TAC 150.1003(f)*

Summative Report

A written summative annual appraisal report shall be shared with the teacher no later than 15 working days before the last day of instruction for students. The written summative annual appraisal report shall be placed in the teacher's personnel file by the end of the appraisal period. *19 TAC 150.1003(h)*

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End-of-Year Conference

An end-of-year conference shall be held within a time frame specified on the district calendar, no later than 15 working days before the last day of instruction for students. The end-of-year conference shall focus on the data and evidence gathered throughout the appraisal year; the teacher's efforts as they pertain to Domain IV; the results of the performance of teachers' students, when available, as defined in 19 Administrative Code 150.1001(f)(2); and the potential goals and professional development plans for the following year. The written summative annual appraisal report shall be shared with the teacher within ten working days following the conclusion of the end-of-year conference but no later than 15 working days before the last day of instruction.

In cases where the certified appraiser is not an administrator on the teacher's campus, either the principal, assistant principal, or another supervisory staff member designated as an administrator on the campus must participate in the end-of-year conference.

19 TAC 150.1003(i), (j)

Additional Documentation

Any documentation collected after the end-of-year conference but before the end of the contract term during one school year may be considered as part of the appraisal of a teacher. If the documentation affects the teacher's evaluation in any dimension, another summative report shall be developed to inform the teacher of the changes. *19 TAC 150.1003(k)*

Teacher Response and Rebuttal

A teacher may submit a written response or rebuttal at the following times:

1. For Domains I, II, and III, after receiving a written observation summary or any other written documentation related to the ratings of those three domains; or

2. For Domain IV and for the performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2), after receiving a written summative annual appraisal report.

Any written response or rebuttal must be submitted within ten working days of receiving a written observation summary, a written summative annual appraisal report, or any other written documentation associated with the teacher's appraisal. A teacher may not submit a written response or rebuttal to a written summative annual appraisal report for the ratings in Domains I, II, and III if those ratings are based entirely on observation summaries or written documentation already received by the teacher earlier in the appraisal year for which the teacher already had the opportunity to submit a written response or rebuttal.

Education Code 21.352(c); 19 TAC 150.1004(a), (b)

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Request for Second Appraisal

A teacher may request a second appraisal by another certified appraiser at the following times:

1. For Domains I, II, and III, after receiving a written observation summary with which the teacher disagrees; or
2. For Domain IV and for the performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2), after receiving a written summative annual appraisal report with which the teacher disagrees.

The second appraisal must be requested within ten working days of receiving a written observation summary or a written summative annual appraisal report. A teacher may not request a second appraisal by another certified appraiser in response to a written summative annual appraisal report for the ratings of dimensions in Domains I, II, and III if those ratings are based entirely on observation summaries or written documentation already received by the teacher earlier in the appraisal year for which the teacher already had the opportunity to request a second appraisal.

A teacher may be given advance notice of the date or time of a second appraisal, but advance notice is not required.

The second appraiser shall make observations and walk-throughs as necessary to evaluate the dimensions in Domains I–III or shall review the Goal-Setting and Professional Development Plan for evidence of goal attainment and professional development activities, when applicable. Cumulative data may also be used by the second appraiser to evaluate other dimensions.

A district shall adopt written procedures for determining the selection of second appraisers. The procedures shall be disseminated to each teacher at the time of employment and updated annually or as needed.

Education Code 21.352(c); 19 TAC 150.1004(c)–(g)

Note: The following provisions apply to teacher appraisal using a district-developed appraisal method.

District Option

A district that does not choose to use the T-TESS must develop its own teacher-appraisal system supported by locally adopted policy and procedures and by the processes outlined below.

Development of Appraisal System

The district-level planning and decision-making committee shall:

1. Develop an appraisal process;

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2. Develop evaluation criteria, including discipline management and performance of the teachers' students; and

3. Consult with the campus-planning and decision-making committee on each campus in the district.

Appraisal Process

The appraisal process shall include:

1. At least one appraisal each year, or less frequently if in accordance with Education Code 21.352(c) [see Teacher Appraisal, above];

2. A conference between the teacher and the appraiser that is diagnostic and prescriptive with regard to remediation needed in overall performance by category; and

3. Criteria based on observable, job-related behavior, including:

   a. Teachers' implementation of discipline management procedures, as defined in 19 Administrative Code 150.1001(f)(1); and

   b. Beginning with the 2017–18 school year, the performance of the teachers' students as defined in 19 Administrative Code 150.1001(f)(2).

Board Acceptance

A district-level planning and decision-making committee shall submit the appraisal process and criteria to the superintendent, who shall submit the appraisal process and criteria to the board with a recommendation to accept or reject.

The board may accept or reject, with comments, the appraisal process and performance criteria, but may not modify the process or criteria.

Education Code 21.352(a)(2), (b); 19 TAC 150.1007(a)

Note: The following provisions apply to teacher appraisal using a campus-developed appraisal method.

Campus Option

A campus within a district may choose to develop a local appraisal system.

Development of Appraisal System

The campus planning and decision-making committee shall:

1. Develop an appraisal process;

2. Develop evaluation criteria, including discipline management and performance of the teachers' students; and

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3. Submit the process and criteria to the district-level planning and decision-making committee.

Appraisal Process

The appraisal process shall include:

1. At least one appraisal each year, or less frequently if in accordance with Education Code 21.352(c) [see Teacher Appraisal above];
2. A conference between the teacher and the appraiser that is diagnostic and prescriptive with regard to remediation needed in overall performance by category; and
3. Criteria based on observable, job-related behavior, including:
   a. Teachers' implementation of discipline management procedures, as defined in 19 Administrative Code 150.1001(f)(1); and
   b. Beginning with the 2017–18 school year, the performance of the teachers' students as defined in 19 Administrative Code 150.1001(f)(2).

Board Acceptance

Upon submission of the appraisal process and criteria to the district-level planning and decision-making committee, the committee shall make a recommendation to accept or reject the appraisal process and criteria and transmit that recommendation to the superintendent.

The superintendent shall submit to the board:

1. The recommended campus appraisal process and criteria;
2. The district-level planning and decision-making committee's recommendation; and
3. The superintendent's recommendation.

The board may accept or reject, with comments, an appraisal process and performance criteria, but may not modify the process or criteria.

Education Code 21.352(a)(2), (b); 19 TAC 150.1007(b)

Note: The following provision applies to appraiser training under a local appraisal process (district- or campus-developed).

Appraisers

A district that locally develops and adopts its own educator appraisal system should have a clearly defined set of procedures for

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training appraisers. The district should identify the qualities appraisers must demonstrate and include appropriate proficiency checks to evaluate the performance of all educators performing appraisals under the district's locally adopted appraisal systems. The school district shall be responsible for documenting that appraisers have met training criteria established by the district. *19 TAC 244.3*

Note: The standards to be used to inform the training, appraisal, and professional development of teachers are outlined in 19 Administrative Code 149.1001.

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Frequency

The employment policies adopted by a board must require a written evaluation at annual or more frequent intervals of each principal, supervisor, school counselor, or other full-time, certified professional employee, and nurse. *Education Code 21.203(a)*

District funds may not be used to pay an administrator who has not been appraised in the preceding 15 months. *Education Code 21.354(d)*

Principal Appraisal

A district shall appraise each principal annually. In appraising principals, a school district shall use either:

1. The appraisal system and school leadership standards and indicators developed or established by the commissioner of education; or

2. An appraisal process and performance criteria developed by the district in consultation with the district-level and campus-level committees [see BQA and BQB] and adopted by the board.

Education Code 21.3541(f), (g); 19 TAC 150.1023(a)

The commissioner's recommended principal appraisal system, the Texas Principal Evaluation and Support System (T-PESS), was developed in accordance with Education Code 21.3541.

The superintendent, with the approval of the board, may select the T-PESS. Each school district wanting to select or develop an alternative principal appraisal system must follow Education Code 21.3541, and 19 Administrative Code 150.1026 (~~relating to~~ Alternatives to the Commissioner's Recommended Principal Appraisal System).

19 TAC 150.1021(b), (c)

Notice to ESC

The superintendent shall notify the executive director of its regional education service center in writing of the school district's choice of appraisal system when using an alternative to the commissioner's recommended appraisal system and detail the components of that system by the first day of instruction for the school year in which the alternative system is used.

Each school district shall submit annually to its regional education service center a summary of the evaluation scores from the T-PESS or the district's locally adopted appraisal system, in a manner prescribed by the commissioner.

19 TAC 150.1027

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Texas Principal Evaluation and Support System (T-PESS)

Each principal shall be appraised on the following standards and indicators of the T-PESS rubric that is aligned to the Texas Administrator Standards in 19 Administrative Code, Chapter 149 (~~relating to~~ Commissioner's Rules Concerning Educator Standards):

1. Standard I. Instructional Leadership, which includes four indicators;
2. Standard II. Human Capital, which includes four indicators;
3. Standard III. Executive Leadership, which includes four indicators;
4. Standard IV. School Culture, which includes five indicators; and
5. Standard V. Strategic Operations, which includes four indicators.

The evaluation of each of the standards and indicators above shall consider all data generated in the appraisal process.

Each principal shall be evaluated on the attainment and progress toward at least one goal, as referenced in 19 Administrative Code 150.1023 (~~relating to~~ Appraisals, Data Sources, and Conferences). At least one goal shall be focused on the improvement of the principal's practice, as captured in the T-PESS rubric indicators and descriptors.

If calculating a single overall summative appraisal score for principals, the rating for the attainment of goals shall count for:

1. At least 20 percent of a principal's summative score for a principal who has served at least one year in his or her role on the same campus; or
2. At least 30 percent of a principal's summative score for a principal who is in his or her first year as principal on a particular campus.

Each principal shall be evaluated on each of the 21 indicators in Standards I–V identified above and on the attainment of each goal, using the following categories:

1. Distinguished;
2. Accomplished;
3. Proficient;
4. Developing; and
5. Improvement needed.

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Beginning with the 2017–18 school year, each principal appraisal shall include the campus-level academic growth or progress of the students enrolled at the principal's campus.

If calculating a single overall summative appraisal score for principals, the measure of student growth or progress shall count for:

1. At least 20 percent of a principal's summative score for a principal who has served two or more years in his or her role on the same campus;
2. At least 10 percent of a principal's summative score for a principal who has served one year in his or her role on the same campus; or
3. May not be included in calculating a single overall summative appraisal score for a principal who is in his or her first year as principal on a particular campus.

Each principal shall be evaluated on student growth or progress using one of the terms from the following categories:

1. Distinguished;
2. Accomplished;
3. Proficient;
4. Developing; or
5. Improvement needed.

19 TAC 150.1022

Appraisal Procedures

The annual principal appraisal shall include:

1. At least one appraiser-approved goal that shall be:
    a. Initially drafted in conjunction with the principal's end-of-year conference from the previous year, as applicable, revised as needed based on changes to the context of the principal's assignment at the beginning of the current school year, and submitted to the principal's appraiser; and
    b. Maintained throughout the course of the school year by the principal to track progress in the attainment of goals and the actions taken to achieve the goals;
    c. Shared with the principal's appraiser prior to the end-of-year conference; and

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d. Used after the end-of-year conference in the determination of ratings for the attainment of goals;

2. A pre-evaluation conference prior to the principal submitting his or her goals to the principal's appraiser;

3. A mid-year conference to determine and discuss progress toward the attainment of goals;

4. An end-of-year conference that:

   a. Reviews data collected throughout the current school year and previous school years, if available;

   b. Examines and discusses the artifacts and evidence related to the principal's performance on the 21 indicators of T-PESS rubric and the attainment of goals;

   c. Examines and discusses evidence related to student growth or progress measures, as described in 19 Administrative Code 150.1022(f)–(h), when available; and

   d. Identifies potential goals and professional development activities for the principal for the next school year; and

5. A written summative annual appraisal report to be provided to the principal after the conclusion of the end-of-year conference.

Calendar

Each school district shall establish a calendar for the appraisal of principals and provide that calendar to principals prior to the pre-evaluation conference.

Appraisal Report

The written summative annual appraisal report shall be placed in the principal's personnel file by the end of the appraisal period.

Additional Documentation

Any documentation collected after the end-of-year conference but before the end of the contract term during one school year may be considered as part of the appraisal of a principal. If the documentation affects the principal's evaluation in any indicator, the attainment of goals, or a measure of student growth or progress, another summative report shall be developed to inform the principal of the changes prior to the end of the contract term.

19 TAC 150.1023(b)–(e)

Appraiser Qualifications

The principal appraisal process requires at least one certified appraiser. Before conducting an appraisal, an appraiser must be certified by having satisfactorily completed the state-approved T-PESS. Periodic recertification and training may be required. *19 TAC 150.1024*

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Orientation

A district shall ensure that a principal is provided with an orientation of the T-PESS either prior to or in conjunction with the pre-evaluation conference when:

1. The principal is new to the district;
2. The principal has never been appraised under the T-PESS; or
3. District policy regarding principal appraisal has changed since the last time the principal was provided with an orientation to the T-PESS.

The principal orientation shall include all state and local appraisal policies and the local appraisal calendar.

19 TAC 150.1025

Alternatives to T-PESS

A district that does not choose to use the T-PESS must develop its own principal appraisal system supported by locally adopted policy and procedures; developed in consultation with the district-level and campus-level committees established under Education Code 11.251; and adopted by the board. *Education Code 21.3541; 19 TAC 150.1026*

Note: The standards, indicators, knowledge, and skills to be used to align with the training, appraisal, and professional development of principals are outlined in 19 Administrative Code 149.2001.

Appraisal of Campus Administrators Other Than Principals

A district shall appraise each campus administrator, other than a principal, annually using either:

1. The commissioner's recommended appraisal process and performance criteria; or
2. An appraisal process and performance criteria developed by the district in consultation with the district- and campus-level committees and adopted by the board.

Education Code 21.354(c)

A district may use the T-PESS to appraise campus administrators other than principals provided the school district makes appropriate modifications to ensure that the T-PESS rubric and components fit the job descriptions of the campus administrators other than principals evaluated with the T-PESS. A district using T-PESS for administrators other than principals shall evaluate administrators on the attainment and progress toward at least one goal, as referenced in 19 Administrative Code 150.1023 (~~relating to~~ Appraisals, Data Sources, and Conferences). At least one goal shall be focused on

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the improvement of the administrator's practice, as captured in the T-PESS rubric indicators and descriptors.

Each school district wanting to select or develop a local appraisal system for campus administrators other than principals must use an appraisal process and performance criteria developed in consultation with the district- and campus-level committees established under Education Code 11.251; and adopted by the board.

Education Code 21.354(c)(2); 19 TAC 150.1028, 244.2(c)

Appraisers

A district using T-PESS for administrators other than principals or that locally develops and adopts its own educator appraisal system should have a clearly defined set of procedures for training appraisers. The school district should identify the qualities appraisers must demonstrate and include appropriate proficiency checks to evaluate the performance of all educators performing appraisals under the district's adopted appraisal systems. The school district shall be responsible for documenting that appraisers have met training criteria established by the district. *19 TAC 244.2(c), .3*

School Counselors

The commissioner shall develop and periodically update an evaluation form for use by districts in evaluating school counselors. *Education Code 21.356*

Confidentiality

A document evaluating the performance of ~~an~~a teacher or administrator is confidential and is not subject to disclosure under the Public Information Act, Government Code 552. ~~[See GBA]~~

~~A district may give TEA a document evaluating the performance of an administrator employed by the district for purposes of an investigation conducted by TEA. A document provided to TEA remains confidential unless the document becomes part of the record in a contested case under the Administrative Procedures Act, Government Code, Chapter 2001.~~

~~Except as provided by a court order prohibiting disclosure, a document provided to TEA may be used in a disciplinary proceeding against an administrator if the document may be admitted under rules of evidence applicable to a contested case under Government Code 2001.081.~~

Education Code 21.355 (a) [For disclosure requirements on evaluations, see GBA]

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Principal

Qualifications

A board, by local policy, shall adopt qualifications for principals. *Education Code 11.202(c)*

Certification

State Board for Educator Certification (SBEC) rules establish the requirements for receiving a principal certificate and for first-time principals in Texas. *19 TAC Ch. 241*

Duties

The principal shall be the instructional leader of the school and shall be provided with adequate training and personnel assistance to assume that role. *Education Code 11.202(a)*

A principal shall:

1. Approve all teacher and staff appointments for the campus. [See DK]
2. Set specific education objectives for the campus, through the planning process.
3. Develop budgets for the campus.
4. Assume administrative responsibility and instructional leadership, under the supervision of the superintendent, for discipline at the campus.
5. Assign, evaluate, and promote all personnel assigned to the campus.
6. Recommend to the superintendent the termination, suspension, or nonrenewal of an employee assigned to the campus.
7. Perform any other duties assigned by the superintendent pursuant to board policy.
8. Regularly consult with the campus-level committee in the planning, operation, supervision, and evaluation of the campus educational program. [See BQ series]
9. Each school year, with the assistance of the campus-level committee, develop, review, and revise the campus improvement plan. [See BQ]
10. (For high school principals only) Serve, or appoint someone to serve, as deputy registrar for the county in which the school is located. *Election Code 13.046*

Education Code 11.202(b), .253(c), (h) [See also DMA]

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Principal's Report to Superintendent

A principal must notify the superintendent not later than the seventh business day after the date:

Educators

1. Of an educator's termination of employment or resignation following an alleged incident of misconduct under Education Code 21.006(b); or

2. The principal knew about an educator's criminal record under Education Code 21.006(b)(1).

Education Code 21.006(b-2); 19 TAC 249.14(e) [See Required Reports at DHB~~]~~(LEGAL)]

Noncertified Employees

A principal must notify the superintendent not later than the seventh business day after the date of a noncertified employee's termination or resignation following allegations that the employee:

1. Abused or otherwise committed an unlawful act with a student or minor; or

2. Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor.

Education Code 22.093(e) [See Principal Notification at DHC(LEGAL)]

Sanctions and Administrative Penalty

SBEC determines whether to impose sanctions, including an administrative penalty, against a principal who fails to provide notification to a superintendent. *Education Code 21.006(f), 22.093(i); 19 TAC 249.14(e), (h)*

If a principal is required to notify a superintendent about an educator's criminal record or alleged incident of misconduct and fails to provide the notice by the required date, SBEC may impose an administrative penalty of not less than $500 and not more than $10,000. SBEC may not renew the certification of an educator against whom an administrative penalty is imposed until the penalty is paid. *Education Code 21.006 (i)*

Criminal Offense

A principal required to notify a superintendent about an ~~educator's~~employee's criminal record or alleged incident of misconduct commits a state jail felony if the principal fails to provide the notice by the required date with intent to conceal an educator's criminal record or alleged incident of misconduct. *Education Code 21.006(j), 22.093(k)*

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Literacy and Math Plans

The board shall adopt and post on the district's 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.

Each plan must:

1. Identify annual goals for students in each group evaluated under the closing the gaps domain under Education Code 39.053(c)(3) [see AIA];

2. Include annual goals for aggregate student growth on the third grade reading or mathematics assessment instrument, as applicable, administered under Education Code 39.023 [see EKB] or on an alternative assessment instrument determined by the board;

3. Provide for targeted professional development for classroom teachers in kindergarten or first, second, or third grade who are assigned to campuses that the board identifies as not meeting the plan's goals;

4. Assign at least one district-level administrator or employee of the regional education service center (ESC) for the district's region to:

   a. Coordinate implementation of the plan; and

   b. Submit an annual report to the board on the district's progress toward the goals set under the plan; and

5. Be reviewed annually by the board at a public meeting.

Each plan may set separate goals for students in a bilingual education or special language program under Education Code Chapter 29, Subchapter B.

Professional Development

The professional development provided to classroom teachers under item 3, above, must, as appropriate, consider the unique needs of students in a bilingual education or special language program under Education Code Chapter 29, Subchapter B.

Website Posting

A district shall post the annual report described above on the district's website and on the website, if any, of each campus in the district.

Education Code 11.185

[See AIB for annual report requirements.]

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College, Career, and Military Readiness Plans

The board 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.

Each plan must:

1. Identify annual goals for students in each group evaluated under the closing the gaps domain [see AIA];
2. Include annual goals for aggregate student growth on college, career, and military readiness indicators evaluated under the student achievement domain [see AIA];
3. Assign at least one district-level administrator or employee of the regional ESC for the district's region to:
   a. Coordinate implementation of the plan; and
   b. Submit an annual report to the board on the district's progress toward the goals set under the plan; and
4. Be reviewed annually by the board at a public meeting.

Website Posting

A district shall post the annual report described above on the district's website and on the website, if any, of each campus in the district.

Education Code 11.186

[See AIB for annual report requirements.]

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School Start Date

A district may not begin instruction for students for a school year before the fourth Monday in August unless the district operates a year-round system (see below). A district may not receive a waiver of this requirement.

Exceptions

A district that does not offer each grade level from kindergarten through grade 12 and whose prospective or former students generally attend school in another state for the grade levels the district does not offer may instead start school on any date permitted under the law of the other state.

A district with a student enrollment of 190,000 or more may begin instruction for students for a school year on or after the first Monday in August at a campus or at not more than 20 percent of the campuses in the district if:

1. The district at the beginning of the school year provides, financed with local funds, days of instruction for students at the campus or at each of the multiple campuses, in addition to the minimum number of days of instruction required under Education Code 25.081;
2. The campus or each of the multiple campuses are undergoing comprehensive reform, as determined by the board; and
3. A majority of the students at the campus or at each of the multiple campuses are educationally disadvantaged.

Education Code 25.0811

Length of School Year

Each school year, a district shall operate for at least 75,600 minutes, including time allocated for instruction, intermissions, and recesses for students.

Exceptions

The commissioner of education may approve the operation of schools for fewer than the number of minutes specified above when disaster, flood, extreme weather conditions, fuel curtailments, or other calamities have caused the closing of schools.

If the commissioner does not approve reduced operation time, a district may add additional minutes to the end of the district's normal school hours as necessary to compensate for minutes lost due to school closures caused by disaster, flood, extreme weather conditions, fuel curtailment, or another calamity.

Education Code 25.081

The commissioner shall provide for a waiver allowing for fewer minutes of operation and instructional time than required for a district that requires each educator employed by the district to attend

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an approved school safety training course. *Education Code 25.0815(a)*

Last Day of School	A district may not schedule the last day of school for students for a school year before May 15. However, a district that does not offer each grade level from kindergarten through grade 12 and whose prospective or former students generally attend school in another state for the grade levels the district does not offer may schedule the last day of school on any date permitted under Texas law or the law of the other state. *Education Code 25.0812*
Optional Flexible Year Program	To enable a school district to provide additional instructional days for an optional extended year program [see EHBC], the school district may, with the approval of the commissioner, provide a number of days of instruction during the regular school year that is not more than ten days fewer than 180 days. *Education Code 29.0821(b)(1)*
No Instruction on Memorial Day	A district may not provide student instruction on Memorial Day. If a district would be required to provide student instruction on Memorial Day to compensate for minutes of instruction lost because of school closures caused by disaster, flood, extreme weather conditions, fuel curtailment, or another calamity, the commissioner shall approve the instruction of students for fewer than the required number of minutes. *Education Code 25.081(f)*
Reduction of Funding	The commissioner may proportionally reduce the amount of funding a district receives under Education Code, Chapters ~~41, 42~~46, 48, or ~~46~~49 and the average daily attendance calculation for the district if the district operates on a calendar that provides fewer minutes of operation than required. *Education Code 25.081(~~f~~g)*
Exemption	A school district is exempt from the minimum minutes of operation requirement if the district's or program's average daily attendance is calculated in the manner provided below. *Education Code 25.081(e)* A district or charter school is eligible to earn full average daily attendance if the district provides at least 43,200 minutes of instructional time to students enrolled in: 1. A dropout recovery school or program operating under Education Code 12.1141(c) or Education Code 39.0548; 2. An alternative education program operating under Education Code 37.008; 3. A school program located at a day treatment facility, residential treatment facility, psychiatric hospital, or medical hospital;

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4. A school program offered at a correctional facility; or

5. A school operating under Education Code 29.259.

Education Code ~~42~~48.005(j)

Year-Round Schools

A district may operate its schools year-round on a single or a multi-track system. If it adopts a year-round system, it may modify:

1. The number of contract days of employees and the number of days of operation, including any time required for staff development, planning and preparation, and continuing education, otherwise required by law.

2. Testing dates, data reporting, and related matters.

3. The date of the first day of instruction of the school year under Education Code 25.0811 for a school that was operating year-round for the 2000–01 school year.

4. Students' eligibility to participate in extracurricular activities when their calendar track is not in session.

Education Code 25.084

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Pledges of Allegiance

A board shall require students, once during each school day, to recite the pledges of allegiance to the United States and Texas flags.

On written request from a student's parent or guardian, a district shall excuse the student from reciting a pledge of allegiance.

Minute of Silence

A board shall provide for the observance of one minute of silence following the recitation of the pledges of allegiance. During the one-minute period, each student may reflect, pray, or meditate, or engage in any other silent activity that is not likely to interfere with or distract another student. Each teacher or other school employee in charge of the students during that period shall ensure that each student remains silent and does not act in a manner that is likely to interfere with or distract another student.

Education Code 25.082

Kindergarten Program

A public school kindergarten may be operated on a half-day or full-day basis as determined by the board. *Education Code 29.152*

Grant Programs

A district may use funds from grants administered by the commissioner to operate an existing half-day kindergarten on a full-day basis. *Education Code 29.155(a)*

~~Prekindergarten Grant Programs~~

~~A district is eligible for half-day funding for each eligible student participating in a high-quality prekindergarten grant program. *Education Code 29.166* [See EHBG]~~

Interruptions

A board shall adopt and strictly enforce a policy limiting interruptions of classes during the school day for nonacademic activities such as announcements and sales promotions. At a minimum, the policy must limit announcements other than emergency announcements to once during the school day.

Loss of Class Time

A board shall adopt and strictly enforce a policy limiting the removal of students from class for remedial tutoring or test preparation. A district may not remove a student from a regularly scheduled class for remedial tutoring or test preparation if, as a result of the removal, the student would miss more than ten percent of the school days on which the class is offered, unless the student's parent or another person standing in parental relation to the student provides to the district written consent for removal from class for such purpose. [See EHBC for provisions on tutorial services.]

Education Code 25.083

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Teacher-Student Ratio

A district shall employ a sufficient number of certified teachers to maintain an average ratio of not less than one teacher for each 20 students in average daily attendance. *Education Code 25.111*

High-Quality Prekindergarten ~~Grant~~ Program

A district operating a prekindergarten program ~~under Education Code Chapter 29, Subchapter E-1~~ must attempt to maintain an average ratio in any prekindergarten program class of not less than one certified teacher or teacher's aide for each 11 students. *Education Code 29.167(d)*

Physical Education

A district's physical education curriculum objectives and goals shall address teacher-student ratios. [See EHAA] *Education Code 25.114*

Kindergarten–Grade 4

A district shall not enroll more than 22 students in a class, kindergarten through fourth grade, except as allowed by the commissioner of education. The limit on class size, kindergarten through grade 4, shall not apply during:

1. The last 12 weeks of the school year; or
2. Any 12-week period of the school year selected by a district, if the district's average daily attendance has been adjusted due to a significant percentage of students who are migratory children under Education Code ~~42~~48.005(c). A district claiming this exemption must notify the commissioner in writing not later than the 30th day after the first day of the 12-week period.

A "migratory child" is a child or youth who made a qualifying move:

1. As a migratory agricultural worker or a migratory fisher; or
2. With, or to join, a parent or spouse who is a migratory agricultural worker of migratory fisher.

A "qualifying move" is a move due to economic necessity:

1. From one residence to another residence; and
2. From one school district to another school district, except in the case of a school district of more than 15,000 square miles, wherein a qualifying move is a distance of 20 miles or more to a temporary residence.

A "migratory agricultural worker" is an individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in agriculture, which may be dairy work or the initial processing of raw agricultural products. If an individual did not engage in such new employment soon after a qualifying move, such

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individual may be considered a migratory agricultural worker if the individual actively sought such new employment and has a recent history of moves for temporary or seasonal agricultural employment.

A "migratory fisher" is an individual who made a qualifying move in the preceding 36 months and, after doing so, engaged in new temporary or seasonal employment or personal subsistence in fishing. If the individual did not engage in such new employment soon after the move, the individual may be considered a migratory fisher if the individual actively sought such new employment and has a recent history of moves for temporary or seasonal fishing employment.

Education Code 25.112(a), (b); 20 U.S.C. 6399

Exception to Class Size Limits

The commissioner may except a district, on application, from the class size limits above if the limit works an undue hardship on the district. An exception expires at the end of the school year for which it is granted.

A school district seeking an exception shall notify the commissioner and apply for the exception not later than the later of:

1. October 1; or
2. The 30th day after the first school day the district exceeds the limit described above.

Education Code 25.112(d)–(e)

Notice to Parents

A campus or district that is granted an exception from class size limits shall provide written notice of the exception to the parent of or person standing in parental relation to each student affected by the exception. The notice must be in conspicuous bold or underlined print and:

1. Specify the class for which an exception was granted;
2. State the number of children in the class; and
3. Be included in a regular mailing or other communication from the campus or district, such as information sent home with students.

The notice must be provided not later than the 31st day after the first day of the school year or the date the exception is granted, if the exception is granted after the beginning of the school year.

Education Code 25.113

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Funding

If a district provides education services to pre-adjudicated and post-adjudicated students who are confined by court order in a juvenile residential facility operated by a juvenile board, the district is entitled to count those students in the district's average daily attendance.

If a district has a ~~wealth per student~~ local revenue level greater than the guaranteed ~~wealth~~local revenue level but less than the ~~equalized wealth level~~level established under Education Code 48.257, the district in which the student is enrolled on the date a court orders the student to be confined to a juvenile residential facility shall transfer to the district providing education services an amount equal to the difference between:

1. The average Foundation School Program costs per student of the district providing education services; and
2. The sum of the state aid and the money from the available school fund received by the district that is attributable to the student for the portion of the school year for which the district provides education services to the student.

Education Code 37.0061

Operations

Definitions

A "pre-adjudication secure detention facility" is a secure facility administered by a governing board that includes construction and fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in the facility and is used for the temporary placement of any juvenile or other individual who is accused of having committed an offense and is awaiting court action, an administrative hearing, or other transfer action.

A "post-adjudication secure correctional facility" is a secure facility administered by a governing board or the Texas Juvenile Justice Department that includes construction and fixtures designed to physically restrict the movements and activities of the residents and are intended for the treatment and rehabilitation of youth who have been adjudicated. A post-adjudication secure correctional facility does not include any non-secure residential program operating under the authority of a juvenile board as defined by Family Code 51.12(j).

A "resident" is a juvenile or other individual who has been admitted into a pre-adjudication secure detention facility or a post-adjudication secure correctional facility.

"Residential facility" means:

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1. A facility operated by a state agency or political subdivision, including a child placement agency, that provides 24-hour custody or care of a person 22 years of age or younger, if the person resides in the facility for detention, treatment, foster care, or any noneducational purpose; and

2. Any person or entity that contracts with or is funded, licensed, certified, or regulated by a state agency or political subdivision to provide custody or care for a person under item 1.

A "school district" is the educational service provider in a pre-adjudication secure detention facility or a post-adjudication secure correctional facility. For the purposes of this section addressing Operations, the definition of school district includes open-enrollment charter school.

Education Code 5.001(8); 19 TAC 89.1801(a)

Enrollment

Pre-adjudication Secure Detention Facility

The school district providing the education services in a pre-adjudication secure detention facility shall ensure that a student is enrolled in its district or, by local agreement, in the student's locally assigned school district on the first school day after the student's arrival at the facility unless it is confirmed that the student will return to a different district within ten school days. The district that maintains a student's enrollment is responsible for ensuring that appropriate education services are provided to each of its students while in the facility.

Post-Adjudication Secure Correctional Facility

The school district providing the education services in a post-adjudication secure correctional facility shall ensure that a student is enrolled in its district or, by local agreement, in the student's locally assigned district on the student's first school day in the facility as a court-committed juvenile.

Academic Records

The school district in the facility shall coordinate with the student's previous locally assigned campus to ensure that appropriate academic records are received within ten school days of the student's enrollment.

19 TAC 89.1801(b)

Class Size

The school district shall ensure that the classroom ratio does not exceed one certified educator to 24 students per class period. *19 TAC 89.1801(c)*

Pre-assessment

The school district shall ensure that a pre-assessment is administered to students in a post-adjudication secure correctional facility. The pre-assessment shall:

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1. Be administered within ten school days from the student's first day of enrollment; and

2. At a minimum, evaluate the student's basic reading and mathematics skills in relation to the student's current grade level.

19 TAC 89.1801(d)

Curriculum

Each school district shall, at a minimum, provide students with the subjects and courses necessary to complete the Minimum High School Program, as specified in 19 Administrative Code 74.62. The school district shall ensure that the educational services of the students consist of curriculum that is aligned with the requirements described in Education Code 28.002 and the Texas Essential Knowledge and Skills (TEKS).

Pre-adjudication

Each school district in a pre-adjudication secure detention facility shall ensure that a student is provided courses that afford an opportunity of continued progress toward the completion of the Minimum High School Program.

Post-adjudication

Each school district in the post-adjudication secure correctional facility shall, at a minimum, provide a student curriculum that enables the student the opportunity to complete the requirements of the Minimum High School Program. The school district shall provide students, ages 15–18 and identified as appropriate candidates, the opportunity and resources to prepare for the five general educational development examinations.

19 TAC 89.1801(e)

Award of Credit

The school district shall grant credits for coursework completed to ensure that high school credit is awarded to students for the successful completion of required courses while enrolled in educational services at the facility. *19 TAC 89.1801(f)*

Length and Number of School Days

The school district shall, at a minimum, provide a seven-hour school day that consists of at least five and one-half hours of required secondary curriculum to students in the facility. For each school year, each school district must operate so that the facility provides for at least 180 days of instruction for students.

Students with Disabilities

The school district shall ensure that students with disabilities are provided instructional days commensurate with those provided to students without disabilities in accordance with requirements contained in 19 Administrative Code 89.1075(e).

19 TAC 89.1801(g)

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School Library

A district possesses significant discretion to determine the content of its school libraries. A district must, however, exercise its discretion in a manner consistent with the First Amendment.

Removal of Library Materials

Students' First Amendment rights are implicated by the removal of books from the shelves of a school library. A district shall not remove materials from a library for the purpose of denying students access to ideas with which the district disagrees. A district may remove materials because they are pervasively vulgar or based solely upon the educational suitability of the books in question.

Bd. of Educ. v. Pico, 457 U.S. 853 (1982)

Instructional Materials

Instructional materials selected for use in the public schools shall be furnished without cost to students attending those schools. Except as provided by Education Code 31.104(d), a district may not charge a student for instructional material or technological equipment purchased by the district with the district's technology and instructional materials allotment [see CMD]. *Education Code 31.001*

Parental Access

A parent is entitled to review all teaching materials, instructional materials, and other teaching aids used in the classroom of the parent's child and to review each test administered to the child after the test is administered. A district shall make teaching materials and tests readily available for parental review and may specify reasonable hours for such review.

A student's parent is entitled to request that a district allow the student to take home any instructional materials used by the student. Subject to the availability of the instructional materials, a district or school shall honor the request. A student who takes home instructional materials must return the instructional materials to school at the beginning of the next school day if requested to do so by the student's teacher.

A district must provide the instructional materials to the student in printed format if the student does not have reliable access to technology at the student's home. This requirement does not require a district to purchase printed copies of instructional materials that the district would not otherwise purchase. A district may comply with this requirement by providing the student a printout of the relevant electronic instructional materials.

Education Code 26.006

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Information Collection and Access

U.S. DOE–Funded Surveys

Consent Required

No student shall be required, as part of any program funded in whole or in part by the U.S. Department of Education (DOE), to submit to a survey, analysis, or evaluation that reveals information concerning the topics listed at Protected Information, below, without the prior consent of the student (if the student is an adult or emancipated minor), or, in the case of an unemancipated minor, without the prior written consent of the parent. *20 U.S.C. 1232h(b)*

Parental Inspection

All instructional materials, including teacher's manuals, films, tapes, or other supplementary material, that will be used in connection with any survey, analysis, or evaluation as part of any program funded in whole or in part by the U.S. DOE shall be available for inspection by the parents or guardians of the children. *20 U.S.C. 1232h(a)*

Information Collection Funded by Other Sources

Policies

Except as provided by 20 U.S.C. 1232h(a) or (b) [see U.S. DOE Funded Surveys, above], as a condition of receiving funds for a program funded in whole or in part by the U.S. DOE, a district shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), regarding the following:

1. The parent's right to inspect a survey created by a third party before the survey is administered or distributed by a school to the student and any applicable procedures for granting a request by a parent for reasonable access to such survey within a reasonable period of time after the request is received.
2. A district's arrangements to protect student privacy in the event a survey containing one or more of the items listed under Protected Information, below, is administered or distributed to a student.
3. The parent's right to inspect any instructional material used in the educational curriculum for the student and any applicable procedures for granting a request by a parent for reasonable access to instructional material within a reasonable period of time after the request is received.
4. The administration of physical examinations or screenings that a district may administer to the student.
5. The collection, disclosure, or use of personal information collected from students for the purpose of marketing or selling that information. This provision does not apply to use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for or to students or educational institutions, such as recruiters, book clubs, curriculum and instructional materials used by schools, sale by students of products

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or services to raise funds for school-related or education-related activities, or student recognition programs.

6. The parent's right to inspect any instrument used in collection of personal information in item 5 above, before the instrument is administered and any applicable procedures for granting a request by a parent for reasonable access to such instrument within a reasonable period of time after the request is received.

A district need not develop and adopt new policies if TEA or the district had in place, on January 8, 2002, policies covering the requirements of 20 U.S.C. 1232h(c)(1). [See CRD, FFAA, FL, and FNG]

Parental Notification

A district shall provide for reasonable notice of the adoption or continued use of such policies directly to the parents of the students enrolled in schools served by the district. At a minimum, a district shall:

1. Provide notice at least annually, at the beginning of the school year and within a reasonable time after any substantive change in the policies; and

2. Offer an opportunity for the parent to opt the student out of participation in an activity described below.

A district shall directly notify the parent of a student, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when activities, described below, are scheduled or expected to be scheduled. The following activities require notification under this section:

1. Activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information.

2. The administration of any survey containing one or more items described at Protected Information, below.

3. Any nonemergency, invasive physical examination or screening that is required as a condition of attendance, administered and scheduled by the school in advance, and not necessary to protect the immediate health and safety of the student or of other students.

20 U.S.C. 1232h(c)(1)–(4) [See FFAA]

Protected Information

Protected information addressed by 20 U.S.C. 1232h includes:

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1. Political affiliations or beliefs of the student or the student's parents.
2. Mental and psychological problems of the student or the student's family.
3. Sex behavior and attitudes.
4. Illegal, anti-social, self-incriminating, and demeaning behavior.
5. Critical appraisals of other individuals with whom respondents have close family relationships.
6. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.
7. Religious practices, affiliations, or beliefs of the student or student's parent.
8. Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

20 U.S.C. 1232h(b), (c)(1)(B)

"Personal Information" Defined

The term "personal information" means individually identifiable information, including a student's:

1. First and last name;
2. Home or physical address, including street name and city or town;
3. Telephone number; or
4. Social security identification number.

20 U.S.C. 1232h(c)(6)(E)

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Purpose

A primary purpose of the public school curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage. A district shall foster the continuation of the tradition of teaching United States and Texas history and the free enterprise system in regular subject matter, in reading courses, and in the adoption of textbooks. *Education Code 28.002(h)*

As a condition of accreditation, a district shall provide instruction in the essential knowledge and skills at appropriate grade levels in the foundation and enrichment curriculum. *Education Code 28.002(c); 19 TAC 74.1(b)*

A district shall ensure that all children in the district participate actively in a balanced curriculum designed to meet individual needs. *Education Code 28.002(g)*

Instruction may be provided in a variety of arrangements and settings, including mixed-age programs designed to permit flexible learning arrangements for developmentally appropriate instruction for all student populations to support student attainment of course and grade-level standards. *19 TAC 74.2*

Required Curriculum

Foundation Curriculum

A district that offers kindergarten through grade 12 shall offer a foundation curriculum that includes:

1. English language arts and reading;
2. Mathematics;
3. Science; and
4. Social studies, consisting of Texas, United States, and world history; government; geography; and economics with emphasis on the free enterprise system and its benefits.

Education Code 28.002(a)(1); 19 TAC 74.1(a)(1)

Enrichment Curriculum

A district that offers kindergarten through grade 12 shall offer an enrichment curriculum that includes:

1. Languages other than English, to the extent possible. American Sign Language is a language for these purposes and the district may offer an elective course in the language;
2. Health, with emphasis on ~~the importance of proper nutrition and exercise;~~:

   a. Physical health, including the importance of proper nutrition and exercise;

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b. Mental health, including instruction about mental health conditions, substance abuse, skills to manage emotions, establishing and maintaining positive relationships, and responsible decision-making; and

c. Suicide prevention, including recognizing suicide-related risk factors and warning signs;

3. Physical education;

4. Fine Arts;

5. Career and technical education;

6. Technology applications;

7. Religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature; and

8. Personal financial literacy.

Education Code 28.002(a)(2), (e); 19 TAC 74.1(a)(2)

Digital Citizenship

The State Board of Education by rule shall require each district to incorporate instruction in digital citizenship into the district's curriculum, including information regarding the potential criminal consequences of cyberbullying.

"Cyberbullying" has the meaning assigned by Education Code 37.0832. [See FFI]

"Digital citizenship" means the standards of appropriate, responsible, and healthy online behavior, including the ability to access, analyze, evaluate, create, and act on all forms of digital communication.

Education Code 28.002(z)

Local Credit

A district may offer courses for local credit, at its discretion, in addition to those in the required curriculum, but it may not delete or omit instruction in the foundation and enrichment curricula specified above. *Education Code 28.002(f); 19 TAC 74.1(b)*

Local Instructional Plan

A district's local instructional plan may draw on state curriculum frameworks and program standards as appropriate. A district is encouraged to exceed minimum requirements of law and State Board rule.

Major Curriculum Initiatives

Before the adoption of a major curriculum initiative, including the use of a curriculum management system, a district must use a process that:

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1. Includes teacher input;
2. Provides district employees with the opportunity to express opinions regarding the initiative; and
3. Includes a meeting of the board at which information regarding the initiative is presented, including the cost of the initiative and any alternatives that were considered; and members of the public and district employees are given the opportunity to comment regarding the initiative.

Education Code 28.002(g)

Common Core State Standards

A district may not use common core state standards to comply with the requirement to provide instruction in the essential knowledge and skills at appropriate grade levels. A district may not be required to offer any aspect of a common core state standards curriculum. "Common core state standards" means the national curriculum standards developed by the Common Core State Standards Initiative. *Education Code 28.002(b-1), (b-3), (b-4)*

Scope and Sequence

In adopting a recommended or designated scope and sequence for a subject in the required curriculum under Education Code 28.002(a) in a particular grade level, a district shall ensure sufficient time is provided for teachers to teach and students to learn the essential knowledge and skills for that subject and grade level [see DG]. *Education Code 28.0027(a)*

Coordinated Health Programs

TEA shall make available to a district one or more coordinated health programs or allow the development of district programs designed to prevent obesity, cardiovascular disease, oral disease, and type 2 diabetes in elementary, middle, and junior high school students. Each program must provide for coordinating:

1. Health education, including oral health education;
2. Physical education and physical activity;
3. Nutrition services; and
4. Parental involvement.

Education Code 38.013; 19 TAC 102.1031(a)

A district shall participate in appropriate training to implement TEA's coordinated health program and shall implement the program in each elementary, middle, and junior high school in the district. *Education Code 38.014*

Coordinated school health programs that are developed by districts and that meet TEA criteria may be approved and made available as approved programs. Districts must use materials that are

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proven effective, such as TEA-approved textbooks or materials developed by nationally recognized and/or government-approved entities. *19 TAC 102.1031(c)*

Physical Education

Each district shall establish specific objectives and goals the district intends to accomplish through the physical education curriculum. The physical education curriculum must be sequential, developmentally appropriate, and designed, implemented, and evaluated to enable students to develop the motor, self-management, and other skills, knowledge, attitudes, and confidence necessary to participate in physical activity throughout life.

A physical education course shall:

1. Offer students an opportunity to choose among many types of physical activity in which to participate;
2. Offer students both cooperative and competitive games; and
3. Be an enjoyable experience for students.

On a weekly basis, at least 50 percent of a physical education class shall be used for actual student physical activity and the activity shall be, to the extent practicable, at a moderate or vigorous level.

Student/Teacher Ratio

The objectives and goals shall include, to the extent practicable, student/teacher ratios [see EEB] that are small enough to enable the district to:

1. Carry out the purposes of and requirements for the physical education curriculum; and
2. Ensure the safety of students participating in physical education.

If a district establishes a student to teacher ratio greater than 45 to 1 in a physical education class, the district shall specifically identify the manner in which the safety of the students will be maintained.

Education Code 25.114, 28.002(d); 19 TAC 74.37

Classification for Physical Education

A district shall classify students for physical education on the basis of health into one of the following categories:

1. Unrestricted—not limited in activities.
2. Restricted—excludes the more vigorous activities. Restricted classification is of two types:
    a. Permanent—A member of the healing arts licensed to practice in Texas shall provide written documentation to

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the school as to the nature of the impairment and the expectations for physical activity for the student.

b. Temporary—Students may be restricted from physical activity of the physical education class. A member of the healing arts licensed to practice in Texas shall provide written documentation to the school as to the nature of the temporary impairment and the expected amount of time for recovery. During recovery time, the student shall continue to learn the concepts of the lessons but shall not actively participate in the skill demonstration.

3. Adapted and remedial—specific activities prescribed or prohibited for students as directed by a member of the healing arts licensed to practice in Texas.

19 TAC 74.31

School Health Advisory Council

A board shall establish a local school health advisory council (SHAC) to assist the district in ensuring that local community values are reflected in the district's health education instruction. *Education Code 28.004(a)* [See BDF regarding composition of the SHAC and FFA regarding federal wellness requirements]

Duties

The SHAC's duties include recommending:

1. The number of hours of instruction to be provided in health education;

2. Policies, procedures, strategies, and curriculum appropriate for specific grade levels designed to prevent obesity, cardiovascular disease, type 2 diabetes, and mental health concerns, including suicide, through coordination of:

   a. Health education;

   b. Physical education and physical activity;

   c. Nutrition services;

   d. Parental involvement;

   e. Instruction to prevent the use of e-cigarettes, as defined by Health and Safety Code 161.081, and tobacco;

   f. School health services;

   g. Counseling and guidance services;

   h. A safe and healthy school environment; and

   i. School employee wellness;

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3. Appropriate grade levels and methods of instruction for human sexuality instruction;

4. Strategies for integrating the curriculum components specified by item 2, above, with the following elements in a coordinated school health program:

   a. School health services,

   b. Counseling and guidance services,

   c. A safe and healthy school environment, and

   d. School employee wellness;

5. If feasible, joint use agreements or strategies for collaboration between the district and community organizations or agencies. Any agreement entered into based on a recommendation of the SHAC must address liability for the district and community organization~~.~~;

6. Appropriate grade levels and curriculum for instruction regarding opioid addiction and abuse and methods for administering an opioid antagonist; and

7. Strategies to increase parental awareness regarding:

   a. Risky behaviors and early warning signs of suicide risks and behavioral health concerns, including mental health disorders and substance abuse disorders; and

   b. Available community programs and services that address risky behaviors, suicide risks, and behavioral health concerns.

Education Code 28.004(c), (n)

Policy Recommendations

The SHAC shall consider and make policy recommendations to the district concerning the importance of daily recess for elementary school students. The SHAC must consider research regarding unstructured and undirected play, academic and social development, and the health benefits of daily recess in making the recommendations. The SHAC shall ensure that local community values are reflected in any policy recommendation made to the district concerning the importance of daily recess for elementary school students. *Education Code 28.004(l)*

The SHAC shall make policy recommendations to the district to increase parental awareness of suicide-related risk factors and warning signs and available community suicide prevention services. *Education Code 28.004(o)*

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Content of Human Sexuality Instruction

The board shall determine the specific content of a district's instruction in human sexuality. *Education Code 28.004(h)*

The board shall select any instruction relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS) with the advice of the SHAC. The instruction must:

1. Present abstinence as the preferred choice of behavior for unmarried persons of school age;
2. Devote more attention to abstinence than to any other behavior;
3. Emphasize that abstinence is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, infection with HIV or AIDS, and the emotional trauma associated with adolescent sexual activity;
4. Direct adolescents to a standard of behavior in which abstinence before marriage is the most effective way to prevent pregnancy, sexually transmitted diseases, and infection with HIV or AIDS; and
5. Teach contraception and condom use in terms of human use reality rates instead of theoretical laboratory rates, if instruction on contraception and condoms is included in the curriculum.

Education Code 28.004(e)

Condoms

A district may not distribute condoms in connection with instruction relating to human sexuality. *Education Code 28.004(f)*

Separate Classes

If a district provides human sexuality instruction, it may separate students according to sex for instructional purposes. *Education Code 28.004(g)* [See FB regarding single-sex classes under Title IX]

Notice to Parents

Before each school year, a district shall provide written notice to a parent of each student enrolled in the district of the board's decision regarding whether the district will provide human sexuality instruction to district students. If instruction will be provided, the notice must include:

1. A summary of the basic content of the district's human sexuality instruction to be provided to the student, including a statement informing the parent of the instructional requirements under state law;
2. A statement of the parent's right to:

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a. Review curriculum materials as provided by Education Code 28.004(j); and

b. Remove the student from any part of that instruction without subjecting the student to any disciplinary action, academic penalty, or other sanction imposed by the district or the student's school; and

3. Information describing the opportunities for parental involvement in the development of the curriculum to be used in human sexuality instruction, including information regarding the SHAC.

A parent may use the grievance procedure at FNG concerning a complaint of a violation of notice requirements.

Education Code 28.004(i)–(i-1)

Availability of Materials

A district shall make all curriculum materials used in human sexuality instruction available for reasonable public inspection. *Education Code 28.004(j)* [See EFA regarding selection of curriculum materials for human sexuality instruction]

~~Steroid Notice and~~ Character Education

A district must adopt a character education program that includes the following positive character education traits:~~A district shall, at appropriate grade levels as determined by the State Board of Education, provide to students involved in extracurricular athletic activities information developed by TEA regarding the use of anabolic steroids and the health risks involved with such use. *Education Code 38.0081(b)*~~

~~Each school in a district in which there is a grade level of seven or higher shall post in a conspicuous location in the school gymnasium and each other place in a building where physical education classes are conducted a notice regarding steroids, using the text set forth at Education Code 38.008 [see FNCF(LEGAL)]. *Education Code 38.008*~~

1. Courage;

2. Trustworthiness, including honesty, reliability, punctuality, and loyalty;

3. Integrity;

4. Respect and courtesy;

5. Responsibility, including accountability, diligence, perseverance, and self-control;

6. Fairness, including justice and freedom from prejudice;

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7. Caring, including kindness, empathy, compassion, consideration, patience, generosity, and charity;

8. Good citizenship, including patriotism, concern for the common good and the community, and respect for authority and the law;

9. School pride; and

10. Gratitude.

In developing or selecting a character education program under Education Code 29.906, a district shall consult with a committee selected by the district that consists of parents of district students, educators, and other members of the community, including community leaders.

The provisions above do not require or authorize proselytizing or indoctrinating concerning any specific religious or political belief.

Education Code 29.906

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Essential Knowledge and Skills

A district that offers kindergarten through grade 5 must provide instruction in the required curriculum as specified in 19 Administrative Code 74.1 (~~relating to~~ Essential Knowledge and Skills).

A district shall ensure that sufficient time is provided for teachers to teach and students to learn English language arts, mathematics, science, social studies, fine arts, health, physical education, technology applications, and to the extent possible, languages other than English.

19 TAC 74.2

Daily Physical Activity

A district shall require students in kindergarten through grade 5 to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year, as part of the district's physical education program or through structured activity during a campus's daily recess.

If a district determines, for any particular grade level, that requiring moderate or vigorous daily physical activity is impractical due to scheduling concerns or other factors, the district may as an alternative require a student in that grade level to participate in moderate or vigorous physical activity for at least 135 minutes during each school week.

A district must provide an exemption for a student who is unable to participate in the required physical activity because of illness or disability.

Education Code 28.002(l)

Grade 6 Fine Arts

A district that provides instruction for grade 6 in a self-contained elementary class as part of elementary school shall provide instruction for students in grade 6 in all of the Middle School 1 TEKS for art, dance, music, and theatre as specified in 19 Administrative Code Chapter 117. *Education Code 28.002(c-1); 19 TAC 74.2(b)*

Kindergarten–Grade 3 Reading Program

A district shall provide for the use of a phonics curriculum that uses systematic direct instruction in kindergarten through third grade to ensure all students obtain necessary early literacy skills.

A district shall certify to the Texas Education Agency (TEA) that the district prioritizes placement of highly effective teachers in kindergarten through second grade and has integrated reading instruments used to diagnose reading development and comprehension to support each student in prekindergarten through third grade.

Education Code 28.0062(a)(1), (a)(3) [See DMA for early literacy personnel requirements]

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Courses in the foundation and enrichment curriculum in grades 6–12 must be provided in a manner that allows all grade promotion and high school graduation requirements to be met in a timely manner. A district is not required to offer a specific course in the foundation and enrichment curriculum except as specified in 19 Administrative Code 74.3. *19 TAC 74.3(c)*

Grades 6–8

A district that offers grades 6–8 must provide instruction in the required curriculum as specified in 19 Administrative Code 74.1, relating to essential knowledge and skills. A district must ensure that sufficient time is provided for teachers to teach and for students to learn English language arts, mathematics, science, social studies, at least one of the four disciplines in fine arts (art, dance, music, theatre), health, physical education, technology applications, and to the extent possible, languages other than English. The school district may provide instruction in a variety of arrangements and settings, including mixed-age programs designed to permit flexible learning arrangements for developmentally appropriate instruction for all student populations to support student attainment of course and grade level standards. *19 TAC 74.3(a)(1)*

Physical Activity Requirements

A district shall require students in grades 6–8 to participate in moderate or vigorous daily physical activity for at least 30 minutes for at least four semesters during those grade levels as part of the district's physical education curriculum.

A district may as an alternative require a student enrolled in a grade level for which the district uses block scheduling to participate in moderate or vigorous physical activity for at least 225 minutes during each period of two school weeks.

Exemptions

A district must provide an exemption for:

1. A student who is unable to participate in the required physical activity because of illness or disability; and
2. A student who participates in an extracurricular activity with a moderate or vigorous physical activity component that is considered a structured activity and meets the requirements for extracurricular activity as defined at 19 Administrative Code 76.1001.

A district may allow an exemption for a student on a middle or junior high school campus participating in a school-related activity or an activity sponsored by a private league or club only if that activity meets each of the following requirements:

1. The activity must be structured;
2. The board must certify the activity; and

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3. The student must provide proof of participation in the activity.

A "structured activity" is an activity that meets, at a minimum, each of the following requirements:

1. The activity is based on the grade appropriate movement, physical activity and health, and social development strands of the essential knowledge and skills for physical education specified in 19 Administrative Code Chapter 116; and
2. The activity is organized and monitored by school personnel or by appropriately trained instructors who are part of a program that has been certified by the board.

Education Code 28.002(l)–(l-1); 19 TAC 103.1003

Fine Arts Requirement

The school district must ensure that, beginning with students who enter grade 6 in the 2010–11 school year, each student completes one Texas Essential Knowledge and Skills-based fine arts course in grade 6, grade 7, or grade 8. *Education Code 28.002(c-1); 19 TAC 74.3(a)(2)*

A district shall offer and maintain evidence that students have the opportunity to take courses in at least three of the four disciplines in fine arts. The requirement to offer three of the four disciplines in fine arts may be reduced to two by the commissioner of education upon application of a school district with a total middle school enrollment of less than 250 students. *19 TAC 74.3(a)(3)*

Instruction in High School, College, and Career Preparation

Each district shall provide instruction to students in grade 7 or 8 in preparing for high school, college, and a career. The instruction must include information regarding:

1. The creation of a high school personal graduation plan under Education Code 28.02121;
2. The distinguished level of achievement described by Education Code 28.025(b-15);
3. Each endorsement described by Education Code 28.025(c-1);
4. College readiness standards; and
5. Potential career choices and the education needed to enter those careers.

A district may provide the instruction as part of an existing course in the required curriculum; provide the instruction as part of an existing career and technology course designated by the State Board of Education (SBOE) as appropriate for that purpose; or establish a new elective course through which to provide the instruction.

Education Code 28.016

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High School Courses at Earlier Grades

A district may offer courses designated for grades 9–12 in earlier grade levels. *19 TAC 74.26(b)*

Grades 9–12 Course Offerings

A district that offers grades 9–12 shall provide instruction in the required curriculum as specified in 19 Administrative Code 74.1. A district shall ensure that sufficient time is provided for teachers to teach and for students to learn the subjects in the required curriculum. *19 TAC 74.3(b)(1)*

A district shall offer the courses listed below in grades 9–12 and shall maintain evidence that students have the opportunity to take these courses:

1. English language arts — English I, II, III, IV, and at least one additional advanced English course.

2. Mathematics — Algebra I, Algebra II, Geometry, Precalculus, and Mathematical Models with Applications.

~~1.~~ Science — Integrated Physics and Chemistry, Biology, Chemistry, Physics, and at least two ~~of the following:~~

   ~~a.~~ additional science courses selected from Aquatic Science~~;~~

   ~~b.~~ , Astronomy~~;~~

   ~~c.~~ , Earth and Space Science~~;~~

   ~~d.~~ , Environmental Systems~~;~~

   ~~e.~~ , Advanced Animal Science~~;~~

   ~~f.~~ , Advanced Biotechnology~~;~~

   ~~g.~~ , Advanced Plant and Soil Science~~;~~

   ~~h.~~ , Anatomy and Physiology~~;~~

   ~~i.~~ , Engineering Design and Problem Solving~~;~~

   ~~j.~~ , Food Science~~;~~

   ~~k.~~ , Forensic Science~~;~~

   ~~l.~~ , Medical Microbiology~~;~~

   ~~m.~~ , Pathophysiology~~;~~

3. , Scientific Research and Design~~;~~, and Principles of Engineering.

   a. The requirement to offer two additional courses may be reduced to one by the commissioner upon application of

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a district with a total high school enrollment of less than 500 students.

b. Science courses shall include at least 40 percent hands-on laboratory investigations and field work using appropriate scientific inquiry.

4. Social studies — United States History Studies Since 1877, World History Studies, United States Government, World Geography Studies, Personal Financial Literacy, and Economics with Emphasis on the Free Enterprise System and Its Benefits.

5. Physical education — at least two of the following:

   a. Foundations of Personal Fitness;

   b. Adventure/Outdoor Education;

   c. Aerobic Activities; or

   d. Team or Individual Sports.

6. Fine arts — courses selected from at least two of the four fine arts areas (art, music, theatre, and dance) as follows:

   a. Art I, II, III, IV;

   b. Music I, II, III, IV;

   c. Theatre I, II, III, IV; or

   d. Dance I, II, III, IV.

7. Career and technical education [see EEL] — coherent sequences of courses selected from at least three of the following 16 career clusters:

   a. Agriculture, Food, and Natural Resources;

   b. Architecture and Construction;

   c. Arts, Audio/Video Technology, and Communications;

   d. Business Management and Administration;

   e. Education and Training;

   f. Finance;

   g. Government and Public Administration;

   h. Health Science;

   i. Hospitality and Tourism;

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j. Human Services;

k. Information Technology;

l. Law, Public Safety, Corrections, and Security;

m. Manufacturing;

n. Marketing;

o. Science, Technology, Engineering, and Mathematics; and

p. Transportation, Distribution, and Logistics.

8. Languages other than English — Levels I, II, and III or higher of the same language.

9. Technology applications — Computer Science I and Computer Science II or Advanced Placement (AP) Computer Science and at least two of the following:

a. Computer Science III;

b. Digital Art and Animation;

c. Digital Communications in the 21st Century;

d. Digital Design and Media Production;

e. Digital Forensics;

f. Digital Video and Audio Design;

g. Discrete Mathematics for Computer Science;

h. Fundamentals of Computer Science;

i. Game Programming and Design;

j. Independent Study in Evolving/Emerging Technologies;

k. Independent Study In Technology Applications;

l. Mobile Application Development;

m. Robotics Programming and Design;

n. 3-D Modeling and Animation;

o. Web Communications;

p. Web Design; and

q. Web Game Development.

10. Speech — Communications Applications.

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11. Each district shall provide an elective course in personal financial literacy that meets the requirements for a one-half elective credit, using materials approved by the SBOE. The instruction in personal financial literacy must include instruction on completing the application for federal student aid provided by the Department of Education. In fulfilling the requirement to provide financial literacy instruction, a district may use an existing state, federal, private, or nonprofit program that provides students without charge the described instruction.

19 TAC 74.3(b)(2); Education Code 28.0021(b)

A district must provide each student the opportunity each year to select courses in which he or she intends to participate from a list that includes all courses listed above. If a district will not offer all required courses every year, but intends to offer particular courses only every other year, it must notify all enrolled students of that fact.

A district shall teach any course a student is specifically required to take for high school graduation at least once in any two consecutive school years. For a subject that has an end-of-course assessment, a district shall either teach the course every year or use alternate delivery systems, as described in 19 Administrative Code Chapter 74, Subchapter C, to enable students to earn credit for the course and shall maintain evidence thereof.

19 TAC 74.3(b)(4)

A district may offer additional courses from the complete list of courses approved by the SBOE to satisfy graduation requirements. *19 TAC 74.3(b)(3)*

A district may allow a student to enroll concurrently in Algebra I and geometry. *Education Code 28.025(b-6)*

Applied Courses

A school district may offer the foundation curriculum in an applied manner. The courses delivered in an applied manner must cover the essential knowledge and skills, and the student shall be administered the applicable end-of-course assessment instrument. *Education Code 28.025(b-4)*

Research Writing Component

For students entering grade 9 beginning with the 2007–08 school year, districts must ensure that one or more courses offered in the required curriculum for the Recommended and Advanced/ Distinguished Achievement High School Programs include a research writing component. *19 TAC 74.3(b)(5)*

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Parenting Awareness Program

A district shall use the parenting and paternity awareness program developed by the SBOE in its high school health curriculum.

High School

Middle and Junior High School

A district may use the program in the district's middle or junior high school curriculum.

Program Requirements

Implementation of this requirement shall comply with the requirement that the board establish a local school health advisory council to assist the district in ensuring that local community values are reflected in the district's health education instruction.

A district may add elements at its discretion but must include the following areas of instruction:

1. Parenting skills and responsibilities, including child support;
2. Relationship skills, including money management, communication, and marriage preparation; and
3. Skills relating to the prevention of family violence, only if the district's middle, junior high, or high schools do not have a family violence program.

At the discretion of the district, a teacher may modify the suggested sequence and pace of the program at any grade level.

Local Programs and Materials

A district may develop or adopt research-based programs and curriculum materials for use in conjunction with the program developed by the SBOE. The programs and curriculum materials may provide instruction in:

1. Child development;
2. Parenting skills, including child abuse and neglect prevention; and
3. Assertiveness skills to prevent teenage pregnancy, abusive relationships, and family violence.

Parent Permission

A student under 14 years of age may not participate in the program without the permission of the student's parent or person standing in parental relation to the student.

Education Code 28.002(p); 19 TAC 74.35(a)

Alcohol Awareness Instruction

A district shall incorporate instruction in the dangers, causes, consequences, signs, symptoms, and treatment of binge drinking and alcohol poisoning into any course meeting a requirement for a health education credit.

A district shall choose an evidence-based alcohol awareness program to use in the district's middle school, junior high school, and

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high school health curriculum from a list of programs approved by the commissioner for this purpose.

"Evidence-based alcohol awareness program" means a program, practice, or strategy that has been proven to effectively prevent or delay alcohol use among students, as determined by evaluations that use valid and reliable measures and that are published in peer-reviewed journals.

Education Code 28.002(r); 19 TAC 74.35(b)

CPR Instruction

For all students who entered grade 7 in the 2010–11 school year and thereafter, a district shall provide instruction to students in grades 7–12 in cardiopulmonary resuscitation (CPR). The instruction may be provided as a part of any course. A student shall receive the instruction at least once before graduation from high school.

CPR instruction must include training that has been developed by the American Heart Association or the American Red Cross or using nationally recognized, evidence-based guidelines for emergency cardiovascular care and incorporating psychomotor skills to support the instruction.

A district may use emergency medical technicians, paramedics, police officers, firefighters, representatives of the American Heart Association or the American Red Cross, teachers, other school employees, or other similarly qualified individuals to provide instruction and training. Instruction is not required to result in CPR certification. If instruction is intended to result in certification, the course instructor must be authorized to provide the instruction by the American Heart Association, the American Red Cross, or a similar nationally recognized association; otherwise, an instructor is not required to be certified in CPR.

Waivers for Students with Disabilities

A district may waive this requirement for a student who, due to a disability, is unable to complete the instruction. The determination regarding a student's ability to complete the CPR requirement must be made by:

1. The student's admission, review, and dismissal (ARD) committee if the student receives special education services under Education Code, Chapter 29, Subchapter A; or
2. The committee established for the student under Section 504, if the student does not receive special education services, but is covered by Section 504.

Education Code 28.0023 (c)–(e), (g); 19 TAC 74.38

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Donations

A district may accept from TEA donations the agency receives under Education Code 7.026 for use in providing instruction to students in the principles and techniques of CPR. A district may accept other donations, including donations of equipment, for use in providing CPR instruction. *Education Code 29.903*

Proper Interaction with a Peace Officer

For any student entering grade 9 in the 2018–19 school year and thereafter, a district shall provide instruction in one or more courses to students in grades 9–12 on proper interaction with peace officers during traffic stops and other in-person encounters. The required instruction may be provided as part of any course or courses and must be provided to each student at least once before graduation from high school.

The instruction must include all the information required by 19 Administrative Code 74.39(b). A district shall use materials developed through a memorandum of understanding among the Texas Commission on Law Enforcement, the State Board of Education, and the Texas Education Agency. A district may tailor the instruction developed under this section as appropriate for the district's community. In tailoring the instruction, the district shall solicit input from local law enforcement agencies, driver training schools, and the community.

A district shall clearly indicate on the transcript or academic achievement record the year in which the instruction was provided to the student.

19 TAC 74.39; Education Code 28.012

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Note: The policies in the EHBA series are statements of principles governing special education programs for Texas school districts. In no way are these policies intended to cover the entire scope and detail involved in administering any special education program.

Nondiscrimination

No qualified student with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any district service, program, or activity. *42 U.S.C. 12132; 29 U.S.C. 794(a); 34 C.F.R. 104.4(a)* [See also FB]

Free Appropriate Public Education (FAPE)

Eligible students with disabilities shall enjoy the right to a free appropriate public education, which may include instruction in the regular classroom, instruction through special teaching, or instruction through approved contracts. Instruction shall be supplemented by the provision of related services when appropriate. *Education Code 29.003(a)*

"Free appropriate public education" (FAPE) means special education and related services that:

1. Have been provided at public expense, under public supervision and direction, and without charge;
2. Meet standards set out by TEA;
3. Include an appropriate preschool, elementary school, or secondary school education; and
4. Are provided in conformity with the student's individualized education program (IEP).

20 U.S.C. 1401(9); 34 C.F.R. 300.13, .17, .36

Least Restrictive Environment

A district shall ensure that, to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, shall be educated with children who are not disabled. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment shall occur only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. *20 U.S.C. 1412(a)(5); 34 C.F.R. 300.114(a)(2)*

Discipline

All disciplinary actions regarding students with disabilities shall be in accordance with federal requirements, Education Code Chapter 37, and 19 Administrative Code 89.1053. *19 TAC 89.1050(k)* [See FOF]

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Instructional Arrangements and Settings

Instructional arrangements/settings shall be based on the individual needs and IEPs of eligible students receiving special education services and shall include the following:

1. Mainstream: providing services in a regular classroom;
2. Homebound: providing services at home or hospital bedside;
3. Hospital class: providing services in a classroom, hospital facility, or residential care and treatment facility not operated by a district;
4. Speech therapy: providing speech therapy services in a regular education classroom or other setting;
5. Resource room/services: providing services in a setting other than the regular classroom for less than 50 percent of the regular school day;
6. Self-contained (mild, moderate, or severe) regular campus: providing services to a student who is in a self-contained program for 50 percent or more of the regular school day on a regular school campus;
7. Off-home campus: providing services to nondistrict students in a single location, through district personnel at a nondistrict facility, or at a district campus that provides only special education and related services;
8. Nonpublic day school: providing services through a contractual agreement with a nonpublic school for special education;
9. Vocational adjustment class/program: providing services to a student who is placed on a job (paid or unpaid) with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP;
10. Residential care and treatment facility (not district resident): providing services to students who reside in care and treatment facilities and whose parents do not reside within the boundaries of the district; or
11. State supported living center: providing services to a student who resides at a state supported living center when the services are provided at the state supported living center location.

Other Program Options

Other program options that may be considered for the delivery of special education and related services to a student include contracts with other districts and programs approved by TEA.

19 TAC 89.63(c), (f)

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~~Shared Services Arrangements~~

~~A district may enter into a written contract to jointly operate its special education program. The contract must be approved by the Commissioner. *Education Code 29.007*~~

Related Services

Definition

"Related services" means transportation, and such developmental, corrective, and other supportive services as may be required to assist a child with a disability to benefit from special education, including the early identification and assessment of disabling conditions in children.

The term includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive FAPE as described in the child's IEP, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that medical services shall be for diagnostic and evaluation purposes only.

The term does not include a medical device that is surgically implanted, the optimization of the device's functioning, or the replacement of such device.

20 U.S.C. 1401(26); 34 C.F.R. 300.34

Extended School Year Services

Extended school year (ESY) services are defined as individualized instructional programs beyond the regular school year for eligible students with disabilities.

A district shall ensure that ESY services are available as necessary to provide a student with a disability with FAPE.

ESY services must be provided only if the ARD committee determines, on an individual basis, that the services are necessary for FAPE. A district may not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of ESY services.

34 C.F.R. 300.106; 19 TAC 89.1065

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~~Shared Services Arrangements~~

~~A district may enter into a written contract to jointly operate its special education program. The contract must be approved by the commissioner of education. *Education Code 29.007*~~

Private School—District Placed

Student Receives IEP

If a district places a child with a disability in a private school or facility, or refers the child to a private school or facility, as a means of carrying out the requirements of the special education laws, the district shall ensure that the child is provided special education and related services, in accordance with an individualized education program (IEP), at no cost to the parents. *20 U.S.C. 1412(a)(10)(B)(i)*

Private School—Parent Placed

When a parentally placed child with a disability is referred to a district, the district shall convene an admission, review, and dismissal (ARD) committee to determine whether the district can offer the child a free appropriate public education (FAPE). If the district determines that it can offer FAPE, it is not responsible for providing educational services to the child, except that the district must develop and implement an individualized services plan (ISP). *19 TAC 89.1096(b)*

Offer of FAPE Rejected

Student Receives ISP

If a district made FAPE available to a child with a disability and the parents elected to place the child in a private school or facility, the district is not required to pay for the cost of education, including special education and related services. However, the district must develop and implement an ISP. *20 U.S.C. 1412(a)(10)(C)(i); 34 C.F.R. 300.148(a)*

FAPE Offered but Not Provided

Reimbursement

If the parents of a child with a disability, who previously received special education and related services under the authority of a district, enroll the child in a private school without the consent or referral by the district, a court or a hearing officer may require the district to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the district had not made FAPE available to the child in a timely manner before the enrollment. This right of reimbursement is subject to the notice and other requirements set forth at 34 C.F.R. 300.148(d). *20 U.S.C. 1412(a)(10)(C)(ii); 34 C.F.R. 300.148(c)*

Home School Students

A home school student is considered a private school student, for purposes of a district's obligations under IDEA, if the home school provides elementary or secondary education that incorporates an adopted curriculum designed to meet basic educational goals, including scope and sequence of courses, and formal review and documentation of student progress. *19 TAC 89.1096(a)(2)*

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Individualized Services Plan (ISP)

Each parentally placed private school child with a disability who has been designated to receive services shall have an ISP that describes the specific special education and related services that a district will provide the child.

Parentally placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools. No parentally placed private school child has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.

Decisions about the services that will be provided must be made in accordance with 34 C.F.R. 300.134(c) (consultation process) and 300.137(c) (attendance of private school representatives at services plan committee meetings). A district must make the final decisions with respect to the services to be provided.

34 C.F.R. 300.137, .138

Dual Enrollment

Parents shall have the right to "dual enroll" an eligible student age three or four in both the public school and a private school beginning on the student's third birthday and continuing until the end of the school year in which the student turns five, or until the student is eligible to attend a district's kindergarten program, whichever comes first, subject to the following:

1. The student's ARD committee shall develop an IEP designed to provide the student with FAPE in the least restrictive environment (LRE).
2. From the IEP, the parent and the district shall determine which special education and/or related services will be provided to the student and the location where those services will be provided, based on the requirements concerning placement in the LRE and the policies and procedures of the district.
3. The district shall be responsible for employing and supervising the personnel providing the service, providing the needed instructional materials, and maintaining pupil accounting records. Materials and services provided shall be consistent with those provided for students enrolled only in the public school and shall remain the property of the district.

19 TAC 89.1096(c)

Responsible District

The district where a student resides is responsible for providing special education and related services to a student whose parents choose dual enrollment.

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If the parents decline dual enrollment, but request an ISP, the district where the private school is located is responsible for development of the ISP for a student designated to receive services.

19 TAC 89.1096(c), (d)

Transportation

If a student has been placed by his or her parents in a private school or facility, a district shall provide special transportation with federal funds only when the ARD committee determines that the condition of the student warrants the service in order for the student to receive the special education and related services (if any) set forth in the IEP. *19 TAC 89.1096(e)*

District Charter Schools

A district shall serve children with disabilities attending district charter schools in the same manner as it serves children with disabilities in its other schools and shall provide federal special education funds to those schools in the same manner as it provides those funds to its other schools. *20 U.S.C. 1413(a)(5); 34 C.F.R. 300.209(b)*

Residential Facilities

Identification of Students

If a residential facility that is licensed by appropriate state agencies is located within the district's boundaries, the district must provide special education and related services to eligible students residing in the facility.

If, after contacting the facility to offer services to eligible students with disabilities, a district determines that educational services are provided through a charter school, approved non-public school, or a facility operated private school, the district is not required to provide services. However, a district shall annually contact the facility to offer services to eligible students with disabilities.

19 TAC 89.1001(c)

District Placements

A district may contract with a public or private facility, institution, or agency inside or outside of Texas for residential placement for a student with a disability when the ARD committee determines that a residential placement is necessary for the student to receive FAPE. Contracts for residential placement must be approved by the commissioner. *Education Code 29.008(a); 19 TAC 89.61(a)*

If placement in a public or private residential program is necessary to provide special education and related services, the program, including non-medical care and room and board, must be at no cost to the parents. *34 C.F.R. 300.104*

If a district contracts for education services, rather than providing the services itself, it shall oversee the implementation of the student's IEP and shall annually reevaluate the appropriateness of the arrangement. *Education Code 29.008(d)*

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Further, a district shall have the responsibilities set forth at 19 Administrative Code 89.61 regarding students in residential placements.

Out-of-State Placements

If a district contracts for an out-of-state residential placement, it shall do so in accordance with the rules for in-state residential placement, except that the facility shall be approved by the appropriate agency in the state in which the facility is located rather than by the Texas commissioner of education. *19 TAC 89.61(c)(3)*

School for the Blind and Visually Impaired and School for the Deaf

A district shall share the cost of education (excluding the summer program) for each of its students enrolled in the Texas School for the Blind and Visually Impaired or Texas School for the Deaf.

Before considering the student's educational placement for special education services, a district shall provide each parent of a student with visual or auditory impairments the following written information regarding the Texas School for the Deaf or Texas School for the Blind and Visually Impaired:

1. The availability of programs offered.
2. The eligibility and admissions requirements.
3. The student's rights to admission and to appeal admission decisions.

Education Code 30.003(a), .004(a); 19 TAC 89.62

A district may request services through the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf in accordance with 19 Administrative Code 89.1085. *19 TAC 89.1085*

Adult Prisons

If a child with a disability is convicted as an adult under state law and incarcerated in an adult prison, the child's ARD committee may modify the child's IEP or placement, notwithstanding the LRE requirements, if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

The following requirements do not apply to children with disabilities who are convicted as adults under state law and incarcerated in adult prisons:

1. Federal requirements pertaining to participation of students with disabilities in general assessments;
2. Requirements concerning transition planning and transition services, if the children's eligibility will end, because of their age, before they will be released from prison.

20 U.S.C. 1414(d)(7)

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Procedural Safeguards

A district shall establish and maintain procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education (FAPE). *20 U.S.C. 1415(a)*

These procedures shall include the following:

1. An opportunity for the parents to review all education records and to participate in meetings relating to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child. *34 C.F.R. 300.501*
2. An opportunity for the parents to obtain an independent educational evaluation of the child. *34 C.F.R. 300.502*
3. Protecting the rights of a child when no parent can be identified, a district cannot locate the parents, or the child is a ward of the state, which may include the assignment of an individual to act as a surrogate parent. *34 C.F.R. 300.519*
4. Prior written notice to the parents when a district proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. *34 C.F.R. 300.503* [See Prior Notice and Consent, below]
5. Procedures to allow parties to resolve disputes through a mediation process. *34 C.F.R. 300.506*
6. An opportunity for any party to file a due process complaint on any matter relating to the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. [See Dispute Resolution, below] *34 C.F.R. 300.507*
7. Procedures that require either party, or the attorney representing a party, to provide to the other party a due process complaint (which shall remain confidential). *34 C.F.R. 300.508*

Consent

Consent means that:

1. The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;
2. The parent understands and agrees in writing to the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

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3. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. A revocation of consent is not retroactive.

   If the parent revokes consent in writing for his or her child's receipt of services after the child is initially provided special education and related services, the district is not required to amend the child's education records to remove any references to the child's receipt of services because of the revocation of consent.

34 C.F.R. 300.9

Language of Notices

The procedural safeguards and prior notices described below must be written in language understandable to the general public. The notice must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. *34 C.F.R. 300.503(c), .504(d)*

Electronic Delivery of Notices

A parent may elect to receive the procedural safeguards notice, prior notice, or notice of due process complaint by electronic mail if a district makes that option available. *34 C.F.R. 300.505*

Procedural Safeguards Notice

A district shall provide a copy of the procedural safeguards to parents only one time a year, except that a copy also shall be given to the parents:

1. Upon initial referral or parental request for evaluation;
2. Upon receipt of the first state complaint and upon receipt of the first due process complaint in a school year;
3. On the date of a decision to make a disciplinary removal that is a change in placement; and
4. Upon request by a parent.

A district may place a current copy of the procedural safeguards notice on its website, if it has one.

Contents of Notice

The notice shall include a full explanation of the procedural safeguards relating to:

1. Independent educational evaluations;
2. Prior written notice;
3. Parental consent;
4. Access to educational records;

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5. Opportunity to present and resolve complaints through the due process complaint and state complaint procedures, including:

   a. The time period in which to file a complaint;

   b. The opportunity for the district to resolve the complaint; and

   c. The difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.

6. The availability of mediation;

7. The child's placement during pendency of any due process proceedings;

8. Procedures for children who are subject to placement in an interim alternative educational setting;

9. Requirements for unilateral placement by parents of children in private schools at public expense;

10. Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;

11. Civil actions, including the time period in which to file such actions; and

12. Attorneys' fees.

20 U.S.C. 1415(a)–(b), (d); 34 C.F.R. 300.504

Prior Notice and Consent

A district shall provide prior written notice to the parents a reasonable time before the district proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of a child or the provision of FAPE to the child. *34 C.F.R. 300.503(a)*

Notice must be provided to the parent in the parent's native language or other mode of communication at least five school days before the school district proposes or refuses the action unless the parent agrees to a shorter time frame. *19 TAC 89.1050(h)*

Contents of Notice

The notice must include:

1. A description of the action proposed or refused by the district;

2. An explanation of why the district proposes or refuses to take the action;

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3. A description of each evaluation procedure, assessment, record, or report the district used as a basis for the proposed or refused action;

4. A statement that the parents have protection under the procedural safeguards and, if this notice is not an initial referral for evaluation, the means by which a copy of the procedural safeguards can be obtained;

5. Sources for parents to contact to obtain assistance in understanding the Individuals with Disabilities Act (IDEA) rules;

6. A description of other options the admission, review, and dismissal (ARD) committee [see EHBAB] considered and the reasons why those options were rejected; and

7. A description of other factors that are relevant to the district's proposal or refusal.

34 C.F.R. 300.503(b)

Consent to Initial Evaluation

Before a district conducts an initial evaluation, it shall provide prior written notice, including a description of any evaluation the district proposes to conduct, and obtain informed consent for the evaluation from the parents. *20 U.S.C. 1414(a)(1)(D), (E); 34 C.F.R. 300.304(a)*

Consent to Services

A district shall seek informed consent from the parent before providing special education and related services to a child. *20 U.S.C. 1414(a)(1)(D)* [See EHBAA]

Consent to Reevaluation

A district shall obtain informed parental consent before conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if the district can demonstrate that it has taken reasonable measures to obtain such consent and the parent has failed to respond. *20 U.S.C. 1414(c)(3)*

Psychological Examinations and Tests

On request of a child's parent, before obtaining the parent's consent for the administration of any psychological examination or test to the child as part of the evaluation of the child's need for special education, a district shall provide to the child's parent:

1. The name and type of the examination or test; and

2. An explanation of how the examination or test will be used to develop an appropriate individualized education program (IEP) for the child.

If a district determines that an additional examination or test is required for the evaluation of a child's need for special education, the district shall provide the information above to the parent regarding

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the additional examination or test and shall obtain additional consent for the examination of test.

Education Code 29.0041(a), (b)

Dispute Resolution

The possible options for resolving disputes that arise between a parent and a school district relating to the identification, evaluation, or educational placement of or the provision of FAPE to a student with a disability include, but are not limited to:

1. ARD committee meetings, including IEP facilitation if offered by the district, under 19 Administrative Code 89.1196;
2. Meetings or conferences with the student's teachers;
3. Meetings or conferences, subject to the district's policies, with the campus principal, special education director, superintendent, or board;
4. Requesting state IEP facilitation in accordance with 19 Administrative Code 89.1197;
5. Requesting mediation through the Texas Education Agency (TEA) in accordance with 19 Administrative Code 89.1193;
6. Filing a complaint with TEA in accordance with 19 Administrative Code 89.1195; or
7. Requesting a due process hearing through TEA in accordance with 19 Administrative Code 89.1151–.1191.

19 TAC 89.1150

Due Process Complaint

Whenever a due process complaint has been received by a district, the parent shall have an opportunity for an impartial due process hearing, which shall be conducted by an impartial hearing officer selected by TEA. [For TEA rules on due process hearings, see 19 Administrative Code 89.1151–.1191.]

Timeline

Such due process complaint must set forth an alleged violation that occurred not more than one year before the date the parent knew or should have known about the alleged action that forms the basis of the complaint.

20 U.S.C. 1415(f)(1)(A); 19 TAC 89.1151(c), .1170(a)

Exception

This timeline shall not apply if the parent was prevented from requesting a hearing due to:

1. A specific misrepresentation by a district that it had resolved the problem forming the basis of the complaint; or

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2. A district's withholding of information from the parent that the district was required by the IDEA to provide.

20 U.S.C. 1415(f)(3)(D); 34 C.F.R. 300.511(f), 19 TAC 89.1151(d)

"Stay Put"

During the pendency of any proceeding conducted under IDEA part B (except proceedings to challenge a disciplinary change of placement or manifestation determination), the child shall remain in the then-current educational placement unless the district and the parent agree otherwise. If the child is applying for initial admission to a public school, the child shall, with the consent of the parents, be placed in the public school program until all proceedings have been completed. *20 U.S.C. 1415(j); 34 C.F.R. 300.518, .533*

Exception

When a due process hearing has been requested by a parent or district concerning a disciplinary change of placement or manifestation determination, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the child's assignment to the alternative setting, or the 45-day time line, if applicable, whichever occurs first, unless the parent and district agree otherwise. *20 U.S.C. 1415(k)(3)(A), 1415(k)(4)(A); 34 C.F.R. 300.533* [See FOF]

Resolution Process

Within 15 calendar days of receiving notice of a parent's due process complaint, and before initiating a due process hearing, a district shall convene a meeting with the parent and the relevant member or members of the ARD committee. The purpose of the meeting is for the parent to discuss the due process complaint and the facts that form the basis of the due process complaint, so that the district has the opportunity to resolve the dispute.

The meeting need not be held if the parent and the district agree in writing to waive the meeting, or the parent and the district agree to use the mediation process.

If the district has not resolved the due process complaint to the satisfaction of the parent within 30 calendar days of the receipt of the complaint, the due process hearing may occur. If the district is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made, the district may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent's request for a hearing.

34 C.F.R. 300.510, 19 TAC 89.1183

Transfer of Rights to Adult Students

Not later than one year before the 18th birthday of a student with a disability, the district at which the student is enrolled shall:

1. Provide to the student and the student's parents:

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a. Written notice regarding the transfer of rights; and

b. Information and resources regarding guardianship, alternatives to guardianship, including a supported decision-making agreement under Estates Code, Chapter 1357, and other supports and services that may enable the student to live independently; and

2. Ensure that the student's IEP includes a statement that the district provided the required notice, information, and resources.

If a student with a disability or the student's parent requests information regarding guardianship or alternatives to guardianship from the district, the district shall provide to the student or parent information and resources on supported decision-making agreements under Estates Code, Chapter 1357.

A student with a disability who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Chapter 31, Family Code, shall have the same right to make educational decisions as a student without a disability. All other rights accorded to parents under Chapter 29, Subchapter A of the Education Code or 20 U.S.C. 1415 transfer to the student.

34 C.F.R. 300.520; Education Code 29.017(a), (c), (c-1), (c-2); 19 TAC 89.1049(a)

Notice

When a student reaches the age of 18, a district shall provide written notice to the student and the student's parents of the transfer of parental rights. This notice is separate and distinct from the requirement that, beginning at least one year before the student reaches the age of 18, the student's IEP include a statement regarding transfer of parental rights.

The notice must include information and resources regarding guardianship, alternatives to guardianship, including a supported decision-making agreement, and other supports and services that enable the student to live independently. The notice must also provide contact information for the parties to use in obtaining additional information.

34 C.F.R. 300.520(a)(3); Education Code 29.017(c); 19 TAC 89.1049(c)

Special Education Decision-Making for Children in Foster Care

A foster parent may act as a parent of a child with a disability, as authorized under 20 U.S.C. Section 1415(b) and its subsequent amendments, if:

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1. The Department of Family and Protective Services (DFPS) is appointed as the temporary or permanent managing conservator of the child;
2. The rights and duties of the department to make decisions regarding education provided to the child under Family Code 153.371 have not been limited by court order; and
3. The foster parent agrees to:
    a. Participate in making special education decisions on the child's behalf; and
    b. Complete a training program that complies with minimum standards established by agency rule.

Training

A foster parent who will act as a parent of a child with a disability must complete a training program before the next scheduled ARD committee meeting for the child but not later than the 90th day after the date the foster parent begins acting as the parent for the purpose of making special education decisions.

A district may not require a foster parent to retake a training program to continue serving as a child's parent or to serve as the surrogate parent for another child if the foster parent has completed a training program to act as a parent of a child with a disability provided by:

1. DFPS;
2. A school district;
3. An education service center; or
4. Any other entity that receives federal funds to provide special education training to parents.

A foster parent who is denied the right to act as a parent by a school district may file a complaint with TEA in accordance with federal law and regulations.

Not later than the fifth day after the date a child with a disability is enrolled in a school, DFPS must inform the appropriate school district if the child's foster parent is unwilling or unable to serve as a parent.

Education Code 29.015; 19 TAC 89.1047

Appointment of Surrogate Parent for Certain Children

These provisions apply to a child with a disability for whom:

1. DFPS is appointed as the temporary or permanent managing conservator of the child; and

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2. The rights and duties of the department to make decisions regarding the child's education under Family Code 153.371 have not been limited by court order.

A school district must appoint an individual to serve as the surrogate parent for a child if the district is unable to identify or locate a parent for a child with a disability or the foster parent of a child is unwilling or unable to serve as a parent for the purposes of this subchapter.

Education Code 29.0151(a)–(b)

Eligibility and Duties of a Surrogate Parent

A surrogate parent appointed by a school district may not be an employee of ~~the state~~TEA, the school district, or any other agency involved in the education or care of the child; or have any interest that conflicts with the interests of the child.

A surrogate parent appointed by a district must:

1. Be willing to serve in that capacity;
2. Exercise independent judgment in pursuing the child's interests;
3. Ensure that the child's due process rights under applicable state and federal laws are not violated;
4. Complete a training program that complies with minimum standards established by agency rule within the time specified in Education Code 29.015(b);
5. Visit the child and the school where the child is enrolled;
6. Review the child's educational records;
7. Consult with any person involved in the child's education, including the child's:
    a. Teachers;
    b. Caseworkers;
    c. Court-appointed volunteers;
    d. Guardian ad litem;
    e. Attorney ad litem;
    f. Foster parent; and
    g. Caregiver; and
8. Attend meetings of the child's ARD committee.

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The district may appoint a person who has been appointed to serve as a child's guardian ad litem or as a court-certified volunteer advocate, as provided under Section 107.031(c), Family Code, as the child's surrogate parent.

Education Code 29.0151(c)–(d)

Notice of Appointment

As soon as practicable after appointing a surrogate parent, a district shall provide written notice of the appointment to the child's educational decision-maker and caseworker as required under Education Code 25.007(b)(10)(H). *Education Code 29.0151(e-1)*

Failure to Properly Perform

If a court appoints a surrogate parent for a child with a disability under Family Code 263.0025, and the school district determines that the surrogate parent is ~~failing to perform or is~~ not properly performing the duties, the district shall consult with ~~the~~ DFPS ~~and appoint~~regarding whether another person should be appointed to serve as the surrogate parent for the child.

~~On receiving notice from a school district, the DFPS must promptly notify the court of the failure of the appointed surrogate parent to properly perform the duties required under this section.~~

Education Code 29.0151~~;~~(f); 19 TAC 89.1047

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A district shall establish a process for identifying and serving gifted and talented students and shall establish a program for those students in each grade level. Under this provision, a district may establish a shared services arrangement with other districts.

A district shall adopt a policy regarding the use of funds to support the district's program for gifted and talented students.

Education Code 29.122

Definition

"Gifted and talented student" means a child or youth who performs at or shows the potential for performing at a remarkably high level of accomplishment when compared to others of the same age, experience, or environment and who:

1. Exhibits high performance capability in an intellectual, creative, or artistic area;
2. Possesses an unusual capacity for leadership; or
3. Excels in a specific academic field.

Education Code 29.121

Identification

Students shall be identified as gifted/talented in accordance with a written policy that includes:

1. Provisions for ongoing screening and selection of students who perform or show potential for performing at remarkably high levels of accomplishment in the areas defined in Education Code 29.121.
2. Assessment measures collected from multiple sources according to each area defined in the Texas State Plan for the Education of Gifted/Talented Students.
3. Data and procedures designed to ensure that students from all populations in a district have access to assessment and, if identified, to services provided for the gifted/talented program.
4. Provisions for final selection of students to be made by a committee of at least three local district educators who have received training in the nature and needs of gifted students.
5. Provisions regarding furloughs, reassessment, exiting of students from program services, transfer students, and appeals of district decisions regarding program placement.

19 TAC 89.1

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Learning Opportunities

A district shall provide an array of learning opportunities for gifted/talented students in kindergarten through grade 12 and shall inform parents of the opportunities. Options shall include:

1. Instructional and organizational patterns that enable identified students to work together as a group, to work with other students, and to work independently.
2. A continuum of learning experiences that leads to the development of advanced-level products and performances.
3. In-school, and when possible, out-of-school options relevant to the student's area of strength that are available during the entire school year.
4. Opportunities to accelerate in areas of strength.

19 TAC 89.3

Certification and Reporting

A district shall annually certify to the commissioner of education that the district has established a program for gifted and talented students as required by Education Code Chapter 29, Subchapter D and that the program is consistent with the state plan.

If the commissioner determines that a district has failed to comply for a school year, the commissioner shall reduce the total amount of funding as described by Education Code 29.124(b). The commissioner may restore to a district all or part of the funding withheld if during the school year the district complies with the program requirements.

At the same time that a district makes the certification described above, the district shall report to the commissioner regarding the use of funds on the district's program for gifted and talented students as provided by State Board of Education rule.

Nothing in these provisions may be construed as limiting the number of students that a school district may identify as gifted and talented or serve under the district's program for gifted and talented students.

Education Code 29.124

Note: See DMA(LEGAL) for training requirements for teachers of gifted and talented education.

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Compensatory Education Allotment

~~A district is entitled to an annual compensatory education allotment for each student:~~

~~1. Who is educationally disadvantaged; or~~

~~2. Who does not have a disability and resides in a residential placement facility in a district in which the student's parent or legal guardian does not reside.~~

~~The number of educationally disadvantaged students is determined by averaging the best six months' numbers of students eligible for enrollment in the national school lunch program of free or reduced-price lunches for the preceding school year; or in the manner provided by commissioner rule.~~

~~A student receiving a full-time virtual education through the state virtual school network (TXVSN) [see EHDE] may be included in determining the number of educationally disadvantaged students if the school district submits to the commissioner of education a plan detailing the enhanced services that will be provided to the student and the commissioner approves the plan.~~

Census Block

On a schedule determined by the commissioner of education and in accordance with Education Code ~~42.152(a)–(b-1)~~ 48.104, each district shall report to the agency the census block group in which each student enrolled in the district who is educationally disadvantaged resides. *Education Code 48.104(i)*

Use

~~use its~~At least 55 percent of the district's compensatory education ~~allotment~~funds must be used to:

1. Fund supplemental programs and services designed to eliminate any disparity in performance on ~~state~~ assessment instruments administered under Education Code Chapter 39, Subchapter B or disparity in the rates of high school completion between ~~students at~~:

   a. Students who are educationally disadvantaged and students who are not educationally disadvantaged; and

   ~~a.~~b. Students at risk of dropping out of school, as defined below, and all other students~~.~~; or

2. Support a program eligible under Title I of the Elementary and Secondary Education Act of 1965 [see AID], and its subsequent amendments, and by federal regulations implementing that Act.

Education Code 48.104(i), (k)

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~~Specifically, a district may use the funds, other than an indirect cost allotment established by State Board rule, to meet the costs of providing a compensatory, intensive, or accelerated instruction program under Education Code 29.081, a disciplinary alternative education program (DAEP) under Education Code 37.008, or to support a Title I program, at a campus at which at least 40 percent of the students are educationally disadvantaged.~~

~~A district may also use allocated funds for:~~

~~3. A mentoring services program under Education Code 29.089;~~

~~4. An accelerated reading instruction program under Education Code 28.006(g) for students at risk of dropping out of school as defined by Education Code 29.081(d) and (g);~~

~~5. A program for treatment of students who have dyslexia or a related disorder, as required by Education Code 38.003, for students at risk of dropping out of school as defined by Education Code 29.081(d) and (g); and~~

~~6. A program under Education Code 29.081 specifically designed to serve students at risk of dropping out of school.~~

~~*Education Code 42.152(c), (c-1), (c-2)*~~

Dropout Prevention Strategies

A district with a high dropout rate, as determined by the commissioner, shall submit a plan to the commissioner describing the manner in which the district intends to use its compensatory education ~~and high school allotments~~allotment for developing and implementing research-based strategies for dropout prevention.

~~If a district is required to submit both a dropout prevention strategy plan and a plan to increase college enrollment [see GNC], the district must describe in its dropout prevention strategy plan how the activities identified in both plans will be coordinated. If a district is required to submit both a school improvement plan, due to failure to meet the required performance standard regarding dropout rates or completion rates, as well as a dropout prevention strategy plan, the district may request that its school improvement plan be used to satisfy both requirements.~~

A district shall submit the plan not later than December 1 of each school year preceding the school year in which the district will receive the compensatory education ~~or high school~~ allotment to which the plan applies. ~~The plan must meet the requirements at 19 Administrative Code 89.1701(e).~~

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A district may not spend or obligate more than 25 percent of the district's compensatory ~~or high school~~education allotment unless the commissioner approves the plan.

A district's plan shall:

1. Design a dropout recovery plan that includes career and technology education courses or technology applications courses that lead to industry or career certification;

2. Integrate into the dropout recovery plan research-based strategies to assist students in becoming able academically to pursue postsecondary education, including:

   a. High-quality, college readiness instruction with strong academic and social supports;

   b. Secondary to postsecondary bridging that builds college readiness skills, provides a plan for college completion, and ensures transition counseling; and

   c. Information concerning appropriate supports available in the first year of postsecondary enrollment to ensure postsecondary persistence and success, to the extent funds are available for the purpose; and

3. Plan to offer advanced academic and transition opportunities, including dual credit courses and college preparatory courses, such as advanced placement courses.

A district may enter into a partnership with a public junior college in accordance with Education Code 29.402 [see GNC] in order to fulfill a plan.

Any program designed to fulfill a plan must comply with the requirements of Education Code 29.081(e) and (f).

Education Code 29.918~~; 19 TAC 89.1701~~

Definition of At-Risk Student

"Student at risk of dropping out of school" includes each student who is under 26 years of age and who:

1. Was not advanced from one grade level to the next for one or more school years, unless the student did not advance from prekindergarten or kindergarten to the next grade level only as a result of the request of the student's parent;

2. If the student is in grades 7–12, did not maintain an average equivalent to 70 on a scale of 100 in two or more subjects in the foundation curriculum during a semester in the preceding or current school year, or is not maintaining such an average

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in two or more subjects in the foundation curriculum in the current semester;

3. Did not perform satisfactorily on a state assessment instrument and who has not in the previous or current school year subsequently performed on that instrument or another appropriate instrument at a level equal to at least 110 percent of the level of satisfactory performance on that instrument;

4. If the student is in prekindergarten, kindergarten, or grades 1–3, did not perform satisfactorily on a readiness test or assessment instrument administered during the current school year;

5. Is pregnant or is a parent;

6. Has been placed in a DAEP in accordance with Education Code 37.006 during the preceding or current school year;

7. Has been expelled in accordance with Education Code 37.007 during the preceding or current school year;

8. Is currently on parole, probation, deferred prosecution, or other conditional release;

9. Was previously reported through the Public Education Information Management System (PEIMS) to have dropped out of school;

10. Is a student of limited English proficiency, as defined by Section 29.052;

11. Is in the custody or care of the Department of Family and Protective Services or has, during the current school year, been referred to the department by a school official, officer of the juvenile court, or law enforcement official;

12. Is homeless~~, as defined by 42 U.S.C. 11302 and its subsequent amendments~~ [see FD]; ~~or~~

13. Resided in the preceding school year or resides in the current school year in a residential placement facility in a district, including a detention facility, substance abuse treatment facility, emergency shelter, psychiatric hospital, halfway house, cottage home operation, specialized child-care home, or general residential operation~~.~~; or

14. Has been incarcerated, or has a parent or guardian who has been incarcerated, within the lifetime of the student, in a penal institution as defined by Penal Code 1.07.

Education Code 29.081(d~~)~~ ~~(~~)(1)

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Regardless of the student's age, a student who participates in an adult education program provided under a high school diploma and industry certification charter school program is considered a "student at risk of dropping out of high school." *Education Code 29.081(d~~-1~~)(2)*

Local Eligibility Criteria

In addition to students described above, a student who satisfies local eligibility criteria adopted by a board may receive compensatory education services. The number of students receiving services under local eligibility criteria during a school year may not exceed ten percent of the number of students described above who received services from the district during the preceding school year. *Education Code 29.081(g)*

Compensatory, Intensive, and Accelerated Instruction

A district shall use student performance data from state basic skills assessment instruments and achievement tests to design and implement appropriate compensatory, intensive, or accelerated instructional services for students in the district's schools that enable the students to perform at grade level at the conclusion of the next regular school term. *Education Code 29.081(a)*

Accelerated Instruction

A district shall provide accelerated instruction to an enrolled student who has taken an end-of-course assessment instrument and has not performed satisfactorily or who is at risk of dropping out of school.

A district shall offer before the next scheduled administration of the assessment instrument, without cost to the student, additional accelerated instruction to each student in any subject in which the student failed to perform satisfactorily on an end-of-course assessment instrument required for graduation.

A district that is required to provide accelerated instruction must separately budget sufficient funds for that purpose. [See CE]

A district shall evaluate the effectiveness of accelerated instruction programs and annually hold a public hearing to consider the results.

Education Code 29.081(b), (b-1), (b-2), (b-3), 39.025(b-1)

Each time a student fails to perform satisfactorily on an assessment instrument administered under Education Code 39.023(c), the district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area, using funds appropriated for accelerated instruction under Education Code 28.0211. Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations. *Education Code 28.0217*

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Effectiveness

A district shall evaluate and document the effectiveness of the accelerated instruction in reducing any disparity in performance on state assessment instruments or disparity in the rates of high school completion between students at risk of dropping out of school and all other district students. *Education Code 29.081(c)*

Dropout Recovery Education Programs

A district may use a private or public community-based dropout recovery education program to provide alternative education programs for students at risk of dropping out of school. The program may be offered at a campus or through the use of an online program that leads to a high school diploma and prepares the student to enter the workforce. A campus-based dropout recovery education program must meet the criteria set forth at Education Code 29.081(e-1)(1)–(5). An online dropout recovery education program must meet the criteria set forth at Education Code 29.081(e-2)(1)–(8).

Students in attendance at a dropout recovery education program shall be included in a district's average daily attendance for funding purposes.

Education Code 29.081(e)–(f)

Communities in Schools

An elementary or secondary school receiving funding under Education Code 33.156 shall participate in the Communities in Schools (CIS) program if the number of students enrolled in the school who are at risk of dropping out of school is equal to at least ten percent of the number of students in average daily attendance at the school, as determined by TEA. *Education Code 33.157*

Optional Extended Year Program

~~If~~ A district ~~provides~~may set aside an ~~optional~~amount from the district's compensatory education allotment or may apply to the agency for funding of an extended year program~~, it shall adopt a policy designed to lead to immediate reduction and ultimate elimination of student retention.~~. *Education Code 29.082~~;~~(a); 19 TAC 105.1001*

Optional Flexible Year Program

A district may provide an optional flexible year program (OFYP) for students who did not or are not likely to perform successfully on state assessment instruments or who would not otherwise be promoted to the next grade level.

~~Program Criteria~~

~~An OFYP must meet the requirements set forth at Education Code 29.0821 and 19 Administrative Code 129.1029.~~

Education Code 29.0821; 19 TAC 129.1029

Optional Flexible School Day Program

Notwithstanding Education Code 25.081 or 25.082, a district may apply to the commissioner to provide a flexible school day program

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(OFSDP) for students~~, in accordance with 19 Administrative Code 129.1027.~~ who:~~*Education Code 29.0822*~~

1. Have dropped out of school or are at risk of dropping out of school as defined by Education Code 29.081;

2. Attend a campus that is implementing an innovative redesign of the campus or an early college high school under a plan approved by the commissioner; or

3. As a result of attendance requirements under Education Code 25.092, will be denied credit for one or more classes in which the students have been enrolled.

Education Code 29.0822

A district may apply to the commissioner to provide an OFSDP for students, in accordance with 19 Administrative Code 129.1027.

A board must approve the application. The board must include the OFSDP as an item on the regular agenda for a board meeting providing options for public input concerning the proposed application before applying to operate an OFSDP. The application shall include the information described in 19 Administrative Code 129.1027. ~~*19 TAC 129.1027(c)*~~

~~Program Criteria~~

~~A district that meets application requirements may:~~

~~1. Provide flexibility in the number of hours each day a student attends;~~

~~2. Provide flexibility in the number of days each week a student attends;~~

~~3. Allow a student to enroll in less than or more than a full course load; or~~

~~4. Allow a student to enroll in a dropout recovery program in which courses are conducted online.~~

~~Except in the case of a course designed for a student who will be denied credit as a result of attendance requirements or enrolled in an online dropout recovery program, a course offered in a program under this section must provide for at least the same number of instructional hours as required for a course offered in a program that meets the required minimum number of minutes of operation under Education Code 25.081.~~

~~*Education Code 29.0822(b)–(c)*~~

~~Student Eligibility~~

~~A district may provide an OFSDP for students who:~~

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~~5. Have dropped out of school or are at risk of dropping out of school, as defined above at Definition of At-Risk Student;~~

~~6. Attend a campus that is implementing an innovative redesign;~~

~~7. Attend a community-based dropout recovery education program, as defined by Education Code 29.081(e-1) and (e-2);~~

~~8. Attend an early college high school under a plan approved by the commissioner; or~~

~~9.~~1. ~~As a result of attendance requirements under Education Code 25.092, will be denied credit for one or more classes in which the students have been enrolled.~~

~~A student under 18 years of age is eligible to participate if the student and the student's parent, or person standing in parental relation to the student, agree in writing to the student's participation. A student that is 18 years of age or older or has otherwise attained legal status as an adult by reason of marriage or court order may agree in writing to participate.~~

19 TAC 129.1027(~~b); Education Code 29.0822(a~~c)

~~A student who will be denied credit for one or more classes as a result of attendance requirements may enroll in a course in a OFSDP offered during the school year or during the period in which school is recessed for the summer to enable the student to earn class credit that the student would not otherwise be able to receive without retaking the class. *Education Code 29.0822(e)*~~

~~Extracurricular Participation~~

~~A student enrolled in an OFSDP may participate in a competition or activity sanctioned by the University Interscholastic League (UIL) only if the student meets all UIL eligibility criteria. *19 TAC 129.1027(f)*~~

~~Annual Performance Review~~

~~Annually, each school district shall review its progress in relation to the performance indicators as required by 19 Administrative Code 129.1027(h). Progress should be assessed based on information that is disaggregated with respect to race, ethnicity, gender, and socioeconomic status. *19 TAC 129.1027(h)*~~

Tutorial Services

A district may provide tutorial services at district schools. If a district provides tutorial services, it shall require a student whose grade in a subject for a reporting period is lower than the equivalent of 70 on a scale of 100 to attend tutorials. [See EC for provisions on loss of class time.]

A district may provide transportation services to accommodate students who are required to attend tutorials and who are eligible for regular transportation.

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Education Code 29.084

Basic Skills Programs

A district may apply to the commissioner for funding of basic skills programs for students in grade 9 who are at risk of not earning sufficient credit or who have not earned sufficient credit to advance to grade 10 and who fail to meet minimum skills levels established by the commissioner.

With the consent of a student's parent or guardian, a district may assign a student to the basic skills program.

A basic skills program may not exceed 210 instructional days and must meet the requirements set forth at Education Code 29.086.

Education Code 29.086(a)

After-School and Summer Intensive Mathematics and Science Programs

A district may provide an intensive after-school program or an intensive program during the period that school is recessed for the summer to provide mathematics and science instruction to:

1. Students who are not performing at grade level in mathematics or science to assist those students in performing at grade level;
2. Students who are not performing successfully in a mathematics course or science course to assist those students in successfully completing the course; or
3. Other students as determined by the district.

Before providing a program, a board must adopt a policy for:

1. Determining student eligibility for participating in the program that:
    a. Prescribes the grade level or course a student must be enrolled in to be eligible; and
    b. Provides for considering teacher recommendations in determining eligibility;
2. Ensuring that parents of or persons standing in parental relation to eligible students are provided notice of the program;
3. Ensuring that eligible students are encouraged to attend the program;
4. Ensuring that the program is offered at one or more locations in the district that are easily accessible to eligible students; and
5. Measuring student progress on completion of the program.

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Education Code 29.088, .090; 19 TAC 102.1041

Mentoring Services Program

A district may provide a mentoring services program to students at risk of dropping out of school. A board may arrange for any public or nonprofit community-based organization to come to the district's schools and implement the program.

A board shall obtain the consent of a student's parent or guardian before allowing the student to participate in the program.

Education Code 29.089

Accelerated Reading Instruction Program

A district shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to each student in kindergarten, first grade, or second grade who is determined, on the basis of reading instrument results [see EKC], to be at risk for dyslexia or other reading difficulties. The district shall determine the form, content, and timing of the program.

A district shall provide additional reading instruction and intervention to each student given the seventh grade reading assessment [see EKC], as appropriate to improve the student's reading skills in the relevant areas identified through the assessment instrument.

~~Limitation~~

~~A district may implement an accelerated reading instruction program only if the commissioner certifies that funds have been appropriated during a school year for administering the program.~~

Education Code 28.006(~~f), (~~g), (g-1), (k)

Intensive Program of Instruction

State Assessments

A district shall offer an intensive program of instruction to a student who does not perform satisfactorily on a state assessment instrument or is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade 9, as determined by the district.

The program shall be designed to:

1. Enable the student to:
    a. To the extent practicable, perform at the student's grade level at the conclusion of the next regular school term; or
    b. Attain a standard of annual growth specified by a district and reported by the district to TEA; and
2. If applicable, carry out the purposes of Education Code 28.0211. [See EIE]

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Students Receiving Special Education Services

For a student in a special education program who does not perform satisfactorily on an assessment instrument administered under Education Code 39.023(a), (b), or (c), the student's admission, review, and dismissal committee shall design the program to:

1. Enable the student to attain a standard of annual growth on the basis of the student's individualized education program (IEP); and

2. If applicable, carry out the purposes of Education Code 28.0211. [See EIE]

Graduation Requirements

A district shall use funds appropriated by the legislature for an intensive program of instruction to plan and implement intensive instruction and other activities aimed at helping a student satisfy state and local high school graduation requirements.

No Cause of Action

A district's determination of the appropriateness of an intensive program of instruction for a student is final and does not create a cause of action.

Education Code 28.0213

~~**Maximum Allowable Indirect Cost**~~

~~A district may expend no more than the following percentages of the district's Foundation School Program (FSP) special allotments under Education Code Chapter 42, Subchapter C, for indirect costs related to the following programs:~~

~~3. No more than 48 percent for indirect costs related to:~~

~~a. Compensatory education,~~

~~b. Bilingual education and special language programs, and~~

~~c. Special education.~~

~~4. No more than 45 percent for indirect costs related to gifted and talented education programs.~~

~~5. No more than 42 percent for indirect costs related to career and technical education programs.~~

~~Beginning with the 2012–13 school year, a district may choose to use a greater indirect cost allotment under Education Code 42.151, .153, .154, and .156, to the extent the district receives less funding per weighted student in state and local maintenance and operations revenue than in the 2011–12 school year. The commissioner shall develop a methodology for a school district to make this determination and may require any information necessary to implement this rule.~~

~~*19 TAC 105.11*~~

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College Preparatory Courses

Each district shall partner with at least one institution of higher education to develop and provide courses in college preparatory mathematics and English language arts. The courses must be designed:

1. For students at the 12th grade level whose performance on:
   a. An end-of-course assessment instrument required under Education Code 39.023(c) does not meet college readiness standards; or
   b. Coursework, a college entrance examination, or an assessment instrument designated under Education Code 51.334 [Texas Success Initiative (TSI) assessment] indicates that the student is not ready to perform entry-level college coursework; and
2. To prepare students for success in entry-level college courses.

A course must be provided on the campus of the high school offering the course or through distance learning or as an online course provided through an institution of higher education with which the district partners.

Faculty

Appropriate faculty of each high school offering courses and appropriate faculty of each institution of higher education with which the district partners shall meet regularly as necessary to ensure that each course is aligned with college readiness expectations.

Notice

Each district shall provide a notice to each eligible student and the student's parent or guardian regarding the benefits of enrolling in a course.

Credit Earned

A student who successfully completes an English language arts course may use the credit earned toward satisfying the advanced English language arts curriculum requirement for the foundation high school program under Education Code 28.025(b-1)(1). A student who successfully completes a mathematics course may use the credit earned in the course toward satisfying an advanced mathematics curriculum requirement under Education Code 28.025 after completion of the mathematics curriculum requirements for the foundation high school program under Education Code 28.025(b-1)(2).

Dual Credit

A course may be offered for dual credit at the discretion of the institution of higher education with which a district partners.

Instructional Materials

Each district, in consultation with each institution of higher education with which the district partners, shall develop or purchase instructional materials for a course consistent with Education Code

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	Chapter 31. The instructional materials must include technology resources that enhance the effectiveness of the course and draw on established best practices. *Education Code 28.014*
End-of-Course Exam	A student enrolled in a college preparatory mathematics or English language arts course under Education Code 28.014 who satisfies the TSI college readiness benchmarks on an assessment instrument administered at the end of the course satisfies the requirements concerning and is exempt from the administration of the Algebra I or the English I and English II end-of-course assessment instruments, as applicable, as prescribed by Education Code 39.023(c~~),~~) [see EKB], even if the student did not perform satisfactorily on a previous administration of the applicable end-of-course assessment instrument. A student who fails to perform satisfactorily on the assessment instrument may retake that assessment instrument or may take the appropriate end-of-course assessment instrument. *Education Code 39.025(a-1)*

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Career and Technology Program

Each public school student shall master the basic skills and knowledge necessary for managing the dual roles of family member and wage earner and for gaining entry-level employment in a high-skill, high-wage job or continuing the student's education at the post-secondary level. *Education Code 29.181.*

The board may conduct and supervise career and technology classes and other educational programs for students and for other persons of all ages and spend local maintenance funds for the cost of those classes and programs. In developing a career and technology program, the board shall consider the state plan for career and technology education. *Education Code 29.183* [See EEL]

Distinguished Achievement in Career and Technology Education

The board may develop and offer a program that provides a rigorous course of study consistent with the required curriculum [see EHAA] and under which a student may:

1. Receive specific education in a career and technology profession that leads to postsecondary education or meets or exceeds business or industry standards;

2. Obtain from a district an award for distinguished achievement in career and technology education and a stamp or other notation on the student's transcript that indicates receipt of the award.

An award granted under this section is not in lieu of a diploma or certificate of coursework completion. [See EI]

In developing the program, the board shall consider the state plan for career and technology education. The board must submit the proposed program to the commissioner of education in accordance with criteria established by the commissioner.

Contracts with Other Entities

The board may contract with an entity listed in Education Code 29.184(a) [see EEL] for assistance in developing the program or providing instruction to district students participating in the program. The board may also contract with a local business or a local institution of higher education for assistance in developing or operating a career and technology education program. A program may provide education in areas of technology unique to the local area.

Education Code 29.187

Insurance

The board may provide insurance to protect a business that contracts with a district under this provision. [See CRB] *Education Code 29.191*

Applicability

The following provisions apply only to districts receiving federal career and technical education funds. *19 TAC 75.1021*

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Federal CTE Funding

An eligible secondary entity seeking financial assistance under the Carl D. Perkins Act of 2006 shall submit a local plan to the Texas Education Agency (TEA) as described in 20 U.S.C. 2354, in accordance with requirements establish by TEA. Each eligible recipient that receives funding under the Carl D. Perkins Act of 2006 shall use the funds to improve career and technical education programs in compliance with 20 U.S.C. 2355. *19 TAC 75.1022*

For information regarding federal career and technical funds under the "Strengthening Career and Technical Education for the 21st Century Act" (the reauthorization of the Carl D. Perkins Act of 2006), see 20 U.S.C. 2301 et seq.

Program Evaluation

A district shall annually evaluate its career and technical education programs. *19 TAC 75.1025*

Special Populations

Members of special populations shall be provided career and technical services in accordance with all applicable federal and state laws, regulations, and rules. *19 TAC 75.1023(a)*

Definition

For purposes of this section, a "member of a special population" includes:

1. An individual with a disability [see EHBAB];
2. An individual from an economically disadvantaged family, including low-income youth and adults;
3. An individual preparing for nontraditional fields;
4. A single parent, including a single pregnant woman;
5. An out-of-workforce individual;
6. An English learner;
7. A homeless individual described in Section 725 of the McKinney-Vento Homeless Assistance Act;
8. Youth who are in, or have aged out of, the foster care system; and
9. Youth with a parent who is a member of the armed forces and is on active duty.

20 U.S.C. 2302(29)

Students with Disabilities

A student with a disability shall be provided career and technical education in accordance with all applicable federal law and regulations including the Individuals with Disabilities Education Act (IDEA) of 2004 and its implementing regulations, state statutes, and rules of the SBOE and the commissioner.

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A student with a disability shall be instructed in accordance with the student's individualized education program (IEP), in the least restrictive environment, as determined by the admission, review, and dismissal (ARD) committee. If a student with a disability is unable to receive a free appropriate public education (educational benefit) in a regular career and technical education program, using supplementary aids and services, the student may be served in separate programs designed to address the student's occupational/training needs, such as career and technical education for students with disabilities (CTED). [See EHBA]

A student with a disability identified in accordance with IDEA of 2004 is an eligible participant in career and technical education when the following requirements are met:

1. The ARD committee shall include a representative from career and technical education, preferably the teacher, when considering initial or continued placement of a student in career and technical education program;

2. Planning for the student shall be coordinated among career and technical education, special education, and state rehabilitation agencies and should include a coherent sequence of courses;

3. A district shall monitor to determine if the instruction being provided a student with a disability in career and technical education classes is consistent with the student's IEP;

4. A district shall provide supplementary services that each student with a disability needs to successfully complete a career and technical education program, such as curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices;

5. A district shall help fulfill the transitional service requirements of the IDEA of 2004 and implementing regulations, state statutes, and rules of the commissioner for each student with a disability who is completing a coherent sequence of career and technical education courses; and

6. When determining placement in a career and technical education classroom, the ARD committee shall consider a student's graduation plan, the content of the individual transition plan, the IEP, and classroom supports. Enrollment numbers should not create a harmful effect on student learning for a student with or without disabilities in accordance with the provisions in the IDEA of 2004 and its implementing regulations.

19 TAC 75.1023

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Student Organizations

A district may use federal career and technical education funds to provide opportunities for student participation in approved student leadership organizations and assist career and technical student organizations in accordance with all applicable federal and state laws, rules, and regulations. A student shall not, however, be required to join a career and technical student organization. Student participation in career and technical student organizations shall be governed in accordance with 19 Administrative Code Chapter 76 (~~relating to~~ extracurricular activities).

The following career and technical student organizations are recognized by the U.S. Department of Education and TEA:

1. Business Professionals of America (BPA);
2. DECA;
3. Future Business Leaders of America (FBLA);
4. FFA;
5. Family, Career, and Community Leaders of America (FCCLA);
6. Health Occupations Students of America (HOSA);
7. Technology Student Association (TSA); and
8. SkillsUSA.

19 TAC 75.1024 [See FM]

Certification Subsidy

A student is entitled to a subsidy for a certification exam if:

1. The student:
   a. Successfully completes the career and technology program of a school district in which the student receives training and instruction for employment; or
   b. Is enrolled in a special education program under Education Code Chapter 29, Subchapter A; and
2. The student passes a certification examination to qualify for a license or certificate that is an industry certification for purposes of state accountability [see AIA], administered while the student is enrolled in a school district.

A student may not receive more than one subsidy under Education Code 29.190.

To obtain reimbursement for a subsidy paid under this provision, a district must pay the fee for the examination and submit to the commissioner a written application on a form prescribed by the

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commissioner stating the amount of the fee paid for the certification examination.

Education Code 29.190

A district is entitled to reimbursement for the amount of a subsidy paid by the district for a student's certification examination under these provisions. *Education Code 48.156*

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Note: Only districts that identify 15 or more eligible students are required to provide prekindergarten programs.

Tuition-Free

A district shall offer prekindergarten classes if it identifies 15 or more eligible students who are at least four years of age. A district may offer prekindergarten if it identifies 15 or more eligible children who are at least three years of age.

A district may not charge tuition for a prekindergarten program offered under these provisions.

~~A district may apply to the commissioner of education ("commissioner") for an exemption from the requirement that it provide a free prekindergarten program if the district would be required to construct classroom facilities in order to provide the program.~~

Definitions

In this section:

1. "Child" includes a stepchild.
2. "Parent" includes a stepparent.

Eligibility

A child is eligible for enrollment in free prekindergarten if the child is at least three years of age and:

1. Is unable to speak and comprehend the English language;
2. Is educationally disadvantaged;
3. Is homeless~~, as defined by federal law~~ [see FD~~(LEGAL)],~~] regardless of the residence of the child, of either parent of the child, or of the child's guardian or other person having lawful control;
4. Is the child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority;
5. Is the child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty;
6. Is or ever has been in the conservatorship of the Department of Family and Protective Services following an adversary hearing under Family Code 262.201; or
7. Is the child of a person eligible for the Star of Texas Award as:
   a. A peace officer under Government Code 3106.002;

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b. A firefighter under Government Code 3106.003; or

c. An emergency medical first responder under Government Code 3106.004.

A child who is eligible for enrollment for free prekindergarten at the age of three and enrolls in prekindergarten class at the age of three remains eligible for enrollment in a prekindergarten class for the following school year.

A child who is eligible for enrollment under item 4 or 5 above remains eligible if the child's parent leaves the armed forces, or is no longer on active duty, after the child begins the prekindergarten class.

Education Code 29.153(a)–(b), (f)–(g)

Notice

A district shall develop a system to notify the population in the district with children who are eligible for enrollment in a free prekindergarten program of the availability of the program. The system must include public notices issued in English and Spanish. *Education Code 29.153(e)*

Half-Day ~~Basis~~or Full-Day

A free prekindergarten class may be operated on a half-day basis for children under four years of age and shall be operated on a ~~half~~full-day basis for children who are at least four years of age.

Transportation

A district is not required to provide transportation for a prekindergarten class. If transportation is provided, it is included for funding purposes as part of the regular transportation system.

Education Code 29.153(c)

High-Quality Prekindergarten Required

A free prekindergarten class for children who are least four years of age must comply with the program standards required for high-quality prekindergarten programs under Education Code Chapter 29, Subchapter E-1. [See High-Quality Prekindergarten Program, below]

Exemption

The commissioner of education shall exempt a district from the application of all or any part of Education Code 29.153, including all or any part of the required high-quality prekindergarten program requirements, if the commissioner determines that:

1. The district would be required to construct classroom facilities in order to provide prekindergarten classes; or

2. Implementing any part of this section would result in fewer eligible children being enrolled in a prekindergarten class under this section.

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An exemption may not be granted for a period longer than three school years and may be renewed only once.

Education Code 29.153(c-1)–(d-2)

Constructing, Repurposing, or Leasing a Facility

Before a district may construct, repurpose, or lease a classroom facility, or issue bonds for the construction or repurposing of a classroom facility, to provide the prekindergarten classes required under Education Code 29.153, the district must solicit and consider proposals for partnerships to provide those classes with community-based child-care providers who:

1. Are a Texas Rising Star Program provider with a three-star certification or higher;
2. Are nationally accredited;
3. Are a Head Start program provider;
4. Are a Texas School Ready! participant; or
5. Meet the requirements under Education Code 29.1532.

Education Code 29.153(g)

Tuition-Supported or District-Financed

A district may offer on a tuition basis or use district funds to provide:

1. An additional half-day of prekindergarten classes to children eligible for free prekindergarten who are under four years of age; and
2. Half-day and full-day prekindergarten classes to children not eligible for free prekindergarten.

A district may not adopt a tuition rate that is higher than necessary to cover the added costs of the program, including any costs associated with collecting, reporting, and analyzing data under Education Code 29.1532(c) (~~regarding~~ PEIMS data for prekindergarten programs). A district must submit its proposed tuition rate to the commissioner for approval.

Education Code 29.1531

Program Design

A district's prekindergarten program shall be designed to develop skills necessary for success in the regular public school curriculum, including language, mathematics, and social skills. *Education Code 29.1532(a)*

Shared Site

Before establishing a new prekindergarten program, a district shall consider the possibility of sharing use of an existing Head Start or

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other child-care program site as a prekindergarten site. *Education Code 29.1533*

Prekindergarten Licensing Standards

If a district contracts with a private entity to operate a prekindergarten program, the program shall comply at a minimum with the applicable child-care licensing standards adopted by the Texas Department of Family and Protective Services under Human Resources Code 42.042. *Education Code 29.1532(b)*

Daily Physical Activity

A district shall require students in full-day prekindergarten to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year, as part of the district's physical education program or through structured activity during a campus's daily recess.

To the extent practicable, a district shall require a student enrolled in prekindergarten on less than a full-day basis to participate in the same type and amount of physical activity as a student enrolled in full-day prekindergarten.

If a district determines, for any particular grade level, that requiring moderate or vigorous daily physical activity is impractical due to scheduling concerns or other factors, the district may as an alternative require a student in that grade level to participate in moderate or vigorous physical activity for at least 135 minutes during each school week.

A district must provide an exemption for a student who is unable to participate in the required physical activity because of illness or disability.

Education Code 28.002(l)

High-Quality Prekindergarten ~~Grant~~ Program

~~From funds appropriated for that purpose, the commissioner shall establish a grant funding program under which funds are awarded to districts to implement a prekindergarten grant program under Education Code Chapter 29, Subchapter E-1 and 19 Administrative Code 102.1003.~~

~~A district may participate in and receive funding under the program if the district meets all program standards required under Subchapter E-1. A program is subject to any other requirements imposed by law that apply to a prekindergarten program.~~

~~*Education Code 29.165*~~

~~A district that receives funding under this grant shall maintain locally and provide at TEA's request the necessary documentation to ensure fidelity of high-quality prekindergarten program implementation. *19 TAC 102.1003(k)*~~

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~~Eligibility for Funding~~

~~All eligible districts may receive grant funding for each qualifying student in average daily attendance in a high-quality prekindergarten program in the district. A school district that receives the funding may use the funding only to improve the quality of the district's prekindergarten programs. Funding for each qualifying student in attendance for the entire instructional period on a school day shall not exceed $1,500. *Education Code 29.166; 19 TAC 102.1003(a), (j)*~~

~~To be eligible to receive grant funding under the program, a district shall:~~

~~3. Implement a curriculum for a high-quality prekindergarten grant program that addresses all of the Texas Prekindergarten Guidelines (updated 2015) in the domains identified in 19 Administrative Code 102.1003(c).~~

~~4. Measure the progress of each student in meeting the recommended end of prekindergarten year outcomes identified in the Texas Prekindergarten Guidelines, and the preparation of each student for kindergarten using a kindergarten readiness instrument for reading as described in Education Code 28.006.~~

~~5. Develop, implement, and make available on the district or campus website a family engagement plan to assist the district in achieving and maintaining high levels of family involvement and positive family attitudes toward education. [See Family Engagement Plan, below]~~

~~*19 TAC 102.1003(c), (d), (f)*~~

~~Qualifying Students~~

~~A district receiving funds under the program must provide educational services to qualifying students. A student qualifies for additional funding if the student is four years of age on September 1 of the year the student begins the program and:~~

~~6. Is unable to speak and comprehend the English language;~~

~~7. Is educationally disadvantaged;~~

~~8. Is a homeless child, as defined by 42 U.S.C. § 11434a, regardless of the residence of the child, of either parent of the child, or of the child's guardian or other person having lawful control of the child;~~

~~9. Is the child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority;~~

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~~10. Is the child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty; or~~

~~11. Is or ever has been in the conservatorship of the Department of Family and Protective Services following an adversary hearing held as provided by Family Code 262.201.~~

~~*Education Code 29.153(b); 19 TAC 102.1003(b)*~~

Curriculum Requirements

"Program" means a high quality prekindergarten program for eligible children who are at least four years of age required to be provided free of tuition or fees.

A district shall select and implement a curriculum for a prekindergarten ~~grant~~ program that:

1. Includes the prekindergarten guidelines established by the Texas Education Agency (TEA~~;~~);
2. Measures the progress of students in meeting the recommended learning outcomes; and
3. Does not use national curriculum standards developed by the Common Core State Standards Initiative.

~~The curriculum must address all of the Texas Prekindergarten Guidelines (updated 2015) in the domains identified in 19 Administrative Code 102.1003(c).~~

~~In a format prescribed by TEA, a district that receives funding under this grant shall report:~~

~~4. The curriculum used in the high-quality prekindergarten program classes as required by 19 Administrative Code 102.1003(c);~~

~~5. A description and the results of each prekindergarten instrument used in the high-quality prekindergarten program classes as required by 19 Administrative Code 102.1003(d);~~

~~6. A description of each kindergarten readiness instrument used in the district to measure the effectiveness of the district's high-quality prekindergarten program classes as required by 19 Administrative Code 102.1003(d); and~~

~~7. The results for at least 95 percent of the district's kindergarten students on the kindergarten readiness instrument.~~

Education Code 29.164, .167(a~~); 19 TAC 102.1003(c), (g~~)

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Teacher Requirements

Each teacher for a prekindergarten program class must be certified under Education Code Chapter 21, Subchapter B and have one of the following additional qualifications:

1. A Child Development Associate (CDA) credential or another early childhood education credential approved by TEA;

2. Certification offered through a training center accredited by Association Montessori Internationale or through the Montessori Accreditation Council for Teacher Education;

3. At least eight years' experience of teaching in a nationally accredited child-care program;

~~4. A graduate or undergraduate degree in early childhood education or early childhood special education;~~

~~5. Documented completion of the Texas School Ready Training Program; or~~

~~6.~~ Be employed as a prekindergarten teacher in a district that has ~~ensured that:~~ received approval from the commissioner for the district's prekindergarten specific instructional training plan that the teacher uses in the teacher's prekindergarten classroom; ~~and~~or

~~a. Prior to assignment in a prekindergarten class, teachers who provide prekindergarten instruction have completed at least 150 cumulative hours of documented professional development addressing all ten domains in the Texas Prekindergarten Guidelines that were approved prior to 2015 in addition to other relevant topics related to high-quality prekindergarten over a consecutive five-year period;~~

~~b. Teachers who have not completed training required above prior to assignment in a prekindergarten class complete:~~

~~(1) The first 30 hours of 150 cumulative hours of documented professional development addressing all ten domains in the Texas Prekindergarten Guidelines (updated 2015) in addition to other relevant topics related to high-quality prekindergarten before the end of the 2016–17 school year; and~~

~~7.~~4. ~~Complete the additional hours in the subsequent four years in order to continue providing instruction in a high-quality prekindergarten classroom; and~~

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~~a. At least half of the hours required above shall include experiential learning, practical application, and direct interaction with specialists in early childhood education or instructional coaches.~~

5. An equivalent qualification.

A district may allow a teacher employed by the district to receive the training required to be awarded a CDA credential from a regional education service center. Training may not include national curriculum standards developed by the Common Core State Standards Initiative.

A ~~school~~ district must attempt to maintain an average ratio in any prekindergarten program class of not less than one certified teacher or teacher's aide for each 11 students.

Education Code 29.167 ~~; 19 TAC 102.1003(e), (i)~~

Family Engagement Plan

A district shall develop and implement a family engagement plan to assist the district in achieving and maintaining high levels of family involvement and positive family attitudes toward education. The family engagement plan must be based on family engagement strategies established by TEA. *Education Code 29.168(a)*

~~An effective family engagement plan creates a foundation for the collaboration of mutual partners, embraces the individuality and uniqueness of families, and promotes a culture of learning that is child centered, age appropriate, and family driven.~~

~~The family engagement plan must be based on family engagement strategies established by TEA as set out in 19 Administrative Code 102.1003(f).~~

~~*Education Code 29.168; 19 TAC 102.1003(f)*~~

Program Evaluation

A ~~school~~ district shall:

1. Select and implement appropriate methods for evaluating the district's program classes by measuring student progress; and
2. Make data from the results of program evaluations available to parents.

A district may administer diagnostic assessments to students in a program class to evaluate student progress but may not administer a state standardized assessment instrument.

An assessment instrument administered to a prekindergarten program class must be selected from a list of appropriate prekindergarten assessment instruments identified by the commissioner.

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Education Code 29.169 ~~; 19 TAC 102.1003(h)~~

Eligible Private Providers

A district ~~participating in the grant~~that offers a high-quality prekindergarten program may enter into a contract with an eligible private provider to provide services or equipment for the program.

To be eligible to contract with a district to provide a program or part of a program, a private provider must be licensed by and in good standing with the Department of Family and Protective Services. A private provider is in good standing with the Department of Family and Protective Services if the department has not taken an action against the provider's license during the 24-month period preceding the date of a contract with a ~~school~~ district. The private provider must also:

1. Be accredited by a research-based, nationally recognized, and universally accessible accreditation system approved by the commissioner;
2. Be a Texas Rising Star Program provider with a three-star certification or higher;
3. Be a Texas School Ready! participant;
4. Have an existing partnership with a district to provide a prekindergarten program not provided under Subchapter E-1; or
5. Be accredited by an organization that is recognized by the Texas Private School Accreditation Commission.

A prekindergarten program provided by a private provider under Education Code 29.171 is subject to the requirements of Education Code Chapter 29, Subchapter E-1.

Education Code 29.171

Prekindergarten Expansion Grant

A district may use funds from grants administered by the commissioner to expand an existing half-day prekindergarten program to a full-day basis or to implement a prekindergarten program on a campus that does not have a prekindergarten program.

A district may use funds received under this program to employ teachers and other personnel for a prekindergarten program or to acquire curriculum materials or equipment, including computers, for use in prekindergarten programs.

A district may use funds granted under this program in contracting with another entity, including a private entity.

Education Code 29.155(a), (b), (i)

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Ready to Read Grant

A district that operates a prekindergarten program is eligible to apply for a Ready to Read grant if at least 75 percent of the children enrolled in the program are low-income students, as determined by commissioner rule.

Grants shall be used to provide scientific, research-based pre-reading instruction for the purpose of directly improving pre-reading skills and for identifying cost-effective models for pre-reading intervention. Grants funds shall be used for:

1. Professional staff development in pre-reading instruction;
2. Pre-reading curriculum and materials;
3. Pre-reading skills assessment materials; and
4. Employment of pre-reading instructors.

Education Code 29.157(b), (c)

Statewide Information Referral Network

A district shall provide the Texas Information and Referral Network with information regarding eligibility for and availability of child-care and education services for inclusion in the statewide information referral network. A district shall provide the information in a form determined by the executive commissioner of the Texas Health and Human Services Commission. *Gov't Code 531.0312*

"Child-care and education services" includes child-care and education services provided by a ~~school~~ district through a prekindergarten or after-school program. *Gov't Code 531.03131(a)*

Staff of the Texas Information and Referral Network shall send an electronic mail message to each appropriate entity containing the name of and contact information for each applicant and a description of the services for which the applicant is applying.

On receipt of such an electronic mail message, a district shall contact the applicant to verify information regarding the applicant's eligibility for available child-care and education services. On certifying eligibility, a district shall match the applicant with entities providing those services in the applicant's community, including local workforce development boards, local child-care providers, or a Head Start or Early Head Start program provider.

A district shall cooperate with the Texas Information and Referral Network as necessary in the administration of this project.

Gov't Code 531.0312(c)–(e)

~~**Shared Site**~~

~~Before establishing a new prekindergarten program, a district shall consider the possibility of sharing use of an existing Head Start or~~

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~~other child-care program site as a prekindergarten site. *Education Code 29.1533*~~

~~**Prekindergarten Licensing Standards**~~

~~If a district contracts with a private entity to operate a prekindergarten program, the program shall comply at a minimum with the applicable child-care licensing standards adopted by the Texas Department of Family and Protective Services under Human Resources Code 42.042. *Education Code 29.1532(b)*~~

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Mandatory Recognition Dates

A district shall regularly observe the following recognition days, weeks, and months by appropriate programs, celebrations, and activities:

Women's Independence Day

August 26: Women's Independence Day, to commemorate the ratification in 1920 of the Nineteenth Amendment to the United States Constitution, which guaranteed women the right to vote. Women's Independence Day shall be regularly observed by appropriate programs in the public schools to inspire a greater appreciation of the importance of women's suffrage. *Gov't Code 662.051*

Hydrocephalus Awareness Month

September: Hydrocephalus Awareness Month, to:

1. Increase public awareness of hydrocephalus, a serious neurological condition characterized by the abnormal buildup of cerebrospinal fluids in the ventricles of the brain; and

2. Encourage the development of partnerships between the federal government, health-care professionals, and patient advocacy groups to advance the public's understanding of the condition, improve the diagnosis and treatment of the condition, and support research for a cure.

Hydrocephalus Awareness Month shall be regularly observed by appropriate activities in public schools to increase awareness of hydrocephalus.

Gov't Code 662.106

Texas First Responders Day

September 11: Texas First Responders Day, in honor of the bravery, courage, and determination of Texas men and women who assist others in emergencies. Texas First Responders Day shall be regularly observed by appropriate ceremonies in the public schools to honor Texas first responders. A district may determine the appropriate ceremonies by which Texas observes Texas First Responders Day. *Gov't Code 662.050*

September 11

September 11: To commemorate the events of September 11, 2001, in each year that date falls on a regular school day, each public elementary and secondary school shall provide for the observance of one minute of silence at the beginning of the first class period of that day. Immediately before the required period of observance, the class instructor shall make a statement of reference to the memory of individuals who died on September 11, 2001. The required period of observance may be held in conjunction with the minute of silence required by Education Code 25.082. [See EC] *Education Code 25.0821*

Constitution Day

September 17: A district that receives federal funds for a fiscal year shall hold an educational program on the United States

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Constitution for the students served by the district. *Pub. L. 108-447 (2004)*

Celebrate Freedom Week

Week of September 17: Celebrate Freedom Week, to educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded. *Education Code 29.907*

Appropriate Instruction

Each social studies class shall include, during Celebrate Freedom Week or during another full school week as determined by the board, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the United States Constitution, including the Bill of Rights, in their historical context.

The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the United States Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

19 TAC 74.33(a)

Recitation

Each district shall require that, during Celebrate Freedom Week or other prescribed week of instruction, students in grades 3–12 study and recite the following text: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness — That to secure these Rights, Governments are instituted among Men, deriving their Just Powers from the Consent of the Governed."

Exception

Each district shall excuse from recitation a student:

1. Whose parent or guardian submits to the district a written request that the student be excused;
2. Who, as determined by the district, has a conscientious objection to the recitation; or
3. Who is the child of a representative of a foreign government to whom the United States government extends diplomatic immunity.

19 TAC 74.33(b), .36

American Indian Heritage Day

The last Friday in September is in recognition of the historic, cultural, and social contributions American Indian communities and leaders have made to Texas. American Indian Heritage Day shall

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	be regularly observed by appropriate ceremonies, activities, and programs in public schools to honor American Indians in Texas and to celebrate the rich traditional and contemporary American Indian culture. *Gov't Code 662.056*
Father of Texas Day	November 3: Father of Texas Day, in memory of Stephen F. Austin, the great pioneer patriot and the real and true Father of Texas. Father of Texas Day shall be regularly observed by appropriate and patriotic programs in the public schools to properly commemorate the birthday of Stephen F. Austin and to inspire a greater love for this beloved state. *Gov't Code 662.045*
Sam Rayburn Day	January 6: Sam Rayburn Day, in memory of that great Texas and American statesman, Sam Rayburn. Sam Rayburn Day shall be regularly observed by appropriate programs in the public schools to commemorate the birthday of Sam Rayburn. *Gov't Code 662.041*
State of Texas Anniversary Remembrance Day	February 19: State of Texas Anniversary Remembrance Day (STAR Day), in honor of Texas joining the Union and the day that James Pinckney Henderson became the first governor of the state of Texas in 1846. STAR Day shall be regularly observed by appropriate and patriotic programs in the public schools to properly commemorate the annexation of this state and to inspire a greater appreciation for the history of this state. *Gov't Code 662.047*
Texas History Month	March: Texas History Month, in honor of those Texans who helped shape the history of the state of Texas and in recognition of events throughout Texas's history. Texas History Month shall be regularly observed by appropriate celebrations and activities in public schools to promote interest in and knowledge of Texas history. *Gov't Code 662.102*
Texas Girls in STEM Day	March 1 is designated as Texas Girls in STEM Day to celebrate and encourage the participation of girls in this state in fields related to science, technology, engineering, and mathematics. Texas Girls in STEM Day shall be regularly observed by appropriate ceremonies, activities, and programs in public schools, public institutions of higher education, and other places to: 1. Encourage girls in this state to consider career fields in science, technology, engineering, and mathematics; and 2. Celebrate and honor the women of this state who have excelled in those fields. *Gov't Code 662.071*

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In recognition of Texas Girls in STEM Day, each district may include throughout the month of March appropriate instruction, activities, and programs to encourage and celebrate women in career fields related to science, technology, engineering, and mathematics. The instruction may include programs that profile women in those fields and related fields, including finance, information technology, data analytics, cybersecurity, and health-care cloud architecture. *Education Code 29.925*

Public School Paraprofessional Day

The second Wednesday in May: Public School Paraprofessional Day, in recognition of education paraprofessionals including teacher assistants, instructional aides, educational trainers, library attendants, bilingual assistants, special education associates, mentors, and tutors. Public School Paraprofessional Day shall be regularly observed by appropriate ceremonies and activities in the public schools to properly recognize the paraprofessionals who have made tremendous contributions to the educational process. *Gov't Code 662.049*

Texas Military Heroes Day

To educate students about the sacrifices made by brave Texans who have served in the armed forces of the United States, the governor shall designate a day to be known as Texas Military Heroes Day in public schools.

Texas Military Heroes Day shall include appropriate instruction, as determined by each district. Instruction may include:

1. Information about persons who have served in the armed forces of the United States and are from the community or the geographic area in which the district is located; and
2. Participation, in person or using technology, in age-appropriate learning projects at battlefields and gravesites associated with a person who has served in the armed forces.

Education Code 29.9071

Generation Texas Week

Each district offering middle school, junior high school, or high school grade levels shall designate one week during the school year as Generation Texas Week. During the designated week, each middle school, junior high school, and high school shall provide students with comprehensive grade-appropriate information about the pursuit of higher education, including:

1. Higher education options;
2. Standard admission requirements for institutions of higher education, including:
    a. Overall high school grade point average;

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b. Required curriculum;

c. College readiness standards and expectations as determined under Education Code 28.008; and

d. Scores necessary on generally recognized tests or assessment instruments used in admissions determinations, including the Scholastic Assessment Test and the American College Test;

3. Automatic admission of certain students to general academic teaching institutions under Education Code 51.803 [see EIC]; and

4. Financial aid availability and requirements, including the financial aid information provided by counselors under Education Code 33.007(b) [see FFEA].

In addition, each middle school, junior high school, and high school shall provide to students at least one public speaker to promote the importance of higher education.

Education Code 29.911

Holocaust Remembrance Week

To educate students about the Holocaust and inspire in students a sense of responsibility to recognize and uphold human value and to prevent future atrocities, the governor shall designate a week to be known as Holocaust Remembrance Week in public schools.

Holocaust Remembrance Week shall include age-appropriate instruction, as determined by each district. Instruction shall include:

1. Information about the history of and lessons learned from the Holocaust;

2. Participation, in person or using technology, in learning projects about the Holocaust; and

3. The use of materials developed or approved by the Texas Holocaust and Genocide Commission.

"Holocaust" has the meaning assigned by Government Code 449.001.

Education Code 29.9072

Optional Recognition Dates

In addition, a district may observe the following recognition days, weeks, or months, by appropriate celebrations and activities:

Dr. Hector P. Garcia Day

Third Wednesday of September: Dr. Hector P. Garcia Day, in memory of the significant contributions to the Mexican American

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	civil rights movement of Dr. Hector P. Garcia, a distinguished physician and a recipient of the Presidential Medal of Freedom and the founder of the American GI Forum, which promotes civil rights protection of Hispanic veterans and all Americans. Dr. Garcia, a World War II hero, was awarded a Bronze Star Medal with six battle stars in recognition of his meritorious service to the United States. Dr. Hector P. Garcia Day may be regularly observed by appropriate ceremonies and activities in the public schools to properly commemorate the importance of the contributions made by Dr. Garcia. *Gov't Code 662.055*
Persons with Disabilities History and Awareness Month	October: Persons with Disabilities History and Awareness Month, to increase public awareness of the many achievements of people with disabilities; encourage public understanding of the disability rights movement; and reaffirm the local, state, and federal commitment to providing equality and inclusion for people with disabilities. A district may elect to observe Persons with Disabilities History and Awareness Month and determine the appropriate activities by which the school observes Persons with Disabilities History and Awareness Month. *Gov't Code 662.109*
Texas Native Plant Week	Third week in October: Texas Native Plant Week, to celebrate the native plants of Texas. Texas Native Plant Week may be regularly observed in public schools with programs to appreciate, explore, and study Texas native plants. *Gov't Code 662.154*
Lung Cancer Awareness Month	November: Lung Cancer Awareness Month, to increase awareness of lung cancer and encourage funding of research and more effective treatments. Lung Cancer Awareness Month may be regularly observed by appropriate activities in public schools to increase the awareness of lung cancer and support for lung cancer research. *Gov't Code 662.104*
Human Trafficking Prevention Month	January: Human Trafficking Prevention Month, to increase awareness of human trafficking in an effort to encourage people to alert authorities to any suspected incidents involving human trafficking. Human Trafficking Prevention Month may be regularly observed through appropriate activities in public schools and other places to increase awareness and prevention of human trafficking. *Gov't Code 662.107*
Law Enforcement Appreciation Day	January 9: Law Enforcement Appreciation Day may be regularly observed in public schools and other places through appropriate activities. *Gov't Code 662.~~065~~067*
Iwo Jima Day	February 19: Iwo Jima Day, in memory of the heroism and courage of the men and women of the armed forces of the United States who participated in the successful capture of the island of Iwo Jima

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beginning February 19, 1945. Iwo Jima Day may be regularly observed through appropriate activities in public schools and other places. *Gov't Code 662.062*

Child Safety Month

April: Child Safety Month, in recognition of the children of this state as this state's most precious resource. Child Safety Month is meant to ensure that the children of this state grow up in a safe and supportive environment by promoting their protection and care through increased public awareness of ways to reduce accidental injury and death through the use of bicycle helmets, seat belts, safety and booster seats, and smoke alarms, and the dangers presented to children by unattended and unlocked vehicles and by being left in closed vehicles during hot or sunny weather. Child Safety Month may be regularly observed by appropriate celebrations and activities in public schools to promote the protection and care of children in this state. *Gov't Code 662.105*

Sexual Assault Awareness Month

April: Sexual Assault Awareness Month, to increase awareness and prevention of sexual assault. Sexual Assault Awareness Month may be regularly observed through appropriate activities in public schools and other places to increase awareness and prevention of sexual assault. *Gov't Code 662.111*

~~**Character Education**~~

~~A district may provide a character education program, which must:~~

~~1. Stress positive character traits, such as:~~

~~a. Courage;~~

~~b. Trustworthiness, including honesty, reliability, punctuality, and loyalty;~~

~~c. Integrity;~~

~~d. Respect and courtesy;~~

~~e. Responsibility, including accountability, diligence, perseverance, and self-control;~~

~~f. Fairness, including justice and freedom from prejudice;~~

~~g. Caring, including kindness, empathy, compassion, consideration, patience, generosity, and charity;~~

~~h. Good citizenship, including patriotism, concern for the common good and the community, and respect for authority and the law; and~~

~~i. School pride;~~

~~2. Use integrated teaching strategies; and~~

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~~3. Be age appropriate.~~

~~In developing or selecting a character education program under this section, a school district shall consult with a committee selected by the district that consists of parents of district students, educators, and other members of the community, including community leaders.~~

~~The provisions above do not require or authorize proselytizing or indoctrinating concerning any specific religious or political belief.~~

~~*Education Code 29.906*~~

Student Elections

An election for the participation of students in kindergarten through grade 12 may be held in conjunction with a general, special, or primary election. The student election may be ordered by:

1. The commissioners court, for a student election held in conjunction with an election ordered by the governor or a county authority;
2. The governing body of a political subdivision, for a student election held in conjunction with an election of the political subdivision; or
3. The county executive committee, for a student election held in conjunction with a primary election.

A student election may be held only on election day or the day before election day.

The authority ordering a student election shall specify in the order each grade that may participate in the election. A student in a specified grade may enter a precinct polling place for the purpose of casting an unofficial ballot in the student election on the same offices and measures that appear on the official ballot.

The election officers serving in the official election may not serve in the student election. The authority ordering a student election shall appoint a separate set of election officers to conduct the student election, supervise the participating students, and tabulate and report the results of that election. The authority ordering a student election shall make the results of that election available to the public but only after the polling places are closed on election day.

Expenses incurred in the conduct of a student election, including any personnel expenses, may be paid only from private grant funds or donations.

Election Code 276.007

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Notice to Parents

Each school year, a district shall notify the parent of each student enrolled in grade 9 or above of the availability of programs under which a student may earn college credit, including advanced placement programs, dual credit programs, joint high school and college credit programs, and international baccalaureate programs. The notice must include the name and contact information of any public or private entity offering such a program in the district.

A district may provide the notice on the district's internet website.

Education Code 28.010

Note: For information on dual credit courses available through the Texas Virtual School Network[1] (TXVSN), see EHDE.

College Credit Program

A district shall implement a program under which students may earn the equivalent of at least 12 semester credit hours of college credit in high school. If requested by the district, a public institution of higher education in this state shall assist the district in developing and implementing the program. The college credit may be earned through:

1. International baccalaureate, advanced placement, or dual credit courses;
2. Articulated postsecondary courses provided for local credit or articulated postsecondary advanced technical credit courses provided for state credit; or
3. Any combination of the courses in items 1 and 2.

Annually, a district shall report to the Texas Education Agency (TEA):

1. The number of students, including career and technical students, who have participated in the program and earned college credit; and
2. The cumulative number of courses in which participating students have enrolled and college credit hours the students have earned.

The program may provide a student the opportunity to earn credit for a course or activity, including an apprenticeship or training hours:

1. That satisfies a requirement necessary to obtain an industry-recognized credential or certificate or an associate degree, and is approved by the Texas Higher Education Coordinating Board (THECB); and

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2. For which a student may earn credit concurrently toward both the student's high school diploma and postsecondary academic requirements.

A dual credit course must be:

1. In the core curriculum of the public institution of higher education providing college credit;

2. A career and technical education course; or

3. A foreign language course.

The requirements above do not apply to a dual credit course offered as part of the early college education program established under Education Code 29.908 or any other early college program that assists a student in earning a certificate or an associate degree while in high school.

A district is not required to pay a student's tuition or other associated costs for taking a course under this section.

Agreements

Any agreement, including a memorandum of understanding or articulation agreement, between a school district and public institution of higher education to provide a dual credit program must:

1. Include specific program goals aligned with statewide goals developed jointly by TEA and the THECB;

2. Establish common advising strategies and terminology related to dual credit and college readiness;

3. Provide for the alignment of endorsements offered by the district [see EIF] and dual credit courses offered under the agreement that apply towards those endorsements, with postsecondary pathways and credentials at the institution and industry certifications;

4. Identify tools, including tools developed by TEA, THECB, or the Texas Workforce Commission, to assist school counselors, students, and families in selecting endorsements offered by the district and dual credit courses offered under the agreement;

~~2.~~5. Establish, or provide a procedure for establishing, the course credits that may be earned under the agreement, including by developing a course equivalency crosswalk or other method for equating high school courses with college courses and identifying the number of credits that may be earned for each course completed through the program;

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~~3.~~6. Describe the academic supports and, if applicable, guidance that will be provided to students participating in the program;

~~4.~~7. Establish the district's and the institution's respective roles and responsibilities in providing the program and ensuring the quality and instructional rigor of the program;

~~5.~~8. State the sources of funding for courses offered under the program, including, at a minimum, the sources of funding for tuition, transportation, and any required fees or textbooks for students participating in the program; ~~and~~

9. Require the district and the institution to consider the use of free or low-cost open educational resources in courses offered under the program; and

~~6.~~10. Be posted each year on the district's and the institution's respective websites.

Education Code 28.009; 19 TAC 4.84

College-Level Courses

A board may adopt a policy that allows a student to be awarded credit toward high school graduation for completing a college-level course. The course must be provided only by an institution of higher education that is accredited by any of the following regional accrediting associations:

1. Southern Association of Colleges and Schools
2. Middle States Association of Colleges and Schools
3. New England Association of Colleges and Schools
4. North Central Association of Colleges and Schools
5. Western Association of Colleges and Schools
6. Northwest Association of Colleges and Schools

To be eligible to enroll and be awarded credit toward state graduation requirements, a student shall have the approval of the high school principal or other school official designated by a district. The course(s) for which credit is awarded shall provide advanced academic instruction beyond or in greater depth than the essential knowledge and skills for the equivalent high school course.

19 TAC 74.25

Dual Credit Programs

Definitions

For purposes of the following provisions, “college” means any public technical institute, public junior college, public senior college or university, medical or dental unit, public state college, or other agency of higher education as defined by Education Code 61.003.

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"Dual credit" means the system under which an eligible high school student enrolls in college course(s) and receives credit for the course(s) from both the college and high school.

19 TAC 4.83(4), (7)

Partnership Agreements with Public Colleges

A district may enter into an agreement with a public college to form a dual credit partnership in accordance with 19 Administrative Code Chapter 4, Subchapter D. *Education Code 130.008; 19 TAC Ch. 4, Subch. D*

Community College Jurisdiction

A school district that operates a high school may enter into an agreement with a community college district, regardless of whether the high school is located within the service area of the community college district, to offer a course as provided by Education Code 130.008.

A course offered for joint high school and junior college credit must be:

1. In the core curriculum of the public junior college;
2. A career and technical education course; or
3. A foreign language course.

These requirements do not apply to a course offered for joint high school and junior college credit to a student as part of the early college education program established under Education Code 29.908 or any other early college program that assists a student in earning a certificate or an associate degree while in high school.

Education Code 130.008(a-1), (a-2), (d)

Student Eligibility

A high school student is eligible to enroll in academic dual credit courses and workforce education dual credit courses as permitted by 19 Administrative Code 4.85(b).

To be eligible for enrollment in a dual credit course offered by a public college, students must meet all the college's regular prerequisite requirements designated for that course (e.g., minimum score on a specified placement test, minimum grade in a specified previous course, etc.).

An institution may impose additional requirements for enrollment in courses for dual credit that do not conflict with this section.

An institution is not required, under the provisions of this section, to offer dual credit courses for high school students.

19 TAC 4.85(b)

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Qualified Instructor

A course offered for joint high school and junior college credit must be taught by a qualified instructor approved or selected by the public junior college. An instructor is qualified if the instructor holds:

1. A doctoral or master's degree in the discipline that is the subject of the course;
2. A master's degree in another discipline with a concentration that required completion of a minimum of 18 graduate semester hours in the discipline that is the subject of the course; or
3. For a course that is offered in an associate degree program and that is not designed for transfer to a baccalaureate degree program:
    a. A degree described above;
    b. A baccalaureate degree in the discipline that is the subject of the course; or
    c. An associate degree and demonstrated competencies in the discipline that is the subject of the course, as determined by the THECB.

Not later than the 60th day after receipt, a public junior college shall approve or reject an application for approval to teach a course at a high school that is submitted by an instructor employed by the district with which the junior college entered into an agreement to offer the course.

Education Code 130.008(g), (h)

Attendance Accounting

The time during which a student attends a dual credit course, including a course provided under the college credit program, shall be counted as part of the minimum instructional hours required for a student to be considered a full-time student in average daily attendance. *Education Code ~~42~~48.005(g)* [See FEB]

The commissioner of education may approve instructional programs provided off campus by an entity other than a district as a program in which participation by a student may be counted for purposes of determining average daily attendance. *Education Code ~~42.0052~~48.007(a)*

Reporting Off-Campus Programs

A ~~district~~board may adopt a policy that allows a student to participate in an off-campus instructional program. The program must be provided only by an institution of higher education that is accredited by one of the regional accrediting associations specified in 19 Administrative Code 74.25 (~~relating to~~ High School Credit for College Courses).

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To be eligible, a student must:

1. Be in grade 11 or 12;
2. Have demonstrated college readiness as outlined in the requirements for participation in dual credit programs in the *Student Attendance Accounting Handbook*;
3. Meet any eligibility requirements adopted by the institution of higher education; and
4. Have the approval of the high school principal or other school official designated by the district.

The off-campus program must comply with rules adopted by the THECB in the Texas Administrative Code, Title 19, Part 1, with respect to teacher qualifications.

19 TAC 129.1031

Time that a student participates in an off-campus instructional program approved by the commissioner under Education Code ~~42.0052~~48.007(a) shall be counted as part of the minimum number of instructional hours required for a student to be considered a full-time student in average daily attendance. *Education Code ~~42~~48.005(h)*

~~Partnership~~Dual Credit Agreement

The board of a district and the governing board of a college must approve any dual credit partnership between the schools before offering such courses.

The ~~partnership~~dual credit agreement must address:

1. Eligible courses;
2. Student eligibility;
3. Location of class;
4. Student composition of class;
5. Faculty selection, supervision, and evaluation;
6. Course curriculum, instruction, and gathering;
7. Academic policies and student support services;
8. Transcripting of credit;
9. Funding; and
10. Defined sequences of courses, where applicable.

19 TAC 4.84–.85

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Instructional Partnerships with Community College Districts

Types of instructional partnerships between a district and a community college district include:

1. Award of High School Credit Only (see High School Credit-Only Courses, below).
2. Award of Dual Credit (see Dual Credit Programs, above).
3. Tech-Prep Programs (see Tech-Prep Programs, below).
4. Remedial or Developmental Instruction for High School Graduates (see Remedial Programs, below).
5. College Preparatory Courses for High School Students (see College Preparatory Courses, below)

19 TAC 9.143

Agreement

For any educational partnership between a district and a community college district, an agreement must be approved by the board or designee of both the district and the college district. The partnership agreement must address the following:

1. Student eligibility requirements.
2. Faculty qualifications.
3. Location and student composition of classes.
4. Provision of student learning and support services.
5. Eligible courses.
6. Grading criteria.
7. Transcripting of credit.
8. Funding provisions.

19 TAC 9.144

High School Credit-Only Courses

A district may contract with a community college district for the college district to provide coursework necessary for students to complete high school as described in 19 Administrative Code 9.125. The district and college district shall negotiate an agreed cost for instruction. *19 TAC 9.125, .143(a)*

Tech-Prep Programs

A district may partner with a college district to allow for the articulation of high school technical courses taught by the high school to high school students for immediate high school credit and later college credit, to be awarded upon enrollment of the students in the college district in an associate degree or certificate program. *19 TAC 9.143(c)*

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Remedial Programs

A board may contract, as outlined in 19 Administrative Code 9.125, with the board of the community college district in which a district is located for the college district to provide remedial programs for students enrolled in a district's secondary schools in preparation for graduation from secondary school and entrance into college.

Community colleges may provide instruction to high school students for either remedial course work to prepare students to pass the required State of Texas Assessments of Academic Readiness End-of-Course (STAAR EOC) assessments or developmental course work to prepare the students to pass an assessment instrument approved by the board under 19 Administrative Code 4.56 (~~relating to~~ Assessment Instruments).

High school students who have passed all of the STAAR EOC assessments with the high school graduation standard may be permitted to enroll in state-funded developmental courses offered by a community college at the college's discretion if a need for such course work is indicated by student performance on an assessment instrument approved by the board under 19 Administrative Code 4.56 (see below).

The district and college district shall negotiate an agreed cost for instruction. Remedial and developmental courses may not be offered for dual credit.

Education Code 130.090; 19 TAC 9.125, .143(d), .146

An institution of higher education shall use the Texas Success Initiative (TSI) Assessment offered by the College Board as the only THECB-approved assessment instrument. *19 TAC 4.56*

College Preparatory Courses

College preparatory courses are locally developed through a memorandum of understanding created between school districts and community colleges. *19 TAC 9.147*

Certain Academies

A district shall grant a student a maximum of two years' credit toward the academic course requirements for high school graduation for courses successfully completed at the Texas Academy of Leadership in the Humanities (at Lamar University—Beaumont), the Texas Academy of Mathematics and Science (at the University of Texas—Brownsville or University of North Texas—Denton), or the Texas Academy of International Studies (at Texas A&M University—Laredo). *Education Code 28.024*

[1] Texas Virtual School Network: http://www.txvsn.org/

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Automatic Admission to Institution of Higher Education

All applicants from Texas schools accredited by a generally recognized accrediting agency and who graduate in the top ten percent of their high school class or who graduate in the top 25 percent of their high school class, to the extent the governing board of a general academic teaching institution has adopted such an admission policy, shall be admitted to a general academic teaching institution [see Education Code 61.003(3)] if the student meets the following conditions:

1. The student has met one of the following:
    a. Successfully completed the distinguished level of achievement under the Foundation, Recommended, or Advanced High School Program from a Texas public high school as outlined under Education Code 28.025 [see EIF];
    b. Satisfied ACT's College Readiness Benchmarks on the ACT assessment; or
    c. Earned a score on the SAT that meets the minimum requirements described by 19 Administrative Code 5.5(b)(1)(D).
2. The student submitted an official high school transcript or diploma that must, not later than the end of the student's junior year, indicate whether the student has satisfied the above requirements.

19 TAC 5.5(b); Education Code 51.803(a)

Valedictorian Eligibility

In addition to admissions under the top ten percent rule, each general academic teaching institution shall admit an applicant for admission to the institution as an undergraduate student if the applicant graduated as the valedictorian of the student's high school graduating class in one of the two school years preceding the academic year for which the student is applying for admission and satisfies the requirements listed in Education Code 51.803. *Education Code 51.803(d-1)*

Exception

Beginning with admissions for the 2011–12 academic year, the University of Texas at Austin (UT) is not required to offer admission to applicants who qualify for automatic admission in excess of the number required to fill 75 percent of the university's enrollment capacity designated for first-time resident undergraduate students in an academic year.

If the number of applicants who apply to UT for admission in the next academic year and who qualify for automatic admission exceeds 75 percent of UT's enrollment capacity, UT shall, not later

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than September 15, provide to each district, for dissemination to high school juniors and their parents, notice of which percentile ranks of high school seniors who qualify for automatic admission are anticipated to be offered admission during the next school year.

Education Code 51.803(a-1)–(a-2)

Curriculum Requirements

An applicant who does not satisfy the curriculum requirements for the distinguished level of achievement under the foundation program, the Recommended High School Program, or the Advanced/Distinguished Achievement High School Program is considered to have satisfied those requirements if the student completed the portion of the applicable curriculum that was available to the student but was unable to complete the remainder solely because the necessary courses were unavailable to the student at the appropriate times in the student's high school career as a result of course scheduling, lack of enrollment capacity, or another cause not within the student's control. *Education Code 51.803(b)*

To qualify for admission under this section, an applicant must submit an application before the expiration of any application filing deadlines and provide a transcript that satisfies the requirements listed in Education Code 51.803(d). A student's transcript or diploma must, not later than the student's junior year, indicate the student's progress toward satisfying the curriculum requirements [see EI]. *Education Code 51.803(c)-(d)*

Signs to Be Posted

A board shall require each high school in the district to post appropriate signs in each school counselor's office, in each principal's office, and in each administrative building indicating the substance of the automatic admission provisions above. *Education Code 28.026*

Dissemination

A district shall provide each student, at the time the student first registers for one or more classes required for high school graduation, with a written notification concerning automatic college admission, the curriculum requirements for financial aid under Education Code, Title 3, and the benefits of completing the requirements for automatic admission and financial aid. A school district shall obtain written acknowledgement of receipt of the notification from each eligible student and student's parent or guardian. The notification must be signed by the student's school counselor in addition to being signed by the student and the student's parent or guardian. *19 TAC 61.1201*

To assist in dissemination of information regarding the automatic admissions program, a district shall:

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1. Require that each school counselor and class advisor at a high school be provided a detailed explanation of the substance of the program;

2. Provide each student, at the time the student first registers for one or more classes required for high school graduation, with a written notification, using the appropriate form adopted by the Commissioner, of the substance of the program;

3. Require that each school counselor and senior class advisor at a high school explain to eligible students the substance of the program;

4. Require that, at the beginning of grades 10 and 11, a certified counselor explain the requirements of automatic admission to a general academic teaching institution to each student who has a grade point average in the top 25 percent of the student's high school class [see FFEA]; and

5. Not later than the 14th day after the last day of classes for the fall semester or an equivalent date in the case of a school operated on a year-round system, provide each eligible senior student and each junior student who has a grade point average in the top ten percent of the student's high school class, and the student's parent or guardian, with a written notification, using the appropriate form adopted by the Commissioner, of the student's eligibility with a detailed explanation in plain language of the substance of the program. The district shall obtain written acknowledgment of receipt of the notification from each eligible student and the student's parent or guardian.

Education Code 28.026, 33.007(c)

Note: The Notification of Eligibility for Automatic College Admission,[1] intended to satisfy the requirement at item 5 above, is available on the TEA website.

Class Rank

High school rank for students seeking automatic admission to a general teaching institution on the basis of their class rank is determined and reported as follows:

1. Most recent available class rank, based on a point in time no earlier than the end of the 11th grade, shall be used for admission decision-making.

2. The top ten percent and top 25 percent of a high school class shall not contain more than ten percent and top 25 percent, respectively, of the total class size.

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3. The student's rank shall be reported by the applicant's high school or school district as a specific number out of a specific number total class size.

4. Class rank shall be determined by the Texas school or district from which the student graduated or is expected to graduate.

19 TAC 5.5(f)

Certain Programs

If the program meets the requirements of Education Code 51.8045, a board may treat a high school magnet program, academy, or other special program conducted by the district at a high school attended by high school students who are not in the special program as an independent high school with its own graduating class for purposes of Education Code 51.803 and 51.804 only (top ten and top 25 percent rule). *Education Code 51.8045*

End-of-Course Assessments

A student's performance on an end-of-course assessment instrument may not be used in determining the student's class ranking for any purpose, including entitlement to automatic college admission. *Education Code 39.0232(b)(1)*

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[1] Notification of Eligibility for Automatic College Admission: http://tea.texas.gov/index2.aspx?id=2147485632

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High School Diploma

A student may graduate and receive a diploma only if the student successfully completes:

1. The curriculum requirements identified by the State Board of Education (SBOE) [see State Graduation Requirements, below] and has performed satisfactorily on applicable state assessments [see EKB]; or
2. An individualized education program (IEP) developed under Education Code 29.005. [See EHBAB]

Education Code 28.025(c)

Note: Education Code 28.0258 and 19 Administrative Code 74.1025 related to individual graduation committees expire September 1, ~~2019~~2023.

Individual Graduation Committee

Without complying with the requirements above, a student may receive a diploma if the person is eligible for a diploma as determined by an individual graduation committee (IGC) established under Education Code 28.0258. *Education Code 28.025(c-6)*

For each 11th or 12th grade student who has failed to comply with the end-of-course (EOC) assessment instrument performance requirements under Education Code 39.025 for not more than two courses, the district shall establish an IGC at the end of or after the student's 11th grade year to determine whether the student may qualify to graduate. A student may not qualify to graduate before the student's 12th grade year.

The IGC shall be composed of:

1. The principal or principal's designee;
2. For each EOC assessment instrument on which the student failed to perform satisfactorily, the teacher of the course;
3. The department chair or lead teacher supervising the teacher(s) above; and
4. As applicable:
    a. The student's parent or person standing in parental relation to the student;
    b. A designated advocate if the parent is unable to serve; or
    c. The student, at the student's option, if the student is at least 18 years of age or is an emancipated minor.

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The superintendent shall establish procedures for convening the committee.

The district shall provide an appropriate translator, if available, for a parent, advocate, or student who is unable to speak English.

Education Code 28.0258(a)-(c), (c-2); 19 TAC 74.1025

Notice

A district shall ensure a good faith effort is made to timely notify the appropriate person described under item 4 above of the time and place for convening the IGC and the purpose of the committee. The notice must be provided in person or by regular mail or email; clear and easy to understand; and written in English, in Spanish, or, to the extent practicable, in the native language of the appropriate person. *Education Code 28.0258(d)*

Curriculum Requirements

To be eligible to graduate and receive a high school diploma from the IGC, a student must successfully complete the curriculum requirements required for high school graduation. [See State Graduation Requirements, below] *Education Code 28.0258(e)*

Additional Requirements to Graduate

A student's IGC shall recommend additional requirements by which the student may qualify to graduate, including additional remediation; and for each EOC assessment instrument on which the student failed to perform satisfactorily:

1. The completion of a project related to the subject area of the course that demonstrates proficiency in the subject area; or
2. The preparation of a portfolio of work samples in the subject area of the course, including work samples from the course that demonstrate proficiency in the subject area.

A student may submit to the IGC coursework previously completed to satisfy a recommended additional requirement.

Education Code 28.0258(f), (g)

In determining whether a student is qualified to graduate, the committee shall consider the criteria at Education Code 28.0258(h) and any other academic information designated for consideration by the board. After considering the criteria, the committee may determine that the student is qualified to graduate. A student may graduate and receive a high school diploma on the basis of the committee's decision only if the student successfully completes all additional requirements recommended by the committee, the student meets applicable curriculum requirements, and the committee's vote is unanimous. The decision of a committee is final and may not be appealed. *Education Code 28.0258(i)*

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English Language Learners

For provisions related to an IGC and English language learners (ELL), see EKB(LEGAL).

Students Who Entered Grade 9 Before the 2011–12 School Year

In accordance with Education Code 28.02541, a school district may award a high school diploma to an individual who:

1. Entered grade 9 before the 2011–12 school year;
2. Successfully completed the curriculum requirements for high school graduation applicable when the individual entered grade 9;
3. Has not performed satisfactorily on the exit-level assessment instrument or part of an assessment instrument required for high school graduation, including an alternative assessment instrument offered under Education Code 39.025(c-~~1~~2);
4. Has been administered at least three times the required subject-area test(s) for which the individual has not performed satisfactorily on the exit-level assessment instrument applicable to the individual when the individual entered grade 9; and
5. Meets the alternative requirements for graduation in accordance with 19 Administrative Code 74.1027(c) or the local alternative requirements approved by the board in accordance with 19 Administrative Code 74.1027(d).

19 TAC 74.1027(a); Education Code 28.02541

District Determination

The school district in which the individual is enrolled or was last enrolled shall determine whether the individual may qualify to graduate and receive a high school diploma on the basis of the alternative requirements for graduation. *19 TAC 74.1027(b)*

Alternative Requirements

The alternative requirements for graduation are listed at 19 Administrative Code 74.1027(c).

Local Alternative Requirements

With approval by the board, a district may develop recommendations for local alternative requirements if the requirements would allow an individual to demonstrate proficiency in the content related to an examination for which the individual has not performed satisfactorily. *19 TAC 74.1027(d)*

Appeals

A decision regarding whether the individual qualifies to graduate and receive a high school diploma is final and may not be appealed. *19 TAC 74.1027(e); Education Code 28.02541*

Documentation

The district shall maintain documentation to support the decision to award or not award an individual a high school diploma. *19 TAC 74.1027(f)*

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Special Education

A student receiving special education services who successfully completes the requirements of his or her IEP, including performance on a state assessment required for graduation, shall receive a high school diploma. A student's admission, review, and dismissal (ARD) committee shall determine if the student will be required to meet satisfactory performance on an assessment for purposes of graduation. *19 TAC 101.3023(a)* [See Graduation of Students Receiving Special Education Services, below, and EKB]

Posthumous Diploma

Beginning with students enrolled in grade 12 during the ~~2005–06~~2019–20 school year, and on request of the student's parent, a district shall issue a high school diploma posthumously to ~~a~~each student who died while enrolled in the district at ~~grade level 12, provided that the student was academically on track at the time of death to receive a diploma at~~ the end of the school year in which the student ~~died. "School year" includes any summer session following~~was expected to graduate under the regular schedule of school attendance. The high school diploma may not be issued before the graduation date of the ~~spring semester.~~class in which the student was enrolled at the time of death.

Exception

A district is not required to issue a posthumous diploma if the student was convicted of a felony offense under Title 5 or 6, Penal Code, or adjudicated as having engaged in conduct constituting a felony offense under Title 5 or 6, Penal Code.

Education Code 28.0254

Diplomas for Veterans

Notwithstanding any other provision of this policy, a district may issue a high school diploma to a person who is an honorably discharged member of the armed forces of the United States; was scheduled to graduate from high school after 1940 and before 1975 or after 1989; and left school after completing the sixth or a higher grade, before graduating from high school, to serve in:

1. World War II, the Korean War, the Vietnam War, the Persian Gulf War, the Iraq War, or the war in Afghanistan; or
2. Any other war formally declared by the United States, military engagement authorized by the United States Congress, military engagement authorized by a United Nations Security Council resolution and funded by the United States Congress, or conflict authorized by the president of the United States under the War Powers Resolution of 1973, 50 U.S.C. 1541, et seq.

Education Code 28.0251

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Personal Graduation Plan

Junior High or Middle School PGP

A principal of a junior high or middle school shall designate a school counselor, teacher, or other appropriate individual to develop and administer a personal graduation plan (PGP) for each student enrolled in the junior high or middle school who:

1. Does not perform satisfactorily on a state assessment instrument; or
2. Is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade level 9, as determined by a district.

A PGP must:

1. Identify educational goals for the student;
2. Include diagnostic information, appropriate monitoring and intervention, and other evaluation strategies;
3. Include an intensive instruction program described in Education Code 28.0213 [see EHBC];
4. Address participation of the student's parent or guardian, including consideration of the parent's or guardian's educational expectations for the student; and
5. Provide innovative methods to promote the student's advancement, including flexible scheduling, alternative learning environments, online instruction, and other interventions that are proven to accelerate the learning process and have been scientifically validated to improve learning and cognitive ability.

Education Code 28.0212

Students Receiving Special Education Services

For a student receiving special education services, the student's ARD committee and the district are responsible for developing the student's PGP.

A student's IEP developed under Education Code 29.005 may be used as the student's PGP.

Education Code 28.0212(c); 19 TAC 89.1050(a) [See EHBAB]

High School PGP

A principal of a high school shall designate a school counselor or school administrator to review PGP options with each student entering grade 9 together with that student's parent or guardian. The PGP options reviewed must include the distinguished level of achievement and endorsements.

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Before the conclusion of the school year, the student and the student's parent or guardian must confirm and sign a PGP for the student that identifies a course of study that:

1. Promotes college and workforce readiness and career placement and advancement; and
2. Facilitates the student's transition from secondary to postsecondary education.

A district may not prevent a student and the student's parent or guardian from confirming a PGP that includes pursuit of a distinguished level of achievement or an endorsement.

A student may amend the student's PGP after the initial confirmation of the plan. If a student amends the student's PGP, the school must send written notice to the student's parents regarding the change.

TEA must make available to a district information that explains the advantages of the distinguished level of achievement described by Education Code 28.025(b-15) and each endorsement described by Education Code 28.025(c-1). A district, in turn, shall publish the information from TEA on the internet website of the district and ensure that the information is available to students in grades nine and above and the parents or legal guardians of those students in the language in which the parents or legal guardians are most proficient.

A district is required to provide this information in the language in which the parents or legal guardians are most proficient only if at least 20 students in a grade level primarily speak that language.

Education Code 28.02121

Early Graduation

A parent is entitled to request, with the expectation that the request will not be unreasonably denied, that the parent's child be permitted to graduate from high school earlier than the child would normally graduate, if the child completes each course required for graduation. The decision of a board concerning the request is final and may not be appealed. *Education Code 26.003(a)(3)(C), (b)*
[See FMH, FNG]

State Graduation Requirements

Note: For current state graduation requirements, including those for students who entered grade 9 before the 2007–08 school year but that are not otherwise referenced in this policy, see Education Code 28.025 and 19 Administrative Code Chapter 74.

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Students Entering Grade 9 in or after the 2014–15 School Year

To receive a high school diploma, a student entering grade 9 in the 2014–15 school year and thereafter must complete:

1. Requirements of the foundation high school program under 19 Administrative Code 74.12 [see Foundation High School Program, below];
2. Testing requirements for graduation under 19 Administrative Code Chapter 101 [see EKB]; and
3. Demonstrated proficiency, as determined by the district, in delivering clear verbal messages; choosing effective nonverbal behaviors; listening for desired results; applying valid critical-thinking and problem-solving processes; and identifying, analyzing, developing, and evaluating communication skills needed for professional and social success in interpersonal situations, group interactions, and personal and professional presentations.

A student shall enroll in the courses necessary to complete the curriculum requirements for the foundation high school program and the curriculum requirements for at least one endorsement.

Education Code 28.025(c); 19 TAC 74.11(a), (c)

Foundation High School Program

A student must earn at least 22 credits to complete the foundation high school program and must demonstrate proficiency in the following core courses:

1. English language arts—4 credits;
2. Mathematics—3 credits;
3. Science—3 credits;
4. Social Studies—3 credits;
5. Languages other than English—2 credits;
6. Physical Education—1 credit;
7. Fine Arts—1 credit; and
8. Elective courses—5 credits.

19 TAC 74.12

Endorsements

A student shall specify in writing an endorsement the student intends to earn upon entering grade 9. A student may earn any of the following endorsements:

1. Science, technology, engineering, and mathematics (STEM);
2. Business and industry;

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3. Public services;

4. Arts and humanities; and

5. Multidisciplinary studies.

A district must make at least one endorsement available to students. A district that offers only one endorsement curriculum must offer multidisciplinary studies.

To earn an endorsement a student must demonstrate proficiency in the curriculum requirements for the foundation high school program and, in accordance with 19 Administrative Code 74.13(e), earn:

1. A fourth credit in mathematics;

2. An additional credit in science; and

3. Two additional elective credits.

A course completed as part of the four courses needed to satisfy an endorsement requirement may also satisfy a requirement under the foundation high school program, including an elective requirement. The same course may count as part of the set of four courses for more than one endorsement.

A district shall permit a student to enroll in courses under more than one endorsement before the student's junior year and to choose, at any time, to earn an endorsement other than the endorsement the student previously indicated.

A student must earn at least 26 credits to earn an endorsement, but a student is not entitled to remain enrolled to earn more than 26 credits.

A district may define advanced courses and determine a coherent sequence of courses for an endorsement area, provided that prerequisites in 19 Administrative Code Chapters 110–118, 126, 127, and 130 are followed.

Education Code 28.025; 19 TAC 74.13

Exception

A student may graduate under the foundation high school program without earning an endorsement if, after the student's sophomore year:

1. The student and the student's parent or person standing in parental relation to the student are advised by a school counselor of the specific benefits of graduating from high school with one or more endorsements; and

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2. The student's parent or person standing in parental relation to the student files with a school counselor written permission, on a form adopted by TEA, allowing the student to graduate under the foundation high school program without earning an endorsement.

19 TAC 74.11(d)

Distinguished Level of Achievement

A student may earn a distinguished level of achievement by successfully completing the curriculum requirements for the foundation high school program and the curriculum requirements for at least one endorsement, including four credits in science and four credits in mathematics, including Algebra II. *19 TAC 74.11(e)*

Algebra II Notification

Not later than September 1 of each school year, a district shall notify by regular mail or email the parent of or other person standing in parental relation to each student enrolled in grade 9 or above that the student is not required to complete an Algebra II course to graduate under the foundation high school program. The notification must include information regarding the potential consequences to a student of not completing an Algebra II course, including the impact on eligibility for:

1. Automatic college admission under Education Code 51.803; and

2. Certain financial aid authorized under Title 3 of the Education Code.

Education Code 28.02123

Prerequisites

A student may not be enrolled in a course that has a required prerequisite unless:

1. The student has completed the prerequisite course(s);

2. The student has demonstrated equivalent knowledge as determined by the district; or

3. The student was already enrolled in the course in an out-of-state, an out-of-country, or a Texas nonpublic school and transferred to a Texas public school prior to successfully completing the course.

A district may award credit for a course a student completed without having met the prerequisites if the student completed the course in an out-of-state, an out-of-country, or a Texas nonpublic school where there was not a prerequisite.

19 TAC 74.11(i)–(j)

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College Courses

Courses offered for dual credit at or in conjunction with an institution of higher education that provide advanced academic instruction beyond, or in greater depth than, the essential knowledge and skills for the equivalent high school course required for graduation may satisfy graduation requirements, including requirements for required courses, advanced courses, and courses for elective credit as well as requirements for endorsements. *19 TAC 74.11(h)*

Languages Other Than English

Students may earn credit for languages other than English in accordance with 19 Administrative Code 74.12(b)(5).

A student who successfully completes a dual language immersion program may satisfy one credit of the two credits required in a language other English in accordance with 19 Administrative Code 74.12(b)(5)(F).

19 TAC 74.12(b)(5)

The SBOE shall adopt criteria to allow a student to comply with the curriculum requirement for one credit for a language other than English by successfully completing at an elementary school a course in American Sign Language. *Education Code 28.025(b-21)*

Physical Education Substitutions

Other Physical Activity

In accordance with local district policy, the required physical education credit may be earned through completion of any TEKS-based course that is not being used to satisfy another specific graduation requirement. [See Restrictions, below]

In accordance with local district policy, credit for any physical education course may be earned through participation in the following activities:

1. Athletics;
2. JROTC; and
3. Appropriate private or commercially sponsored physical activity programs conducted on or off campus. A district must apply to the commissioner of education for approval of such programs, which may be substituted for state graduation credit in physical education. Such approval may be granted under the following conditions:
    a. Olympic-level participation and/or competition includes a minimum of 15 hours per week of highly intensive, professional, supervised training. The training facility, instructors, and the activities involved in the program must be certified by the superintendent to be of exceptional quality. Students qualifying and participating at this level

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may be dismissed from school one hour per day. Students dismissed may not miss any class other than physical education.

b. Private or commercially sponsored physical activities include those certified by the superintendent to be of high quality and well supervised by appropriately trained instructors. Student participation of at least five hours per week must be required. Students certified to participate at this level may not be dismissed from any part of the regular school day.

In accordance with local district policy, up to one credit for any one of the physical education courses listed in 19 Administrative Code Chapter 74 [see EHAC] may be earned through participation in any of the following activities:

1. Drill team;
2. Marching band; and
3. Cheerleading.

Restrictions

All substitution activities permitted by local district policy must include at least 100 minutes of moderate to vigorous physical activity per five-day school week.

No more than four substitution credits may be earned through any combination of substitutions listed above.

Student with Disability or Illness

A student who is unable to participate in physical activity due to disability or illness may substitute an academic elective credit in English language arts, mathematics, science, social studies or a course that is offered for credit as provided by Education Code 28.002(g-1) for the required physical education credit. A credit allowed to be substituted may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The determination regarding a student's ability to participate in physical activity must be made by:

1. The student's ARD committee if the student receives special education services under Education Code Chapter 29, Subchapter A;
2. The committee established for the student under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794) if the student does not receive special education services under Education Code Chapter 29, Subchapter A but is covered by the Rehabilitation Act of 1973; or

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3. A committee, established by the district, of persons with appropriate knowledge regarding the student if each of the committees described above is inapplicable. This committee must follow the same procedures required of an ARD or a Section 504 committee.

Education Code 28.025(b-10)–(b-11); 19 TAC 74.12(b)(6)

Community-Based Fine Arts Programs

In accordance with local district policy, the required fine arts credit may be earned through participation in a community-based fine arts program not provided by the school district in which the student is enrolled.

In accordance with local policy, credit may be earned through participation in the community-based fine arts program only if the program meets each of the following requirements:

1. The district must apply to the commissioner for approval of the community-based fine arts program;
2. The board must certify that the program provides instruction in the essential knowledge and skills for fine arts as defined by 19 Administrative Code, Chapter 117, Subchapter C;
3. The district must document student completion of the approved activity;
4. The program must be organized and monitored by appropriately trained instructors;
5. The fine arts program may be provided on or off a school campus and outside the regular school day; and
6. Students may not be dismissed from any part of the regular school day to participate in the community-based fine arts program.

The district shall require that instructors of the community-based fine arts program provide the district, at its request, the information necessary to obtain the criminal history record information required for school personnel in accordance with 19 Administrative Code, Chapter 153, Subchapter DD, if the community-based program is offered on campus.

Education Code 28.025(b-9); 19 TAC 74.12(b)(7)(B), .1030

Performance Acknowledgments

In accordance with the requirements of 19 Administrative Code 74.14, a student may earn a performance acknowledgment on the student's transcript for:

1. Outstanding performance:

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a. In a dual credit course;

b. In bilingualism and biliteracy;

c. On a College Board advanced placement test or international baccalaureate examination;

d. On an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument used to measure a student's progress toward readiness for college and the workplace;

e. On an established, valid, reliable, and nationally norm-referenced assessment instrument used by colleges and universities as part of their undergraduate admissions process; or

2. Earning a state-recognized or nationally or internationally recognized business or industry certification or license.

Education Code 28.025(c-5); 19 TAC 74.14

Transition to Foundation High School Program

A district shall allow a student who entered grade 9 prior to the 2014–15 school year to complete the curriculum requirements for high school graduation:

1. By satisfying the requirements in place when the student entered grade 9 for the Minimum, Recommended, or Advanced/Distinguished Achievement High School Program [see 19 Administrative Code Chapter 74] if the student was participating in the program before the 2014–15 school year; or

2. Under the foundation high school program by satisfying the requirements adopted by the SBOE, if the student chooses during the 2014–15 school year to take courses under the program.

A student who entered grade 9 prior to the 2014–15 school year may, at any time prior to graduation and upon request, choose to complete the curriculum requirements required for high school graduation under a different program than that selected by the student during the 2014–15 school year.

19 TAC 74.1021

Students Who Entered Grade 9 Before the 2014–15 School Year

All credit for graduation must be earned no later than grade 12. *19 TAC 74.61(b), .71(b)*

Minimum High School Program

A student entering grade 9 prior to the 2014–15 school year who does not choose to complete the curriculum requirements for high school graduation under the foundation high school program must

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enroll in the courses necessary to complete the curriculum requirements for the Recommended High School Program or the Advanced/Distinguished Achievement High School Program, unless the student, the student's parent or other person standing in parental relation to the student, and a school counselor or school administrator agree in writing signed by each party that the student should be permitted to take courses under the Minimum High School Program, and the student:

1. Is at least 16 years of age;
2. Has completed two credits required for graduation in each subject of the foundation curriculum under Education Code 28.002(a)(1); or
3. Has failed to be promoted to the tenth grade one or more times as determined by the school district.

Students with Disabilities

If an ARD committee makes decisions that place a student with a disability on a modified curriculum in a subject area, the student will be automatically placed in the Minimum High School Program.

Applicability

A student who was permitted to take courses under the Minimum High School Program prior to the 2009–10 school year may remain in the Minimum High School Program.

19 TAC 74.61(c), (d), .71(c), (d)

Requirements

A student must earn at least 22 credits to complete the Minimum High School Program.

A student who entered grade 9 in the 2012–13 or 2013–14 school year must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.72.

A student who enters grade 9 before the 2012–13 school year must meet the applicable program requirements in 19 Administrative Code Chapter 74, Subchapters D–F.

Education Code 28.025; 19 TAC 74.62, .72

Recommended High School Program

A student who entered grade 9 in the 2012–13 or 2013–14 school year must earn at least 26 credits to complete the Recommended High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.73.
Education Code 28.025; 19 TAC 74.63, .73

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Advanced / Distinguished Achievement High School Program

A student who entered grade 9 in the 2012–13 or 2013–14 school year must earn at least 26 credits to complete the Advanced/Distinguished Achievement High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.74. *Education Code 28.025; 19 TAC 74.64, .74*

Substitutions

No substitutions are allowed for high school graduation requirements in the Recommended and Advanced/Distinguished Achievement High School Programs, except as provided by State Board rule. *19 TAC 74.63(d), .64(e), .73(d), .74(e)*

AP or IB Courses

College Board advanced placement and international baccalaureate courses may be substituted for required courses in appropriate areas. These courses may be used as electives in all three high school graduation programs. *19 TAC 74.61(k), .71(i)*

Reading

A district may offer a maximum of 3 credits of reading for state graduation elective credit for identified students if the district:

1. Adopts policies to identify students in need of additional reading instruction;
2. Has procedures that include assessment of individual student needs and ongoing evaluation of each student's progress; and
3. Monitors instructional activities to ensure that student needs are addressed.

Reading credits may be selected from Reading I, II, or III.

19 TAC 74.61(h), .71(f)

College Courses

A student may comply with the curriculum requirements under the Minimum, Recommended, or Advanced/Distinguished Achievement High School Program for each subject of the foundation curriculum and for languages other than English by successfully completing appropriate courses in the core curriculum of an institution of higher education. *19 TAC 74.61(l), .71(j)*

Physical Education Substitutions

Other Physical Activity

In accordance with local district policy, credit for any physical education course may be earned through participation in the following activities:

1. Athletics;
2. JROTC; and
3. Appropriate private or commercially sponsored physical activity programs conducted on or off campus. A district must apply to the commissioner for approval of such programs, which

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may be substituted for state graduation credit in physical education. Such approval may be granted under the following conditions:

a. Olympic-level participation and/or competition includes a minimum of 15 hours per week of highly intensive, professional, supervised training. The training facility, instructors, and the activities involved in the program must be certified by the superintendent to be of exceptional quality. Students qualifying and participating at this level may be dismissed from school one hour per day. Students dismissed may not miss any class other than physical education.

b. Private or commercially sponsored physical activities include those certified by the superintendent to be of high quality and well supervised by appropriately trained instructors. Student participation of at least five hours per week must be required. Students certified to participate at this level may not be dismissed from any part of the regular school day.

In accordance with local district policy, up to one credit for any one of the physical education courses listed in 19 Administrative Code Chapter 74 [see EHAC] may be earned through participation in any of the following activities:

1. Drill team;

2. Marching band; and

3. Cheerleading.

Restrictions

All substitution activities must include at least 100 minutes per five-day school week of moderate to vigorous physical activity.

No more than four substitution credits may be earned through any combination of substitutions listed above.

Student with Disability or Illness

A student who is unable to participate in physical activity due to disability or illness may substitute an academic elective credit in English language arts, mathematics, science, or social studies for the required physical education credit. A credit allowed to be substituted may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The determination regarding a student's ability to participate in physical activity must be made by:

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1. The student's ARD committee if the student receives special education services under Education Code Chapter 29, Subchapter A;

2. The committee established for the student under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794) if the student does not receive special education services under Education Code Chapter 29, Subchapter A but is covered by the Rehabilitation Act of 1973; or

3. A committee, established by the district, of persons with appropriate knowledge regarding the student if each of the committees described above is inapplicable. This committee must follow the same procedures required of an ARD or a Section 504 committee.

Student with Physical Limitations

If a student entering grade 9 during the 2007–08 school year or thereafter is unable to comply with all of the requirements for a physical education course due to a physical limitation certified by a licensed medical practitioner, a modification to a physical education course does not prohibit the student from earning a Recommended or Advanced/Distinguished High School Program diploma. A student with a physical limitation must still demonstrate proficiency in the relevant knowledge and skills in a physical education course that do not require physical activity.

Education Code 28.025(b-10)–(b-11); 19 TAC 74.62(b)(7), .63(b)(7), .64(b)(7), .72(b)(6), .73(b)(6), .74(b)(6)

Transfers from Out-of-State or Nonpublic Schools

Out-of-state or out-of-country transfer students (including foreign exchange students) and transfer students from Texas nonpublic schools are eligible to receive Texas diplomas but shall complete all applicable high school graduation requirements. Any course credits required for graduation that are not completed before enrollment may be satisfied through credit by examination, correspondence courses, distance learning, or completing the course, according to the provisions of 19 Administrative Code 74.26. *19 TAC 74.11(f)* [See EHDB, EHDC, EHDE, and EI]

Graduation of Students Receiving Special Education Services

Modified Curriculum and Content

Modified curriculum and modified content refer to any reduction of the amount or complexity of the required knowledge and skills in 19 Administrative Code Chapters 110–118, 126–128, and 130. Substitutions that are specifically authorized in statute or rule must not be considered modified curriculum or modified content. *19 TAC 89.1070(l)*

Employability and Self-Help Skills

Employability and self-help skills are those skills directly related to the preparation of students for employment, including general skills necessary to obtain or retain employment. *19 TAC 89.1070(j)*

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Summary of Academic Achievement and Evaluation

All students graduating must be provided with a summary of academic achievement and functional performance as described in 34 C.F.R. 300.305(e)(3). This summary must consider, as appropriate, the views of the parent and student and written recommendations from adult service agencies on how to assist the student in meeting postsecondary goals. An evaluation as required by 34 C.F.R. 300.305(e)(1) (evaluation to determine that the child is no longer a child with a disability), must be included as part of the summary for a student graduating under 19 Administrative Code 89.1070 (b)(2)(A), (B), or (C) or (g)(4)(A), (B), or (C). Students who participate in graduation ceremonies but who are not graduating under subsections (b)(2)(A), (B), or (C) or (g)(4)(A), (B), or (C) and who will remain in school to complete their education do not have to be evaluated. *19 TAC 89.1070(h)–(i)*

Students Entering Grade 9 in or After the 2014–15 School Year

A student entering grade 9 in the 2014–15 school year and thereafter who receives special education services may graduate and be awarded a regular high school diploma if the student meets one of the following conditions:

1. The student has demonstrated mastery of the required state standards (or district standards if greater) in 19 Administrative Code Chapters 110-118, 126-128, and 130 and satisfactorily completed credit requirements for graduation under the foundation high school program applicable to students in general education as well as satisfactory performance on the required state assessments, unless the student's ARD committee has determined that satisfactory performance on the required state assessments is not necessary for graduation.

2. The student has demonstrated mastery of the required state standards (or district standards if greater) in 19 Administrative Code Chapters 110–118, 126–128, and 130 and satisfactorily completed credit requirements for graduation under the foundation high school program through courses, one or more of which contain modified curriculum that is aligned to the standards applicable to students in general education, as well as satisfactory performance on the required state assessments, unless the student's ARD committee has determined that satisfactory performance on the required state assessments is not necessary for graduation. The student must also successfully complete the student's IEP and meet one of the following conditions:

    a. Consistent with the IEP, the student has obtained full-time employment, based on the student's abilities and local employment opportunities, in addition to mastering

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sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the local school district.

b. Consistent with the IEP, the student has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the local school district.

c. The student has access to services that are not within the legal responsibility of public education or employment or educational options for which the student has been prepared by the academic program.

d. The student no longer meets age eligibility requirements.

When a student receives a diploma under item 2(a), (b), or (c), above, the ARD committee must determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age eligibility requirements.

19 TAC 89.1070(b), (k)

Endorsements

A student ~~receiving~~ who is enrolled in a special education ~~services~~program may earn an endorsement ~~if~~on the ~~student~~student's transcript by:

1. ~~Satisfactorily completes the~~Successfully completing, with or without modification of the curriculum:

   a. The curriculum requirements ~~for graduation under~~identified by the SBOE for the foundation high school program ~~as well as~~; and

   b. The additional ~~credit~~endorsement curriculum requirements ~~in mathematics, science, and elective courses with or without~~ prescribed by the SBOE; and

2. Successfully completing all curriculum requirements for that endorsement adopted by the SBOE:

   a. Without modification of the curriculum; or

   ~~a.~~b. With modification of the curriculum, provided that the curriculum, as modified ~~curriculum;~~, is sufficiently rigorous as determined by the student's ARD committee.

~~1. Satisfactorily completes the courses required for the endorsement without any modified curriculum; and~~

~~2. Performs satisfactorily on the required state assessments.~~

~~*19 TAC 89.1070(c)*~~

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The ARD committee of a student in ~~grade 11 or 12 receiving~~ a special education program shall determine whether the student is required to achieve satisfactory performance on end-of- course assessment instrument to earn an endorsement on the student's transcript.~~no services who has taken each of the state assessments required by 19 Administrative Code Chapter 101, Subchapter CC (relating to Commissioner's Rules Concerning Implementation of the Academic Content Areas Testing Program) or Subchapter DD (relating to Commissioner's Rules Concerning Substitute Assessments for Graduation) but failed to achieve satisfactory performance on no more than two of the assessments is eligible to receive~~ an ~~endorsement if the student has met the requirements of items 1 and 2 above. *19 TAC 89.1070(d)*~~

~~In order for a student receiving special education services to use a course to satisfy both a requirement under the foundation high school program and a requirement for an endorsement, the student must satisfactorily complete the course without any modified curriculum. *19 TAC 89.1070(e)*~~

Education Code 28.025(c-7)–(c-8)

Students Entering Grade 9 Before the 2014–15 School Year

A student receiving special education services who entered grade 9 before the 2014–15 school year may graduate and be awarded a high school diploma under the foundation high school program if the student's ARD committee determines that the student should take courses under that program and the student satisfies the requirements of that program. A student transitioning to the Foundation High School Program may earn an endorsement as set out above [see Endorsements, above].

A student receiving special education services in 11th or 12th grade who has taken each of the required state assessments but failed to achieve satisfactory performance on no more than two of the assessments may graduate if the student has satisfied all other applicable graduation requirements. [See Special Education, above, and EKB]

19 TAC 89.1070(f)

A student receiving special education services who entered grade 9 before the 2014–15 school year may graduate and be awarded a regular high school diploma if the student meets one of the following conditions:

1. The student has demonstrated mastery of the required state standards (or district standards if greater) in 19 Administrative Code Chapters 110–118, 126–128, and 130 and satisfactorily

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completed credit requirements for graduation under the Recommended or Advanced/Distinguished Achievement Programs, including satisfactory performance on the required state assessments.

2. The student is in grade 11 or 12 and has taken each of the state assessments required by 19 Administrative Code Chapter 101, Subchapter CC (~~relating to~~ Commissioner's Rules Concerning Implementation of the Academic Content Areas Testing Program) or Subchapter DD (~~relating to~~ Commissioner's Rules Concerning Substitute Assessments for Graduation) but failed to achieve satisfactory performance on no more than two of the assessments and has met all other applicable graduation requirements in item 1 above.

3. The student has demonstrated mastery of the required state standards (or district standards if greater) in 19 Administrative Code Chapters 110–118, 126–128, and 130 and satisfactorily completed credit requirements under the Minimum High School Program, including participation in state assessments. The student's ARD committee shall determine whether satisfactory performance on the required state assessments is necessary for graduation.

4. The student has demonstrated mastery of the required state standards (or district standards if greater) in 19 Administrative Code Chapters 110–118, 126–128, and 130 through courses, one or more of which contain modified content that is aligned to the standards required under the Minimum High School Program as well as the satisfactorily completed credit requirements under the Minimum High School Program, including participation in required state assessments. The student's ARD committee shall determine whether satisfactory performance on the required state assessments is necessary for graduation. The student must also successfully complete the student's IEP and meet one of the following conditions:

   a. Consistent with the IEP, the student has obtained full-time employment, based on the student's abilities and local employment opportunities, in addition to mastering sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the local school district;

   b. Consistent with the IEP, the student has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the local school district;

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c. The student has access to services that are not within the legal responsibility of public education, or employment or educational options for which the student has been prepared by the academic program; or

d. The student no longer meets age eligibility requirements.

When a student receives a diploma under item 3(a), (b), or (c), above, the ARD committee must determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age eligibility requirements.

19 TAC 89.1070(g), (k)

Graduation of Military Dependents

Course Waiver

District officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed by a military student in another district or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the district shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

Transfers During Senior Year

Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from the district after all alternatives have been considered, the sending and receiving districts shall ensure the receipt of a diploma from the sending district, if the student meets the graduation requirements of the sending district. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student.

Substitute Passing Standard

The commissioner shall adopt a passing standard on one or more national norm-referenced achievement tests for purposes of permitting a qualified military dependent to meet that standard as a substitute for completing a specific course otherwise required for graduation. The passing standard is available only for a student who enrolls in a public school in this state for the first time after completing the ninth grade or who reenrolls in a public school in this state at or above the tenth grade level after an absence of at least two years from the public schools of this state. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.

Education Code 162.002 art. VII, A, C [See FDD]

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Graduation of Student Who Is Homeless or in Conservatorship of DFPS

If an 11th or 12th grade student who is homeless or in the conservatorship of the Department of Family and Protective Services transfers to a different school district and the student is ineligible to graduate from the district to which the student transfers, the district from which the student transferred shall award a diploma at the student's request, if the student meets the graduation requirements of the district from which the student transferred. ~~"Student who is homeless" has the meaning assigned to the term "homeless children and youths" under 42 U.S.C. Section 11434a.~~ *Education Code 28.025(i)*

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Local Achievement Testing

In addition to the state-administered assessment instruments, a district may adopt and administer criterion-referenced or norm-referenced assessment instruments, or both, at any grade level. A locally adopted norm-referenced assessment instrument must be economical, nationally recognized, and state-approved.

For purposes of this provision, "assessment instrument" means a district-commissioned achievement test, either nationally normed or criterion-referenced, that is group administered and reported publicly (such as to a board) in the aggregate.

A company or organization scoring an assessment instrument shall send test results to a district for verification. A district shall have 90 days to verify the accuracy of test data and report the results to the board.

A district shall follow procedures for test security and confidentiality set forth in 19 Administrative Code Chapter 101, Subchapter C. [See EKB]

Education Code 39.026, ~~39~~.032; 19 TAC 101.101

Assessment Instrument Limitations

In any subject area for which a state assessment is administered, a district may not administer locally required assessments designed to prepare students for state assessments to any student on more than ten percent of the instructional days in any school year. A campus-level planning and decision-making committee may limit the administration of locally required assessments to ten percent or a lower percentage of the instructional days in any school year. This prohibition does not apply to the administration of college preparation assessments, advanced placement tests, international baccalaureate examinations, or state assessments. *Education Code 39.0262*

Benchmark Assessment Instruments

"Benchmark assessment instrument" means a district-required assessment instrument designed to prepare students for a corresponding state-administered assessment instrument.

A district may not administer to any student more than two benchmark assessment instruments to prepare the student for a corresponding state-administered assessment instrument.

This prohibition does not apply to the administration of a college preparation assessment instrument, including the PSAT, the ACT-Plan, the SAT, or the ACT, an advanced placement test, an international baccalaureate examination, or an independent classroom examination designed or adopted and administered by a classroom teacher.

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A parent of or person standing in parental relation to a student who has special needs, as determined in accordance with commissioner of education rule, may request administration to the student of additional benchmark assessment instruments.

Education Code 39.0263

Designed to Prepare

For purposes of Education Code 39.0262 and 39.0263, an assessment instrument designed to prepare students for state-administered assessment instruments is an assessment that:

1. Evaluates students' potential performance relative to the state's blueprint in whole for a state-administered assessment; or

2. Is primarily focused on test-taking techniques.

This provision does not include an assessment designed to evaluate students' mastery of parts of the Texas Essential Knowledge and Skills or the efficacy of instructional practice.

19 TAC 101.6003

College Preparation Assessments

~~The following provisions apply only if the legislature appropriates funds for these purposes.~~

Each school year, and at state cost, a district may administer an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument:

1. To students in the spring of the eighth grade, for the purpose of diagnosing the academic strengths and deficiencies of students before entrance into high school; and

2. To students in the tenth grade, for the purpose of measuring a student's progress toward readiness for college and the workplace.

The provisions of Education Code 39.0261(a)(1) and (a)(2), above, apply only if the legislature appropriates funds for those purposes.

Education Code 39.0261(a)(1)–(a)(2), (f)

High school students, in the spring of the eleventh grade or during the twelfth grade, may select and take once, at state cost~~,~~ :

1. One of the valid, reliable, and nationally norm-referenced assessment instruments used by colleges and universities as part of their undergraduate admissions processes~~. A high school student is not prohibited from taking a test more than once, at the student's own expense.~~; or

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2. ~~TEA~~The assessment instrument designated by the Texas Higher Education Coordinating Board under Education Code 51.334.

A high school student is not prohibited from taking the test more than once, at the student's own expense.

Education Code 39.0261(a)(3), (e)

A district is entitled to reimbursement for the amount of fees paid by the district for the administration of an assessment instrument under Education Code 39.0261(a)(3), above. *Education Code 48.155*

The Texas Education Agency (TEA) shall:

1. Select and approve vendors of the specific assessment instruments administered under this section; and

2. Provide reimbursement to a district for all fees associated with the administration of the assessment instrument, from funds appropriated for that purpose.

TEA shall ensure that a school district is not reimbursed for the administration of an assessment instrument to a student to whom the assessment instrument is not actually administered.

Education Code 39.0261(b)–(c)

Homeschooled Students

The following provisions apply to a homeschooled student entitled under Education Code 25.001 to attend school in a district.

A district shall permit a homeschooled student to participate in an administration of the PSAT/NMSQT or a college advanced placement test offered by the district.

"Homeschooled student" means a student who predominantly receives instruction in a general elementary or secondary education program that is provided by the parent, or a person standing in parental authority, in or through the child's home.

Fees

A district shall require a homeschooled student to pay the same fee to participate in such a test that a student enrolled in the district is required to pay.

Notice

A district shall post on an internet website maintained by the district the date the PSAT/NMSQT will be administered and the date any college advanced placement tests will be administered. The notice must state that the PSAT/NMSQT or the advanced placement test is available for homeschooled students eligible to attend school in the district and describe the procedures for a homeschooled student to register for the test.

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A district that does not maintain an internet website must publish the notice in a newspaper in the district. If a newspaper is not published in the district, the district shall provide for the publication of notice in at least one newspaper in the county in which the district's central administrative office is located.

The required notice must be posted or published at the same time and with the same frequency with which the information is provided to a student who attends a district school.

Education Code 29.916

Armed Services Vocational Aptitude Battery Test

Each school year each school district shall provide students in grades 10 through 12 an opportunity to take the Armed Services Vocational Aptitude Battery (ASVAB) test and consult with a military recruiter.

The test must be scheduled:

1. During normal school hours; and
2. To optimize student participation, at a time that limits conflicts with extracurricular activities.

Each school district shall provide each student in grades 10 through 12 and the student's parent or person standing in parental relation to the student a notice of the date, time, and location of the scheduled administration of the ASVAB test.

A school district may elect not to provide the ASVAB test only if the district or school provides an alternative test that:

1. Assesses a student's aptitude for success in a career field other than a career field that requires postsecondary education;
2. Is free to administer;
3. Requires minimal training and support of district or school faculty and staff to administer the test; and
4. Provides the student with a professional interpretation of the test results that allows the student to:
    a. Explore occupations that are consistent with the student's interests and skills; and
    b. Develop strategies to attain the student's career goals.

A school district or high school that, before September 1, 2017, entered into a contract under which a vocational aptitude test that does not comply with the requirements for an alternative test is

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provided to students in grades 10 through 12, may elect not to provide the ASVAB test for the term of the contract. On the expiration of the contract term, this exemption is not applicable.

Education Code 29.9015

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State Assessment of Academic Skills

Every student receiving instruction in the essential knowledge and skills shall take the appropriate criterion-referenced assessments, as required by Education Code Chapter 39, Subchapter B [see Testing in Grades 3–8, below]. *Education Code 39.023(a), (c), (f); 19 TAC 101.5*

A student may not receive a high school diploma until the student has performed satisfactorily on end-of-course (EOC) assessment instruments [see End-of-Course Assessments, below]. *Education Code 39.025(a); 19 TAC 101.4001*

Limited English Proficient Students

In grades 3–12, a limited English proficient (LEP) student, as defined by Education Code Chapter 29, Subchapter B, shall participate in the state assessment in accordance with commissioner rules at 19 Administrative Code Chapter 101, Subchapter AA. *Education Code 39.023(l), (m)* [See EKBA]

Special Education

The Texas Education Agency (TEA) shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program for whom a state assessment instrument adopted under Education Code 39.023(a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal (ARD) committee, including assessment instruments approved by the commissioner of education that measure growth. The assessment instruments developed or adopted, including the assessment instruments approved by the commissioner, must, to the extent allowed under federal law, provide a district with options for the assessment of students.

TEA may not adopt a performance standard that indicates that a student's performance on the alternate assessment does not meet standards if the lowest level of the assessment accurately represents the student's developmental level as determined by the student's ARD committee.

The student's ARD committee shall determine whether any allowable modification is necessary in administering to the student a required EOC assessment instrument under Education Code 39.023(c), and whether the student is required to achieve satisfactory performance on an EOC assessment instrument to receive a high school diploma.

Education Code 39.023(b)–(c), .025(a-4)

Military Dependents

If the student is a military dependent, the district shall incorporate procedures to accept:

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1. Exit or EOC exams required for graduation from the sending state;
2. National norm-referenced achievement tests; or
3. Alternative testing, in lieu of testing requirements for graduation in the receiving state.

In the event the above alternatives cannot be accommodated by the receiving state for a military dependent transferring in his or her senior year, then ~~a commissioner's substitute passing standard~~Education Code 162.002 article VII, section C, shall apply.

Substitute Passing Standard

The commissioner shall adopt a passing standard on one or more national norm-referenced achievement tests for purposes of permitting a qualified military dependent to meet that standard as a substitute for achieving a score on an assessment instrument otherwise required for graduation. The passing standard is available only for a student who enrolls in a public school in this state for the first time after completing the ninth grade or who reenrolls in a public school in this state at or above the grade 10 level after an absence of at least two years from the public schools of this state. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard. ~~*Education Code 162.002 art. VII, §§ B–C* [See FDD]~~

Education Code 162.002 art. VII [See EIF]

Administration

A district shall follow the test administration procedures established by TEA in the applicable test administration materials. A superintendent shall be responsible for administering tests. *19 TAC 101.25, .27*

Schedule

The commissioner shall specify the schedule for testing that is in compliance with Education Code 39.023(c-3~~)(1~~) and ~~(2), and~~ supports reliable and valid assessments. Participation in University Interscholastic League (UIL) area, regional, or state competitions is prohibited on any days on which testing is scheduled between Monday and Thursday of the school week in which the primary administration of assessment instruments occurs.

The commissioner may provide alternate dates for the administration of tests required for a high school diploma to students who are migratory children and who are out of the state.

19 TAC 101.25

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Alternate Test Dates

The commissioner shall consider requests from districts or campuses for alternate test dates on a case-by-case basis. Alternate test dates will only be allowed if the campus or district is closed on the day on which testing is scheduled or if there is an exceptional circumstance, defined below, that may affect a district's or campus's ability to administer an assessment or the students' performance on the assessment.

"Exceptional circumstances" include:

1. Inclement weather or natural disasters that would cause a district or campus to be closed or that would cause a small percentage of students to be in attendance on the day testing is scheduled;
2. Health epidemics that result in a large number of students being absent on the day of testing;
3. Death of a student or school official that may impact student performance; and
4. Sudden emergencies that occur on the day of testing or shortly before testing that may inhibit students from completing the assessments, such as a fire on campus, a bomb threat, an extended power outage, or a water main break.

If an alternate test date for primary test administration is approved, the commissioner may prohibit a district or campus from participating in UIL competition on the new test date if that is determined to be in the best interest of the district, campus, and students.

19 TAC 101.5003

Notice to Parents and Students

A superintendent shall be responsible for providing written notice to each student and the student's parent or guardian of:

1. The testing requirements for grade advancement [see EIE] and the dates, times, and locations of testing. Notice of testing requirements shall be provided no later than the beginning of the student's kindergarten year, for students attending kindergarten in the district, and no later than the beginning of the student's first-grade year for all other students. The superintendent shall also provide such notice for students in grades 1–8 who are new to the district.
2. The testing requirements for graduation and the dates, times, and locations of testing. Notice of testing requirements shall be provided no later than the beginning of the student's seventh-grade year. The superintendent shall also provide such notice for students in grades 7–12 who are new to the district.

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Notice of the dates, times, and locations of testing shall be provided to each student who will take the tests and to out-of-school individuals.

19 TAC 101.3012

Testing in Grades 3–8

Except as provided below, all students, other than students who are assessed under Education Code 39.023(b) (alternative assessment instrument) or 39.023(l) (LEP students) or exempted under Education Code 39.027, shall be assessed in:

1. Mathematics, annually in grades 3–~~7 without the aid of technology and in grade 8 with the aid of technology on any assessment instrument that includes algebra~~8;
2. Reading, annually in grades 3–8;
3. Writing, including spelling and grammar, in grades 4 and 7;
4. Social studies in grade 8;
5. Science in grades 5 and 8; and
6. Any other subject and grade required by federal law.

Education Code 39.023(a)

Exception

Except as required for purposes of federal accountability, a student shall not be administered a grade-level assessment if the student:

1. Is enrolled in a course or subject intended for students above the student's enrolled grade level and will be administered a grade-level assessment instrument developed under the list above that aligns with the curriculum for that course or subject within the same content area; or
2. Is enrolled in a course for high school credit in a subject intended for students above the student's enrolled grade level and will be administered an EOC assessment instrument that aligns with the curriculum for that course or subject within the same content area.

A student is only eligible to take an assessment instrument intended for use above the student's enrolled grade if the student is receiving instruction in the entire curriculum for that subject.

A student in grade 5 or 8 described above may not be denied promotion on the basis of failure to perform satisfactorily on an assessment instrument above the student's grade level.

Education Code 28.0211(p), 39.023(a-2); 19 TAC 101.3011

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Kindergarten Assessment	An assessment instrument under Education Code 39.023 may not be administered to a kindergarten student except for the purpose of determining whether the student is entitled to the benefit of the Foundation School Program [see FD]. *Education Code 39.023(a-16)*
Prekindergarten Assessment	Performance on an assessment instrument administered to students in prekindergarten may not be considered for any purpose related to Education Code Chapters 39 and 39A. *Education Code 39.027*
Accommodations	Testing accommodations are permitted for any student unless they would make a particular test invalid. Decisions regarding testing accommodations shall take into consideration the needs of the student and the accommodations the student routinely receives in classroom instruction. Permissible testing accommodations shall be described in the appropriate test administration materials. The committee established by a board to determine the placement of students with dyslexia or related disorders shall determine whether any allowable modification is necessary in administering an assessment to such a student. A student's ARD committee shall determine the allowable accommodations and shall document them in the student's individualized education program (IEP). [See Special Education, above] *19 TAC 101.3013; Education Code 39.023(a)–(c), (n); 34 C.F.R. 300.320(a)(6)*
End-of-Course Assessments	Beginning with students first enrolled in grade 9 in the 2011–12 school year, a student enrolled in a course for which an EOC assessment exists as required by Education 39.023(c) shall take the appropriate assessment. *19 TAC 101.3021(a)*
Students Enrolled Below High School Level	Beginning in the 2011–12 school year, a student in grade 8 or lower who takes a high school course for credit is required to take the applicable EOC assessment. The EOC assessment result shall be applied toward the student's assessment graduation requirements, as specified in 19 Administrative Code 101.3022. *19 TAC 101.3021(d)*
Assessment Requirements for Graduation	A student must meet satisfactory performance on an EOC assessment listed in Education Code 39.023(c) only for a course in which the student is enrolled and for which an EOC assessment instrument is administered in order to be eligible to receive a Texas diploma.

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Exceptions

English I or English II

A student who was administered separate reading and writing EOC assessments under Education Code 39.023(c), for the English I or English II course has met that course's assessment graduation requirement if the student has:

1. Achieved satisfactory performance on either the reading or writing EOC assessment for that course;
2. Met at least the minimum score on the other EOC assessment for that course; and
3. Achieved an overall scale score of 3750 or greater when the scale scores for reading and writing are combined for that course.

Exceptions related to English I also apply to English language learners who meet the criteria in 19 Administrative Code 101.1007. [See EKBA]

Credits Earned Prior to Enrollment

If a student earned high school credit for a course with an EOC assessment prior to enrollment in a Texas public school district and the credit has been accepted by a Texas public school district, or a student completed a course for Texas high school credit in a course with an EOC assessment prior to the 2011–12 spring administration, the student is not required to take the corresponding EOC assessment.

19 TAC 101.3021(e), .3022

Substitute Assessments

The commissioner adopts certain assessments as substitute assessments that a student may use in place of a corresponding EOC assessment to meet the student's assessment graduation requirements. A satisfactory score on an approved assessment may be used in place of only one specific EOC assessment, except as provided by 19 Administrative Code 101.4002(d)(1) (~~relating to a~~ student who qualifies for use of the Texas Success Initiative ~~[~~(TSI~~]~~) as a substitute assessment and is enrolled in certain college preparatory courses; see TSI Additional Criteria, below).

A student at any grade level is eligible to use a substitute assessment as provided in the commissioner's chart at 19 Administrative Code 101.4002(b) if the student:

1. Was administered an approved substitute assessment for an equivalent course in which the student was enrolled;
2. Received a satisfactory score on the substitute assessment as determined by the commissioner and provided in the chart at 19 Administrative Code 101.4002(b); and
3. Using a TSI assessment~~,~~ also meets the additional criteria.

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TSI Additional Criteria

A student must meet the criteria established below in order to qualify to use TSI as a substitute assessment.

1. A student must have been enrolled in a college preparatory course for English language arts or mathematics and, in accordance with Education Code 39.025(a-1), have been administered an appropriate TSI assessment at the end of that course.

    a. A student under this provision who meets all three TSI English language arts score requirements provided in the chart at 19 Administrative Code 101.4002(b) satisfies both the English I and English II EOC assessment graduation requirements.

    b. A student under this provision may satisfy an assessment graduation requirement in such a manner regardless of previous performance on an Algebra I, English I, or English II EOC assessment.

2. In accordance with Education Code 39.025(a-3), a student who has not been successful on the Algebra I or English II EOC assessment after retaking the assessment may use the corresponding TSI assessment in place of that EOC assessment.

    For a student under this provision who took separate reading and writing assessments for the English II EOC assessment and who did not meet the English II assessment graduation requirement using those tests as specified in 19 Administrative Code 101.3022(b) (~~relating to~~ Assessment Requirements for Graduation), the separate TSI reading or writing assessment may not be used to substitute for the corresponding English II reading or writing EOC assessment.

A student electing to substitute an assessment for graduation purposes must still take the required EOC assessment if the student does not meet the eligibility requirements above. If a student sits for an EOC assessment, a district may not mark the substitute assessment bubble for that administration.

A student who fails to perform satisfactorily on the PSAT-related assessment or the pre-ACT test (or any versions of these tests) as indicated in the chart at 19 Administrative Code 101.4002(b) must take the appropriate required EOC assessment. However, a student who does not receive a passing score on the EOC assessment and retakes the PSAT-related assessment or pre-ACT test (or any versions of these tests) is eligible to meet the requirements to use a substitute assessment.

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19 TAC 101.4002

Verification of Results

An eligible student is responsible for providing a district an official copy of the student's scores from the substitute assessment.

Upon receipt of official results of an approved substitute assessment, a district must:

1. Verify the student's score on the substitute assessment; and
2. Determine whether the student met the performance standard required to qualify for a public high school diploma in Texas as established by the commissioner.

19 TAC 101.4005

Satisfactory Performance

A student is required to achieve a scale score that indicates satisfactory performance, as determined by the commissioner on each EOC assessment instrument administered to the student. *Education Code 39.025(a)*

Individual Graduation Committee

A student in grade 11 or 12 who has failed to comply with the EOC assessment instrument performance requirements under Education Code 39.025 for not more than two courses may qualify to graduate on the basis of a review by an individual graduation committee (IGC). [See EIF] *Education Code 28.0258, 39.025(a-~~2~~5)*

Special Education

A student receiving special education services is not subject to the IGC requirements in Education Code 28.0258. As provided in 19 Administrative Code 89.1070 (~~relating to~~ Graduation Requirements) and 19 Administrative Code 101.3023 (~~relating to~~ Participation and Graduation Assessment Requirements for Students Receiving Special Education Services), a student's ARD committee determines whether a student is required to achieve satisfactory performance on an EOC assessment to graduate.

A student dismissed from a special education program who achieved satisfactory performance on an alternate EOC assessment while enrolled in a special education program is not required to take and achieve satisfactory performance on the general EOC assessment to graduate. A student who took an EOC assessment while enrolled in a special education program is not required to retake and achieve satisfactory performance on the EOC assessment if the student's ARD committee determined that the student was not required to achieve satisfactory performance on the EOC assessment to graduate. A student dismissed from a special education program must achieve satisfactory performance on any remaining EOC assessments that the student is required to take. If the student fails to achieve satisfactory performance on no more than two of the remaining EOC assessments, the student is eligible

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for IGC review under Education Code 28.0258 and is subject to the IGC provisions above. [See Individual Graduation Committee, above]

19 TAC 101.3022(f)

A student receiving special education services who successfully completes the requirements of his or her IEP, including performance on a state assessment required for graduation, shall receive a Texas high school diploma. A student's ARD committee shall determine if the student will be required to meet satisfactory performance on an assessment for purposes of graduation.

Beginning with the 2011–12 school year, all grades 9–12 students with significant cognitive disabilities who are assessed with an alternate assessment as specified in the student's IEP will be assessed using alternate versions of EOC assessments as listed in 19 Administrative Code 101.3011(b)(2).

~~A student who is receiving special education services and who is first enrolled in grade 9 or below in the 2011–12 school year shall be administered an EOC assessment instrument upon completion of the corresponding course as required by the student's IEP.~~

19 TAC 101.3023(a), (b)

Credit by Examination

An EOC assessment administered under Education Code 39.023(c) cannot be used for purposes of credit by examination under 19 Administrative Code 74.24. [See EHDB, EHDC] *19 TAC 101.3021(c)*

Additional State Assessments

TEA may adopt EOC assessment instruments for courses not listed in statute, as described above. A student's performance on these EOC assessment instruments is not subject to the performance requirements established for the statutory assessments. *Education Code 39.023(c-2)*

Retakes

Each time an EOC assessment instrument is administered, a student who failed to achieve a score requirement may retake the assessment instrument. [See Satisfactory Performance, above]

A student is not required to retake a course as a condition of retaking an EOC assessment instrument.

If a student failed a course but achieved satisfactory performance on the applicable EOC assessment, that student is not required to retake the assessment if the student is required to retake the course.

Education Code 39.025(b); 19 TAC 101.3021(f), .3022(d)

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Reporting Results

To the Public

Overall student performance data, aggregated by ethnicity, sex, grade level, subject area, campus, and district, shall be made available to the public, with appropriate interpretations, at regularly scheduled meetings of a board, after receipt from TEA. The information shall not contain the names of individual students or teachers. *Education Code 39.030(b)*

To the Board

A superintendent shall accurately report all test results with appropriate interpretations to a board according to the schedule in the applicable test administration materials.

To Parents, Students, and Teachers

A district shall notify each of its students, his or her parent or guardian, and his or her teacher for that subject of test results, observing confidentiality requirements stated at Confidentiality of Results, below. All test results shall be included in each student's academic achievement record and shall be furnished for each student transferring to another district or school. Upon receipt of the assessment results from the test contractor, a district shall disclose a student's assessment results to a student's teacher in the same subject area as the assessment for that school year. [See BQ series, FD, and FL]

19 TAC 101.3014

TEA shall adopt a series of questions to be included in an EOC assessment instrument administered under Education Code 39.023(c) to be used for purposes of identifying students who are likely to succeed in an advanced high school course. A district shall notify a student who performs at a high level on the questions and the student's parent or guardian of the student's performance and potential to succeed in an advanced high school course. A district may not require a student to perform at a particular level on the questions to be eligible to enroll in an advanced high school course. *Education Code 39.0233(b)*

Parents Right-to-Know Under ESEA

As a condition of receiving assistance under Title I, Part A of the Elementary and Secondary Education Act (ESEA) (20 U.S.C. 6301 et seq.), a district shall provide to each individual parent of a child who is a student in such school, with respect to such student information on the level of achievement and academic growth of the student, if applicable and available, on each of the state academic assessments required under Part A. *20 U.S.C. 6312(e)(1)(B)(i)*

Parental Access

A parent is entitled to access to a copy of each state assessment instrument administered to the parent's child. This right of access does not apply, however, to those instruments or particular questions that are being field-tested by TEA. *Education Code 26.005, .006(a)(2)*

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Out-of-State Transfers

A district shall accurately report to TEA whether that student transferred into the district from out of state during the current school year.

Procedures for the reporting of out-of-state-transfer students to TEA shall be established in the applicable test administration materials. A district shall follow procedures specified in those test administration materials.

The assessment results of the out-of-state transfer students shall be reported separately to districts from the results of the district's other students in addition to the current reporting of assessment results for all students and other student subsets.

19 TAC 101.3014

Accelerated Instruction

Each time a student fails to perform satisfactorily on an assessment instrument administered under Education Code 39.023(a) in the third, fourth, fifth, sixth, seventh, or eighth grade, the ~~school~~ district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area. Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations. *Education Code 28.0211(a-1)*

A district shall provide each student who fails to perform satisfactorily on an EOC assessment instrument with accelerated instruction in the subject assessed by the assessment instrument. *Education Code 39.025(b-1)* [See EHBC]

College Readiness

Each district shall partner with at least one institution of higher education to develop and provide courses in college preparatory mathematics and English language arts. The courses must be designed:

1. For students at the grade 12 level whose performance on:
    a. An EOC assessment instrument required under Education Code 39.023(c) does not meet college readiness standards; or
    b. Coursework, a college entrance examination, or an assessment instrument designated under Education Code 51.334(a) indicates that the student is not ready to perform entry-level college coursework; and
2. To prepare students for success in entry-level college courses.

A course must be provided on the campus of the high school offering the course or through distance learning or as an online course

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provided through the institution of higher education with which the district partners.

Faculty — Appropriate faculty of each high school offering courses and appropriate faculty of each institution of higher education with which the district partners shall meet regularly as necessary to ensure that each course is aligned with college readiness expectations.

Notice — Each district shall provide a notice to each eligible student and the student's parent or guardian regarding the benefits of enrolling in a course.

Credit Earned — A student who successfully completes an English language arts course may use the credit earned toward satisfying the advanced English language arts curriculum requirement for the foundation high school program under Education Code 28.025(b-1)(1). A student who successfully completes a mathematics course may use the credit earned in the course toward satisfying an advanced mathematics curriculum requirement under Education Code 28.025 after completion of the mathematics curriculum requirements for the foundation high school program under Education Code 28.025(b-1)(2).

Dual Credit — A course may be offered for dual credit at the discretion of the institution of higher education with which a district partners.

Instructional Materials — Each district, in consultation with the institution of higher education with which the district partners, shall develop or purchase instructional materials for a course consistent with Education Code Chapter 31. The instructional materials must include technology resources that enhance the effectiveness of the course and draw on established best practices.

Education Code 28.014

Security and Confidentiality

~~To ensure that each assessment instrument is reliable~~All assessment instruments included in the student assessment program are considered secure, and ~~valid~~the contents of these tests, including student information used or obtained in their administration, are confidential.

Districts and campuses and the superintendent and campus principals in each district and campus shall:~~meets applicable federal requirements for measurement of student progress, districts must comply~~

1. Implement and ensure compliance with state test administration procedures and training activities;

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2. Notify TEA as soon as the district becomes aware of any alleged or suspected violation of the security or confidential integrity of a test [see Violations, below];

3. Report all ~~of the applicable requirements specified~~confirmed testing violations to TEA within ten working days of the district becoming aware of the violation in accordance with the reporting process stipulated in the test administration materials~~, which include general testing program information,~~;

4. Ensure that the only individuals with access to secure test materials are district employees who have:

   a. Met the requirements ~~for ensuring test~~ to participate in the student assessment program;

   b. Received annual training in test security and test administration procedures; and

   ~~a.~~c. Signed an oath affirming they understand their obligation to maintain and preserve the security and confidentiality ~~described in the annual Test Security Supplement, procedures for test administration, responsibilities of personnel involved in test administration, and procedures for materials control.~~of all state assessments and student information, acknowledge their responsibility to report any suspected testing violation, and are aware of the range of penalties that may result from a violation of test security and confidentiality or a departure from test administration procedures; and

~~Test coordinators and administrators must receive all applicable training as required in the test administration materials and districts must maintain records related to the security of assessment instruments for a minimum of five years.~~

5. Ensure the security of the test materials as required by 19 Administrative Code 101.3031(a)(2)(E).

19 TAC 101.3031(a)(1)–(a)(2)

~~Confidentiality~~

~~Individual student performance results are confidential and may be released only in accordance with the Family Educational Rights and Privacy Act of 1974. *Education Code 39.030(b)* [See FL and GBA]~~

~~Penalties~~

~~Violation~~Violations

Violations of the security ~~or confidentiality~~and confidential integrity of ~~any~~a test ~~is prohibited. A person who engages in conduct prohibited by the Test Security Supplement may be subject to sanction of credentials.~~

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~~Procedures for maintaining the security and confidentiality of state assessments are specified in the Test Security Supplement and in the appropriate test administration materials. Conduct that violates the security and confidentiality of a test is defined as any departure from the test administration procedures established in the Test Security Supplement and other test administration materials. Conduct of this nature may~~ include ~~the following acts and omissions~~:

1. Directly or indirectly assisting students with responses to test questions;
2. Tampering with student responses;
3. Falsifying ~~TELPAS~~ holistic ratings or ~~STAAR Alternate 2~~ student responses;
4. Viewing ~~a~~secure test content before, during, or after an ~~assessment~~administration unless specifically authorized ~~to do so~~by TEA or by the procedures outlined in the test administration materials;
5. Discussing or disclosing ~~the contents of any portion of a~~ secure test content or student responses;
6. Scoring ~~student~~students' tests, either formally or informally;
7. ~~Solving secure test questions;~~
8. ~~8.~~7. Duplicating, recording, or electronically capturing ~~secure~~confidential test content unless specifically authorized ~~to do so~~by TEA or by the procedures outlined in the test administration materials;
8. Responding to secure test questions;
9. Fraudulently exempting or preventing a student from participating in the administration of a required state assessment;
10. Receiving or providing unallowable assistance during ~~the TELPAS~~ calibration activities~~;~~ (e.g., taking notes, providing answer sheets, or sharing answers);
11. Encouraging or assisting an individual to engage in the conduct described ~~in the items listed~~ above or in any other serious violation of security and confidentiality; ~~or~~
12. Failing to report to an appropriate authority that an individual has engaged ~~in~~ or is suspected of engaging in the above conduct ~~outlined in the items listed above or~~or in any other serious violation of security and confidentiality~~.~~ under this provision;

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13. ~~The State Board for Educator Certification (SBEC) may take any of the following actions against any person who violates, assists in the violation of, or solicits another to violate or assist in the~~ Failing to implement sufficient procedures to prevent student cheating; and

14. Failing to implement sufficient procedures to prevent alteration of test documents by anyone other than the student.

Consequences

If a district determines that a student has cheated or attempted to cheat on a state assessment either by providing or receiving direct assistance, the district shall invalidate the student's test results.

Any violation of test security or confidential integrity may result in TEA:~~confidentiality, as well as any person who fails to report such a violation:~~

~~13. Place restrictions on the issuance, renewal, or holding of a Texas teacher certificate, either indefinitely or for a set term;~~

~~14. Issue an inscribed or non-inscribed reprimand;~~

~~15. Suspend a Texas teacher certificate for a set term;~~

~~16. Revoke or cancel a Texas teacher certificate without opportunity for reapplication either for a set term or permanently; or~~

~~17. Impose any additional conditions or restrictions upon a certificate that SBEC deems necessary to facilitate the rehabilitation and professional development of the educator or to protect students, parents of students, school personnel, or school officials.~~

~~Release or disclosure of confidential test content could result in criminal prosecution under Education Code 39.0303, Government Code 552.352, and Penal Code 37.10. SBEC may take any of the above actions based on satisfactory evidence that an educator has failed to cooperate with TEA in an investigation.~~

1. ~~Any irregularities in~~ Invalidating student test results;

2. Referring certified educators to the State Board for Educator Certification (SBEC) for sanctions in accordance with 19 Administrative Code Chapter 247 (Educators' Code of Ethics) and Chapter 249 (Disciplinary Proceedings, Sanctions, and Contested Cases); and

3. Lowering the district's accreditation status or a district's or campus's accountability rating in accordance with Education Code 39.057(d), or appointment of a monitor, conservator, or

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management team to the district or charter school in accordance with Education Code Chapter 39A.

Test Administration Procedures

Test administration procedures shall be delineated in the test administration materials provided to districts annually. Districts and charter schools must comply with all of the applicable requirements specified in the test administration materials.

Districts and charter schools shall ensure that test coordinators and administrators receive training to ensure that testing personnel have the necessary skills and knowledge required to administer assessment instruments in a valid, standardized, and secure manner.

Records Retention

As part of test administration procedures, the commissioner shall require districts and charter schools to maintain records related to the security ~~or confidentiality~~of assessment instruments for five years.

19 TAC 101.3031(a-3)–(d)

Disciplinary Action and Penalties

SBEC may ~~also result in the invalidation of student results~~take disciplinary action against a person who has violated the security or integrity of any assessment required by Education Code Chapter 39, Subchapter B or has committed an act that is a departure from the test administration procedures established by the commissioner under 19 Administrative Code Chapter 101.

The superintendent and campus principal must develop procedures to ensure the security and confidentiality of the tests~~,~~ and will be responsible for notifying TEA in writing of conduct that violates the security or confidentiality of a test. Failure to report can subject the person responsible to the applicable penalties.

19 TAC ~~101.3031(b)(2),~~ 249.15(a)–(b), (g)

Minimize Disruptions

In implementing the commissioner's procedures for the administration of assessment instruments adopted or developed under Education Code 39.023, including procedures designed to ensure the security of the assessment, a district shall minimize disruptions to school operations and the classroom environment. *Education Code 39.0301(a-1)*

Confidentiality of Results

Individual student performance results are confidential and may be released only in accordance with the Family Educational Rights and Privacy Act of 1974. *Education Code 39.030(b)* [See FL and GBA]

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Definition

For the purpose of this policy, "parent" is the person who is indicated on the student registration form at the campus. The signature of only one parent of a student is required for a charter created by petition or a cooperative program charter. *Education Code 12.051(1), .052(b), .053(b)*

Policy

A district shall adopt a campus charter and program charter policy, which shall specify the:

1. Process for approval of a campus charter or program charter;
2. Statutory requirements with which a campus charter or program charter must comply; and
3. Items that must be included in a charter application.

Education Code 12.058

Campus or Program Charter

A board may grant a charter to parents and teachers for a campus or a program on a campus.

A board shall grant or deny the charter, through a public vote, if the board is presented with a petition signed by:

1. The parents of a majority of the students at that campus; and
2. A majority of the classroom teachers at that campus.

A board may not arbitrarily deny a charter.

Education Code 12.052

New Campus or Contract Charter

A board may grant a charter for:

1. A new district campus; or
2. A program that is operated:
   a. By an entity that has entered into a contract with the district under Education Code 11.157 [see EEL] to provide educational services to the district through the campus or program; and
   b. At a facility located in the boundaries of the district.

Voluntary Enrollment

A student's parent or guardian may choose to enroll the student at a campus or in a program charter. A district may not assign a student to the campus or program unless the student's parent or guardian has voluntarily enrolled the student.

Parental Removal

A student's parent or guardian may, at any time, remove the student from the campus or program and enroll the student at the campus to which the student would ordinarily be assigned.

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Teacher Assignment	A district may not assign to the campus or program a teacher who has signed a written statement that the teacher does not agree to that assignment. *Education Code 12.0521*
District Charter	A board may grant a district charter to a campus.
Enrollment Limit	A district charter may be granted only to one or more campuses serving in total a percentage of the district's student enrollment equal to not more than 15 percent of the district's student enrollment for the preceding school year.
Exception	The percentage limit may not prevent a district from granting a district charter to at least one feeder pattern of schools, including an elementary, middle or junior high, and high school. A district charter may be granted to any campus that has received the lowest performance rating under Subchapter C, Chapter 39, Education Code.
Open-Enrollment Charter School	Subchapter D, Chapter 39, Education Code (related to open-enrollment charter schools) applies to a campus granted a district charter as though the campus were granted a charter under that subchapter, and the campus is considered an open-enrollment charter school. A district charter is not considered for purposes of the limit on the number of charters for open-enrollment charter schools imposed by Education Code 12.101. *Education Code 12.0522*
Cooperative Campus Charter	A board may grant a charter to parents and teachers at two or more campuses in the district for a cooperative charter program if the board is presented with a petition signed by: 1. The parents of a majority of the students at each school; and 2. A majority of the classroom teachers at each school. *Education Code 12.053*
Performance Contract	A board that grants a charter shall enter into a performance contract with the principal or equivalent chief operating officer of the campus or program. The performance contract must specify enhanced authority granted to the principal or equivalent officer in order to achieve the academic goals that must be met by campus or program students.

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Duration of Charter

A charter granted by the board expires ten years from the date the charter is granted unless the specified goals are substantially met, as determined by the board.

Education Code 12.0531

Neighborhood School

A board may determine that a campus granted a charter will be a neighborhood school.

The principal or equivalent chief operating officer of a neighborhood school shall manage the funding provided for the school under the Education Code and any other funding provided for the school in the manner the principal or other officer determines best meets the needs of the school's students. The district in which the school is located may retain that portion of funding that the district generally withholds from a campus for costs associated with the salary of the superintendent or other district governance.

The principal or equivalent chief operating officer of a neighborhood school may use school funding to purchase from the school district in which the school is located services for the school, including bus service, facilities maintenance services, and other services generally provided by a school district to district campuses. The school shall pay for each service an amount that reflects the actual cost to the district of providing the service for the number of the school's students for which the service is provided.

Education Code 12.0532

Student Eligibility

Eligibility criteria for admission of students to the charter campus or program must give priority on the basis of geographic and residency considerations. After priority is given on those bases, secondary consideration may be given to a student's age, grade level, or academic credentials, in general or in a specific area, as necessary for the type of program offered.

The campus or program may require an applicant to submit an application not later than a reasonable deadline the campus or program establishes.

Education Code 12.065

Exemption

A campus or program for which a charter is granted is exempt from the instructional and academic rules and policies of the board from which the campus or program is specifically exempted in the charter and retains the authority to operate under the charter only if students at the campus or in the program perform satisfactorily as provided by the charter. *Education Code 12.054*

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Charter Contract

A charter shall be in the form and substance of a written contract signed by a board president and the chief operating officer of the campus or program for which the charter is granted. *Education Code 12.060*

Each charter shall:

1. Satisfy the requirements governing charter campuses and programs; and
2. Include all information required to be in the content of the charter consistent with the information provided in the application and any modification a board requires.

Education Code 12.061

Content of Charter

Each charter granted must:

1. Describe the educational program to be offered, which may be a general or specialized program;
2. Provide that continuation of the charter is contingent on satisfactory student performance on state-required assessment instruments, satisfactory financial performance under state financial accountability provisions, and on compliance with other applicable accountability provisions;
3. Specify any basis, in addition to a basis specified in Education Code Chapter 12, Subchapter C, on which the charter may be revoked;
4. Prohibit discrimination in admission on the basis of national origin, ethnicity, race, religion, or disability;
5. Describe the governing structure of the campus or program;
6. Specify any procedure or requirement, in addition to those under Education Code Chapter 38, that the campus or program will follow to ensure the health and safety of students and employees; and
7. Describe the manner in which an annual audit of financial and programmatic operations of the campus or program is to be conducted, including the manner in which the campus or program will provide information necessary for the district in which it is located to participate in PEIMS.

Education Code 12.059

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Revision

A charter created by petition or a cooperative charter program may be revised with board approval and on a petition signed by a majority of the parents and a majority of the classroom teachers at the campus or in the program, as applicable.

A charter created without a petition may be revised with the approval of the board of trustees that granted the charter. The charter may be revised only before the first day of instruction or after the final day of instruction of a school year.

Education Code 12.062

Failure to Discharge or Refuse to Hire

A charter campus or program commits a material violation of its charter if the campus or program fails to comply with the duty to discharge or refuse to hire certain employees or applicants for employment under Education Codes 12.1059, 22.085, or 22.092. *Education Code 12.0631*

Applicability of Laws

A charter campus or program is subject to federal and state laws and rules governing public schools, except that the charter campus or program is subject to the Education Code and rules adopted thereunder only to the extent that the code or rule specifically provides. *Education Code 12.055(a)*

Education Code

A charter campus or program has the powers granted to schools under the Education Code.

A charter campus or program is subject to:

1. Provisions of the Education Code establishing criminal offenses;
2. Prohibitions, restrictions, or requirements of the Education Code, or a rule adopted under the Education Code, relating to:
    a. PEIMS, to the extent necessary to monitor compliance, as determined by the commissioner;
    b. Criminal history records under Subchapter C, Chapter 22;
    c. High school graduation under Section 28.025;
    d. Special education programs under Subchapter A, Chapter 29;
    e. Bilingual education under Subchapter B, Chapter 29;
    f. Prekindergarten programs under Subchapter E, Chapter 29;

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g. Extracurricular activities under Section 33.081 (i.e., "no pass-no play");

h. Health and safety under Chapter 38 (including immunizations, dyslexia and related disorders, child abuse reporting, protective eye devices, tobacco and alcohol use, steroid use, access to medical records, and referrals to outside counselors); ~~and~~

i. Public school accountability under Subchapter B, C, D, F, and J, Chapter 39, and Chapter 39A; and

~~i.~~j. The duty to discharge or refuse to hire certain employees or applicants for employment under Education Code 12.1059.

Education Code 12.056

Open Meetings and Public Information Acts

With respect to the operation of a campus or program charter, the governing body of the charter campus or program is considered a governmental body for purposes of Government Code Chapters 551 (Open Meetings Act) and 552 (Public Information Act). *Education Code 12.057(a)*

Teacher Retirement System

A district may contract with another district or an open-enrollment charter holder for services at a campus charter. An employee of the district or open-enrollment charter holder providing contracted services to a campus charter is eligible for membership in and benefits from the Teacher Retirement System of Texas (TRS) if the employee would be eligible for membership and benefits if holding the same position at the employing district or open-enrollment charter school operated by the charter holder. *Education Code 12.055(b)*

An employee of an independent school district who is employed on a charter campus or program who qualifies for membership in TRS shall be covered under the system in the same manner and to the same extent as a qualified employee of the independent school district who is employed on a regularly operating campus or in a regularly operating program.

An employee of a charter holder who is employed on a campus or in a program granted a charter and who qualifies for membership in TRS shall be covered under the system in the same manner and to the same extent as a qualified employee of an independent school district who is employed on a regularly operating campus or in a regularly operating program.

Education Code 12.057(b), (b-1)

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Liability

A charter campus or program, and its employees and volunteers, are immune from liability to the same extent as a district, its employees, and volunteers, respectively. *Education Code 12.057(c)*

Placement on Probation or Revocation

A board may place on probation or revoke a charter it grants if the board determines that the campus or program:

1. Committed a material violation of the charter, including by failure to comply with the duty to discharge or refuse to hire certain employees or applicants for employment, as provided by Education Code 12.0631;
2. Failed to satisfy generally accepted accounting standards of fiscal management; or
3. Failed to comply with law governing a charter campus or program, another law, or a state agency rule.

The action a board takes under any item above shall be based on the best interest of campus or program students, the severity of the violation, and any previous violation the campus or program has committed.

Education Code 12.063

Procedure

Each board that grants a charter shall adopt a procedure to be used for placing on probation or revoking a charter it grants.

This procedure must provide an opportunity for a hearing to the campus or program for which the charter is granted and to parents and guardians of students at the campus or in the program. A hearing must be held on the campus or on one of the campuses in the case of a cooperative charter program.

Education Code 12.064

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SECTION F: STUDENTS

FA	STUDENT GOALS AND OBJECTIVES
FB	EQUAL EDUCATIONAL OPPORTUNITY
FBA	Service Animals
FC	SCHOOL ATTENDANCE AREAS
FD	ADMISSIONS
FDA	Interdistrict Transfers
FDAA	Public Education Grants
FDB	Intradistrict Transfers and Classroom Assignments
FDC	Homeless Students
FDD	Military Dependents
FDE	School Safety Transfers
FE	ATTENDANCE
FEA	Compulsory Attendance
FEB	Attendance Accounting
FEC	Attendance for Credit
FED	Attendance Enforcement
FEE	Open/Closed Campus
FEF	Released Time
FF	STUDENT WELFARE
FFA	Wellness and Health Services
FFAA	Physical Examinations
FFAB	Immunizations
FFAC	Medical Treatment
FFAD	Communicable Diseases
FFAE	School-Based Health Centers
FFAF	Care Plans
FFB	Crisis Intervention
FFBA	Trauma-Informed Care
FFC	Student Support Services
FFD	Student Insurance
FFE	Student Assistance Programs/Counseling
FFEA	Comprehensive Guidance Program
FFEB	Substance Abuse
FFF	Student Safety
FFFA	Supervision of Students
FFFB	Safety Patrols
FFFD	Bicycle/Automobile Use
FFFF	School Buses
FFG	Child Abuse and Neglect

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SECTION F: STUDENTS

FFH	Freedom from Discrimination, Harassment, and Retaliation
FFI	Freedom from Bullying
FG	STUDENT AWARDS AND SCHOLARSHIPS
FH	STUDENT VOLUNTEERS
FJ	STUDENT FUNDRAISING
FL	STUDENT RECORDS
FLA	Confidentiality of Student Health Information
FM	STUDENT ACTIVITIES
FMA	School-Sponsored Publications
FMB	Student Government
FMD	Social Events
FME	Performances
FMF	Contests and Competition
FMG	Travel
FMH	Commencement
FN	STUDENT RIGHTS AND RESPONSIBILITIES
FNA	Student Expression
FNAA	Distribution of Nonschool Literature
FNAB	Use of School Facilities for Nonschool Purposes
FNB	Involvement in Decision Making
FNC	Student Conduct
FNCA	Dress Code
FNCB	Care of School Property
FNCC	Prohibited Organizations and Hazing
FNCD	Tobacco Use and Possession
FNCE	Personal Telecommunications/Electronic Devices
FNCF	Alcohol and Drug Use
FNCG	Weapons
FNCH	Assaults
FNCI	Disruptions
FND	Married Students
FNE	Pregnant Students
FNF	Investigations and Searches
FNG	Student and Parent Complaints/Grievances
FO	STUDENT DISCIPLINE
FOA	Removal by Teacher or Bus Driver
FOB	Out-of-School Suspension
FOC	Placement in a Disciplinary Alternative Education Setting

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SECTION F: STUDENTS

FOCA	Disciplinary Alternative Education Program Operations
FOD	Expulsion
FODA	Juvenile Justice Alternative Education Program
FOE	Emergency and Alternative Placement
FOF	Students with Disabilities
FP	STUDENT FEES, FINES, AND CHARGES

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Nondiscrimination

A district shall provide equal opportunities to all individuals within its jurisdiction or geographic boundaries. *Education Code 1.002(a)*

No officer or employee of a district shall, when acting or purporting to act in an official capacity, refuse to permit any student to participate in any school program because of the student's race, religion, color, sex, or national origin. *Civ. Prac. & Rem. Code 106.001*

A district may not deny services to any individual eligible to participate in its special education program, but it shall provide individuals with disabilities special educational services as authorized by law. *Education Code 1.002(b)*

Federal Funding Recipients

No person shall be excluded from participation in, denied the benefits of, or subjected to discrimination by any district that receives federal financial assistance, on the basis of any of the following protected characteristics:

1. Sex.
2. Race, color, or national origin.
3. Disability, or relationship or association with an individual with a disability. [See EHB, EHBA series, and GA]
4. Age.

20 U.S.C. 1681 (Title IX); 42 U.S.C. 2000d (Title VI); 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act); 29 U.S.C. 794 (Section 504); 42 U.S.C. 12132 (Americans with Disabilities Act [ADA]); 42 U.S.C. 6101 et. seq. (Age Discrimination Act of 1975)

Sexual Harassment

Sexual harassment of students is discrimination on the basis of sex under Title IX. *Franklin v. Gwinnett County Schools, 503 U.S. 60 (1992)* [See also DIA and FFH]

Human Rights Coordinator

A district shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, and the ADA. The district shall notify all students and employees of the name, office address, and telephone number of the employee(s) so designated.

Grievance Procedures

A district shall adopt and publish grievance procedures for prompt and equitable resolution of student complaints alleging discrimination under these statutes. [See FNG]

34 C.F.R. 106.8 (Title IX), 104.7 (Section 504)

Retaliation

A district shall not coerce, intimidate, threaten, retaliate against, or interfere with any person who attempts to assert a right protected

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by the above laws or cooperates with investigation and enforcement proceedings under these laws. *34 C.F.R. 100.7(e) (Title VI), 104.61 (Section 504), 106.71 (Title IX)*

Students with Learning Difficulties

The Texas Education Agency shall produce and provide to school districts a written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education. The explanation must state that a parent is entitled at any time to request an evaluation of the parent's child for special education services under Education Code 29.004 or for aids, accommodations, or services under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794). Each school year, a district shall provide the written explanation to a parent of each district student by including the explanation in the student handbook or by another means. *Education Code 26.0081(c)*

Disability Discrimination

ADA

Under the Americans with Disabilities Act (ADA), no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a district, or be subjected to discrimination by the district. *42 U.S.C. 12132; 28 C.F.R. 35.130*

Section 504

Under Section 504 of the Rehabilitation Act, no otherwise qualified individual with a disability shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. *29 U.S.C. 794(a)*

Definitions

"Student with a Disability"

A "student with a disability" is one who has a physical or mental impairment that substantially limits one or more of the student's major life activities, has a record of having such an impairment, or is being regarded as having such an impairment.

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

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

A student meets the requirement of being "regarded as" having an impairment if the student establishes that he or she has been subjected to a prohibited action because of an actual or perceived

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physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. This provision does not apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of 6 months or less.

29 U.S.C. 705(20)(B), 42 U.S.C. 12102(1), (3)–(4)

"Qualified Individual with a Disability" — The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a district. *42 U.S.C. 12131(2)*

"Major Life Activities" — "Major life activities" include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. "Major life activity" also includes the operation of major bodily functions, including functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. *42 U.S.C. 12102(2)*

Reasonable Modification — A district shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the district can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. *28 C.F.R. 35.130(b)(7)*

Direct Threat — "Direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services as provided below. *28 C.F.R. 35.104*

The ADA does not require a district to permit an individual to participate in or benefit from the services, programs, or activities of that district when that individual poses a direct threat to the health or safety of others.

In determining whether an individual poses a direct threat to the health or safety of others, a district must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain:

1. The nature, duration, and severity of the risk;

2. The probability that the potential injury will actually occur; and

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3. Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

28 C.F.R. 35.139

Free Appropriate Public Education (FAPE)

A district shall provide a free appropriate public education to each qualified student with a disability within the district's jurisdiction, regardless of the nature or severity of the student's disability.

A student with a disability is "qualified" if he or she is between the ages of three and 21, inclusive. *20 U.S.C. 1412(~~b~~a)(1); 34 C.F.R. 104.3(l)(2)*

An appropriate education is the provision of regular or special education and related services that are:

1. Designed to meet the student's individual educational needs as adequately as the needs of students who do not have disabilities are met; and

2. Based on adherence to procedures that satisfy federal requirements for educational setting, evaluation and placement, and procedural safeguards, as set forth below.

34 C.F.R. 104.33(b)

Implementation of an individualized education program (IEP) under IDEA is one means for providing FAPE. *34 C.F.R. 104.33(b)(2)*

Note: See EHBA series for policies regarding the provision of special education to students with disabilities under IDEA who require special education in order to benefit from a free appropriate public education.

Educational Setting

A district shall place a student with a disability in the regular educational environment, unless the district demonstrates that education in the regular environment with the use of supplemental aids and services cannot be achieved satisfactorily. *34 C.F.R. 104.34(a)*

In providing or arranging for nonacademic and extracurricular services and activities, a district shall ensure that a student with a disability participates with students who do not have disabilities to the maximum extent appropriate to the needs of the student with a disability. *34 C.F.R. 104.34(b), 104.37*

Evaluation and Placement

A district shall conduct an evaluation of any person who, because of disability, needs or is believed to need special education or related services before taking any action with respect to the initial

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placement of the person in regular or special education and any subsequent significant change in placement.

Evaluation Procedures

A district shall establish standards and procedures for the evaluation and placement which ensure that:

1. Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;
2. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and
3. Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

Placement Procedures

In interpreting evaluation data and in making placement decisions, a district shall:

1. Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior;
2. Establish procedures to ensure that information obtained from all such sources is documented and carefully considered;
3. Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
4. Ensure that the placement decision is made in conformity with 34 C.F.R. 104.34.

Reevaluation

A district shall establish procedures for periodic reevaluation of students who have been provided special education and related services. A reevaluation procedure consistent with the Education for the Handicapped Act [now IDEA] is one means of meeting this requirement.

34 C.F.R. 104.35

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Military Dependents	In compliance with the requirements of Section 504, and with Title II of the Americans with Disabilities Act (42 U.S.C. Sections 12131–12165), the district shall make reasonable accommodations and modifications to address the needs of incoming military dependents with disabilities, subject to an existing Section 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the district from performing subsequent evaluations to ensure appropriate placement of the student. *Education Code 162.002 art. V, § C* [See FDD]
Procedural Safeguards	A district shall establish a system of procedural safeguards with respect to the identification, evaluation, and educational placement of persons who need or are believed to need special instruction or related services. The system shall include notice, an opportunity for the student's parent or guardian to examine relevant records, an impartial hearing with the opportunity for participation by the student's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of IDEA is one means of meeting this requirement. *34 C.F.R. 104.36*
Children Who Are Homeless ~~Children~~	A district shall adopt policies and practices to ensure that homeless children are not stigmatized or segregated on the basis of their homeless status. [See FDC]
Liaison	A district shall designate an appropriate staff person, able to carry out the required duties, as the district liaison for homeless children. A district shall inform school personnel, service providers, advocates working with homeless families, parents and guardians of homeless children, and homeless children of the duties of the liaison. [See FFC] *42 U.S.C. 11432(g)(1)(J)(i), (ii), (g)(6)(B)*
Religious Freedom	A district may not substantially burden a student's free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. & Rem. Code 110.003* [See also DAA and GA]
Adverse Action Prohibited	Notwithstanding any other law, a district may not take any adverse action against any person based wholly or partly on the person's membership in, affiliation with, or contribution, donation, or other support provided to a religious organization. *Gov't Code 2400.002* [See GA]
Discrimination on the Basis of Sex	No person in the United States shall, on the basis of sex, be excluded from participation in, denied the benefits of, or be subjected

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to discrimination by any district receiving federal financial assistance. *20 U.S.C. 1681(a)*

A district shall not provide any course or otherwise carry out any of its educational programs or activities separately on the basis of sex, or require or refuse participation therein on the basis of sex, including health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses. *34 C.F.R. 106.34*

Separate Facilities — A district may provide separate toilet, locker room, and shower facilities on the basis of sex, but the facilities provided for one sex shall be comparable to the facilities provided for the other sex. *34 C.F.R. 106.33*

Human Sexuality Classes — Portions of classes in elementary and secondary school that deal ~~exclusively~~primarily with human sexuality may be conducted in separate sessions for boys and girls.

Vocal Music Activities — A district may make requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex.

34 C.F.R. 106.34

Single-Sex Programs — A district shall not, on the basis of sex, exclude any student from admission to an institution of vocational education or any other school or educational unit operated by the district ~~unless the district otherwise makes available to the student, pursuant to the same policies and criteria of admission, comparable courses, services, and facilities.~~. *34 C.F.R. 106.35*

Pregnancy and Marital Status — A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex. *34 C.F.R. 106.40* [See FND]

Physical Education Classes — A district may group students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.

Skills Assessment — Where use of a single standard of measuring skill or progress in physical education classes has an adverse effect on members of one sex, a district shall use appropriate standards that do not have such effect.

Contact Sports — A district may separate students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact.

34 C.F.R. 106.34, .43

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Athletic Programs

A district shall not discriminate, on the basis of sex, in interscholastic or intramural athletics or provide any such athletics separately on such basis.

Single-Sex Teams

A district may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but not for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport.

Equal Athletic Opportunities

A district that operates or sponsors interscholastic or intramural athletics shall provide equal athletic opportunity for members of both sexes. The following factors shall be considered in determining whether a district provides equal athletic opportunities:

1. Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;
2. Provision of equipment and supplies;
3. Scheduling of games and practice time;
4. Travel and per diem allowance;
5. Opportunity to receive coaching and academic tutoring;
6. Assignment and compensation of coaches and tutors;
7. Provision of locker rooms and practice and competitive facilities;
8. Provision of medical and training facilities and services;
9. Provision of housing and dining facilities and services; and
10. Publicity.

34 C.F.R. 106.41

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General Eligibility

A board or its designee shall admit into the public schools of a district free of tuition all persons who are over five and younger than 21 years of age on September 1 of any school year in which admission is sought, and may admit a person who is at least 21 and under 26 for the purpose of completing the requirements for a high school diploma, if any of the following conditions exist:

Student and Parent

1. The person and either parent reside in the district.

Conservator

2. The person does not reside in the district, but one of the parents resides in the district and that parent is a joint managing conservator or the sole managing conservator or possessory conservator of the person.

Guardian or Person Having Lawful Control

3. The person and his or her guardian or other person having lawful control under an order of a court reside in the district.

Students Living Separate and Apart

4. The person is under the age of 18 and has established a separate residence in the district apart from his or her parent, guardian, or other person having lawful control under an order of a court and has established that the person's presence in the district is not for the primary purpose of participation in extracurricular activities. A board is not required to admit such person, however, if the person has:

   a. Engaged in conduct that resulted in removal to a disciplinary alternative education program or expulsion within the preceding year;

   b. Engaged in delinquent conduct or "conduct in need of supervision" and is on probation or other conditional release for that conduct; or

   c. Been convicted of a criminal offense and is on probation or other conditional release.

Education Code 25.001(a)–(b), (d)

Students Who Are Homeless ~~Students~~

5. The person is homeless. [See also FDC]

   a. "Child who is homeless," "person who is homeless," and "student who is homeless" have the meaning assigned to the term homeless children and youths under the McKinney-Vento Homeless Assistance Act.

   ~~a.~~b. "Homeless children" under the McKinney-Vento Homeless Assistance Act, means children or youths who lack a fixed, regular, and adequate nighttime residence; and includes:

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(1) Children who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;

(2) Children who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

(3) Children who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(4) Migratory children living in circumstances described above.

"Migratory child" means a child who made a qualifying move in the preceding 36 months:

(a) As a migratory agricultural worker or a migratory fisher; or

(b) With, or to join, a parent or spouse who is a migratory agricultural worker or a migratory fisher. [See EEB]

~~b. A person is homeless, for purposes of *Education Code* 25.*001*(b)(5), regardless of the residence of the person, of either parent, or of the person's guardian or other person having lawful control, if:~~

~~(1) The person lacks *a* fixed, regular, and adequate nighttime residence; or~~

~~(2) The person has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;~~

~~(3) The person lives in a supervised publicly or privately operated shelter designated to provide temporary living accommodations (including hotels and~~

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~~motels paid for by government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing);~~

~~(4) The person resided in a shelter or place not meant for human habitation and is exiting an institution where he or she temporarily resided;~~

~~(5) The person will imminently lose their housing, has no subsequent residence identified, and lacks the resources or support networks needed to obtain other housing; and~~

~~(6) The person is an unaccompanied youth or part of a homeless family with children and youth defined as homeless under other federal statutes who:~~

~~(a) Has experienced a long-term period without living independently in permanent housing;~~

~~(b) Has experienced persistent instability as measured by frequent moves over such period; and~~

~~(c) Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.~~

Education Code ~~25~~5.0011-a ~~Education Code~~), 25.001(b)(5); 20 U.S.C. 6399; 42 U.S.C. 11434a(2~~); 42 U.S.C. 11302~~)

Foreign Exchange Students

6. The person is a foreign exchange student placed with a host family that resides in the district by a nationally recognized foreign exchange program, unless the district has applied for and been granted a waiver by the commissioner of education because:

   a. This requirement would impose a financial or staffing hardship on the district;

   b. The admission would diminish the district's ability to provide high-quality education services for the district's domestic students; or

   c. The admission would require domestic students to compete with foreign exchange students for educational resources.

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Education Code 25.001(b)(6), (e)

Students in Residential Facility

7. The person resides at a residential facility, as defined in Education Code 5.001, located in the district. For purposes of enrollment, a person who resides in a residential facility is considered a resident of the district in which the facility is located. *Education Code 25.001(b)(7), 29.012(c)*

Students Over 18

8. The person resides in the district and is 18 or older or the person's disabilities of minority have been removed. *Education Code 25.001(b)(8)*

Resident Grandparent

9. The person does not reside in the district but the grandparent of the person:

   a. Resides in the district; and

   b. Provides a substantial amount of after-school care for the person as determined by the board.

Education Code 25.001(b)(9)

Residence Homestead

10. The person and either parent of the person reside in a residence homestead, as defined by Tax Code 11.13(j), that is located on a parcel of property any part of which is located in the district. *Education Code 25.001(b)(10)*

Proof of Eligibility

A district may require evidence that a person is eligible to attend the public schools of the district at the time it considers an application for admission of the person. A board or its designee shall establish minimum proof of residency acceptable to a district. A board or its designee may make reasonable inquiries to verify a person's eligibility for admission. When admission is sought under item 4 above, a board shall determine whether an applicant qualifies as a resident of a district and may adopt reasonable guidelines for making that determination as necessary to protect the best interest of students. *Education Code 25.001(c), (d)*

"Residence" Defined

"Residence" requires living in the district and having the present intention to remain there. *Martinez v. Bynum, 461 U.S. 321 (1983*)

A district may withdraw any student who ceases to be a resident. *Daniels v. Morris, 746 F.2d 271 (5th Cir. 1984)*

Active-Duty Parent

A person whose parent or guardian is an active-duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, may establish residency for purposes of eligibility of admission by providing to the district a copy of a military order requiring the parent's or guardian's transfer to a military installation in or adjacent to the district 's attendance zone. *Education Code 25.001(c-1)*

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A person who establishes residency under Education Code 25.001(c-1) shall provide to the district proof of residence in the district's attendance zone not later than the tenth day after the arrival date specified in the military order. For purposes of this provision, "residence" includes residence in a military temporary lodging facility. *Education Code 25.001(c-2)*

Immigration Status

Denying enrollment based upon immigration status to children who are not legally admitted into the United States violates the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. *Plyler v. Doe, 457 U.S. 202 (1982)*

High School Equivalency Certificate

A student who has received a high school equivalency certificate is entitled to enroll in a public school in the same manner as any other student who has not received a high school diploma. *Education Code 29.087(h)*

Substitute for Parent or Guardian

A board by policy may allow a person showing evidence of legal responsibility for a child other than an order of a court to substitute for a guardian or other person having lawful control of the child under court order. *Education Code 25.001(j)*

Authorization Agreement

"Adult caregiver" means an adult person whom a parent has authorized to provide temporary care for a child under Family Code Chapter 34. *Family Code 34.0015(1)*

A parent, as defined in Family Code 101.024, or both parents of a child may enter into an authorization agreement with an adult caregiver to authorize the adult caregiver to perform acts described in Family Code 34.002 in regard to the child, such as:

1. Authorizing medical, dental, psychological, or surgical treatment and immunization of the child, including executing any consents or authorizations for the release of information as required by law relating to the treatment or immunization;
2. Enrolling the child in the district; and
3. Authorizing the child to participate in age-appropriate extracurricular, civic, social, or recreational activities, including athletic activities.

Family Code 34.002

A parent may enter into an authorization agreement with an adult caregiver with whom a child is placed under a parental child safety placement agreement approved by the Department of Family and Protective Services (DFPS) to allow the person to perform the acts described above with regard to the child during an investigation of

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abuse or neglect or while the department is providing services to the parent. *Family Code 34.0021*

The authorization agreement must conform to the requirements of Family Code Chapter 34.

A child who is the subject of an authorization agreement is not considered to be placed in foster care and the parties to the agreement are not subject to any law or rule governing foster care providers. *Family Code 34.0022(b)*

An authorization agreement does not affect the rights of the child's parent or legal guardian regarding the care, custody, and control of the child, and does not mean that the adult caregiver has legal custody of the child. *Family Code 34.007(b)*

Only one authorization agreement may be in effect for a child at any time. Execution of a subsequent authorization agreement does not by itself supersede, invalidate, or terminate a prior authorization agreement. An authorization agreement is void if it is executed while a prior authorization agreement remains in effect. *Family Code 34.002(d), .008(f)*

An authorization agreement is for a term of six months and renews automatically for six-month terms unless an earlier expiration date is stated in the agreement, the agreement is terminated under Family Code 34.008, or a court authorizes continuation. *Family Code 34.0075*

Immunity

A person who is not a party to the authorization agreement who relies in good faith on the authorization agreement, without actual knowledge that the authorization agreement is void, revoked, or invalid, is not subject to civil or criminal liability to any person, and is not subject to professional disciplinary action, for that reliance if the agreement is completed as required by Family Code Chapter 34. *Family Code 34.007(a)*

Note: The Authorization Agreement for Nonparent Relative (PDF)[1] is available on the DFPS website.

Temporary Authorization for Care

A person eligible to consent to treatment of a child under Family Code 32.001 or a person eligible to enter an authorization agreement [see Authorization Agreement, above] may seek a court order for temporary authorization for care of a child by filing a petition in the district court in the county in which the person resides if:

1. The child has resided with the person for at least the 30 days preceding the date the petition was filed; and

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2. The person does not have an authorization agreement or other signed, written documentation from a parent, conservator, or guardian that enables the person to provide necessary care for the child.

Family Code 35.001–.002

The order may authorize the petitioner to, among other things:

1. Consent to medical, dental, psychological, and surgical treatment and immunization of the child;
2. Enroll the child in the district; and
3. Authorize the child to participate in age-appropriate extracurricular, civic, social, or recreational activities, including athletic activities.

A temporary authorization order does not affect the rights of the child's parent, conservator, or guardian regarding the care, custody, and control of the child, and does not establish legal custody of the child. *Family Code 35.007(b)*

Immunity

A person who relies in good faith on a temporary authorization order is not subject to civil or criminal liability to any person, or to professional disciplinary action. *Family Code 35.007(a)*

Students in Foster Care

A child placed in foster care by an agency of the state or a political subdivision shall be permitted to attend schools in the district in which the foster parents reside free of any charge to the foster parents or to the agency. A durational residence requirement may not be used to prohibit that child from fully participating in any activity sponsored by a district. *Education Code 25.001(f)*

A student who was enrolled in a primary or secondary public school before the student entered the conservatorship of DFPS and who is placed at a residence outside the attendance area for a school or outside a district is entitled to continue to attend the school in which the student was enrolled immediately before entering conservatorship until the student successfully completes the highest grade level offered by the school at the time of placement without payment of tuition. The student is entitled to continue to attend the school regardless of whether the student remains in the conservatorship of DFPS for the duration of the student's enrollment in the school. *Education Code 25.001(g)*

If a student who is in the conservatorship of DFPS is enrolled in a primary or secondary public school, other than the school in which the student was enrolled at the time the student was placed in the

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conservatorship of DFPS, the student is entitled to continue to attend that school without payment of tuition until the student successfully completes the highest grade level offered by the school at the time of enrollment in the school, even if the child's placement is changed to a residence outside the attendance area for that school or outside the district. The student is entitled to continue to attend the school regardless of whether the student remains in the conservatorship of DFPS for the duration of the student's enrollment in the school. *Education Code 25.001(g-1)*

A written case plan for any child in foster care under the responsibility of the state must include a plan for ensuring the educational stability of the child while in foster care, including:

1. Assurances that each placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child in enrolled at the time of placement; and

2. An assurance that the appropriate state agency has coordinated with a district to ensure that the child remains in the school in which the child is enrolled at the time of each placement; or if remaining in that school is not in the best interests of the child, assurances by the state agency and the district to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.

42 U.S.C. 675(1)(G), 675a [See CNA]

Transfers from Other States

A district shall charge tuition for a student who resides in a residential facility and whose maintenance or expenses are paid in whole or in part by another state or the United States. Any such tuition charge must be submitted to the commissioner for approval. The attendance of students admitted under this provision shall not be counted for purposes of allocating state funds to a district. *Education Code 25.003*

Students Holding F-1 Student Visas

If a student is required, as a condition of obtaining or holding the appropriate U.S. student visa, to pay tuition to the district that the student attends to cover the cost of the student's education provided by the district, the district shall accept tuition for the student in an amount equal to the full unsubsidized per capita cost of providing the student's education for the period of the student's attendance at school in the district.

The commissioner shall develop guidelines for determining the amount of the full unsubsidized per capita cost of providing a student's education. A district may not accept tuition in an amount

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greater than the amount computed under the commissioner's guidelines unless the commissioner approves a greater amount as a more accurate reflection of the cost of education to be provided by the district.

The attendance of a student for whom a district accepts tuition is not counted for purposes of allocating state funds to the district.

Education Code 25.0031

Note: Enrolling students with F-1 visas is optional. If the district is interested in enrolling students with F-1 visas, it must comply with the federal Student and Exchange Visitor Program[2] (SEVP) under the Department of Homeland Security.

Texas Juvenile Justice Department

A school-age child of an employee of the Texas Juvenile Justice Department (TJJD) residing in an adjacent district may attend school in a district free of charge to his or her parents or guardian. Any tuition required by the admitting district shall be paid by the district from which the student transfers out of any funds appropriated to the TJJD facility. *Education Code 25.042*

Enrollment

A child must be enrolled by the child's parent, guardian, or other person with legal control under a court order. A district shall record the name, address, and date of birth of the person enrolling the child. *Education Code 25.002(f)*

Legal Surname

A student must be identified by the student's legal surname as it appears on the student's birth certificate or other document suitable as proof of the student's identity, or in a court order changing the student's name. *Education Code 25.0021*

Required Documentation

If a parent or other person with legal control of a child enrolls the child in a district school, the parent or other person, or the district in which the child most recently attended school, shall furnish to the district all of the following:

1. The child's birth certificate, or another document suitable as proof of the child's identity as defined by the commissioner in the *Student Attendance Accounting Handbook*.

2. A copy of the child's records from the school the child most recently attended if he or she was previously enrolled in a school in Texas or in another state.

   Students shall not be denied enrollment or be removed solely because they fail to provide the documentation required in items 1 and 2, above.

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3. A record showing that the child has the immunizations required by Education Code 38.001, proof that the child is not required to be immunized, or proof that the child is entitled to provisional admission. [See FFAB]

Education Code 25.002(a); 19 TAC 129.1(a)–(b)

A district must furnish information under items 1 and 2 not later than the tenth working day after the date the district receives a request for the information.

A parent or other person with legal control of a child under a court order must furnish information under items 1 and 2 not later than the 30th day after the date a child is enrolled in a public school.

If a parent or other person with legal control of a child under a court order requests that a district transfer a child's student records, the district to which the request is made shall notify the parent or other person as soon as practicable that the parent or other person may request and receive an unofficial copy of the records for delivery in person to a school in another district.

Education Code 25.002(a-1)

Residential Facility

Except for a juvenile pre-adjudication secure detention facility or a juvenile post-adjudication secure correctional facility, a residential facility shall provide to a district that provides educational services to a student placed in the facility any information retained by the facility relating to:

1. The student's school records, including records regarding special education eligibility or services, behavioral intervention plans, school-related disciplinary actions, and other documents related to the student's educational needs;

2. Any other behavioral history information regarding the student that is not confidential under another law; and

3. The student's record of convictions or the student's probation, community supervision or parole status, as provided to the facility, if necessary to provide education services to the student.

Education Code 29.012(f), (g)

Summer School Enrollment

A district shall permit a person who is eligible under Education Code 25.001 [see General Eligibility, above] to attend school in the district but who is not enrolled in school in the district to enroll in a district summer school course on the same basis as a district student, including satisfaction of any course eligibility requirement and payment of any fee authorized under Education Code 11.158 [see FP] that is charged in connection with the course.

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This requirement does not apply to enrollment in a Summer Intensive Mathematics Instruction Program under Education Code 29.088, a Summer Intensive Science Instruction Program under Education Code 29.090, or ~~an Intensive Summer Program under Education Code 29.098 or~~ in a similar intensive program.

Education Code 25.008

Food Allergy Information

On enrollment, a district shall request, by providing a form or otherwise, that a parent or other person with legal control of the child under a court order disclose whether the child has a food allergy or a severe food allergy that, in the judgment of the parent or other person with legal control, should be disclosed to the district to enable the district to take any necessary precautions regarding the child's safety [see FB and FFAF]; and specify the food to which the child is allergic and the nature of the allergic reaction.

The district shall maintain the confidentiality of the provided information, and may disclose the information to teachers, school counselors, school nurses, and other appropriate school personnel only to the extent consistent with district policy under Education Code 38.009 and permissible under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1232g. [See FL]

"Severe food allergy" means a dangerous or life-threatening reaction of the human body to a food-borne allergen introduced by inhalation, ingestion, or skin contact that requires immediate medical attention.

Education Code 25.0022(a)–(c)

Child in DFPS Possession

A district shall enroll a child without the required documentation if DFPS has taken possession of the child. DFPS shall ensure that the required documentation is furnished to a district not later than the 30th day after the date the child is enrolled. *Education Code 25.002(g)*

Inconsistent Documentation

If a child is enrolled under a name other than the name that appears in the identifying documents or records, a district shall notify the missing children and missing persons information clearinghouse of the child's name as shown on the identifying records and the name under which the child is enrolled.

Missing Documentation

If the required documents and other records are not furnished to a district within 30 days after enrollment, the district shall notify the police department of the city or the sheriff's department of the county in which the district is located and request a determination of whether the child has been reported as missing.

Education Code 25.002(b)–(c)

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Students Under 11

On enrollment of a child under 11 years of age in a school for the first time at the school, the school shall:

1. Request from the person enrolling the child the name of each previous school attended by the child;
2. Request from each school identified in item 1 the school records for the child and, if the person enrolling the child provides copies of previous school records, request verification from the school of the child's name, address, date, and grades and dates attended; and
3. Notify the person enrolling the student that not later than the 30th day after enrollment, or the 90th day if the child was not born in the United States, the person must provide:
   a. A certified copy of the child's birth certificate; or
   b. Other reliable proof of the child's identity and age and a signed statement explaining the person's inability to produce a copy of the child's birth certificate.

If a person enrolls a child under 11 years of age in school and does not provide the valid prior school information or documentation required, the school shall notify the appropriate law enforcement agency before the 31st day after the person fails to comply.

Code of Criminal Procedure 63.019

False Information

When accepting a child for enrollment, a district shall inform the parent or other person enrolling the child that presenting a false document or false records in connection with enrollment is a criminal offense under Penal Code 37.10 (Tampering with Governmental Records) and that enrolling the child under false documents makes the person liable for tuition or other costs as provided below. *Education Code 25.002(d)*

In addition to the penalty under Penal Code 37.10, a person who knowingly falsifies information on a form required for a student's enrollment in a district is liable to the district if the student is not eligible for enrollment, but is enrolled on the basis of false information. For the period during which the ineligible student is enrolled, the person is liable for the maximum tuition fee a district may charge [see FDA] or the amount a district has budgeted per student as maintenance and operating expense, whichever is greater. *Education Code 25.001(h)*

A district may include on its enrollment form notice of the legal penalties and liability for falsifying information on the form. *Education Code 25.001(i)*

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Placement of Transfers

Credits and Records

A district shall accept all credits earned toward state graduation requirements by students in accredited Texas school districts, including credits earned in accredited summer school programs. Credits earned in local credit courses may be transferred at a district's discretion. Transfer students shall not be prohibited from attending school pending receipt of transcripts or academic records from the district the student previously attended. *19 TAC 74.26(a)(1)*

A district shall grant a student credit toward the academic course requirements for high school graduation for courses the student successfully completes in TJJD educational programs. *Education Code 30.104(a)*

Each district shall consider course credit earned by a student while in a juvenile justice alternative education program as credit earned in a district school. *Education Code 37.011(d)*

Nonpublic Schools

Records and transcripts of students from Texas nonpublic schools or from out of state or out of the country (including foreign exchange students) shall be evaluated, and students shall be placed promptly in appropriate classes. A district may use a wide variety of methods to verify the content of courses for which a transfer student has earned credit. *19 TAC 74.26(a)(2)*

Foundation School Program

A person is entitled to the benefits of the available school fund for a school year if:

1. On September 1 of the year, the person:
    a. Is at least five years of age and under 21 years of age, and has not graduated from high school;
    b. Is at least 21 years of age and under 26 years of age and is admitted by a school district to complete the requirements for a high school diploma; or
    c. Is at least ~~19~~18 years of age and under 26 years of age and is enrolled in an adult high school diploma and industry certification charter school ~~pilot~~ program under Education Code 29.259.
2. The person is enrolled in prekindergarten under Education Code 29.153 ~~or Subchapter E-1, Chapter 29~~ [see EHBG].
3. The person is younger than five years of age and performs satisfactorily on the state assessment instrument administered to third graders and a district has adopted a policy to admit students younger than five years of age.
4. The person is enrolled in the first grade and is at least six years of age at the beginning of the current school year or

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has been enrolled in the first grade, or has completed kindergarten, in the public schools of another state before transferring to a Texas public school.

Education Code 25.001(a), ~~42~~48.003

Screening

The principal of each district school shall ensure that each student admitted to that school has complied with requirements for screening of special senses and communication disorders, spinal screening, and a risk assessment for Type 2 diabetes, or has submitted an affidavit of exemption. *Health and Safety Code 36.005, 37.002, 95.003(c)* [See FFAA]

Pest Control Information

Chief administrators or the integrated pest management (IPM) coordinators of schools must notify the parents or guardians of children attending the facility in writing that pesticides are periodically applied indoors and outdoors, and that information on the times and types of applications and prior notification is available upon request. Such notification must be made at the time of the students' registration. Telephonic, written, or electronic notification of planned applications will meet the notification requirements. *4 TAC 7.148(c); Occupations Code 1951.455(b)* [See CLB]

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[1] Authorization Agreement for Nonparent Relative (PDF): http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2638.pdf

[2] Student and Exchange Visitor Program: https://www.ice.gov/sevis

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Children Who Are Homeless ~~Children~~

As a condition of receiving funds under the McKinney-Vento Homeless Assistance Act (McKinney-Vento Act), a district serving children who are homeless ~~children~~ shall, according to the child's best interest:

1. Continue the child's education in the school of origin for the duration of homelessness:
   a. If the child's family becomes homeless between academic years or during an academic year; and
   b. For the remainder of the academic year, if the child becomes permanently housed during an academic year; or
2. Enroll the child in any school that nonhomeless students who live in the attendance area in which the child is actually living are eligible to attend.

42 U.S.C. 11432(g)(3)(A) [For definition of "children who are homeless ~~children~~," see FD]

Definitions

Unaccompanied Youth

"Unaccompanied youth" includes a child who is homeless ~~child~~ or youth not in the physical custody of a parent or guardian. *42 U.S.C. 11434A*

Enrollment

"Enroll" and "enrollment" include attending classes and participating fully in school activities.

School of Origin

"School of origin" means the school that the child attended when permanently housed or the school in which the child was last enrolled, including a preschool.

When the child completes the final grade level served by the school of origin, the term "school of origin" shall include the designated receiving school at the next grade level for all feeder schools.

42 U.S.C. 11432(g)(3)(I)

School Stability

In determining the best interest of a child who is homeless ~~child~~, a district shall:

1. Presume that keeping the child in the school of origin is in the child's best interest, except when doing so is contrary to the request of the child's parent or guardian, or (in the case of an unaccompanied youth) the youth;
2. Consider student-centered factors related to the child's best interest, including factors related to the impact of mobility on achievement, education, health, and safety of children who are homeless ~~children~~, giving priority to the request of the child's parent or guardian or the unaccompanied youth;

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3. If, after conducting the best interest determination based on consideration of the presumption in item 1 above and the student-centered factors in item 2 above, the district determines that it is not in the child's best interest to attend the school of origin or the school requested by the parent or guardian or the unaccompanied youth, provide the parent, guardian, or unaccompanied youth with a written explanation of the reasons for its determination, in a manner and form understandable to such parent, guardian, or unaccompanied youth, including information regarding the right to appeal as set forth at Enrollment Disputes, below; and

4. In the case of an unaccompanied youth, ensure that the homeless liaison [see FFC] assists in placement and enrollment decisions under these provisions, gives priority to the views of such unaccompanied youth, and provides the notice to such youth of the right to appeal as set forth at Enrollment Disputes, below.

42 U.S.C. 11432(g)(3)(B)

Contact Information

A district may require the parent or guardian of a child who is homeless ~~child~~ to submit contact information. *42 U.S.C. 11432(g)(3)(H)*

Immediate Enrollment

The school selected in accordance with these provisions shall immediately enroll a child who is homeless ~~child~~, even if the child:

1. Is unable to produce records normally required for enrollment, such as previous academic record, records of immunization and other required health records, proof of residency, or other document; or

2. Has missed application or enrollment deadlines during any period of homelessness.

42 U.S.C. 11432(g)(3)(C)

Enrollment Disputes

If a dispute arises over eligibility, or school selection or enrollment in a school:

1. The child shall be immediately enrolled in the school in which enrollment is sought, pending final resolution of the dispute, including all available appeals;

2. The parent or guardian of the child or an unaccompanied youth shall be provided with a written explanation of any decisions related to school selection or enrollment made by the district, including the rights of the parent, guardian, or unaccompanied youth to appeal such decisions.

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3. The parent, guardian, or unaccompanied youth shall be referred to the homeless liaison [see FFC], who shall carry out the dispute resolution process as expeditiously as possible after receiving notice of the dispute; and

4. In the case of an unaccompanied youth, the liaison shall ensure that the youth is immediately enrolled in the school in which the youth seeks enrollment pending resolution of such dispute.

42 U.S.C. 11432(g)(3)(E) [See FNG]

School Placement

As a condition of receiving funds under the McKinney-Vento Act, TEA shall submit to the U.S. Secretary of Education a plan that includes assurances that a district will adopt policies and practices to ensure that children who are homeless ~~children~~ are not stigmatized or segregated on the basis of their status as homeless. *42 U.S.C. 11432(g)(1)(J)(i)*

The choice regarding placement shall be made regardless of whether the child lives with the parents who are homeless ~~parents~~ or has been temporarily placed elsewhere. *42 U.S.C. 11432(g)(3)(F)*

Records

Academic

The enrolling school shall immediately contact the school last attended by the child to obtain relevant academic and other records. *42 U.S.C. 11432(g)(3)(C)(ii)*

Health

If the child needs to obtain immunizations or other required health records, the enrolling school shall immediately refer the child's parent or guardian or an unaccompanied youth to the district homeless liaison [see FFC] who shall assist in obtaining necessary immunizations or screenings, or immunization or other required health records. [See also FFAB] *42 U.S.C. 11432(g)(3)(C)(iii)*

Maintenance

Any record ordinarily kept by a school, including immunization or other required health records, academic records, birth certificates, guardianship records, and evaluation for special services or programs, regarding each child who is homeless ~~child~~ shall be maintained so that the records involved are available, in a timely fashion, when a child enters a new school or district, and in a manner consistent with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g) [see FL]. *42 U.S.C. 11432(g)(3)(D)*

Privacy

Information about ~~a homeless child's~~the living situation of a child who is homeless shall be treated as a student education record~~,~~ and shall not be deemed to be directory information under FERPA. [See FL] *42 U.S.C. 11432(g)(3)(G)*

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Comparable Services

The district shall provide a child who is homeless ~~child~~ with services that are comparable to services offered to other students in the school in which the child is enrolled, including:

1. Transportation services;
2. Educational services for which the child meets the eligibility criteria;
3. Programs in career and technical education;
4. Programs for gifted and talented students; and
5. School nutrition programs.

42 U.S.C. 11432(g)(4)

Coordination

A district serving children who are homeless ~~children~~ shall coordinate:

1. The provision of services with local social services agencies and other agencies or entities providing services to children who are homeless ~~children~~ and their families; and
2. Transportation, transfer of school records, and other interdistrict activities with other local educational agencies.

Housing Assistance

If applicable, a district shall coordinate with state and local housing agencies responsible for developing the comprehensive housing affordability strategy described in the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705), to minimize educational disruption for children who become homeless.

Purpose

The coordination shall be designed to:

1. Ensure that children who are homeless ~~children~~ are promptly identified and have access to, and are in reasonable proximity to, available education and related support services; and
2. Raise the awareness of school personnel and service providers of the effects of short-term stays in a shelter and other challenges associated with homelessness.

Children who are Homeless ~~Children~~ with Disabilities

For children who are to be assisted both under the McKinney-Vento Act and under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), a district shall coordinate provision of services under the McKinney-Vento Act with the provision of programs for children with disabilities served by that district and other involved local educational agencies. [See EHBA series]

42 U.S.C. 11432(g)(5)

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Barriers to Enrollment

A district shall review and revise any policies that may act as barriers to the identification or enrollment of children who are homeless ~~children~~. A district shall give consideration to issues concerning transportation, immunization, residency, birth certificates, school records and other documentation, and guardianship. A district shall give special attention to ensuring the identification, enrollment, and attendance of children who are homeless ~~children~~ who are not currently attending school. *42 U.S.C. 11432(g)(7)*

Website Information on Local Programs

Each campus within a district with 3,000 or more students and located in a county with a population of at least 50,000 that maintains an internet website shall post on the campus website information regarding local programs and services, including charitable programs and services, available to assist students who are homeless ~~students~~.

A campus shall make a good faith effort to compile information and shall post the information compiled in a format and style that is easily understandable by students or parents, as appropriate based on the grade levels the campus offers.

A representative of a local program or service available to assist students who are homeless ~~students~~ may request to have information concerning the program or service posted on a campus website. A campus may determine the information that is posted on its website and is not required to post information as requested by the representative.

The district is not liable for any harm to a student that results in connection with a local program or service referred to on the website of a campus.

Education Code 33.906

Other Related Policies:

- AID—Federal Accountability Standards
- CNA—Student Transportation
- EHBD—Federal Title I Programs
- FB—Equal Educational Opportunities
- FD—Admissions
- FFAB—Immunizations
- FFC—Student Support Services

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- FL—Student Records
- FP—Student Fees, Fines, and Charges

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Records

A district must maintain records to reflect the average daily attendance for the allocation of Foundation School Program (FSP) funds and other funds allocated by the Texas Education Agency (TEA). The district must maintain records and make reports concerning student attendance and participation in special programs as required by the commissioner of education. The superintendent, principals, and teachers are responsible to the board and the state to maintain accurate, current attendance records. *19 TAC 129.21(a), (e)*

Districts shall use the student attendance accounting standards established by the commissioner to maintain records and make reports on student attendance and student participation in special programs. The official standards are described in TEA's *Student Attendance Accounting Handbook* (*SAAH*). *19 TAC 129.1025*

The superintendent is responsible for the safekeeping of all attendance records and reports. The superintendent may determine whether the properly certified attendance records or reports for the school year are to be stored in the central office, on the respective school campuses of a district, or at another secure location. Regardless of where such records are filed or stored, they must be readily available for audit by TEA. *19 TAC 129.21(d)*

Minimum Enrollment

A student must be enrolled for at least two hours of instruction to be considered in membership for one half day, and for at least four hours of instruction to be considered in membership for one full day.

Full-Day Students

Students enrolled on a full-day basis may earn one full day of attendance each school day.

Half-Day Students

Students enrolled on a half-day basis may earn only one half day attendance each school day. Attendance is determined for these pupils by recording absences in a period during the half day they are scheduled to be present.

Alternative Attendance Accounting Program

Students who are enrolled in and participating in an alternative attendance accounting program approved by the commissioner will earn attendance according to the statutory and rule provisions applicable to that program.

Attendance for State Funding Purposes

Attendance for all grades shall be determined by the absences recorded in the second or fifth instructional hour of the day, unless the board adopts a policy, or delegates to the superintendent the authority to establish procedures for recording absences in an alternative hour, or unless the students for which attendance is being taken are enrolled in and participating in a commissioner-approved alternative attendance accounting program.

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The established period in which absences are recorded may not be changed during the school year.

Students absent at the time the attendance roll is taken, during the daily period selected, are counted absent for the entire day, unless the students are enrolled in and participating in a commissioner-approved alternative attendance accounting program. Students present at the time the attendance roll is taken, during the daily period selected, are counted present for the entire day, unless the students are enrolled in and participating in a commissioner-approved alternative attendance accounting program.

19 TAC 129.21(g)–(h)

A student removed to a disciplinary alternative education program is counted in computing the average daily attendance of students in a district for the student's time in actual attendance in the program. *Education Code 37.008(f)*

Funding for Off-Campus Programs

Funding eligibility for a student participating in an off-campus program will include time instructed in the off-campus program. A campus may choose an alternate attendance-taking time for a group of students that is scheduled to be off-campus during the regular attendance-taking time. The alternate attendance-taking time will be in effect for the period of days or weeks for which the group is scheduled to be off-campus during the regular attendance-taking time (for example, for the semester or for the duration of employment). This alternate attendance-taking time may not be changed once it is selected for a particular group of students. If attendance is taken at an off-campus location, the district must ensure that attendance is taken in accordance with the *SAAH*.

For a district to receive FSP funding for a student participating in an off-campus program, the district must have documentation of an agreement between the district and the college.

19 TAC 129.1031(c), (d) [See EHDD]

Exceptions

A student not actually on campus when attendance is taken may be considered in attendance for FSP purposes if:

1. The student is participating in a board-approved activity under the direction of a member of a district's professional or paraprofessional staff, or an adjunct staff member who has a bachelor's degree and is eligible for participation in the Teacher Retirement System of Texas (TRS). [See FM]
2. The student is participating in a mentorship approved by district personnel to serve as one or more of the advanced measures needed to complete the Distinguished Achievement

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Program outlined in 19 Administrative Code Chapter 74. [See EIF]

3. The student is absent for one of the purposes listed at Excused Absences for Compulsory Attendance Determinations in FEA(LEGAL).

4. The student is in attendance at a dropout recovery education program under Education Code 29.081. [See GNC]

5. The student's absence is permitted by other conditions related to off-campus instruction described in the *SAAH*.

Education Code 25.087, 29.081(e), (f); 19 TAC 129.21(i)–(k)

Disasters

The commissioner ~~shall~~may adjust the average daily attendance of a district all or part of which is located in an area declared a disaster area by the governor under Government Code Chapter 418 if the district experiences a decline in average daily attendance that is reasonably attributable to the impact of the disaster.

The commissioner ~~shall~~may make the adjustment ~~required by~~under this section for the two-year period following the date of the governor's initial proclamation or executive order declaring the state of disaster.

Education Code ~~42.0051~~48.006(a), (c)

Parental Consent to Leave Campus

Before a district may count a student in attendance under these provisions or in attendance when the student was allowed to leave campus during any part of the school day, the board must adopt a policy, or delegate to the superintendent the authority to establish procedures, addressing parental consent for a student to leave campus and the district must distribute the policy or procedures to staff and to all parents of students in the district. *19 TAC 129.21(l)*

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District Complaint or Referral

Against Student

If a student fails to attend school without excuse on ten or more days or parts of days within a six-month period in the same school year, a district shall within ten school days of the student's tenth absence refer the student to a truancy court for truant conduct under Family Code 65.003(a). [See FEA]

Against Parent

The district may file a complaint against the student's parent in a county, justice, or municipal court for an offense under Education Code 25.093 if the district provides evidence of the parent's criminal negligence.

A court shall dismiss a complaint made by a district against a parent that does not comply with Education Code 25.0951; does not allege the elements required for the offense; is not timely filed, unless the district delayed the referral as provided below; or is otherwise substantively defective.

Delaying a Referral

A district may delay a referral of a student for truant conduct, or may choose to not refer a student for truant conduct, if the district:

1. Is applying truancy prevention measures to the student under Education Code 25.0915; and
2. Determines that the truancy prevention measures are succeeding and it is in the best interest of the student that a referral be delayed or not be made.

Education Code 25.0951

Referral Prohibited

A district may not refer a student to truancy court if the school determines that the student's truancy is the result of pregnancy, being in the state foster program, homelessness, or being the principal income earner for the student's family. [See Truancy Prevention Measures, below] *Education Code 25.0915(a-3)*

Filing Requirements

Each referral to truancy court for conduct described by Family Code 65.003(a) must:

1. Be accompanied by a statement from the student's school certifying that the school applied the truancy prevention measures to the student, and the measures failed to meaningfully address the student's school attendance; and
2. Specify whether the student is eligible for or receives special education services under Education Code Chapter 29, Subchapter A.

A truancy court shall dismiss a petition filed by a truant conduct prosecutor under Family Code 65.054, if the court determines that the district's referral:

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1. Does not comply with the requirement above;
2. Does not satisfy the elements required for truant conduct;
3. Is not timely filed, unless the school district delayed the referral as provided above [see Delaying a Referral, above]; or
4. Is otherwise substantively defective.

Education Code 25.0915(b), (c)

Expunction of Records

An individual who was convicted of a truancy offense under former Education Code 25.094 or has had a complaint for a truancy offense dismissed is entitled to have the conviction or complaint and records relating to the conviction or complaint expunged.

Regardless of whether the individual has filed a petition for expunction, the court in which the individual was convicted or a complaint for a truancy offense was filed shall order the conviction, complaints, verdicts, sentences, and other documents relating to the offense, including any documents in the possession of a district or law enforcement agency, to be expunged from the individual's record. After entry of the order, the individual is released from all disabilities resulting from the conviction or complaint, and the conviction or complaint may not be shown or made known for any purpose.

Code of Crim. Proc. 45.0541

Attendance Officer

A board may select a school attendance officer. A school attendance officer also may be selected by two or more boards to serve their districts jointly. *Education Code 25.088*

In districts where no attendance officer has been selected, the superintendent and the peace officers in a district shall perform the duties of attendance officer, but no additional compensation shall be paid for the services. *Education Code 25.090* [See Peace Officers, below]

Powers and Duties

An attendance officer employed by a district who is not commissioned as a peace officer has the following powers and duties with respect to enforcement of compulsory school attendance requirements:

1. To investigate each case of a violation of the compulsory school attendance requirements referred to the attendance officer;
2. To enforce compulsory school attendance requirements by applying truancy prevention measures adopted under Education Code 25.0915 to the student and if the measures fail to meaningfully address the student's conduct:

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a. Referring the student to a truancy court if the student has unexcused absences for the amount of time specified under Family Code 65.003(a); and

b. Filing a complaint in a county, justice, or municipal court against a parent who violates Education Code 25.093;

3. To monitor school attendance compliance by each student investigated by the officer;

4. To maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the board, or the Commissioner, to provide a record to the individual or entity requesting the record;

5. To make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that the attendance officer may not enter a residence without permission of the parent or of the owner or tenant of the residence; and

6. At the request of a parent, to escort a student from any location to a school campus to ensure the student's compliance with compulsory school attendance requirements.

Education Code 25.091(b)

Peace Officers

A peace officer serving as an attendance officer has the following powers and duties concerning enforcement of compulsory school attendance requirements:

1. To investigate each case of a violation of compulsory school attendance requirements referred to the peace officer;

2. To enforce compulsory school attendance requirements by applying truancy prevention measures adopted under Education Code 25.0915 to the student and if the measures fail to meaningfully address the student's conduct:

a. Referring the student to a truancy court if the student has unexcused absences for the amount of time specified under Family Code 65.003(a); or

b. Filing a complaint in a county, justice, or municipal court against a parent who violates Education Code 25.093;

3. To serve court-ordered legal process;

4. To review school attendance records for compliance by each student investigated by the officer;

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5. To maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the board, or the Commissioner, to provide a record to the individual or entity requesting the record; and

6. To make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that a peace officer may not enter a residence without the permission of the parent of a student required to attend school or of the tenant or owner of the residence except to lawfully serve court-ordered legal process on the parent.

A peace officer who has probable cause to believe that a child is in violation of the compulsory attendance law may take the child into custody for the purpose of returning the child to the school campus of the child to ensure the child's compliance with compulsory attendance requirements.

Education Code 25.091(a), (b-1)

Truancy Prevention Measures

A district shall adopt truancy prevention measures designed to address student conduct related to truancy in the school setting before the student engages in conduct described by Family Code 65.003 and minimize the need for referrals to truancy court for conduct described by Family Code 65.003(a). *Education Code 25.0915(a)*

A district shall take one or more of the following actions as a truancy prevention measure:

1. Impose:

   a. A behavior improvement plan on the student that must be signed by an employee of the school, that the district has made a good faith effort to have signed by the student and the student's parent or guardian, and that includes:

      (1) A specific description of the behavior that is required or prohibited for the student;

      (2) The period for which the plan will be effective, not to exceed 45 school days after the date the contract becomes effective; or

      (3) The penalties for additional absences, including additional disciplinary action or the referral of the student to a truancy court; or

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b. School-based community service; or

2. Refer the student to counseling, mediation, mentoring, a teen court program, community-based services, or other in-school or out-of-school services aimed at addressing the student's truancy. A referral may include participation by the child's parent or guardian if necessary.

A school district shall offer additional counseling to a student and may not refer the student to truancy court if the school determines that the student's truancy is the result of:

1. Pregnancy;

2. Being in the state foster program;

3. Homelessness; or

4. Being the principal income earner for the student's family.

If a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described by Education Code 25.0951(a), the district shall initiate truancy prevention measures on the student.

Education Code 25.0915

Minimum Standards

The minimum standards for the truancy prevention measures implemented by a district under Education Code 25.0915 include:

1. Identifying the root cause of the student's unexcused absences and actions to address each cause;

2. Maintaining ongoing communication with students and parents on the actions to be taken to improve attendance;

3. Establishing reasonable timelines for completion of the truancy prevention measure; and

4. Establishing procedures to notify the admission, review, and dismissal committee or the Section 504 committee of attendance issues relating to a student with a disability and ensure that the committee considers whether the student's attendance issues warrant an evaluation, a reevaluation, and/or modifications to the student's individualized education program or Section 504 plan, as appropriate.

19 TAC 129.1043

Best Practices

A district shall consider the following best practices for truancy prevention measures:

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1. Develop an attendance policy that clearly outlines requirements related to truancy in accordance with Education Code, Chapter 25, Subchapter C, and communicate this information to parents at the beginning of the year.
2. Create a culture of attendance that includes training staff to talk with students and parents about the attendance policy and the root causes of unexcused absences.
3. Create incentives for perfect attendance and improved attendance.
4. Educate students and their families on the positive impact of school attendance on performance.
5. Provide opportunities for students and parents to address causes of absence and/or truancy with district staff and link families to relevant community programs and support.
6. Develop collaborative partnerships, including planning, referral and cross-training opportunities, between appropriate school staff, attendance officers, program-related liaisons, and external partners, such as court representatives, community and faith-based organizations, state or locally funded community programs for truancy intervention or prevention, and law enforcement to assist students.
7. Determine root causes of unexcused absences and review campus- and district-level data on unexcused absences to identify systemic issues that affect attendance.
8. Use existing school programs such as Communities in Schools, 21st Century Community Learning Centers, restorative discipline, and positive behavior interventions and supports (PBIS) to provide students and their parents with services.
9. At the beginning of each school year, conduct a needs assessment and identify and list, or map, services and programs available within the district and the community that a school, a student, or a student's parent or guardian may access to address the student's barriers to attendance and make the information available to staff, students, and parents. The information must include, but is not limited to:
    a. Services for pregnant and parenting students;
    b. Services for students experiencing homelessness;
    c. Services for students in foster care;

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d. Federal programs including, but not limited to, Title 1, Part A, of the Elementary and Secondary Education Act;

e. State programs including, but not limited to, state compensatory education programs;

f. Dropout prevention programs and programs for "at risk" youth;

g. Programs that occur outside of school time;

h. Counseling services;

i. Tutoring programs and services available at no or low cost;

j. Mental health services;

k. Alcohol and substance abuse prevention and treatment programs;

l. Mentoring programs and services;

m. Juvenile justice services and programs;

n. Child welfare services and programs;

o. Other state or locally funded programs for truancy prevention and intervention; and

p. Other supportive services that are locally available for students and families through faith-based organizations, local governments, and community-based organizations.

10. After identifying and listing, or mapping, services available in the district and community, school districts should target any new resources, programs, or services to gaps in services identified during the needs assessment.

11. School districts should ensure that personnel, including truancy prevention facilitators or juvenile case managers, attendance officers, McKinney-Vento (homeless) liaisons, foster care liaisons, Title IX coordinators, 504 coordinators, pregnancy and parenting coordinators, dropout prevention coordinators, special education staff, and other appropriate student services personnel, meet to contribute to the needs assessment, discuss opportunities to work together, and identify strategies to coordinate both internally and externally to address students' attendance barriers.

In determining services offered to students identified in Education Code 25.091(a-3), a district shall consider:

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1. Offering an optional flexible school day program and evening and online alternatives;
2. Working with businesses that employ students to help students coordinate job and school responsibilities; and
3. Offering before school, after school, and/or Saturday prevention or intervention programs or services that implement best and promising practices.

19 TAC 129.1045

Sanctions

An aggrieved party may file a written complaint with the Texas Education Agency (TEA) regarding an allegation that a district has failed to comply with Education Code 25.0915 or 19 Administrative Code Chapter 129, Subchapter BB related to truancy prevention measures. TEA may request that a district provide documentation regarding its compliance in response to a complaint. If, after a review of this documentation or a district's failure to provide this documentation, TEA determines that the district is not in compliance with required truancy prevention measure provisions, TEA may issue a preliminary report of its findings to the district in accordance with 19 ~~TAC~~Administrative Code 157.1122 (~~relating to~~ Notice). A district may request in writing an informal review of TEA's preliminary report in accordance with 19 ~~TAC~~Administrative Code 157.1123 (~~relating to~~ Informal Review). Following the informal review, or if no informal review is requested by the deadline, a final report will be issued. The commissioner of education may implement any sanction listed in Education Code 39.102(a) against a district found to be out of compliance with Education Code 25.0915 or 19 Administrative Code Chapter 129, Subchapter BB. *19 TAC 129.1047*

Truancy Prevention Facilitator or Juvenile Case Manager

A district shall employ a truancy prevention facilitator or juvenile case manager to implement the truancy prevention measures required by Education Code 25.0915 and any other effective truancy prevention measures as determined by the district or campus. At least annually, the truancy prevention facilitator shall meet to discuss effective truancy prevention measures with a case manager or other individual designated by a truancy court to provide services to students of the district in truancy cases.

Instead of employing a truancy prevention facilitator, a school district may designate an existing district employee or juvenile case manager to implement the truancy prevention measures and any other effective truancy prevention measures as determined by the district or campus.

Education Code 25.0915(d), (e)

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On approval of the board, a district may employ or agree in accordance with Government Code Chapter 791, with any appropriate governmental entity to jointly employ or to jointly contribute to the costs of another entity employing:

1. A case manager to provide services in cases involving juvenile offenders who are before a court consistent with the court's statutory powers or referred to a court by a school administrator or designee for misconduct that would otherwise be within the court's statutory powers prior to a case being filed, with the consent of the juvenile and the juvenile's parents or guardians; or

2. One or more juvenile case managers who shall assist the court in administering the court's juvenile docket and in supervising the court's orders in juvenile cases, and may provide prevention services to a child considered at risk of entering the juvenile justice system, and intervention services to juveniles engaged in misconduct before cases are filed, excluding traffic offenses.

A district that jointly employs a case manager in accordance with Government Code Chapter 791 employs a juvenile case manager for purposes of Code of Criminal Procedure Chapter 102 and Government Code Chapter 102.

Code of Criminal Procedure 45.056(a), (c)

Funding

A district may apply to the criminal justice division of the governor's office for reimbursements of the costs of employing a juvenile case manager. ~~Pursuant to Code of Criminal Procedure 102.0174,~~ The district may pay the salary and benefits of a juvenile case manager and the costs of training, travel, office supplies, and other necessary expenses relating to the position of the juvenile case manager from the ~~juvenile case manager fund.~~local truancy prevention and diversion fund established under Local Government Code 134.156. *Code of Criminal Procedure 45.056(b)*

Priority

A juvenile case manager employed jointly under Government Code Chapter 791 shall give priority to cases brought under Education Codes 25.093 (parent contributing to nonattendance). *Code of Criminal Procedure 45.056(e)*

Rules

The board of a district that employs a juvenile case manager shall adopt and implement reasonable rules for juvenile case managers that provide a code of ethics, and for the enforcement of the code of ethics; appropriate educational preservice and in-service training standards for juvenile case managers; and training in:

1. The role of the juvenile case manager;

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2. Case planning and management;

3. Applicable procedural and substantive law;

4. Courtroom proceedings and presentation;

5. Services to at-risk youth under Family Code Chapter 264, Subchapter D;

6. Local programs and services for juveniles and methods by which juveniles may access those programs and services; and

7. Detecting and preventing abuse, exploitation, and neglect of juveniles.

8. The juvenile case manager shall timely report to the judge who signed the order or judgment and, on request, to the judge assigned to the case or the presiding judge any information or recommendations relevant to assisting the judge in making decisions that are in the best interest of the child.

Code of Criminal Procedure 45.056(f)–(i)

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Consent to Medical Treatment

The school in which a minor student is enrolled may consent to medical, dental, psychological, and surgical treatment of that student, provided all of the following conditions are met:

1. The person having the power to consent as otherwise provided by law cannot be contacted.
2. Actual notice to the contrary has not been given by that person.
3. Written authorization to consent has been received from that person.

Family Code 32.001(a)(4)

Form of Consent

Consent to medical treatment under this policy shall be in writing, signed by the school official giving consent, and given to the doctor, hospital, or other medical facility that administers the treatment. The consent must contain:

1. The name of the student.
2. The name of one or both parents, if known, and the name of the managing conservator or guardian of the student, if either has been appointed.
3. The name of the person giving consent and the person's relation to the student.
4. A statement of the nature of the medical treatment to be given.
5. The date on which the treatment is to begin.

Family Code 32.002

Minor's Consent to Treatment

A minor may consent to medical, dental, psychological, and surgical treatment furnished by a licensed physician or dentist if the minor:

1. Is 16 years of age and residing separate and apart from the minor's parents, managing conservator, or guardian, with or without the consent of the parents, conservator, or guardian and regardless of the duration of the residence, and is managing his or her own financial affairs, regardless of the source of the income;
2. Consents to the diagnosis and treatment of any infectious, contagious, or communicable disease required to be reported to the Texas Department of State Health Services (DSHS), including all reportable diseases under Health and Safety Code 81.041;

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3. Is unmarried and pregnant, and consents to hospital, medical, or surgical treatment, other than abortion, related to her pregnancy; or

4. Consents to examination and treatment for drug or chemical addiction, drug or chemical dependency, or any other condition directly related to drug or chemical use.

Family Code 32.003; Planned Parenthood of Cent. Mo. v. Danforth, 428 U.S. 52 (1976); Bellotti v. Baird, 443 U.S. 622 (1979)

Administering Medication

Upon adoption of policies concerning the administration of medication to students by district employees, the district, its board, and its employees are immune as described below, provided:

1. The district has received a written request to administer the medication from the parent, legal guardian, or other person having legal control of the student.

2. When administering prescription medication, the medication is administered either:

   a. From a container that appears to be the original container and to be properly labeled; or

   b. From a properly labeled unit dosage container filled by a registered nurse or another qualified district employee, as determined by district policy, from a container that appears to be the original container and to be properly labeled.

By Volunteer Professionals

If a district provides liability insurance for a licensed physician or registered nurse who provides volunteer services to the district, a board may allow the physician or nurse to administer to any student nonprescription medication or medication currently prescribed for the student by the student's personal physician.

Immunity from Civil Liability

A district, a board, and its employees shall be immune from civil liability for damages or injuries resulting from the administration of medication to a student in accordance with this policy.

Education Code 22.052(a), (b)

[See DG regarding protection of nurses for refusal to perform acts.]

Nursing Peer Review Committees

"Nursing peer review committee" includes a committee established under the authority of the governing body of a political subdivision for the purpose of conducting peer review.

A person shall establish a nursing peer review committee to conduct nursing peer review under Occupations Code Chapter 303 and Chapter 301 if:

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1. For vocational nurses, the person regularly employs, hires, or contracts for the services of eight or more nurses; and
2. For professional nurses, if the person regularly employs, hires, or contracts for the services of eight or more nurses, at least four of whom are registered nurses.

A person required to establish a nursing peer review committee under this section may contract with another entity to conduct peer review for the person.

Occupations Code 303.001(4), .0015

Self-Administration of Asthma or Anaphylaxis Medicine

A student with asthma or anaphylaxis may possess and self-administer prescription asthma or anaphylaxis medicine while on school property or at a school-related event or activity if:

1. The medicine has been prescribed for that student as indicated by the prescription label on the medicine;
2. The student has demonstrated to the student's physician or other licensed health-care provider and the school nurse, if available, the skill level necessary to self-administer the prescription medication, including the use of any device required to administer the medication;
3. The self-administration is done in compliance with the prescription or written instructions from the student's physician or other licensed health-care provider; and
4. A parent of the student provides to the school:
    a. Written authorization, signed by the parent, for the student to self-administer the prescription medicine while on school property or at a school-related event or activity; and
    b. A written statement, signed by the student's physician or other licensed health-care provider, that states:
        (1) That the student has asthma or anaphylaxis and is capable of self-administering the medicine;
        (2) The name and purpose of the medicine;
        (3) The prescribed dosage for the medicine;
        (4) The times at which or circumstances under which the medicine may be administered; and
        (5) The period for which the medicine is prescribed.

The physician's statement must be kept on file in the school nurse's office, or, if there is no school nurse, in the office of the principal of the school the student attends.

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[See FFAF for care of students with diagnosed food allergies at risk for anaphylaxis.]

No Waiver of Immunity

The provisions above neither waive any liability or immunity nor create any liability for or a cause of action against a district, a board, or its employees.

Education Code 38.015

Sunscreen Products

A student may possess and use a topical sunscreen product while on school property or at a school-related event or activity to avoid overexposure to the sun and not for the medical treatment of an injury or illness if the product is approved by the federal Food and Drug Administration for over-the-counter use. This provision does not waive any immunity from liability of a district, its board, or its employees; or create any liability for or a cause of action against a district, its board, or its employees. *Education Code 38.021*

Dietary Supplements

A district employee commits a Class C misdemeanor offense if the employee:

1. Knowingly sells, markets, or distributes a dietary supplement that contains performance enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's school district duties; or
2. Knowingly endorses or suggests the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by a primary or secondary education student with whom the employee has contact as part of the employee's school district duties.

Education Code 38.011(a), (c)

Prescription Medication and Special Education Students

An employee of a district is prohibited from requiring a child to obtain a prescription for a substance covered under the federal Controlled Substances Act (21 U.S.C. 801 et seq.) as a condition of attending school, receiving an evaluation for special education, or receiving special education and related services.

An employee is not prohibited from consulting or sharing classroom-based observations with parents regarding a student's academic and functional performance, behavior in the classroom or school, or the need for evaluation for special education or related services.

20 U.S.C. 1412(a)(25)

Psychotropics and Psychiatric Evaluations

A district employee may not:

1. Recommend that a student use a psychotropic drug; or

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2. Suggest any particular diagnosis; or

3. Use the refusal by a parent to consent to administration of a psychotropic drug to a student or to a psychiatric evaluation or examination of a student as grounds, by itself, for prohibiting the child from attending a class or participating in a school-related activity.

Psychotropic drug means a substance that is used in the diagnosis, treatment, or prevention of a disease or as a component of a medication and intended to have an altering effect on perception, emotion, or behavior.

Education Code 38.016(b) does not:

1. Prevent an appropriate referral under the Child Find system required under 20 U.S.C. Section 1412, as amended; or

2. Prohibit a school district employee who is a registered nurse, advanced nurse practitioner, physician, or certified or appropriately credentialed mental health professional from recommending that a child be evaluated by an appropriate medical practitioner; or

3. Prohibit a school employee from discussing any aspect of a child's behavior or academic progress with the child's parent or another school district employee.

A board shall adopt a policy to ensure implementation and enforcement of Education Code 38.016.

A violation of Education Code 38.016(b) does not override the immunity from personal liability granted in Education Code 22.0511 or other law or a district's sovereign or governmental immunity.

Education Code 38.016

Child Abuse Reporting

An employee may not use or threaten to use the refusal of a parent, guardian, or managing or possessory conservator to administer or consent to the administration of a psychotropic drug to a child, or to consent to any other psychiatric or psychological testing or treatment of the child, as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal:

1. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or

2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

Education Code 26.0091; Family Code 261.111(a) [See FFG]

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Opioid Antagonist Medication

A person or organization acting under a standing order issued by a prescriber may store an opioid antagonist and may distribute an opioid antagonist, provided the person or organization does not request or receive compensation for storage or distribution. *Health and Safety Code 483.104*

A prescriber may, directly or by standing order, prescribe an opioid antagonist to a person in a position to assist a person experiencing an opioid-related drug overdose. *Health and Safety Code 483.102; 22 TAC 170.6*

Immunity

A person who, acting in good faith and with reasonable care, administers or does not administer an opioid antagonist to another person whom the person believes is suffering an opioid-related drug overdose is not subject to criminal prosecution, sanction under any professional licensing statute, or civil liability, for an act or omission resulting from the administration of or failure to administer the opioid antagonist. *Health and Safety Code 483.106*

Low-THC Cannabis

A district may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the cultivation, production, dispensing, or possession of low-THC cannabis, as authorized by the Texas Compassionate-Use Act. *Health and Safety Code 487.201*

Dextromethorphan (Certain Cold Medication)

A district may not adopt or enforce an ordinance, order, rule, regulation, or policy that governs the sale, distribution, or possession of dextromethorphan. *Health and Safety Code 488.005*

Note: The following provisions apply only to a district that will adopt an unassigned epinephrine auto-injector policy~~.~~ or an unassigned asthma medication policy.

Maintenance and Administration of Epinephrine Auto-Injectors

A district may adopt and implement a policy regarding the maintenance, administration, and disposal of epinephrine auto-injectors at each campus in the district.

If a policy is adopted, the policy:

1. Must provide that school personnel and school volunteers who are authorized and trained may administer an epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis on a school campus; and

2. May provide that school personnel and school volunteers who are authorized and trained may administer an epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis at an off-campus school event or while in transit to or from a school event.

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A district that adopts a policy must require that each campus have one or more school personnel members or school volunteers authorized and trained to administer an epinephrine auto-injector present during all hours the campus is open.

The supply of epinephrine auto-injectors at each campus must be stored in a secure location and be easily accessible to school personnel and school volunteers authorized and trained to administer an epinephrine auto-injector.

Education Code 38.208

Definitions

All Hours the Campus Is Open

"All hours the campus is open" is defined as, at a minimum, during regular on-campus school hours, and when school personnel are physically on site for school-sponsored activities.

Campus

A "campus" is defined as a unit of a school district that has an assigned administrator, has enrolled students who are counted for average daily attendance, has assigned instructional staff, provides instructional services to students, has one or more grades in the range from early childhood education through grade 12 or is ungraded, and complies with relevant Texas laws.

Unassigned Epinephrine Auto-Injector

An "unassigned epinephrine auto-injector" is an epinephrine auto-injector prescribed by an authorized health-care provider in the name of the school issued with a non-patient-specific standing delegation order for the administration of an epinephrine auto-injector, issued by a physician or person who has been delegated prescriptive authority under Occupations Code Chapter 157.

25 TAC 37.603

Prompt Notification

Local emergency medical services must be promptly notified by the school when an individual is suspected of experiencing anaphylaxis and when an epinephrine auto-injector is administered. If the trained school personnel or school volunteer is the only individual available to notify emergency medical services, the trained individual should administer the unassigned epinephrine auto-injector before notifying emergency medical services.

The parent, legal guardian, or emergency contact must be promptly notified by the school when an unassigned epinephrine auto-injector is utilized on their child as soon as is feasible during the emergency response to suspected anaphylaxis.

25 TAC 37.605(e)–(f)

Records

School records of the administration of the unassigned epinephrine auto-injector and suspected anaphylaxis must be provided to the parent or guardian of the recipient upon request. *25 TAC 37.605(f)*

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Reports

Not later than the tenth business day after the date a school personnel member or school volunteer administers an epinephrine auto-injector in accordance with district policy, the school shall send a report to the school district; the physician who prescribed the epinephrine auto-injector; ~~the commissioner of education;~~ and the commissioner of state health services.

The report must include the following information:

1. The age of the person who received the administration of the epinephrine auto-injector;
2. Whether the person who received the administration of the epinephrine auto-injector was a student, a school personnel member or school volunteer, or a visitor;
3. The physical location where the epinephrine auto-injector was administered;
4. The number of doses of epinephrine auto-injector administered;
5. The title of the person who administered the epinephrine auto-injector; and
6. Any other information required by the commissioner of education.

Education Code 38.209

Notifications to the commissioner of DSHS shall be submitted on the designated electronic form available on the DSHS School Health Program website. *25 TAC 37.608*

Personnel or Volunteers

At each campus in which a school adopts an unassigned epinephrine auto-injector policy, the principal may assign school personnel or school volunteers to be trained to administer unassigned epinephrine auto-injectors or seek school personnel or school volunteers who volunteer to be trained to administer unassigned epinephrine auto-injectors.

In order to increase the number of trained individuals in the administration of unassigned epinephrine auto-injectors, schools may distribute to school personnel or school volunteers in the district, at least once per school year, a notice that includes a description of the request seeking volunteers to be trained to administer an epinephrine auto-injector to a person believed to be experiencing anaphylaxis and a description of the training that the school personnel or school volunteers will receive in the administration of epinephrine with an auto-injector.

25 TAC 37.606(a)–(b)

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Signed Statement	Trained school personnel or school volunteers who administer the unassigned epinephrine auto-injector must submit a signed statement indicating that they agree to perform the service of administering an unassigned epinephrine auto-injector to a student or individual that may be experiencing anaphylaxis. *25 TAC 37.606(c)*
Training	A district that adopts an unassigned epinephrine auto-injector written policy is responsible for training school personnel and school volunteers in the recognizing of anaphylaxis signs and symptoms and administration of an unassigned epinephrine auto-injector. Each assigned school personnel or school volunteer shall receive initial training and an annual refresher training. Training shall be consistent with the most recent Voluntary Guidelines for Managing Food Allergies in Schools and Early Care and Education Programs[1] published by the federal Centers for Disease Control and Prevention. *25 TAC 37.607* Training may be provided in a formal training session or through an online education course. Training must include information on properly inspecting unassigned epinephrine auto-injectors for usage and expiration. *25 TAC 37.607(1)–(2)* Training must include information on implementing emergency procedures, if necessary, after administering an epinephrine auto-injector, and properly disposing of used or expired epinephrine auto-injectors. A district shall maintain records on the required training. *Education Code 38.210* The initial training must include hands-on training with an epinephrine auto-injector trainer. The annual refresher training must include a hands-on demonstration of administration skills. The training must also include information about promptly notifying local emergency medical services. Each school campus shall maintain training records and make available upon request a list of those school personnel or school volunteers trained and authorized to administer the unassigned epinephrine auto-injector on the campus. *25 TAC 37.607(3)–(6)*
Standing Orders	A physician or person who has been delegated prescriptive authority under Occupations Code Chapter 157 may prescribe epinephrine auto-injectors in the name of a district in accordance with law. *Education Code 38.211*

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A district shall obtain a prescription from an authorized health-care provider each year, to stock, possess, and maintain at least one unassigned adult epinephrine auto-injector pack (two doses) on each school campus.

A school may choose to stock unassigned pediatric epinephrine auto-injector packs, based on the need of the school's population.

25 TAC 37.605(a)

Epinephrine Coordinator

The superintendent will designate appropriate school personnel to coordinate and manage policy implementation, including training of school personnel, and the acquisition or purchase, usage, expiration, and disposal of unassigned epinephrine auto-injectors. Throughout the school calendar year, the designated school personnel shall coordinate with each campus to ensure that the unassigned epinephrine auto-injectors are checked monthly for expiration and usage and the findings are documented. *19 TAC 37.605(b)*

Notice to Parents

If a district implements a policy for the maintenance, administration, and disposal of epinephrine auto-injectors, the district shall provide written notice to a parent or guardian of each student enrolled in the district or school. Notice must be provided before the policy is implemented by the district or school and before the start of each school year. *Education Code 38.212*

A district shall provide electronic or written notice to the parent or guardian of each student.

If a district changes or discontinues the policy under this subchapter, written or electronic notice detailing the change or discontinuation must be provided to the parent or guardian of each student within 15 calendar days.

25 TAC 37.609

Storage

Unassigned epinephrine auto-injectors shall be stored in a secure, easily accessible area for an emergency, in accordance with manufacturer's guidelines. It is recommended that the school administrator develop a map to be placed in high traffic areas that indicates the location of the unassigned epinephrine auto-injectors on each school campus. It is recommended that the map also indicates the locations of the automated external defibrillator (AED). *25 TAC 37.605(h)*

Replacement

The district shall develop a plan to replace, as soon as reasonably possible, any unassigned epinephrine auto-injector that is used or close to expiration. *25 TAC 37.605(i)*

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Disposal	Used unassigned epinephrine auto-injectors shall be considered infectious waste and shall be disposed of according to the school's bloodborne pathogen control policy. Expired unassigned epinephrine auto-injectors shall be disposed of according to the school's medication disposal policy. *25 TAC 37.605(j)–(k)* [See DBB]
Gifts, Grants, and Donations	A district may accept gifts, grants, donations, and federal and local funds to implement its policy. *Education Code 38.213*
Maintenance and Administration of Asthma Medicine	A district may adopt and implement a policy authorizing a school nurse to maintain and administer asthma medicine at each campus in the district. The policy must provide that the school nurse may administer prescription asthma medicine to a student only if the school nurse has written notification from a parent or guardian of the student stating that the student has been diagnosed as having asthma and stating that the school nurse may administer prescription asthma medicine to the student. A school nurse may administer the prescription asthma medicine only at a school campus. *Education Code 38.208(a-1), (b-1)*
Storage	The supply of asthma medicine at each campus must be stored in a secure location and be easily accessible to the school nurse.
No Negative Fiscal Impact	The policy may not require a district to purchase prescription asthma medicine or require any other expenditure related to the maintenance or administration of asthma medicine that would result in a negative fiscal impact on the district or school. *Education Code 38.208(e)–(f)*
Asthma Medicine Standing Order	A physician or person who has been delegated prescriptive authority under Occupations Code Chapter 157, may prescribe asthma medicine in the name of a school district. *Education Code 38.211(a)*
Notice to Parents	The district shall provide written notice to a parent or guardian of each student enrolled in the district or school. Notice required under Education Code 38.212 must be provided before a policy is implemented by the district and before the start of each school year. *Education Code 38.212*
Immunity from Liability	A person who in good faith takes, or fails to take, any action related to ~~the~~Education Code Chapter 38, Subchapter E, related to the maintenance and administration of epinephrine auto-injectors and

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asthma medicine, is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act, including:

1. Issuing an order for epinephrine auto-injectors or asthma medicine;
2. Supervising or delegating the administration of an epinephrine auto-injector or asthma medicine;
3. Possessing, maintaining, storing, or disposing of an epinephrine auto-injector or asthma medicine;
4. Prescribing an epinephrine auto-injector or asthma medicine;
5. Dispensing an epinephrine auto-injector~~;~~ or asthma medicine, provided that permission has been granted as provided by Education Code 38.208(b-1) [see Maintenance and Administration of Asthma Medicine, above];
6. Administering, or assisting in administering, an epinephrine auto-injector~~;~~, provided that permission has been granted as provided by Education Code 38.208(b-1) [see Maintenance and Administration of Epinephrine Auto-Injectors, above];
7. Providing, or assisting in providing, training, consultation, or advice in the development, adoption, or implementation of policies, guidelines, rules, or plans; or
8. Undertaking any other act permitted or required under Education Code Chapter 38, Subchapter E.

A ~~school~~ district and school personnel and school volunteers are immune from suit resulting from an act, or failure to act, under Education Code Chapter 38, Subchapter E, including an act or failure to act under related policies and procedures.

An act or failure to act by school personnel or a school volunteer, including an act or failure to act under related policies and procedures, is the exercise of judgment or discretion on the part of the school personnel or school volunteer and is not considered to be a ministerial act for purposes of liability of the school district ~~or open-enrollment charter school~~.

Education Code 38.215

[1] CDC Voluntary Guidelines for Managing Food Allergies: https://www.cdc.gov/healthyschools/foodallergies/index.htm

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Reports

School authorities, including a superintendent, principal, teacher, school health official, or counselor, should report to the local health authority those students attending school who are suspected of having a notifiable condition, as defined by state law and the Texas Department of State Health Services (TDSHS). If there is no local health authority appointed for the jurisdiction where the school is located, the report shall be made to the TDSHS regional director. *25 TAC 97.2(d), .5(a); Health and Safety Code 81.041–.042*

Sexually Transmitted Diseases and HIV

In addition to the reporting requirements at Reports, above, a health professional as defined by 25 Administrative Code 97.131(5), and a local school authority shall report cases and suspected cases of STD(s) in the manner described in 25 Administrative Code 97.133. *25 TAC 97.132(a)(1)*

[See FFG(LEGAL) regarding reports to the Department of Family and Protective Services]

"School authority" means the superintendent or the superintendent's designee. *Health and Safety Code 81.003(10)*

Penalties

A person commits a Class B misdemeanor if the person knowingly fails to report a reportable disease or health condition under Health and Safety Code Chapter 81, Subchapter B. *Health and Safety Code 81.049*

Exclusion

Communicable Condition Defined by Rule

A principal shall exclude from attendance any child having or suspected of having a communicable condition listed in 25 Administrative Code 97.7(a) until the readmission criteria for the condition are met. *25 TAC 97.7(a)*

Communicable Disease Designated by Commissioner

A principal shall exclude from attendance any child having or suspected of having a communicable disease designated by the commissioner of health as cause for exclusion. Any child excluded for reason of communicable disease may be readmitted, as determined by the health authority, by:

1. Submitting a certificate of the attending physician, advanced practice nurse, or physician assistant attesting that the child does not currently have signs or symptoms of a communicable disease or to the disease's non-communicability in a school setting;
2. Submitting a permit for readmission issued by a local health authority; or
3. Meeting readmission criteria as established by the commissioner.

25 TAC 97.7(b)–(c)

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Note: The TDSHS Recommendations for the Prevention and Control of Communicable Diseases[1] in a Group-Care Setting, including the Communicable Disease Chart for Schools and Child-Care Centers, details symptoms and treatment information regarding several diseases, as well as exclusion and readmission criteria.

Bacterial Meningitis

~~TEA~~TDSHS shall prescribe procedures by which each district shall provide information relating to bacterial meningitis to its students and their parents each school year. The procedures must ensure that the information is reasonably likely to come to the attention of the parents of each student. The ~~agency~~department shall prescribe the form and content of the information.

With the written consent of ~~TEA~~TDSHS, a district may provide the information to its students and their parents by a method different from the method prescribed by ~~TEA~~the department if ~~TEA~~the department determines that method would be effective in bringing the information to the attention of the parents of each student.

Education Code 38.0025

[1] TDSHS Infectious Disease Control resources: https://www.dshs.texas.gov/idcu/health/schools_childcare/resources/

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Note: See FB for the application of Section 504 of the Rehabilitation Act to students who qualify for individualized health plans.

Diabetes Management and Treatment Plan

The parent or guardian of a student who will seek care for diabetes while at school or while participating in a school activity, and the physician responsible for the student's diabetes treatment, shall develop a diabetes management and treatment plan (DMTP).

Required Elements

The DMTP must:

1. Identify the health-care services the student may receive at school;
2. Evaluate the student's ability to manage and level of understanding of the student's diabetes; and
3. Be signed by the parent or guardian and the physician.

Submission to School

The parent or guardian must submit the DMTP to the school, and the school must review the plan:

1. Before or at the beginning of the school year;
2. On enrollment of the student, if the student enrolls after the beginning of the school year; or
3. As soon as practicable following a diagnosis of diabetes for the student.

Health and Safety Code 168.002

Individualized Health Plan

Upon receiving the student's DMTP, the school principal, or designee, and the school nurse, if a school nurse is assigned to the school, shall develop an individualized health plan (IHP) for the student. The IHP shall be developed in collaboration with the student's parent or guardian and, to the extent practicable, the physician responsible for the student's diabetes treatment and one or more of the student's teachers.

A student's IHP must incorporate components of the student's DMTP, including the information required under Health and Safety Code 168.002(b) [see Required Elements, above].

Health and Safety Code 168.001(3), .003

Independent Monitoring and Treatment

In accordance with the student's IHP, a school shall permit the student to attend to the management and care of the student's diabetes, which may include:

1. Performing blood glucose level checks;

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2. Administering insulin through the insulin delivery system the student uses;

3. Treating hypoglycemia and hyperglycemia;

4. Possessing on the student's person at any time any supplies or equipment necessary to monitor and care for the student's diabetes; and

5. Otherwise attending to the management and care of the student's diabetes in the classroom, in any area of the school or school grounds, or at any school-related activity.

Health and Safety Code 168.008

Required Care

Each school shall adopt a procedure to ensure that a school nurse or at least one unlicensed diabetes care assistant (UDCA) is present and available to provide the required care to a student with diabetes during the regular school day. A district may not restrict the assignment of a student with diabetes to a particular campus on the basis that the campus does not have the required UDCAs. *Health and Safety Code 168.007(c)–(d)*

If a school nurse is assigned to a campus and the nurse is available, the nurse shall perform the tasks necessary to assist a student with diabetes in accordance with the student's IHP.

School Nurse Not Available

If a school nurse is not assigned to the campus or a school nurse is not available, a UDCA shall perform the tasks necessary to assist the student in accordance with the student's IHP and in compliance with any guidelines provided during UDCA training. A UDCA may perform these tasks only if the parent or guardian of the student signs an agreement that:

1. Authorizes a UDCA to assist the student; and

2. States that the parent or guardian understands that a UDCA is not liable for civil damages [see Immunity from Liability, below].

Health and Safety Code 168.007(a)

If a school nurse is not assigned to a campus:

1. A UDCA must have access to an individual with expertise in the care of persons with diabetes, such as a physician, a registered nurse, a certified diabetes educator, or a licensed dietitian; or

2. The principal must have access to the physician responsible for the student's diabetes treatment.

Health and Safety Code 168.007(b)

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Unlicensed Diabetes Care Assistants

At each school in which a student with diabetes is enrolled, the principal, or designee, shall:

1. Seek school employees who are not health-care professionals to serve as UDCAs and to care for students with diabetes; and
2. Make efforts to ensure the school has:
    a. At least one UDCA if a full-time nurse is assigned to the school; and
    b. At least three UDCAs if a full-time nurse is not assigned to the school.

"School employee" means a person employed by a school, a local health department that assists the school under Health and Safety Code Chapter 168 (Care of Students with Diabetes), or another entity with whom the school has contracted to perform its duties under that chapter.

"Unlicensed diabetes care assistant" means a school employee who has successfully completed the required training [see UDCA Training, below].

A school employee may not be subject to any penalty or disciplinary action for refusing to serve as a UDCA.

A UDCA shall serve under the supervision of the principal.

Health and Safety Code 168.001(5)–(6), .003–.004

UDCA Training

If a school nurse is assigned to a campus, the nurse shall coordinate the training of school employees acting as UDCAs. Training for UDCAs must be provided by a health-care professional with expertise in the care of persons with diabetes or by a school nurse. The training must include instruction in the elements set forth at Health and Safety Code 168.005(d).

Training must be provided before the beginning of the school year or as soon as practicable following:

1. The enrollment of a student with diabetes at a campus that previously had no students with diabetes; or
2. A diagnosis of diabetes for a student at a campus that previously had no students with diabetes.

The school nurse or principal shall maintain a copy of the training guidelines and any records associated with the training.

Health and Safety Code 168.005

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Note: ~~to~~ Guidance for the care ~~for~~of students with diabetes is available on the Texas Department of State Health Services (TDSHS) website~~Texas Department of State Health Services website.~~ [1]

Information to Employees

A district shall provide to each district employee who is responsible for providing transportation for a student with diabetes or supervising a student with diabetes during an off-campus activity a one-page information sheet that:

1. Identifies the student who has diabetes;
2. Identifies potential emergencies that may occur as a result of the student's diabetes and the appropriate responses to such emergencies; and
3. Provide the telephone number of a contact person in case of an emergency involving the student with diabetes.

Health and Safety Code 168.006

Immunity from Liability

A school employee may not be subject to any disciplinary proceeding, as defined by Education Code 22.0512(b), resulting from any action taken in compliance with Health and Safety Code Chapter 168. The requirements of Chapter 168 are considered to involve the employee's judgment and discretion and are not considered ministerial acts for purposes of immunity under Education Code 22.0511. *Health and Safety Code 168.009(a)* [See DG]

A school nurse is not responsible for and may not be subject to disciplinary action under Occupations Code Chapter 301 for actions performed by a UDCA. *Health and Safety Code 168.009(b)*

A UDCA who assists a student as provided above [see Required Care, above] in compliance with the student's IHP:

1. Is not considered to be engaging in the practice of professional or vocational nursing under Occupations Code Chapter 301 or other state law; and
2. Is exempt from any applicable state law or rule that restricts the activities that may be performed by a person who is not a health-care provider.

A UDCA may exercise reasonable judgment in deciding whether to contact a health-care provider in the event of a medical emergency involving a student with diabetes.

Health and Safety Code 168.007(e)–(f)

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Students at Risk for Anaphylaxis

The board shall adopt and administer a policy for the care of students with a diagnosed food allergy at risk for anaphylaxis based on Guidelines for the Care of Students with Food Allergies At-Risk for Anaphylaxis[2] ~~guidelines~~ developed by the commissioner of state health services. A district ~~that implements a~~ shall annually review the policy and, as necessary, revise its policy for the care of students with a diagnosed food allergy at risk for anaphylaxis ~~before the development of the commissioner's guidelines shall review the policy and revise the policy as necessary~~ to ensure the policy is consistent with the most current version of the guidelines.

~~The commissioner's guidelines may not:~~

~~1. Require a district to purchase prescription anaphylaxis medication, such as epinephrine, or require any other expenditure that would result in a negative fiscal impact on the district; or~~

~~2. Require the personnel of a district to administer anaphylaxis medication, such as epinephrine, to a student unless the anaphylaxis medication is prescribed for that student.~~

This section does not waive any liability or immunity of the district or its officers or employees~~,~~ or create any liability for or a cause of action against the district or its officers or employees.

Notwithstanding any other law, these provisions do not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides the basis for a cause of action.

Education Code 38.0151(a)–(b), (d), (i)–(j)

A district that provides for the maintenance, administration, and disposal of epinephrine auto-injectors under Education Code Chapter 38, Subchapter E [see FFAC] is not required to comply with Education Code 38.0151. *Education Code 38.0151(f)*

Website Requirements

Each school year, the board shall post a summary of the guidelines on the district's website [see CQA], including instructions on obtaining access to the complete guidelines document. The district's website must be accessible by each student enrolled in the district and a parent or guardian of each student. Any forms used by a district requesting information from a parent or guardian enrolling a child with a food allergy in the district must include information to access on the district's website a summary of the guidelines and instructions on obtaining access to the complete guidelines document. *Education Code 38.0151(b)*

Seizure Management and Treatment Plan

The parent or guardian of a student with a seizure disorder may seek care for the student's seizures while the student is at school

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or participating in a school activity by submitting to the district at which the student is enrolled a copy of a seizure management and treatment plan developed by the student's parent or guardian and the physician responsible for the student's seizure treatment. The plan must be submitted to and reviewed by the district:

1. Before or at the beginning of the school year;

2. On enrollment of the student, if the student enrolls in the district after the beginning of the school year; or

3. As soon as practicable following a diagnosis of a seizure disorder for the student.

Plan Requirements

A seizure management and treatment plan must:

1. Identify the health-care services the student may receive at school or while participating in a school activity;

2. Evaluate the student's ability to manage and level of understanding of the student's seizures; and

3. Be signed by the student's parent or guardian and the physician responsible for the student's seizure treatment.

Education Code 38.032(a)–(b)

Immunity

The care of a student with a seizure disorder by a district employee under a seizure management plan submitted under Education Code 38.032 is incident to or within the scope of the duties of the employee's position of employment and involves the exercise of judgment or discretion on the part of the employee for purposes of Education Code 22.0511, regarding immunity from liability.

The immunity from liability provided by Education Code 22.0511 applies to an action or failure to act by a district employee in administering a medication, assisting with self-administration, or otherwise providing for the care of a student under a seizure management plan submitted for the student.

Education Code 38.032(c)–(d)

[See DMA for seizure recognition and related first aid training.]~~***Note:*** See FB for the application of Section 504 of the Rehabilitation Act to students who qualify for individualized health plans.~~

[1] TDSHS guidance for the care of students with diabetes: https://www.dshs.texas.gov/schoolhealth/tgshs/hlth-conds/?terms=school%20diabetes

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[2] TDSHS Guidelines for the Care of Students with Food Allergies At-Risk for Anaphylaxis: https://www.dshs.texas.gov/uploadedFiles/Content/Prevention_and_Preparedness/schoolhealth/SHAC/Guidelines-Food%20Allergy-Final.pdf

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Threat Assessment

Definitions

"Harmful, threatening, or violent behavior" includes behaviors, such as verbal threats, threats of self harm, bullying, cyberbullying, fighting, the use or possession of a weapon, sexual assault, sexual harassment, dating violence, stalking, or assault, by a student that could result in:

1. Specific interventions, including mental health or behavioral supports;
2. In-school suspension;
3. Out-of-school suspension; or
4. The student's expulsion or removal to a disciplinary alternative education program (DAEP) or a juvenile justice alternative education program (JJAEP).

"Team" means a threat assessment and safe and supportive school team established by the board under Education Code 37.115.

Education Code 37.115(a)

Threat Assessment Team

The board shall establish a threat assessment and safe and supportive school team to serve at each campus of the district and shall adopt policies and procedures for the teams.

The team is responsible for developing and implementing the safe and supportive school program in compliance with Texas Education Agency (TEA) rules at the district campus served by the team.

The policies and procedures adopted under Education Code 37.115 must:

1. Be consistent with the model policies and procedures developed by the Texas School Safety Center (TxSSC) [see Education Code 37.220];
2. Require each team to complete training provided by the TxSSC or a regional education service center (ESC) regarding evidence-based threat assessment programs; and
3. Require each team established under this section to report the required information regarding the team's activities to TEA [see Reporting to TEA, below].

Membership

The superintendent shall ensure that the members appointed to each team have expertise in counseling, behavior management, mental health and substance use, classroom instruction, special education, school administration, school safety and security, emergency management, and law enforcement. A team may serve more

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than one campus of a district, provided that each district campus is assigned a team.

Oversight Committee

The superintendent may establish a committee, or assign to an existing committee established by the district, the duty to oversee the operations of teams established for the district. A committee with oversight responsibility must include members with expertise in human resources, education, special education, counseling, behavior management, school administration, mental health and substance use, school safety and security, emergency management, and law enforcement.

Team Duties

Each team shall:

1. Conduct a threat assessment that includes assessing and reporting individuals who make threats of violence or exhibit harmful, threatening, or violent behavior in accordance with district policies and procedures; and gathering and analyzing data to determine the level of risk and appropriate intervention, including:
   a. Referring a student for mental health assessment; and
   b. Implementing an escalation procedure, if appropriate, based on the team's assessment, in accordance with district policy;
2. Provide guidance to students and school employees on recognizing harmful, threatening, or violent behavior that may pose a threat to the community, school, or individual; and
3. Support the district in implementing the district's multihazard emergency operations plan [see CKC].

Consent for Mental Health-Care Service

A team may not provide a mental health-care service to a student who is under 18 years of age unless the team obtains written consent from the parent of or the person standing in parental relation to the student before providing the mental health-care service. The consent must be submitted on a form developed by the district that complies with all applicable state and federal law. The student's parent or person standing in parental relation to the student may give consent for a student to receive ongoing services or may limit consent to one or more services provided on a single occasion.

Education Code 37.115(d)–(g)

Determination of Risk

On determination that a student or other individual poses a serious risk of violence to self or others, a team shall immediately report the team's determination to the superintendent. If the individual is a student, the superintendent shall immediately attempt to inform the

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parent or person standing in parental relation to the student. These requirements do not prevent an employee of the school from acting immediately to prevent an imminent threat or respond to an emergency.

A team identifying a student at risk of suicide shall act in accordance with the district's suicide prevention program. If the student at risk of suicide also makes a threat of violence to others, the team shall conduct a threat assessment in addition to actions taken in accordance with the district's suicide prevention program.

A team identifying a student using or possessing tobacco, drugs, or alcohol shall act in accordance with district policies and procedures related to substance use prevention and intervention.

Education Code 37.115(h)–(j)

Reporting to TEA

A team must report to TEA in accordance with TEA-developed guidelines the following information regarding the team's activities and other information for each campus the team serves:

1. The occupation of each person appointed to the team;
2. The number of threats and description of the type of threats reported to the team;
3. The outcome of each assessment made by the team, including:
   a. Any disciplinary action taken, including a change in school placement;
   b. Any action taken by law enforcement; or
   c. A referral to or change in counseling, mental health, special education, or other services;
4. The total number, disaggregated by student gender, race, and status as receiving special education services, being at risk of dropping out of school, being in foster care, experiencing homelessness, being a dependent of military personnel, being pregnant or a parent, having limited English proficiency, or being a migratory child, of, in connection with an assessment or reported threat by the team:
   a. Citations issued for Class C misdemeanor offenses;
   b. Arrests;
   c. Incidents of uses of restraint;

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d. Changes in school placement, including placement in a JJAEP or DAEP;

e. Referrals to or changes in counseling, mental health, special education, or other services;

f. Placements in in-school suspension or out-of-school suspension and incidents of expulsion;

g. Unexcused absences of 15 or more days during the school year; and

h. Referrals to juvenile court for truancy; and

5. The number and percentage of school personnel trained in:

a. A best-practices program or research-based practice under Health and Safety Code 161.325, including the number and percentage of school personnel trained in suicide prevention or grief and trauma-informed practices;

b. Mental health or psychological first aid for schools;

c. Training relating to the safe and supportive school program; or

d. Any other program relating to safety identified by the commissioner.

Education Code 37.115(k)

Recommended Programs

The Texas Department of State Health Services (TDSHS), in coordination with TEA and ~~regional education service centers (ESCs),~~ESCs, shall provide and annually update a list of recommended best practice-based programs and research-based practices in the areas specified below for implementation in public elementary, junior high, middle, and high schools within the general education setting. Each ~~school~~ district may select from the list a program or programs appropriate for implementation in the district.

Subject Areas

The list must include programs and practices in the following areas:

1. Early mental health intervention;

2. Mental health promotion;

3. Building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;

4. Substance abuse prevention and intervention;

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5. Suicide prevention;

6. Grief-informed and trauma-informed practices;

7. Positive behavior interventions and supports and positive youth development; and

8. Safe, supportive, and positive school climate.

"School climate" means the quality and character of school life, including interpersonal relationships, teaching and learning practices, and organizational structures, as experienced by students enrolled in the district, parents of those students, and personnel employed by the district.

TDSHS, TEA, and each ESC shall make the list easily accessible on their websites.

Practices and Procedures

A district may develop practices and procedures concerning each area listed above, including mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention, that:

1. Include a procedure for providing educational material to all parents and families in the district that contains information on identifying risk factors, accessing resources for treatment or support provided on and off campus, and accessing available student accommodations provided on campus;

~~1.~~2. Include a procedure for providing notice of a recommendation for early mental health or substance abuse intervention regarding a student to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs, which may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others;

~~2.~~3. Include a procedure for providing notice of a student identified as at risk of committing suicide to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs;

~~3.~~4. Establish that the district may develop a reporting mechanism and may designate at least one person to act as a liaison officer in the district for the purposes of identifying students in need of early mental health or substance abuse intervention or suicide prevention; and

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4.5. Set out available counseling alternatives for a parent or guardian to consider when his or her child is identified as possibly being in need of early mental health or substance abuse intervention or suicide prevention.

The practices and procedures must prohibit the use without the prior consent of a student's parent or guardian of a medical screening of the student as part of the process of identifying whether the student is possibly in need of early mental health or substance abuse intervention or suicide prevention.

The practices and procedures developed must be included in the annual student handbook and the district improvement plan under Education Code 11.252. [See BQ]

Nothing in these provisions is intended to interfere with the rights of parents or guardians and the decision-making regarding the best interest of the child. Practices and procedures developed in accordance with these provisions are intended to notify a parent or guardian of a need for mental health or substance abuse intervention so that a parent or guardian may take appropriate action. These provisions do not give school districts the authority to prescribe medications. Any and all medical decisions are to be made by a parent or guardian of a student.

Health and Safety Code 161.325

Immunity

These requirements do not waive any immunity from liability of a district or of district officers or employees, create any liability for a cause of action against a district or against district officers or employees, or waive any immunity from liability under Civil Practice and Remedies Code 74.151. *Health and Safety Code 161.326*

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Trauma-Informed Care Policy

A district shall adopt and implement a policy requiring the integration of trauma-informed practices in each school environment. A district must include the policy in the district improvement plan required under Education Code 11.252 [see BQ].

The policy must address:

1. Using resources developed by the Texas Education Agency (TEA), methods for:
   a. Increasing staff and parent awareness of trauma-informed care; and
   b. Implementation of trauma-informed practices and care by district and campus staff; and
2. Available counseling options for students affected by trauma or grief.

Education Code 38.036(a)–(b)

Training

The methods for increasing awareness and implementation of trauma-informed care must include training as provided below. The training must be provided:

1. Through a program selected from the list of recommended best practice-based programs and research-based practices established under Health and Safety Code 161.325;
2. As part of any new employee orientation for all new district educators; and
3. To existing district educators on a schedule adopted by TEA that requires educators to be trained at intervals necessary to keep educators informed of developments in the field.

For any training under this provision, a district shall maintain records that include the name of each district staff member who participated in the training.

If a district determines that the district does not have sufficient resources to provide the training required under this provision, the district may partner with a community mental health organization to provide training that meets the requirements at no cost to the district.

Education Code 38.036(c)–(d), (f)

Reporting to TEA

A district shall report annually to TEA the following information for the district as a whole and for each school campus:

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1. The number of teachers, principals, and counselors employed by the district who have completed training under this provision; and

2. The total number of teachers, principals, and counselors employed by the district.

Education Code 38.036(e)

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Consent to Examinations, Tests, or Treatment

A district employee must obtain the written consent of a child's parent before the employee may conduct a psychological examination, test, or treatment, unless the examination, test, or treatment is required by:

1. TEA's policy concerning child abuse investigations and reports under Education Code 38.004; or
2. State or federal law regarding requirements for special education.

Education Code 26.009(a)(1) [See FNG]

Consent to Counseling

A child may consent to counseling for:

1. Suicide prevention,
2. Chemical addiction or dependency; or
3. Sexual, physical, or emotional abuse.

Family Code 32.004(a)

Professional's Authority

A licensed or certified physician, psychologist, counselor, or social worker having reasonable grounds to believe that a child has been sexually, physically, or emotionally abused; is contemplating suicide; or is involved in chemical or drug addiction or dependency may:

1. Counsel the child without the consent of the child's parents, managing conservator, or guardian;
2. With or without the consent of a child who is a client, advise the parents, managing conservator, or guardian of the treatment given to or needed by the child;
3. Rely on the written statement of the child containing the grounds on which the child has capacity to consent to his or her own treatment as provided above.

Exception: Court Order

The physician, psychologist, counselor, or social worker may not counsel a child if consent is prohibited by a court order, unless consent is obtained as otherwise allowed by law.

Family Code 32.004(b), (c)

Consent to LSSP

Informed consent for a licensed specialist in school psychology (LSSP) must be obtained in accordance with the Individuals with Disabilities Education Improvement Act (IDEIA) and the U.S. Department of Education's rules governing parental consent when delivering school psychological services in the public schools, and is considered to meet the requirements for informed consent under

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the Texas State Board of Examiners of Psychologists (TSBEP) rules. No additional informed consent, specific to any TSBEP rules, is necessary in this context.

22 TAC 465.38(g)

Professional Immunity

A psychologist, counselor, or social worker licensed or certified by the state is not liable for damages except those damages that may result from his or her negligence or willful misconduct.

Family Code 32.004(d)

Outside Counselors

Neither a district nor an employee of a district may refer a student to an outside counselor for care or treatment of a chemical dependency or an emotional or psychological condition unless the district does all of the following:

1. Obtains prior written consent for the referral from the student's parent, managing conservator, or guardian.
2. Discloses to the student's parent, managing conservator, or guardian any relationship between the district and the outside counselor.
3. Informs the student and the student's parent, managing conservator, or guardian of any alternative public or private source of care or treatment reasonably available in the area.
4. Requires the approval of appropriate district personnel before a student may be referred for care or treatment or before a referral is suggested as being warranted.
5. Specifically prohibits any disclosure of a student record that violates state or federal law.

Education Code 38.010

[See FFEA for information on the comprehensive guidance program~~]~~. See FFB for mental health-care services provided by the threat assessment and safe and supportive school team.]

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~~Antivictimization Program~~

A district shall provide child abuse antivictimization programs in elementary and secondary schools. *Education Code 38.004*

Policies and Programs

A district shall adopt and implement a policy addressing sexual abuse, sex trafficking, and other maltreatment of children, to be included in the district improvement plan [see BQ] and any information handbook provided to students and parents. *Education Code 38.0041(a)*

Duty to Report

Any person who has cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as required by law. *Family Code 261.101(a)*

Abuse of Persons with Disabilities

A person having cause to believe that a person with a disability is in a state of abuse, neglect, or exploitation shall report the information immediately to the Texas Department of Family and Protective Services (DFPS).

A person commits a Class A misdemeanor if the person has cause to believe that a person with a disability has been abused, neglected, or exploited or is in a state of abuse, neglect, or exploitation and knowingly fails to report.

A person filing a report or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of his or her petition, report, testimony, or participation, unless the person acted in bad faith or with a malicious purpose.

Human Resources Code 48.051, .052, .054

By a Professional

Any professional who has cause to believe that a child has been or may be abused or neglected shall make a report as required by law. The report must be made within 48 hours after the professional first suspects abuse or neglect.

A professional may not delegate to or rely on another person to make the report.

A "professional" is a person who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, and juvenile detention or correctional officers.

Family Code 261.101(b)

Adult Victims of Abuse

A person or professional shall make a report in the manner required above if the person or professional has cause to believe that an adult was a victim of abuse or neglect as a child and the person

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or professional determines in good faith that disclosure of the information is necessary to protect the health and safety of another child or an elderly person or person with a disability. *Family Code 261.101(b-1)*

Psychotropic Drugs and Psychological Testing

An employee may not use or threaten to use the refusal of a parent, guardian, or managing or possessory conservator to administer or consent to the administration of a psychotropic drug to a child, or to consent to any other psychiatric or psychological testing or treatment of the child, as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal:

1. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or
2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

Education Code 26.0091; Family Code 261.111(a) [See FFAC]

Contents of Report

The report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect. The person making the report shall identify, if known:

1. The name and address of the child;
2. The name and address of the person responsible for the care, custody, or welfare of the child; and
3. Any other pertinent information concerning the alleged or suspected abuse or neglect.

Family Code 261.102, .104

To Whom Reported

If the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to DFPS, unless the report is made under item 3, below, or the report involves a juvenile justice program or facility [see JJAEPS, below].

All other reports shall be made to:

1. Any local or state law enforcement agency;
2. DFPS, Child Protective Services (CPS) Division;
3. A local office of CPS, where available; or
4. The state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred.

Family Code 261.103(a); 19 TAC 61.1051(a)(1)

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JJAEPs	Any report of alleged abuse, neglect, or exploitation, as those terms are defined in Family Code 261.405, in a juvenile justice program or facility shall be made to the Texas Juvenile Justice Department and a local law enforcement agency for investigation. The term "juvenile justice program" includes a juvenile justice alternative education program. *Family Code 261.405(a)(4)(A), (b)*
Immunity from Liability	A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from any civil or criminal liability that might otherwise be incurred or imposed. *Family Code 261.106*
	A district may not suspend or terminate the employment of, or otherwise discriminate against, or take any other adverse employment action against a professional who makes a good faith report of abuse or neglect. *Family Code 261.110* [See DG]
Criminal Offenses	A person commits a Class A misdemeanor if he or she is required to make a report under Family Code 261.101(a) [see Duty to Report, above] and knowingly fails to make a report as provided by law.
Failure to Report	A person who is a professional commits a Class A misdemeanor if the person is required to make a report under Family Code 261.101(b) [see Duty to Report] and knowingly fails to make a report as provided by law. The professional commits a state jail felony if he or she intended to conceal the abuse or neglect.
	Family Code 261.109
False Report	A person commits an offense if, with the intent to deceive, the person knowingly makes a report of abuse and neglect that is false. The offense is a state jail felony, except that it is a felony of the third degree if the person has previously been convicted of the offense. *Family Code 261.107(a)*
Coercion	A public servant, including as a school administrator, who coerces another into suppressing or failing to report child abuse or neglect to a law enforcement agency commits a Class C misdemeanor offense. *Penal Code 39.06*
Confidentiality of Report	A report of alleged or suspected abuse or neglect and the identity of the person making the report is confidential and not subject to release under Government Code Chapter 552 (Public Information Act), and may be disclosed only for purposes consistent with the Family Code and applicable federal or state law or under rules adopted by an investigating agency. *Family Code 261.201(a)(1)*

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Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only to a law enforcement officer for the purposes of a criminal investigation of the report, or as ordered by a court under Family Code 261.201. *Family Code 261.101(d)*

SBEC Disciplinary Action

The State Board for Educator Certification (SBEC) may take any of the actions listed in 19 Administrative Code 249.15(a) (~~regarding~~ impositions, including revocation of a certificate and administrative penalties) based on satisfactory evidence that the person has failed to report or has hindered the reporting of child abuse pursuant to Family Code 261.001, or has failed to notify the SBEC or the school superintendent or director under the circumstances and in the manner required by Education Code 21.006 and 19 Administrative Code 249.14(d)–(f). *19 TAC 249.15(b)(4)*

Investigations

Reports to District

If DFPS initiates an investigation and determines that the abuse or neglect involves an employee of a public elementary or secondary school, and that the child is a student at the school, the department shall orally notify the superintendent of the district in which the employee is employed. *Family Code 261.105(d)*

On request, DFPS shall provide a copy of the completed report of its investigation to the board, the superintendent, and the school principal, unless the principal is alleged to have committed the abuse or neglect. The report shall be edited to protect the identity of the person who made the report. *Family Code 261.406(b)*

Interview of Student

The investigating agency shall be permitted to interview the child at any reasonable time and place, including at the child's school. *Family Code 261.302(b)* [See GRA]

Interference with Investigation

A person may not interfere with an investigation of a report of child abuse or neglect conducted by DFPS. *Family Code 261.303(a)*

Confidentiality

A photograph, videotape, audiotape, or other audio or visual recording, depiction, or documentation of a child that is made by DFPS in the course of an inspection or investigation is confidential, is not subject to release under the Texas Public Information Act, and may be released only as required by state or federal law or rules adopted by the DFPS. *Human Resources Code 42.004*

Reporting Policy

A board shall adopt and annually review policies for reporting child abuse and neglect. The policies shall follow the requirements of Family Code Chapter 261.

The policies must require every school employee, agent, or contractor who suspects child abuse or neglect to submit a written or oral report to at least one of the authorities listed above [see To

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Whom Reported, above] within 48 hours or less, as determined by the board, after learning of facts giving rise to the suspicion.

The policies must be consistent with the Family Code, Chapter 261, and 40 Administrative Code Chapter 700 (~~relating to~~ CPS) regarding investigations by DFPS, including regulations governing investigation of abuse by school personnel and volunteers. [See GRA]

The policies must notify school personnel of the following:

1. Penalties under Penal Code 39.06 (misuse of official information), Family Code 261.109 (failure to report), and 19 Administrative Code Chapter 249 (actions against educator's certificate) for failure to submit a required report of child abuse or neglect;
2. Prohibitions against interference with an investigation of a report of child abuse or neglect, including:
    a. The prohibition, under Family Code 261.302 and 261.303, against denying an investigator's request to interview a student at school; and
    b. The prohibition, under Family Code 261.302, against requiring the presence of a parent or school administrator during an interview by an investigator.
3. Immunity provisions applicable to a person who reports child abuse or neglect or otherwise assists an investigation in good faith;
4. Confidentiality provisions relating to a report of suspected child abuse or neglect;
5. Any disciplinary action that may result from noncompliance with a district's reporting policy;
6. The prohibition under Education Code 26.0091 [see Psychotropic Drugs and Psychological Testing, above]; and
7. The current toll-free number for DFPS.

The policies must not require that school personnel report suspicions of child abuse or neglect to a school administrator before making a report to one of the agencies listed above.

19 TAC 61.1051(a)

Annual Distribution and Staff Development

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The policies shall be distributed to all personnel at the beginning of each school year and shall be addressed in staff development programs at regular intervals determined by a board. *19 TAC 61.1051(b)*

Each school year, a district shall provide training as required by Education Code 38.0041 to all new district employees as a part of new employee orientation. [See DH and DMA] *Education Code 38.0041; 19 TAC 61.1051(c)*

Required Poster

A district shall place a poster of the following specifications at every campus in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The poster must:

1. Be in a format and language that is clear, simple, and understandable to students;
2. Be in English and in Spanish;
3. Be 11 inches x 17 inches or larger;
4. Be in large print;
5. Be placed at eye-level to the student for easy viewing; and
6. Include the following information:
    a. The current toll-free DFPS Abuse Hotline telephone number (in bold print);
    b. Instructions to call 911 for emergencies; and
    c. Directions for accessing the DFPS Texas Abuse Hotline website[1] for more information on reporting abuse, neglect, and exploitation.

Education Code 38.0042; 19 TAC 61.1051(e), (f)

[1] Texas Abuse Hotline website: http://www.txabusehotline.org

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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

~~A district~~The UIL shall provide training to students participating in ~~athletic~~an extracurricular ~~activities~~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 ~~may~~must be conducted by the ~~district,~~UIL or by another organization as determined by the UIL, including the American Red Cross, the American Heart Association, or a similar organization~~, or by the UIL~~.

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

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public proof of compliance for each person enrolled in the district who is required to receive safety training.

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

Education Code 33.206

Unsafe Practices

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

Safety Precautions

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

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

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

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

Education Code 33.205

Concussions

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

“Concussion” means a complex pathophysiological process affecting the brain caused by a traumatic physical force or impact to the head or body, which may include temporary or prolonged altered

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brain function resulting in physical, cognitive, or emotional symptoms or altered sleep patterns, and involve loss of consciousness. *Education Code 38.151(4)*

Concussion Oversight Team

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

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

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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 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

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d. Understands the immunity provisions under Education Code 38.159.

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

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

Education Code 38.157

Immunity

These provisions do not:

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

Education Code 38.159

Football Helmet Safety Requirements

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

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

Education Code 33.094(a)–(c)

Steroid Testing

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

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

Education Code 33.091(d)–(e)

Cardiac Assessment

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

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

Immunity

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

1. The injury or death of a student participating in or practicing for an athletic activity sponsored or sanctioned by the UIL based on or in connection with the administration or interpretation of or reliance on an electrocardiogram; or

2. The content or distribution of the information required under these provisions or the failure to distribute the required information.

Education Code 33.096

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;

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2. Riding a bull;
3. Roping an animal, including roping as part of a team;
4. Wrestling a steer; and
5. Riding a horse in a pattern around preset barrels or other obstacles.

Educational Program	A primary or secondary school to which this section applies shall, before the first rodeo associated with the school in each school year, conduct a mandatory educational program on safety, including the proper use of protective gear, for children planning to participate in the rodeo, in accordance with 25 Administrative Code 104.4. The educational program may consist of an instructional video, subject to the Department of State Health Services approval.
Restriction on Participation	A child may not participate in a rodeo associated with the child's school during a school year unless the child has completed the educational program not more than one year before the first day of the rodeo.
Protective Gear for Bull Riding	A child may not engage in bull riding, including engaging in bull riding outside a rodeo for the purpose of practicing bull riding, unless the child is wearing a protective vest and bull riding helmet in accordance with 25 Administrative Code 104.3.

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

Eligibility

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

Military Dependents

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

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.

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Length of Suspension

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

Grade Evaluation Period

"Grade evaluation period" means:

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

Education Code 33.081(c)

School Week

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

Exempt Courses

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

The following are honors classes for purposes of eligibility to participate in extracurricular activities:

1. All College Board Advanced Placement courses and International Baccalaureate courses in all disciplines;
2. English language arts: high school/college concurrent enrollment classes that are included in the "Community College General Academic Course Guide Manual (Part One)";
3. 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;
4. Mathematics: high school/college concurrent enrollment classes that are included in the "Community College General Academic Course Guide Manual (Part One)" and precalculus;
5. Science: high school/college concurrent enrollment classes that are included in the "Community College General Academic Course Guide Manual (Part One)"; and
6. Social Studies: Social Studies Advanced Studies, Economics Advanced Studies, high school/college concurrent enrollment

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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 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.

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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 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 ~~Texas~~19 Administration Code ~~Title 19, section~~ 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 ~~(except as described below),~~ 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:

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1. ~~Only item 4, above, applies~~The general public is invited; and
2. The requirement for student participation in public is stated in the essential knowledge and skills of the course.

State-Approved Music Courses

A student ineligible to participate in an extracurricular activity, but who is enrolled in a state-approved music course that participates in UIL Concert and Sight-Reading Evaluation, may perform with the ensemble during the UIL evaluation performance.

19 TAC 76.1001(a)

Limits on Participation and Practice

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.

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3. A student may not be permitted to miss a scheduled academic class to practice for an unrelated extracurricular activity.

4. A district must limit extracurricular practice during the school day to ensure that class periods for extracurricular practice do not exceed the time allotted for other class periods.

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

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

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

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 (~~regarding~~ 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.

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Education Code 33.082

Special Olympics Recognition

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

Student Election Clerks

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

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Membership and Solicitation

Misdemeanor Offense

A person commits a Class C misdemeanor if the person:

1. Is a member of, pledges to become a member of, joins, or solicits another person to join or pledge to become a member of a public school fraternity, sorority, secret society, or gang; or
2. Is not enrolled in a public school and solicits another person to attend a meeting of a public school fraternity, sorority, secret society, or gang or a meeting at which membership in one of those groups is encouraged.

Education Code 37.121(a), (c)

Public School Fraternity, Sorority, Secret Society, or Gang

A "public school fraternity, sorority, secret society, or gang" means an organization composed wholly or in part of students of public primary or secondary schools that seeks to perpetuate itself by taking in additional members from the students enrolled in school on the basis of the decision of its membership rather than on the free choice of a student in the school who is qualified by the rules of the school to fill the special aims of the organization. The term does not include an agency for public welfare, including Boy Scouts, Hi-Y, Girl Reserves, DeMolay, Rainbow Girls, Pan-American Clubs, scholarship societies, or other similar educational organizations sponsored by state or national education authorities. *Education Code 37.121(d)*

DAEP Placement

A board or an educator shall recommend placing in a disciplinary alternative education program any student who commits the offenses described above. *Education Code 37.121(b)*

Felony Offense

A person commits a felony if the person, with intent to coerce, induce, or solicit a child to actively participate in the activities of a criminal street gang, threatens the child or a member of the child's family with imminent bodily injury or causes the child or a member of the child's family bodily injury. *Penal Code 71.022*

Personal Hazing Offense

A person commits an offense if the person:

1. Engages in hazing.
2. Solicits, encourages, directs, aids, or attempts to aid another in engaging in hazing.
3. Has firsthand knowledge of the planning of a specific hazing incident involving a student in an educational institution, or firsthand knowledge that a specific hazing incident has occurred, and knowingly fails to report that knowledge in writing to a principal, superintendent, or designee.

Education Code 37.152(a)

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Definitions

~~*Public School Fraternity, Sorority, Secret Society, or Gang*~~

~~A "public school fraternity, sorority, secret society, or gang" means an organization composed wholly or in part of students of public primary or secondary schools that seeks to perpetuate itself by taking in additional members from the students enrolled in school on the basis of the decision of its membership rather than on the free choice of a student in the school who is qualified by the rules of the school to fill the special aims of the organization. The term does not include an agency for public welfare, including Boy Scouts, Hi-Y, Girl Reserves, DeMolay, Rainbow Girls, Pan-American Clubs, scholarship societies, or other similar educational organizations sponsored by state or national education authorities. *Education Code 37.121(d)*~~

Hazing

"Hazing" means any intentional, knowing, or reckless act occurring on or off the campus of an educational institution ~~directed against a student~~, by one person alone or acting with others, ~~that endangers the mental or physical health or the safety of~~directed against a student for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any organization ~~whose members are or include other students. The term includes~~if the act:

1. Is any type of physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity~~.~~;
2. ~~Any type of physical activity, such as~~Involves sleep deprivation, exposure to the elements, confinement in a small space, calisthenics, or other similar activity that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student~~.~~;
3. ~~Any activity involving~~Involves consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance, other than as described by item 5, below, that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student~~.~~;

~~1. Any activity that intimidates or threatens the student with ostracism, that subjects the student to extreme mental stress, shame, or humiliation, or that adversely affects the mental health or dignity of the student or discourages the student from entering or remaining registered in an educational institution, or that may reasonably be expected to cause a student to leave the organization or the institution rather than submit to acts described above.~~

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4. Is any activity that induces, causes, or requires the student to perform a duty or task that involves a violation of the Penal Code.; or

5. Involves coercing, as defined by Penal Code 1.07, the student to consume:

   a. A drug; or

   b. An alcoholic beverage or liquor in an amount that would lead a reasonable person to believe that the student is intoxicated, as defined by Penal Code 49.01.

Education Code 37.151(6)

Educational Institution

"Educational institution" for purposes of this policy includes a public high school.

Student

"Student" means any person who:

1. Is registered in or in attendance at an educational institution;

2. Has been accepted for admission at the educational institution where the hazing incident occurs; or

3. Intends to attend an educational institution during any of its regular sessions after a period of scheduled vacation.

Organization

"Organization" means a fraternity, sorority, association, corporation, order, society, corps, club, or student government, a band or musical group or an academic, athletic, cheerleading, or dance team, including any group or team that participates in National Collegiate Athletic Association competition, or a service, social, or similar group, whose members are primarily students.

Education Code 37.151

Information Regarding Gang-Free Zones

A superintendent shall ensure that the student handbook for each campus includes information on gang-free zones and the consequences of engaging in organized criminal activity within those zones. *Education Code 37.110*

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Definition

A "paging device" is a telecommunications device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor. The term does not include an amateur radio under the control of an operator who holds an amateur radio station license issued by the Federal Communications Commission.

Paging Devices Policy

A board may adopt a policy prohibiting students from possessing paging devices while on school property or while attending school-sponsored or school-related activities on or off school property.

Penalties

The policy may establish disciplinary measures to be imposed for violation of the prohibition and may provide for confiscation of the paging device.

Disposal

A district policy may provide for:

1. Disposal of a confiscated paging device in any reasonable manner, provided the student's parent and the paging company whose name and address appear on the device are given 30 days' notice of the intent to dispose of the device. Such notice may be made by telephone, telegraph, or in writing, and must include the serial number of the device.
2. Charging the owner of the device or the student's parent an administrative fee of not more than $15 before it releases the device.

Education Code 37.082

Calculator Application

A district shall permit a student enrolled in a course that requires the student to use a graphing calculator to use a calculator application on a computing device, including a personal, laptop, or tablet computer, that provides the same functionality, unless the district makes available to the student a graphing calculator at no cost to the student.

A district may adopt policies related to student use of a computing device for purposes of a calculator application. To the extent Education Code 25.904 conflicts with Education Code 37.082 [see Paging Devices Policy, above], Education Code 25.904 prevails.

Education Code 25.904

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Possession of Weapons

Expulsion Offense

A student shall be expelled from school if the student engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Penal Code 46.02, or elements of an offense relating to prohibited weapons under Penal Code 46.05, on school property or while attending a school-sponsored or school-related activity on or off school property. *Education Code 37.007(a)(1)* [See also FOD]

Exception

A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

1. At an approved target range facility that is not located on a school campus; and
2. While participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department or a shooting sports sanctioning organization working with the department.

This section does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored shooting sports competition or a shooting sports educational activity.

Education Code 37.007(k)

Federal Firearms Provision

Expulsion Offense

In accordance with the Gun-Free Schools Act, a district shall expel a student who brings a firearm, as defined by federal law, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that the superintendent may modify in writing the length of expulsion in the case of an individual student.

"School" Defined

For expulsion under this provision, "school" means any setting that is under the control and supervision of a district for the purpose of student activities approved and authorized by the district.

20 U.S.C. 7961; Education Code 37.007(e) [See FOD]

Exception

This provision shall not apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the district and the district adopts appropriate safeguards to ensure student safety. *20 U.S.C. 7961(g)* [See also DH and GKA]

Unlawful Carrying of Weapons

Handgun ~~or Club~~

A person commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun ~~or club~~ and is not on the person's own premises or premises under

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the person's control; or inside of or directly en route to a motor vehicle that is owned by the person or under the person's control. *Penal Code 46.02(a)*

Location-Restricted Knife

A person commits an offense if the person:

1. Intentionally, knowingly, or recklessly carries on or about his or her person a location-restricted knife;
2. Is younger than 18 years of age at the time; and
3. Is not:
    a. On the person's own premises or premises under the person's control;
    b. Inside of or directly en route to a motor vehicle that is owned by the person or under the person's control; or
    c. Under the direct supervision of a parent or legal guardian of the person.

Penal Code 46.02(a-4)

Definitions

Firearm

For purposes of state law, “handgun” means any firearm that is designed, made, or adapted to be fired with one hand. A “firearm” means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. *Penal Code 46.01(3),(5)*

Location-Restricted Knife

“Location-restricted knife” means a knife with a blade over 5-1/2 inches. *Penal Code 46.01(6)*

~~*“Club”*~~

~~A “club” is an instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, including a blackjack, nightstick, mace, and tomahawk. *Penal Code 46.01(1)*~~

Prohibited Weapons

Under Penal Code 46.05, a person commits an offense if the person intentionally or knowingly possesses, manufactures, transports, repairs, or sells:

1. An explosive weapon (any explosive or incendiary bomb, grenade, rocket, or mine that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes a device designed, made, or adapted for delivery or shooting an explosive weapon). *Penal Code 46.01(2)*

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2. A machine gun (any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger). *Penal Code 46.01(9)*

3. A short-barrel firearm (rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a rifle or shotgun that, as altered, has an overall length of less than 26 inches). *Penal Code 46.01(10)*

4. A firearm silencer (any device designed, made, or adapted to muffle the report of a firearm), unless the firearm silencer is classified as a curio or relic by the United States Department of Justice or the actor otherwise possesses, manufactures, transports, repairs, or sells the firearm silencer in compliance with federal law. *Penal Code 46.01(4)*

~~5. Knuckles (any instrument consisting of finger rings or guards made of a hard substance that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles). *Penal Code 46.01(8)*~~

~~6.~~5. Armor-piercing ammunition (handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used primarily in pistols and revolvers). *Penal Code 46.01(12)*

~~7.~~6. A chemical dispensing device (a device, other than a small chemical dispenser sold commercially for personal protection, that is designed, made, or adapted for the purpose of dispensing a chemical capable of causing an adverse psychological or physiological effect on a human being). *Penal Code 46.01(14)*

~~8.~~7. A zip gun (a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance). *Penal Code 46.01(16)*

~~9.~~8. A tire deflation device (a device, including a caltrop or spike strip, that, when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle's tires; it does not include a traffic control device that is designed to puncture one or more of a vehicle's tires when driven over in a specific direction, and has a clearly visible sign posted in close proximity to the traffic control device that

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prohibits entry or warns motor vehicle operators of the traffic control device). *Penal Code 46.01(17)*

~~10.~~9. An improvised explosive device (a completed and operational bomb designed to cause serious bodily injury, death, or substantial property damage that is fabricated in an improvised manner using nonmilitary components. It does not include unassembled components that can be legally purchased and possessed without a license, permit, or other governmental approval; or an exploding target that is used for firearms practice, sold in kit form, and contains the components of a binary explosive. *Penal Code 46.01(~~18~~19)*

A person does not commit an offense if an item is listed at items 1–3, above, and is registered in the National Firearms Registration and Transfer Record maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives or otherwise not subject to that registration requirement or unless the item is classified as a curio or relic by the United States Department of Justice.

Penal Code 46.05(a)

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United States Constitution

A district shall take no action abridging the freedom of speech or the right of the people to petition the board for redress of grievances. *U.S. Const. Amend. I, XIV* [See FNA]

A board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when a board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. *Rosenberger v. Rector & Visitors of Univ. of Virginia, 515 U.S. 819, 828 (1995); City of Madison v. Wis. Emp. Rel. Comm'n, 429 U.S. 167, 174 (1976); Pickering v. Bd. of Educ., 391 U.S. 563, 568 (1968)*

Texas Constitution

Citizens shall have the right, in a peaceable manner, to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. *Tex. Const. Art. I, Sec. 27*

There is no requirement that a board negotiate or even respond to complaints. However, a board must stop, look, and listen and must consider the petition, address, or remonstrance. *Prof'l Ass'n of College Educators v. El Paso County Cmty. [College] Dist., 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)*

Federal Laws

Section 504

A district that receives federal financial assistance, directly or indirectly, and that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973. *34 C.F.R. 104.7(b)*

Americans with Disabilities Act

A district that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Code of Federal Regulations, Title 28, Part 35 (Americans with Disabilities Act regulations). *28 C.F.R. 35.107*

Title IX

A district that receives federal financial assistance, directly or indirectly, shall adopt and publish grievance procedures providing for prompt and equitable resolution of student complaints alleging any action prohibited by Title IX of the Education Amendments of 1972. *34 C.F.R. 106.8(b)* [See FB]

Education Code Chapter 26

Parents are partners with educators, administrators, and the board in their children's education. Parents shall be encouraged to actively participate in creating and implementing educational programs for their children. *Education Code 26.001(a)*

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Unless otherwise provided by law, a board, an administrator, an educator, or other person may not limit parental rights. *Education Code 26.001(c)*

"Parent" Defined

For purposes of Education Code Chapter 26 (Parental Rights), "parent" includes a person standing in parental relation, but does not include a person as to whom the parent-child relationship has been terminated or a person not entitled to possession of or access to a child under a court order. Except as provided by federal law, all rights of a parent under Education Code Title 2 and all educational rights under Family Code 151.001(a)(10) shall be exercised by a student who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Family Code Chapter 31, unless the student has been determined to be incompetent or the student's rights have been otherwise restricted by a court order. *Education Code 26.002*

Complaint Procedures

A board shall provide for procedures to consider complaints that a parent's right has been denied. *Education Code 26.001(d)*

A board shall adopt a grievance procedure under which the board shall address each complaint that it receives concerning a violation of a right guaranteed by Education Code Chapter 26 (Parental Rights).

The board is not required by the provision above or Education Code 11.1511(b)(13) (requiring adoption of a process to hear complaints) to address a complaint concerning a student's participation in an extracurricular activity that does not involve a violation of a right guaranteed by Education Code Chapter 26. This provision does not affect a claim brought by a parent under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) or a successor federal statute addressing special education services for a child with a disability.

Education Code 26.011

Parental Rights

Parental rights listed in Education Code Chapter 26 are:

1. Rights concerning academic programs. *Education Code 26.003* [See EHA, EIF, FDB, and FMH]
2. Access to student records. *Education Code 26.004* [See FL]
3. Access to state assessments. *Education Code 26.005* [See EKB]
4. Access to teaching materials. *Education Code 26.006* [See EF and EKB]

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5. Access to board meetings, other than a closed meeting under the Open Meetings Act. *Education Code 26.007* [See BE and BEC]

6. Right to full information concerning a student. *Education Code 26.008* [See DF, FFE, and FM]

7. Right to information concerning special education and education of students with learning disabilities. *Education Code 26.0081* [See FB]

8. Requests for public information. *Education Code 26.0085* [See GBA]

9. Consent required for certain activities. *Education Code 26.009* [See EHA, FFE, FL, FM, and FO]

10. Refusal of psychiatric or psychological treatment of child as basis for report of neglect. *Education Code 26.0091* [See FFG]

11. Exemption from instruction. *Education Code 26.010* [See EMB]

Right to Attend School Activities

Unless limited by court order, a parent appointed as a conservator of a child has at all times the right to attend school activities, including school lunches, performances, and field trips. *Family Code 153.073(a)(5)*

Objection to School Assignment

The parent or person standing in parental relation to any student may object to the student's school assignment. Upon receiving a written petition to request or object to a student's assignment, a board shall follow the procedures set forth at Education Code 25.034. *Education Code 25.033(2), .034* [See FDB]

Challenge to Education Records

A district shall give a parent or eligible student, on request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the records is inaccurate, misleading, or in violation of the privacy rights of the student. *34 C.F.R. 99.21* [See FL]

Denial of Class Credit or Final Grade

If a student is denied credit or a final grade for a class by an attendance committee, the student may appeal the decision to the board. *Education Code 25.092(d)* [See FEC]

Complaints Against Professional Employees

A person may not file suit against a professional employee of a district unless the person has exhausted the district's remedies for resolving the complaint. *Education Code 22.0514*

"Professional employee of a district" includes:

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1. A superintendent, principal, teacher, including a substitute teacher, supervisor, social worker, school counselor, nurse, and teacher's aide employed by a district;
2. A teacher employed by a company that contracts with a district to provide the teacher's services to the district;
3. A student in an education preparation program participating in a field experience or internship;
4. A DPS-certified school bus driver;
5. A member of the board; and
6. Any other person whose employment by a district requires certification and the exercise of discretion.

Education Code 22.051(a)

Finality of Grades

An examination or course grade issued by a classroom teacher is final and may not be changed unless the grade is arbitrary, erroneous, or not consistent with a district's grading policy applicable to the grade, as determined by the board.

A board's determination is not subject to appeal. This provision does not prohibit an appeal related to a student's eligibility to participate in extracurricular activities under Education Code 33.081. [See FM]

Education Code 28.0214

Public Information Requests

A district that receives a request from a parent for public information relating to the parent's child shall comply with Government Code Chapter 552 (Public Information Act). A district shall also comply with the deadlines and provisions set forth at Education Code 26.0085. *Gov't Code Ch. 552; Education Code 26.0085*

Closed Meeting

A board may conduct a closed meeting on a parent or student complaint to the extent required or provided by law. *Gov't Code Ch. 551, Subch. D* [See BEC]

Record of Proceedings

An appeal of a board's decision to the Commissioner of Education shall be decided based on a review of the record developed at the district level. "Record" includes, at a minimum, an audible electronic recording or written transcript of all oral testimony or argument. *Education Code 7.057(c), (f)*

It is a district's responsibility to make and preserve the records of the proceedings before the board. If a district fails to create and preserve the record without good cause, all substantial evidence issues that require missing portions of the record for resolution shall be deemed against the district. The record shall include:

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1. A tape recording or a transcript of the hearing at the local level. If a tape recording is used:
   a. The tape recording must be complete, audible, and clear; and
   b. Each speaker must be clearly identified.
2. All evidence admitted;
3. All offers of proof;
4. All written pleadings, motions, and intermediate rulings;
5. A description of matters officially noticed;
6. If applicable, the decision of the hearing examiner;
7. A tape recording or transcript of the oral argument before the board; and
8. The decision of the board.

19 TAC 157.1073(d)

Disruption

It is a criminal offense for a person, with intent to prevent or disrupt a lawful meeting, to substantially obstruct or interfere with the ordinary conduct of a meeting by physical action or verbal utterance and thereby curtail the exercise of others' First Amendment rights. *Penal Code 42.05; Morehead v. State, 807 S.W. 2d 577 (Tex. Crim. App. 1991)*

Note: See EHBAB for provisions concerning students with disabilities; see the FO series for provisions concerning student discipline; see FL for provisions concerning student records.

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Student Code of Conduct

The board shall adopt a Student Code of Conduct for a district, with the advice of its district-level committee. The Student Code of Conduct must:

1. Specify the circumstances, in accordance with Education Code Chapter 37, Subchapter A, under which a student may be removed from a classroom, campus, disciplinary alternative education program (DAEP), or vehicle owned or operated by the district.

2. Specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a DAEP.

3. Outline conditions under which a student may be suspended, as provided by Education Code 37.005 [see FOB], or expelled, as provided by Education Code 37.007 [see FOD].

4. Specify that consideration will be given, as a factor in each decision concerning suspension, removal to a DAEP, expulsion, or placement in a juvenile justice alternative education program (JJAEP), regardless of whether the decision concerns a mandatory or discretionary action, to:

   a. Self-defense;

   b. Intent or lack of intent at the time the student engaged in the conduct;

   c. A student's disciplinary history; ~~or~~

   d. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct~~.~~;

   e. A student's status in the conservatorship of the Department of Family and Protective Services; or

   f. A student's status as a student who is homeless.

5. Provide guidelines for setting the length of removal to a DAEP or of expulsion. Except as provided by Education Code 37.007(e) (Gun-Free Schools Act [see FOD]), a district is not required to specify a minimum term of removal or expulsion.

6. Address the notification of the parent or guardian of a student's violation of the Student Code of Conduct that results in suspension, removal to a DAEP, or expulsion.

7. Prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions. "Bullying" has the meaning provided by Education Code 37.0832. [See

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FFI] "Harassment" means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student's physical or emotional health or safety. "Hit list" means a list of people targeted to be harmed using a firearm, as defined by Penal Code 46.01(3) [see FNCG]; a knife, as defined by Penal Code 46.01(7) (any bladed hand instrument that is capable of inflicting serious bodily injury or death by cutting or stabbing a person with the instrument); or any other object to be used with intent to cause bodily harm.

8. Provide, as appropriate for students at each grade level, methods, including options, for:

   a. Managing students in the classroom, on school grounds, and on a vehicle owned or operated by the district;

   b. Disciplining students; and

   c. Preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists.

9. Include an explanation of the provisions regarding refusal of entry to or ejection from district property under Education Code 37.105 [see GKA], including the appeal process established under 37.105(h).

The methods adopted must provide that a student who is enrolled in a special education program under Education Code Chapter 29, Subchapter A, may not be disciplined for bullying, harassment, or making hit lists until an admission, review, and dismissal (ARD) committee meeting has been held to review the conduct. [See FOF]

Education Code 37.001(a)–(b-1), (e)

Law Enforcement Duties	The law enforcement duties of peace officers, school resource officers, and security personnel [see CKE] must be included in the Student Code of Conduct. *Education Code 37.081(d)(2)*
Changes in SCOC	Once a Student Code of Conduct is promulgated, any change or amendment shall be approved by a board.
Posting	The Student Code of Conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal.

Education Code 37.001(b-1)–(c)

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Notice to Parents

Each school year, a district shall provide parents with notice of and information regarding the Student Code of Conduct. *Education Code 37.001(d)*

Noncustodial Parent

A noncustodial parent may request in writing that, for the remainder of the school year in which the request is received, a district provide that parent with a copy of any written notification that is generally provided to a student's parent or guardian, relating to student misconduct under Education Code 37.006 or 37.007. A district may not unreasonably deny the request. Notwithstanding this requirement, a district shall comply with any applicable court order of which the district has knowledge. *Education Code 37.0091*

Copies to Staff

The district shall provide each teacher and administrator with a copy of Education Code Chapter 37, Subchapter A regarding student discipline and with a copy of the related local policy. *Education Code 37.018*

Campus Behavior Coordinator

A person at each campus must be designated to serve as the campus behavior coordinator (CBC). The person may be the campus principal or any other campus administrator selected by the principal.

The CBC is primarily responsible for maintaining student discipline and the implementation of Education Code Chapter 37, Subchapter A.

Duties

The specific duties of the CBC may be established by campus or district policy. Unless the policy provides otherwise, duties imposed on a campus principal or other campus administrator by Education Code Chapter 37, Subchapter A must be performed by the CBC and a power granted to a campus principal may be exercised by the CBC.

Notice to Parents

The CBC shall promptly notify a student's parent or guardian if the student is placed into in-school or out-of-school suspension, placed in a DAEP, expelled, or placed in a JJAEP or is taken into custody by a law enforcement officer.

A CBC must provide notice by promptly contacting the parent or guardian by telephone or in person; and making a good faith effort to provide written notice of the disciplinary action to the student, on the day the action is taken, for delivery to the student's parent or guardian.

If a parent or guardian entitled to notice has not been reached by telephone or in person by 5 p.m. of the first business day after the day the disciplinary action is taken, a CBC shall mail written notice of the action to the parent or guardian at the parent's or guardian's last known address.

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If a CBC is unable or not available to promptly provide notice, the principal or other designee shall provide the notice.

Education Code 37.0012

Website Requirement

A district shall post on the district's website, for each campus, the email address and dedicated telephone number of a person clearly identified as:

1. The campus behavior coordinator; or

2. If the district has been designated as a district of innovation under Education Code Chapter 12A [see AF] and is exempt from the requirement to designate a campus behavior coordinator under the district's local innovation plan, a campus administrator designated as being responsible for student discipline.

Education Code 26.015

No Unsupervised Setting

Except for students who are suspended or expelled, no student may be placed in an unsupervised setting as a result of conduct for which a student may be placed in a DAEP. *Education Code 37.008(h)*

Continuation of Disciplinary Action

If a district takes disciplinary action against a student and the student subsequently enrolls in another district or school before the expiration of the period of disciplinary action, the district or school taking the disciplinary action shall provide to the district or school in which the student enrolls, at the same time other records of the student are provided, a copy of the order of disciplinary action.

"Disciplinary action" means a suspension, expulsion, placement in an alternative education program, or other limitation in enrollment eligibility of a student.

"District or school" includes an independent school district, a home-rule school district, a campus or campus program charter holder, or an open-enrollment charter school.

Education Code 37.022

Opportunity to Complete Courses

If a student is placed in in-school suspension or other alternative setting other than a DAEP, a district shall offer the student the opportunity to complete, before the beginning of the next school year, each course in which the student was enrolled at the time of removal. A district may provide the opportunity by any method available, including a correspondence course, distance learning, or summer school. *Education Code 37.021* [For DAEP notice requirements, see FOCA.]

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Alternative Means to Receive Coursework

A district shall provide to a student during the period of the student's suspension under Education Code 37.005, regardless of whether the student is placed in in-school or out-of-school suspension, an alternative means of receiving all coursework provided in the classes in the foundation curriculum under Education Code 28.002(a)(1) that the student misses as a result of the suspension. A district must provide at least one option for receiving the coursework that does not require the use of the internet. *Education Code 37.005(e)*

Seclusion

A district employee or volunteer or an independent contractor of a district may not place a student in seclusion. *Education Code 37.0021(c)*

"Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

1. Is designed solely to seclude a person; and
2. Contains less than 50 square feet of space.

Education Code 37.0021(b)(2)

This section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

1. Is employed or commissioned by a school district; or
2. Provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the district and a local law enforcement agency.

Education Code 37.0021(h)

Exceptions

This prohibition on seclusion does not apply to:

1. A peace officer performing law enforcement duties; or
2. An educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

Law Enforcement Duties

"Law enforcement duties" means activities of a peace officer relating to the investigation and enforcement of state criminal laws and other duties authorized by the Code of Criminal Procedure.

Education Code 37.0021(b)(4), (g)

Restraint Reports

A district shall report electronically to the Texas Education Agency (TEA), in accordance with standards provided by commissioner

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rule, information relating to the use of restraint by a peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity. The report must be consistent with the requirements adopted by commissioner rule for reporting the use of restraint involving students with disabilities [see FOF]. *Education Code 37.0021(i)*

"Restraint" means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student's body. *Education Code 37.0021(b)(1)*

Corporal Punishment

If the board adopts a policy under Education Code 37.001(a)(8) under which corporal punishment is permitted as a method of student discipline, a district educator may use corporal punishment to discipline a student unless the student's parent or guardian or other person having lawful control over the student has previously provided a written, signed statement prohibiting the use of corporal punishment as a method of student discipline. *Education Code 37.0011(b)*

Parent Statement

To prohibit the use of corporal punishment as a method of student discipline, each school year a student's parent or guardian or other person having lawful control over the student must provide a separate written, signed statement to the board in the manner established by the board. The student's parent or guardian or other person having lawful control over the student may revoke the statement provided to the board at any time during the school year by submitting a written, signed revocation to the board in the manner established by the board. *Education Code 37.0011(c)–(d)*

Definition

"Corporal punishment" means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline. The term does not include physical pain caused by reasonable physical activities associated with athletic training, competition, or physical education or the use of restraint as authorized under Education Code 37.0021 [see FOF]. *Education Code 37.0011(a*)

Use of Force to Maintain Discipline

The use of force, but not deadly force, against a student is justified if the teacher or administrator is entrusted with the care, supervision, or administration of the student when, and to the degree the teacher or administrator reasonably believes the force is necessary, to further the purpose of education or to maintain discipline in a group. *Penal Code 9.62*

Aversive Techniques

A district or district employee or volunteer or an independent contractor of a district may not apply an aversive technique, or by authorization, order, or consent, cause an aversive technique to be applied, to a student.

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"Aversive technique" means a technique or intervention that is intended to reduce the likelihood of a behavior reoccurring by intentionally inflicting on a student significant physical or emotional discomfort or pain. The term includes a technique or intervention that:

1. Is designed to or likely to cause physical pain, other than an intervention or technique permitted under Education Code 37.0011 [see Corporal Punishment, above];

2. Notwithstanding the above corporal punishment provisions, is designed to or likely to cause physical pain through the use of electric shock or any procedure that involves the use of pressure points or joint locks;

3. Involves the directed release of a noxious, toxic, or otherwise unpleasant spray, mist, or substance near the student's face;

4. Denies adequate sleep, air, food, water, shelter, bedding, physical comfort, supervision, or access to a restroom facility;

5. Ridicules or demeans the student in a manner that adversely affects or endangers the learning or mental health of the student or constitutes verbal abuse;

6. Employs a device, material, or object that simultaneously immobilizes all four extremities, including any procedure that results in such immobilization known as prone or supine floor restraint;

7. Impairs the student's breathing, including any procedure that involves:

   a. Applying pressure to the student's torso or neck; or

   b. Obstructing the student's airway, including placing an object in, on, or over the student's mouth or nose or placing a bag, cover, or mask over the student's face;

8. Restricts the student's circulation;

9. Secures the student to a stationary object while the student is in a sitting or standing position;

10. Inhibits, reduces, or hinders the student's ability to communicate;

11. Involves the use of a chemical restraint;

12. Constitutes a use of timeout that precludes the student from being able to be involved in and progress appropriately in the required curriculum and, if applicable, toward the annual

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goals included in the student's individualized education program, including isolating the student by the use of physical barriers; or

13. Except as provided below, deprives the student of the use of one or more of the student's senses.

Education Code 37.0023(a)–(b)

An aversive technique that deprives the student of the use of one or more of the student's senses may be used if the technique is executed in a manner that:

1. Does not cause the student discomfort or pain; or

2. Complies with the student's individualized education program or behavior intervention plan.

Nothing in this section may be construed to prohibit a teacher from removing a student from class under Education Code 37.002. [See FOA]

Education Code 37.0023(c)–(d)

Videotapes and Recordings

A district employee is not required to obtain the consent of a child's parent before the employee may make a videotape of the child or authorize the recording of the child's voice if the videotape or recording is to be used only for purposes of safety, including the maintenance of order and discipline in common areas of the school or on school buses. *Education Code 26.009(b)(1)*

Teacher Documentation

A teacher may document any conduct by a student that does not conform to the Student Code of Conduct and may submit that documentation to the principal. A district may not discipline a teacher on the basis of the submitted documentation. *Education Code 37.002(b-1)*

Reports

Disciplinary Alternative Education Programs

For each placement in a disciplinary alternative education program (DAEP), a district shall annually report to the commissioner:

1. Information identifying the student, including the student's race, sex, and date of birth, that will enable TEA to compare placement data with information collected through other reports;

2. Information indicating whether the placement was based on:

   a. Conduct violating the Student Code of Conduct;

   b. Conduct for which a student may be removed from class by a teacher [see FOA and the Student Code of Conduct];

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c. Conduct for which placement in a DAEP is required [see FOC and the Student Code of Conduct]; or

d. Conduct occurring while a student was enrolled in another district and for which placement in a DAEP is permitted by Education Code 37.008(j);

3. The number of full or partial days the student was assigned to the program and the number of full or partial days the student attended the program; and

4. The number of placements that were inconsistent with the guidelines on length of placement in the Student Code of Conduct.

Expulsions

For each expulsion, a district shall annually report to the commissioner:

1. Information identifying the student, including the student's race, sex, and date of birth, that will enable TEA to compare placement data with information collected through other reports;

2. Information indicating whether the expulsion was based on:

a. Conduct for which expulsion is required, including information specifically indicating whether a student was expelled for bringing a firearm to school; or

b. Conduct for which expulsion is permitted;

3. The number of full or partial days the student was expelled;

4. Information indicating whether:

a. The student was placed in a JJAEP;

b. The student was placed in a DAEP; or

c. The student was not placed in a JJAEP or other alternative education program; and

5. The number of expulsions that were inconsistent with the guidelines on length of expulsion in the Student Code of Conduct.

Out-of-School Suspensions

For each out-of-school suspension under Education Code 37.005, a district shall report:

1. Information identifying the student, including the student's race, sex, and date of birth, that will enable TEA to compare placement data with information collected through other reports;

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2. Information indicating the basis for the suspension;

3. The number of full or partial days the student was suspended; and

4. The number of out-of-school suspensions that were inconsistent with the guidelines included in the Student Code of Conduct under Education Code 37.001(a)(3) [see Student Code of Conduct, item 3, above].

Education Code 37.020

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Mandatory Removal by a Teacher

A teacher shall remove from class and send to the principal for placement in a disciplinary alternative education program (DAEP) or expulsion, as appropriate, a student who engages in conduct described in Education Code 37.006 (removal) or 37.007 (expulsion). [See FOC and FOD] *Education Code 37.002(d)*

Routine Referral

A teacher may send a student to the campus behavior coordinator's (CBC) office to maintain effective discipline in the classroom. The CBC shall respond by employing appropriate discipline management techniques, consistent with the Student Code of Conduct that can reasonably be expected to improve the student's behavior before returning the student to the classroom. If the student's behavior does not improve, the CBC shall employ alternative discipline management techniques, including any progressive interventions designated as the responsibility of the CBC in the Student Code of Conduct. *Education Code 37.002(a)* [See FO]

Discretionary Removal

A teacher may remove from class a student:

1. Who has been documented by the teacher to repeatedly interfere with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn; or
2. Whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn.

Education Code 37.002(b)

Reporting Classroom Removals

A student who is sent to the campus behavior coordinator's or other administrator's office under a routine referral or a discretionary removal, as described above, is not considered to have been removed from the classroom for the purposes of reporting data through the Public Education Information Management System (PEIMS) or other similar reports required by state or federal law. *Education Code 37.002(e)*

[See DNA for information about teacher evaluations and disciplinary referrals.]

Placement of Student

If a teacher removes a student from class under the provisions above, the principal may place the student in another appropriate classroom, in-school suspension, or DAEP [see FOC]. *Education Code 37.002(c)*

Conference by Third Day Required

Not later than the third class day after the day on which a student is removed from class by the teacher under the above provision or by the school principal or other appropriate administrator under the

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Student Code of Conduct, the campus behavior coordinator or other appropriate administrator shall schedule a conference among the campus behavior coordinator or other appropriate administrator, a parent or guardian of the student, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular classroom pending the conference. Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the campus behavior coordinator, after consideration of the mitigating factors (see below), shall order the placement of the student for a period consistent with the Student Code of Conduct.

Appeals

If district policy allows a student to appeal to the board or the board's designee, a decision of the campus behavior coordinator or other appropriate administrator, other than an expulsion under Section 37.007, the decision of the board or the board's designee is final and may not be appealed.

Placement Length

The period of the placement may not exceed one year unless, after a review, the district determines that the student is a threat to the safety of other students or to district employees. The student may not be returned to the regular class pending the required conference.

Education Code 37.009(a)

Mitigating Factors

The CBC must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct. *Education Code 37.009(a~~), .001(a)(4)~~)*

[See Student Code of Conduct, item 4, at FO(LEGAL) for mitigating factors.]

Prohibitions on Activities

The terms of the removal may prohibit the student from attending or participating in school-sponsored or school-related activities. *Education Code 37.002(c)*

Note: A power granted to a campus principal under Education Code Chapter 37, Subchapter A may be exercised by the CBC.

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Return to Class

The principal may not return the student to the class of the teacher who removed the student without the teacher's consent, unless the placement review committee determines that such placement is the best or only alternative available.

If the teacher removed the student from class because the student engaged in the elements of an offense listed in Education Code 37.006(a)(2)(B) or 37.007(a)(2)(A) or (b)(2)(C) (assault, sexual assault, assault against a district employee or volunteer) against the teacher, the student may not be returned to the teacher's class without the teacher's consent. The teacher may not be coerced to consent.

Education Code 37.002(c), (d)

Placement Review Committee

Each school shall establish a three-member committee to determine the placement of a student when a teacher refuses the return of a student to the teacher's class. The committee shall make recommendations to the district regarding readmission of expelled students.

Composition

Committee members shall be appointed as follows:

1. Campus faculty shall choose two teachers to serve as members and one teacher to serve as an alternate member; and
2. The principal shall choose one member from the professional staff of a campus.

The teacher refusing to readmit the student may not serve on the committee.

Education Code 37.003

Removal by School Bus Driver

The driver of a school bus transporting students to or from school or a school-sponsored or school-related activity may send a student to the principal's office to maintain effective discipline on the school bus.

The principal shall respond by employing appropriate discipline management techniques consistent with the Student Code of Conduct.

Education Code 37.0022

Note: See FOF for provisions concerning students with disabilities.

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Suspension Authorized

The principal or other appropriate administrator may suspend a student who engages in conduct identified in the Student Code of Conduct as conduct for which a student may be suspended. *Education Code 37.005(a)*

Maximum Length

A suspension may not exceed three school days. *Education Code 37.005(b)*

[See FO for provisions regarding coursework to students in suspension.]

Students Below Grade 3

A student who is enrolled in a grade level below grade 3 may not be placed in out-of-school suspension unless while on school property or while attending a school-sponsored or school-related activity on or off of school property, the student engages in:

1. Conduct that contains the elements of an offense related to weapons under Penal Code 46.02 or 46.05;
2. Conduct that contains the elements of a violent offense related under Penal Code 22.01, 22.011, 22.02, 22.021; or
3. Selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:
    a. Marihuana or a controlled substance, as defined by Health and Safety Code Chapter 481, or by 21 U.S.C. Section 801 et seq.;
    b. A dangerous drug, as defined by Health and Safety Code Chapter 483; or
    c. An alcoholic beverage, as defined by Alcoholic Beverage Code 1.04.

Education Code 37.005(c)

Students Who Are Homeless

A district may not place a student who is homeless in out-of-school suspension unless the student engages in conduct described at items 1–3, above, while on school property or while attending a school-sponsored or school-related activity on or off of school property. The campus behavior coordinator may coordinate with the district's homeless education liaison to identify appropriate alternatives to out-of-school suspension for a student who is homeless. In Education Code 37.005(d), "student who is homeless" has the meaning assigned to the term "homeless children and youths" under 42 U.S.C. Section 11434a. *Education Code 37.005(d)*

Positive Behavior Program

A district may develop and implement a program, in consultation with campus behavior coordinators employed by the district [see FO] and representatives of a regional education service center,

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that provides a disciplinary alternative for a student enrolled in a grade level below grade 3 who engages in conduct described by Education Code 37.005(a) [at Suspension Authorized, above] and is not subject to 37.005(c) [at Students below Grade 3, above]. The program must:

1. Be age-appropriate and research-based;
2. Provide models for positive behavior;
3. Promote a positive school environment;
4. Provide alternative disciplinary courses of action that do not rely on the use of in-school suspension, out-of-school suspension, or placement in a disciplinary alternative education program to manage student behavior; and
5. Provide behavior management strategies including:
    a. Positive behavioral intervention and support;
    b. Trauma-informed practices;
    c. Social and emotional learning;
    d. A referral for services, as necessary; and
    e. Restorative practices.

A district may annually conduct training for district staff on the program adopted.

Education Code 37.0013

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Removal Under Student Code of Conduct

The Student Code of Conduct must specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program (DAEP). *Education Code 37.001(a)(2)*

Mandatory Placement in DAEP

A student shall be removed from class and placed in a DAEP if the student engages in conduct described in Education Code 37.006 that requires placement. *Education Code 37.006*

School-Related Misconduct

A student shall be removed from class and placed in a DAEP if the student engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Penal Code 42.06, or terroristic threat under Penal Code 22.07.

A student shall also be removed from class and placed in a DAEP if the student commits the following on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

1. Engages in conduct punishable as a felony.
2. Engages in conduct that contains the elements of assault, under Penal Code 22.01(a)(1).
3. Sells, gives, or delivers to another person or possesses, uses, or is under the influence of:
    a. Marijuana or a controlled substance, as defined by the Texas Controlled Substances Act, Health and Safety Code Chapter 481, or by 21 U.S.C. 801, et seq.;
    b. A dangerous drug, as defined by the Texas Dangerous Drug Act, Health and Safety Code Chapter 483.
4. Sells, gives, or delivers to another person an alcoholic beverage, as defined by Alcoholic Beverage Code 1.04, or commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage.
5. Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Health and Safety Code 485.031 through 485.034.
6. Engages in conduct that contains the elements of the offense of public lewdness under Penal Code 21.07.
7. Engages in conduct that contains the elements of the offense of indecent exposure under Penal Code 21.08.

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8. Engages in conduct that contains the elements of the offense of harassment under Penal Code 42.07(a)(1), (2), (3), or (7) against an employee of the district.

Education Code 37.006(a)

Exception — Removal to a DAEP for school-related misconduct is not required if the student is expelled for the same conduct. *Education Code 37.006(m)*

Retaliation — Except where a student engages in retaliatory acts against a district employee for which expulsion is mandatory [see FOD], a student shall be removed from class and placed in a DAEP if the student engages in conduct on or off school property containing the elements of retaliation under Penal Code 36.06, against any school employee. *Education Code 37.006(b)*

Conduct Unrelated to School — In addition to the circumstances listed above, a student shall be removed from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

1. The student receives deferred prosecution under Family Code 53.03 for conduct defined as a felony offense in Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03;
2. A court or jury finds that the student has engaged in delinquent conduct under Family Code 54.03 for conduct defined as a felony offense in Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03; or
3. The superintendent or designee has a reasonable belief that the student has engaged in conduct defined as a felony offense in Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03.

Education Code 37.006(c)

Reasonable Belief — In determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense, a superintendent or a superintendent's designee may consider all available information and must consider the information furnished under Code of Criminal Procedure Article 15.27~~.~~ other than information requested under Code of Criminal Procedure Article 15.27(k-1). *Education Code 37.006(e); Code of Criminal Procedure 15.27(a)* [See GRAA]

Title 5 Felonies — The following are felony offenses listed in Penal Code, Title 5, Offenses Against the Person.

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1. Murder. *Penal Code 19.02*
2. Capital Murder. *Penal Code 19.03*
3. Manslaughter. *Penal Code 19.04*
4. Criminally Negligent Homicide. *Penal Code 19.05*
5. Unlawful Restraint, if:
    a. The person restrained was younger than 17 years of age; or
    b. The actor recklessly exposes the victim to a substantial risk of serious bodily injury; restrains an individual the actor knows is a public servant while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty; or while in custody restrains any other person.

    Penal Code 20.02
6. Kidnapping. *Penal Code 20.03*
7. Aggravated Kidnapping. *Penal Code 20.04*
8. Smuggling of Persons. *Penal Code 20.05*
9. Continuous Smuggling of Persons. *Penal Code 20.06*
10. Trafficking of Persons. *Penal Code 20A.02*
11. Continuous Trafficking of Persons. *Penal Code 20A.03*
12. Continuous Sexual Abuse of Young Child or Children. *Penal Code 21.02*
13. Bestiality. *Penal Code 21.09*
14. Indecency with a Child. *Penal Code 21.11*
15. Improper Relationship between Educator and Student. *Penal Code 21.12*
16. Invasive Visual Recording. *Penal Code 21.15*
17. Unlawful Disclosure or Promotion of Intimate Visual Material. *Penal Code 21.16*
18. Voyeurism, if the victim was younger than 14 years of age at the time of the offense. *Penal Code 21.17*
19. Sexual Coercion. *Penal Code 21.18*

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20. Assault, if the offense is punishable as a felony ~~as specified in Penal Code 22.01(b), (b-1), and (b-2).~~. *Penal Code 22.01*

21. Sexual Assault. *Penal Code 22.011*

22. Aggravated Assault. *Penal Code 22.02*

23. Aggravated Sexual Assault. *Penal Code 22.021*

24. Injury to a Child, Elderly Individual, or Disabled Individual. *Penal Code 22.04*

25. Abandoning or Endangering a Child. *Penal Code 22.041*

26. Deadly Conduct, if the person knowingly discharges a firearm at or in the direction of one or more individuals, or at or in the direction of a habitation, building, or vehicle and is reckless as to whether the habitation, building, or vehicle is occupied. *Penal Code 22.05*

27. Terroristic Threat, if the actor threatens to commit any offense involving violence to any person or property with intent to:

    a. Place any person in fear of imminent serious bodily injury if the actor knows the person is a peace officer or judge;

    b. Prevent or interrupt the occupation or use of a building, room, place of assembly, place to which the public has access, place of employment or occupation, aircraft, automobile, or other form of conveyance, or other public place if the prevention or interruption causes pecuniary loss of $1,500 or more to the owner;

    c. Cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service;

    d. Place the public or a substantial group of the public in fear of serious bodily injury; or

    e. Influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision.

    Penal Code 22.07

28. Aiding Suicide, if the conduct causes suicide or attempted suicide that results in serious bodily injury. *Penal Code 22.08*

29. Tampering with Consumer Product. *Penal Code 22.09*

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30. Harassment by Persons in Certain Facilities or of Public Servant. *Penal Code 22.11*

Sexual Assault of Another Student

A student shall be removed from class and placed in a DAEP or juvenile justice alternative education program (JJAEP) if:

1. The student was convicted of, received adjudication for, or was placed on probation for sexual assault of another student while the students were assigned to the same campus, regardless of whether the assault occurred on or off school property;
2. The parent of the victim of the assault has requested that the student be transferred to a campus other than that to which the victim is assigned; and
3. There is only one campus in a district serving the grade level in which the student is enrolled.

Education Code 25.0341, 37.0051(a) [See FDE at Sexual Assault Transfer—Transfer of Assailant]

A limitation imposed by Education Code Chapter 37 on the length of placement in a DAEP or a JJAEP does not apply to a placement under this provision. *Education Code 37.0051(b)*

Permissive Removal

Non-Title 5 Felony

A student may be removed from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

1. The superintendent or designee has a reasonable belief [see Reasonable Belief, above] that the student has engaged in conduct defined as a felony offense other than aggravated robbery under Penal Code 29.03, or those offenses listed in Penal Code Title 5 [see above at Title 5 Felonies]; and
2. The continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

Education Code 37.006(d)–(e)

Bullying

A student may be removed from class and placed in a DAEP if the student:

1. Engages in bullying that encourages a student to commit or attempt to commit suicide;
2. Incites violence against a student through group bullying; or

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3. Releases or threatens to release intimate visual material of a minor or student who is 18 years of age or older without the student's consent.

Nothing in this provision exempts a school from reporting a finding of intimate visual material of a minor.

Definitions

Bullying

"Bullying" has the meaning assigned by Education Code 37.0832. [See FFI]

Intimate Visual Material

"Intimate visual material" has the meaning assigned by Civil Practice and Remedies Code 98B.001.

Education Code 37.0052

One Year After Conduct

A principal or other appropriate administrator may, but is not required to, remove a student to a DAEP for off-campus conduct, for which removal would otherwise be required, if the principal or other appropriate administrator did not have knowledge of the conduct before the first anniversary of the date the conduct occurred. *Education Code 37.006(n)*

Certain Organization and Gang Membership and Solicitation

A board or an educator shall recommend placing in DAEP any student who commits the misdemeanor offenses described in Education Code 37.121(a) and (c), regarding membership in or solicitation to join a public school fraternity, sorority, secret society, or gang [see FNCC]. *Education Code 37.121(b)*

Older Students

A person who is 21 years of age or older and is admitted by a district for the purpose of completing the requirements for a diploma is not eligible for placement in a DAEP if the person engages in conduct that would require or authorize such placement for a student under the age of 21. If the student engages in such conduct, the district shall revoke the student's admission. *Education Code 25.001(b-1)*

Placement of Younger Students

A student who is younger than ten shall be removed from class and placed in a DAEP if the student engages in conduct for which expulsion would be required by Section 37.007. *Education Code 37.006(f), .007(e)* [See FOD]

Students Younger Than Six

Notwithstanding any other provision of the Education Code, a student who is younger than six years of age may not be removed from class and placed in a DAEP, except that a student younger than six years of age who has been expelled pursuant to the Gun Free Schools Act [see FOD] shall be provided educational services in a DAEP. *Education Code 37.006(l), .007(e)(2)*

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Process for Removal

Conference

Not later than the third class day after a student is removed by a teacher or by the school principal or other appropriate administrator, the campus behavior coordinator (CBC) or other appropriate administrator shall schedule a conference among the CBC or other appropriate administrator, the student's parent or guardian, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular class pending the conference.

Mitigating Factors

Before ordering removal to a DAEP, the CBC must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the behavior coordinator concerns a mandatory or discretionary action.

Order

Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the CBC, after considering any mitigating factors under Education Code 37.001(a)(4) [see FO], shall order the placement of the student for a period consistent with the Student Code of Conduct.

Appeal

If district policy allows a student to appeal to the board or the board's designee a decision of the CBC or other appropriate administrator, the decision of the board or the board's designee is final and may not be appealed.

Education Code 37.009(a) [See Student Code of Conduct]

Term of Removal

The period of the placement after removal may not exceed one year unless, after a review, a district determines that the student is a threat to the safety of other students or to district employees. *Education Code 37.009(a)*

A board or designee shall set a term for a student's placement in a DAEP. If the period of placement is inconsistent with the guidelines in the Student Code of Conduct, the order must give notice of the inconsistency. The period of ~~the~~ placement in a DAEP may not exceed one year unless, after a review, a district determines that the student is a threat to the safety of other students or to district employees~~.~~ or extended placement is in the best interest of the student. *Education Code 37.009~~(a),~~ (d)*

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Beyond Grading Period or 60 Days

If placement in a DAEP is to extend beyond 60 days or the end of the next grading period, whichever is earlier, the student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before a board or designee.

No Appeal

Any decision of a board or designee concerning placement beyond 60 days or the end of the next grading period is final and cannot be appealed.

Education Code 37.009(b)

Beyond End of School Year

Before a student may be placed in a DAEP for a period that extends beyond the end of the school year, a board or designee must determine that:

1. The student's presence in the regular classroom program or at the student's regular campus presents a danger of physical harm to the student or another individual; or
2. The student has engaged in serious or persistent misbehavior that violates the Student Code of Conduct.

Education Code 37.009(c)

Order of Removal

A board or designee shall deliver to the student and the student's parent or guardian a copy of the order placing the student in a DAEP. *Education Code 37.009(g)*

Not later than the second business day after the date of the removal conference, a board or designee shall deliver a copy of the order placing the student in a DAEP and any information required under Family Code 52.04 to the authorized officer of the juvenile court in the county in which the juvenile resides. *Education Code 37.010(a)*

Activities

The terms of a placement under Education Code 37.006 must prohibit the student from attending or participating in school-sponsored or school-related activities. *Education Code 37.006(g)*

In addition to any notice required under Code of Criminal Procedure 15.27 [see GRAA], a principal or designee shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in conduct for which DAEP placement must or may be ordered.

Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as pro-

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vided by state or federal law. An educator's certificate may be suspended or revoked for intentional failure to keep such information confidential.

Education Code 37.006(o)

Completion of Proceedings Upon Withdrawal

If a student withdraws from a district before an order for placement in a DAEP is entered, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student re-enrolls in the district the same or subsequent school year, the district may enforce the order at that time except for any period of the placement that has been served by the student in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order. *Education Code 37.009(i)*

Enrollment in Another District

If a student placed in a DAEP enrolls in another district before the expiration of the placement, a board shall provide to the district in which the student enrolls a copy of the placement order at the same time it provides other records. The district in which the student enrolls shall inform each educator who will have responsibility for, or will be under the direction and supervision of an educator who will have responsibility for, the instruction of the student of the contents of the placement order. Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as provided by state or federal law.

The district in which the student enrolls may continue the placement or allow the student to attend regular classes. [See FO] The district in which the student enrolls may take any of these actions if:

1. The student was placed in a DAEP by an open-enrollment charter school and the charter school provides the district a copy of the placement order; or
2. The student was placed in a DAEP by a district in another state and:
    a. The out-of-state district provides a copy of the placement order; and
    b. The grounds for placement are the same as grounds for placement in the enrolling district.

Education Code 37.008(j)

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Out-of-State Placement

If a student was placed in a DAEP in another state for more than one year and the enrolling district continues the placement under Education Code 37.008(j), the enrolling district shall reduce the period of placement so that the aggregate period does not exceed one year unless the enrolling district determines that:

1. The student is a threat to the safety of other students or to district employees; or
2. Extended placement is in the best interest of the student.

Education Code 37.008(j-1)

Court-Ordered Placement

Unless a board and the juvenile board for the county in which a district's central administrative office is located have entered into a memorandum of understanding concerning the juvenile probation department's role in supervising and providing other support services for students in DAEP programs:

1. A court may not order a student expelled under Section 37.007 to attend a school district DAEP as a condition of probation;
2. A court may not order a student to attend a DAEP without a district's consent, until the student has successfully completed any sentencing requirements, if the court has ordered the student to attend a DAEP as a condition of probation once during a school year and the student is referred to juvenile court again during that school year.

Education Code 37.010(c)–(d)

School Activities

Any court placement in a DAEP must prohibit the student from attending or participating in school-sponsored or school-related activities. *Education Code 37.010(e)*

Placement After Court Disposition

After the student has successfully completed any court disposition requirements, including conditions of deferred prosecution or conditions required by the prosecutor or probation department, a district may not refuse to admit the student if the student meets the requirements for admission into the public schools. A district may place the student in the DAEP.

Notwithstanding Education Code 37.002(d) [see FOA], the student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

Education Code 37.010(f)

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Not Guilty/ Insufficient Evidence/Charges Dropped

The office of the prosecuting attorney or the office or official designated by the juvenile board shall, within two working days, notify the school district that removed a student to a DAEP under Education Code 37.006 if:

1. Prosecution of a student was refused for lack of prosecutorial merit or insufficient evidence, and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or
2. A court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice.

On receipt of the notice, the superintendent or designee shall review the student's placement in the DAEP. The student may not be returned to the regular classroom pending the review. The superintendent or designee shall schedule a review of the student's placement with the student's parent or guardian not later than the third class day after the superintendent or designee receives notice from the office or official designated by the court.

After reviewing the notice and receiving information from the student's parent or guardian, the superintendent or designee may continue the student's placement in the DAEP if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

Education Code 37.006(h); Code of Criminal Procedure 15.27(g)

Appeal After Placement Upheld

The student or the student's parent or guardian may appeal a superintendent's decision to the board. The student may not be returned to the regular classroom pending the appeal. A board shall, at the next scheduled meeting, review the notice provided by the office of the prosecuting attorney or the office or official designated by the juvenile board; receive information from the student, the student's parent or guardian, and the superintendent or designee; and confirm or reverse the superintendent's decision. The board shall make a record of the proceedings.

If a board confirms the decision, the board shall inform the student and the student's parent or guardian of the right to appeal to the commissioner of education. The student may not be returned to the regular classroom pending the appeal to the commissioner.

Education Code 37.006(i)–(j)

120-Day Review of Status

A student placed in a DAEP shall be provided a review of the student's status, including a review of the student's academic status, by a board's designee at intervals not to exceed 120 days. In the

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case of a high school student, the board's designee, with the student's parent or guardian, shall review the student's progress toward meeting high school graduation requirements and shall establish a specific graduation plan for the student. The district is not required to provide a course in the DAEP, except as required by Education Code 37.008(l). [See FOCA] At the review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of the teacher who removed the student without that teacher's consent. The teacher may not be coerced to consent. *Education Code 37.009(e)*

Additional Proceedings

If, during the term of placement, a student engages in additional conduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted and the principal or board, as appropriate, may enter an additional order. *Education Code 37.009(j)*

Reporting

A district may include the number of students removed to a DAEP in its annual performance report. *Education Code 39.306(e)(5)* [See AIB]

Note: See FOF for provisions concerning students with disabilities.

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A disciplinary alternative education program (DAEP) is an educational and self-discipline alternative instruction program for students in elementary through high school grades who are removed from their regular classes for mandatory or discretionary disciplinary reasons and placed in a DAEP. *19 TAC 103.1201(a)*

Joint / Contracted DAEP

A district may provide a DAEP jointly with one or more other districts or may contract with third parties for DAEP services. The district must require and ensure compliance with district responsibilities that are transferred to the third-party provider. *Education Code 37.008(d); 19 TAC 103.1201(d)*

A DAEP may provide for a student's transfer to a different campus, a school-community guidance center, or a community-based alternative school. *Education Code 37.008(b)*

Community Organizations

A district shall cooperate with government agencies and community organizations that provide services in the district to students placed in a DAEP. *Education Code 37.008(e)*

Funding

A student removed to a DAEP is counted in computing a district's average daily attendance for the student's time in actual attendance in the program. *Education Code 37.008(f)*

A district shall allocate to a DAEP the same expenditure per student attending the DAEP that would be allocated to the student's school if the student were attending the student's regularly assigned education program, including a special education program. *Education Code 37.008(g)* [See also EHBC(LEGAL), Limit on DAEP Expenditures]

Location

A DAEP shall be provided in a setting other than the student's regular classroom and may be located on or off a regular school campus. *Education Code 37.008(a)(1)–(2)*

An off-campus DAEP is not subject to a requirement imposed by the Education Code, other than a limitation on liability, a reporting requirement, or a requirement imposed by Education Code Chapter 37 or Chapter 39 or 39A. *Education Code 37.008(c)*

An elementary school student may not be placed in a DAEP with a student who is not an elementary school student. The designation of elementary and secondary is determined by adopted local policy. *Education Code 37.006(f); 19 TAC 103.1201(h)(1)*

Students who are assigned to the DAEP shall be separated from students who are not assigned to the program. Notwithstanding this requirement, summer programs provided by the district may serve students assigned to a DAEP in conjunction with other students, as determined by local policy.

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Students in the DAEP shall be separated from students in a juvenile justice alternative education program (JJAEP).

Education Code 37.008(a)(3), (c); 19 TAC 103.1201(f)(3), (h)(3)

Safety

A district is responsible for the safety and supervision of the students assigned to the DAEP; however, the immunity from the liability established in Education Code 22.0511 [see DG], shall not be impacted. The DAEP staff shall be prepared and trained to respond to health issues and emergencies.

Each district shall establish a board-approved policy for discipline and intervention measures to prevent and intervene against unsafe behavior and include disciplinary actions that do not jeopardize students' physical health and safety, harm emotional well-being, or discourage physical activity.

19 TAC 103.1201(h)

Staffing

A DAEP shall employ only teachers who meet certification requirements under Education Code Chapter 21, Subchapter B. The certified teacher-to-student ratio in a DAEP shall be one teacher for each 15 students in elementary through high school grades. *Education Code 37.008(a)(7); 19 TAC 103.1201(h)(1)*

Staff at each DAEP shall participate in training programs on education, behavior management, and safety procedures that focus on positive and proactive behavior management strategies. The training programs must also target prevention and intervention that include:

1. Training on the education and discipline of students with disabilities who receive special education services;
2. Instruction in social skills and problem-solving skills that addresses diversity, dating violence, anger management, and conflict resolution to teach students how to interact with teachers, family, peers, authority figures, and the general public; and
3. Annual training on established procedures for reporting abuse, neglect, or exploitation of students.

19 TAC 103.1201(i)

Entrance Procedures

Procedures for each DAEP shall be developed and implemented for newly-entering students and their parents or guardians on the expectations of the DAEP. These procedures shall include written contracts between students, parents or guardians, and the DAEP that formalize expectations and establish the students' individual plans for success. *19 TAC 103.1201(j)*

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Academics

The academic mission of DAEPs shall be to enable students to perform at grade level. A DAEP shall focuses on English language arts, mathematics, science, history, and self-discipline. *Education Code 37.008(a)(4), (m)*

A district shall provide an academic and self-discipline program that leads to graduation and includes instruction in each student's currently enrolled foundation curriculum necessary to meet the student's individual graduation plan, including special education services. A student's four-year graduation plan (Minimum, Recommended, or Advanced/Distinguished Achievement) may not be altered when the student is assigned to a DAEP.

Opportunity to Complete Course

A district shall offer a student removed to a DAEP an opportunity to complete a foundation curriculum course in which the student was enrolled at the time of removal, before the beginning of the next school year, through any method available, including a correspondence course, distance learning, or summer school. The district may not charge the student for a course provided under this provision.

Education Code 37.008(l); 19 TAC 103.1201(f)

A district shall provide the parents of a student removed to a DAEP with written notice of the district's obligation to provide the student with an opportunity to complete coursework required for graduation. The notice must include information regarding all methods available for completing the coursework and state that the methods are available at no cost to the student. *Education Code 37.008(l-1)*

Accountability

The campus of accountability for student performance must be the student's locally assigned campus, including when the district or shared services arrangement contracts with a third party for DAEP services. *19 TAC 103.1201(e)*

Academic Assessments

A district shall administer to a student placed in a DAEP program for a period of 90 school days or longer an assessment instrument:

1. Initially on placement of the student in the program; and
2. Subsequently on the date of the student's departure from the program, or as near that date as possible.

Released state assessments for reading and mathematics for the appropriate grade may be used. A district may apply for approval of an assessment that includes the Texas Essential Knowledge and Skills (TEKS) for reading and mathematics for the student's assigned grade. The commissioner will publish on the Texas Education Agency (TEA) website a list of assessments approved for use in each school year.

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The grade level of an assessment shall be based upon the academic grade completed prior to the student being assigned to a DAEP if placement occurs in the fall or first semester of the academic school year. If placement occurs in the spring or second semester of the academic school year, the student shall be administered an assessment based on the current grade level.

Each district shall provide an academic report to the student's locally assigned campus, which shall include the pre- and post-assessment results of the student's basic skills in reading and mathematics, within ten days of the student completing the post-assessment.

Procedures for administering the pre- and post-assessment shall be developed and implemented in accordance with local school district policy.

A student in the district's DAEP must also be assessed under the requirements of the Education Code Chapter 39. [See EKB]

Education Code 37.0082; 19 TAC 103.1203

Special Populations

Special Education

A DAEP serving a student with a disability who receives special education services shall provide educational services that will support the student in meeting the goals identified in the individualized education program (IEP) established by a duly-constituted admission, review, and dismissal (ARD) committee, in accordance with Education Code 37.004 and federal requirements. *19 TAC 103.1201(g)*

Drug and Alcohol Treatment

A program of educational and support services may be provided to a student and the student's parents when the offense involves drugs or alcohol as specified under Education Code 37.006 and 37.007. A DAEP that provides chemical dependency treatment services must be licensed under Health and Safety Code Chapter 464. *Education Code 37.008(k)*

Transition Services

The transition services established for a student who is exiting a DAEP and returning to the student's locally assigned campus shall be implemented and updated annually as needed. The transition procedures shall include:

1. An established timeline for the student's transition from the DAEP to the student's locally assigned campus; and
2. Written and oral communication from the DAEP staff to the locally assigned campus during the student's assignment to the DAEP, including the student's educational performance and tasks completed.

19 TAC 103.1201(k)

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Transition to the Regular Classroom

"Alternative education program" includes:

1. A disciplinary alternative education program operated by a school district or open-enrollment charter school;
2. A juvenile justice alternative education program; and
3. A residential program or facility operated by or under contract with the Texas Juvenile Justice Department, a juvenile board, or any other governmental entity.

Education Code 37.023(a)

After Determination of the Release Date

As soon as practicable after an alternative education program determines the date of a student's release from the program, the alternative education program administrator shall:

1. Provide written notice of that date to:
   a. The student's parent or a person standing in parental relation to the student; and
   b. The administrator of the campus to which the student intends to transition; and
2. Provide the campus administrator:
   a. An assessment of the student's academic growth while attending the alternative education program; and
   b. The results of any assessment instruments administered to the student.

Education Code 37.023(b)

Coordination After Release

Not later than five instructional days after the date of a student's release from an alternative education program, the campus administrator shall coordinate the student's transition to a regular classroom. The coordination must include assistance and recommendations from:

1. School counselors;
2. School district peace officers;
3. School resource officers;
4. Licensed clinical social workers as defined by Occupations Code 505.002;
5. Campus behavior coordinators;
6. Classroom teachers who are or may be responsible for implementing the student's personalized transition plan; and

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7. Any other appropriate school district personnel.

Education Code 37.023(c)

Personalized Transition Plan

The assistance described above must include a personalized transition plan for the student developed by the campus administrator. A personalized transition plan:

1. Must include recommendations for the best educational placement of the student; and

2. May include:

   a. Recommendations for counseling, behavioral management, or academic assistance for the student with a concentration on the student's academic or career goals;

   b. Recommendations for assistance for obtaining access to mental health services provided by the district or school, a local mental health authority, or another private or public entity;

   c. The provision of information to the student's parent or a person standing in parental relation to the student about the process to request a full individual and initial evaluation of the student for purposes of special education services under Education Code 29.004; and

   d. A regular review of the student's progress toward the student's academic or career goals.

Education Code 37.023(d)

Parent Meeting

If practicable, the campus administrator, or the administrator's designee, shall meet with the student's parent or a person standing in parental relation to the student to coordinate plans for the student's transition.

Applicability

Education Code 37.023 applies only to a student subject to compulsory attendance requirements under Education Code 25.085 [see FEA].

Education Code 37.023(e)–(f)

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Students Younger Than Ten

A student younger than ten years of age shall not be expelled but shall be placed in a disciplinary alternative education program (DAEP). *Education Code 37.007(e)(2), (h)*

Overage Students

A person who is 21 years of age or older and is admitted by a district for the purpose of completing the requirements for a diploma is not eligible for placement in a juvenile justice alternative education program (JJAEP) if the person engages in conduct that would require or authorize such placement for a student under the age of 21. If the student engages in such conduct, a district shall revoke the student's admission. *Education Code 25.001(b-1)*

Mandatory Expulsion

School Related

A student shall be expelled if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

1. Engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Penal Code 46.02 or elements of an offense relating to prohibited weapons under Penal Code 46.05 [see FNCG];

2. Engages in conduct that contains the elements of the offense of aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit murder or capital murder, indecency with a child, aggravated kidnapping, aggravated robbery, manslaughter, criminally negligent homicide, or continuous sexual abuse of a young child or children, as those offenses are defined in the Penal Code; or

3. Commits a drug- or alcohol-related offense described at Education Code 37.006(a)(2)(C) or (D), if that conduct is punishable as a felony.

Education Code 37.007(a)

Exception

A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

1. At an approved target range facility that is not located on a school campus; and

2. While participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department or a shooting sports sanctioning organization working with the department.

This section does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored

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shooting sports competition or a shooting sports educational activity.

Education Code 37.007(k), (l)

Retaliation

A district shall expel a student who engages in conduct that contains the elements of any offense listed above against any district employee or volunteer in retaliation for or as a result of the person's employment or association with a district, without regard to whether the conduct occurs on or off school property or while attending a school-sponsored or school-related activity on or off of school property. *Education Code 37.007(d)*

Federal Firearms Offense

In accordance with the Gun-Free Schools Act, a district shall expel a student who brings a firearm, as defined by federal law, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that the superintendent may modify in writing the length of expulsion in the case of an individual student.

Exception

This provision shall not apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the district and the district adopts appropriate safeguards to ensure student safety. [See also GKA].

Provision of Educational Services

A district or other local educational agency shall provide educational services to an expelled student in a DAEP if the student is younger than ten years of age on the date of expulsion. A district or other local educational agency may provide educational services to an expelled student who is ten years of age or older in a DAEP.

20 U.S.C. 7961; Education Code 37.007(e)

Definitions

For purposes of this provision:

School

"School" means any setting that is under the control and supervision of a district for the purpose of student activities approved and authorized by the district. *20 U.S.C. 7961(f)*

Firearm

"Firearm" means:

1. Any weapon (including a starter gun), which will or is designed to or which may readily be converted to expel a projectile by the action of an explosive;
2. The frame or receiver of any such weapon;
3. Any firearm muffler or firearm silencer; or
4. Any destructive device. "Destructive device" means any explosive, incendiary, or poison gas bomb, grenade, rocket hav-

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ing a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or device similar to any of the preceding described devices. It also means any type of weapon (other than a shotgun shell or a shotgun that is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and any combination of parts either designed or intended for use in converting any device into a destructive device as described in this item, and from which a destructive device may be readily assembled.

18 U.S.C. 921, 20 U.S.C. 7961(b)(3)

Discretionary Expulsion

Threats

A student may be expelled if the student engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Penal Code 42.06, or terroristic threat under Penal Code 22.07.

School-Related Conduct

A student may be expelled if the student, while on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

1. Sells, gives, or delivers to another person, or possesses, uses, or is under the influence of any amount of:
    a. Marijuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. section 801 et seq.; or
    b. A dangerous drug, as defined by Chapter 483, Health and Safety Code; or
    c. An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.
2. Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Health and Safety Code 485.031–485.034.
3. Engages in conduct that contains the elements of an offense under Penal Code 22.01(a)(1) against a school district employee, or a volunteer as defined by Education Code 22.053.
4. Engages in conduct that contains the elements of the offense of deadly conduct under Penal Code 22.05.

Education Code 37.007(b)(1)–(2)

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Conduct Within 300 Feet of School

Subject to the mandatory expulsion requirement for retaliation, a student may be expelled if the student, while within 300 feet of school property, as measured from any point on the school's real property boundary line, engages in the following conduct:

1. Any conduct for which expulsion would have been mandatory under Education Code 37.007(a) [see Mandatory Expulsion—School Related, above]; or

2. Possession of a firearm, as defined by 18 U.S.C. sec. 921 [see Federal Firearm Provision, above].

Education Code 37.007(b)(3)

Retaliation Against School Employee or Volunteer

A student may be expelled if the student engages in an assault, under Penal Code 22.01(a)(1), on an employee or volunteer in retaliation for or as a result of the person's employment or association with a district, without regard to whether the conduct occurs on or off school property or while attending a school-sponsored or school-related activity on or off school property. *Education Code 37.007(d)*

Conduct Against Another Student

A student may be expelled if the student engages in conduct against another student that contains the elements of the offenses of aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit capital murder, or aggravated robbery, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property. *Education Code 37.007(b)(4)*

Bullying

A student may be removed from class and expelled if the student:

1. Engages in bullying that encourages a student to commit or attempt to commit suicide;

2. Incites violence against a student through group bullying; or

3. Releases or threatens to release intimate visual material of a minor or student who is 18 years of age or older without the student's consent.

Nothing in this provision exempts a school from reporting a finding of intimate visual material of a minor.

Definitions

Bullying

"Bullying" has the meaning assigned by Education Code 37.0832. [See FFI]

Intimate Visual Material

"Intimate visual material" has the meaning assigned by Civil Practice and Remedies Code 98B.001.

Education Code 37.0052

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Criminal Mischief

A district may use its discretion to expel a student who has engaged in conduct that contains the elements of criminal mischief, as defined in the Penal Code, if the conduct is punishable as a felony. Regardless of whether the student is expelled, a district shall refer the student to the authorized officer of the juvenile court. *Education Code 37.007(f)*

Breach of Computer Security

A student may be expelled if the student engages in conduct that contains the elements of the offense of breach of computer security under Penal Code 33.02 if:

1. The conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of a school district; and
2. The student knowingly alters, damages, or deletes school district property or information; or commits a breach of any other computer, computer network, or computer system.

Education Code 37.007(b)(5)

Serious Misbehavior in DAEP

A student placed in a DAEP who engages in documented serious misbehavior while on the DAEP campus despite documented behavioral interventions may be removed from class and expelled.

"Serious misbehavior" means:

1. Deliberate violent behavior that poses a direct threat to the health or safety of others;
2. Extortion, meaning the gaining of money or other property by force or threat;
3. Conduct that constitutes coercion, as defined by Penal Code 1.07; or
4. Conduct that constitutes the offense of:
    a. Public lewdness under Penal Code 21.07;
    b. Indecent exposure under Penal Code 21.08;
    c. Criminal mischief under Penal Code 28.03;
    d. Personal hazing under Penal Code 37.152; or
    e. Harassment, under Penal Code 42.07(a)(1), of a student or district employee.

If the student is expelled, a board or its designee shall refer the student to the authorized officer of the juvenile court for appropriate proceedings under Family Code Title 3 (Juvenile Justice Code).

Education Code 37.007(c), .010(b)

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Property or Activities of Another District

A district may expel a student who attends school in the district if:

1. The student engages in conduct for which expulsion would have been mandatory if the conduct had occurred on district property or while attending a district-sponsored or district-related activity; and

2. The student engages in that conduct on the property of another district or while attending a school-sponsored or school-related activity of another district in this state.

Education Code 37.007(i)

Expulsion Proceedings

Due Process

Before a student may be expelled, a board or its designee shall provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution and which the student's parent or guardian is invited, in writing, to attend. *Education Code 37.009(f)*

The minimum procedural requirements necessary to satisfy due process depend upon the circumstances and the interests of the parties involved. Federal due process requires notice and some opportunity for hearing.

Notice

The notice should contain a statement of the specific charges and grounds that, if proven, would justify expulsion. In some cases, the student should be given the names of the witnesses against him or her and an oral or written report on the facts to which each witness testifies.

Hearing

The rights of the student may properly be determined upon the hearsay evidence of school administrators who investigate disciplinary infractions.

[See also *Brewer v. Austin Indep. Sch. Dist.*, 779 F.2d 260 (5th Cir. 1985); *Keough v. Tate County Bd. of Educ.*, 748 F.2d 1077 (5th Cir. 1984); *McClain v. Lafayette County Sch. Bd. of Educ.*, 673 F.2d 106 (5th Cir. 1982); *Tasby v. Estes*, 643 F.2d 1103 (5th Cir. 1981); *Boykins v. Fairfield Bd. of Educ.*, 492 F.2d 697 (5th Cir. 1974), cert. denied, 420 US 962 (1975); *Dixon v. Alabama State Bd. of Educ.*, 294 F.2d 150 (5th Cir. 1961), cert. denied, 368 U.S. 930 (1961)]

Representative

At the hearing, the student is entitled to be represented by the student's parent, guardian, or another adult who can provide guidance to the student and who is not an employee of the district. If a district makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing, the district may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends.

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Mitigating Factors

Before ordering the expulsion of a student, the board or the board's designee must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the board concerns a mandatory or discretionary action. [See Student Code of Conduct, item 4, at FO(LEGAL) for mitigating factors.]

Appeal

If the decision to expel a student is made by the board's designee, the decision may be appealed to the board. The decision of the board may be appealed by trial de novo to a district court of the county in which the district's central administrative office is located.

Education Code 37.009(f)

Term of Expulsion

If the period of expulsion is inconsistent with the guidelines on length of expulsion in the Student Code of Conduct, the order must give notice of the inconsistency.

Beyond One Year

The period of expulsion may not exceed one year unless a district determines that:

1. The student is a threat to the safety of other students or to district employees; or
2. Extended placement is in the best interest of the student.

Education Code 37.009(h)

Notice of Expulsion Order

A board or its designee shall deliver a copy of the order expelling the student to the student and the student's parent or guardian. After such notification, the parent or guardian shall provide adequate supervision for the student during the period of expulsion. *Education Code 37.009(g)–(h)*

To Parent or Guardian

To Court

Not later than the second business day after the date an expulsion hearing is held, a board or its designee shall deliver a copy of the expulsion order and any information required under Family Code 52.04 to the authorized officer of the juvenile court in the county in which the student resides.

Family Code 52.04 requires the following information from a referring entity that is not a law enforcement agency or has not taken the child into custody:

1. All information in a district's possession pertaining to the identity of the child and the child's address; the name and address of the child's parent, guardian, or custodian; the names and

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addresses of any witnesses; and the child's present whereabouts; and

2. A complete statement of the circumstances of the alleged delinquent conduct or conduct indicating a need for supervision.

Education Code 37.010(a); Family Code 52.04(a), .041(a)–(b)

To Juvenile Board

In a county that operates a JJAEP [see FODA], no student shall be expelled without written notification by a board or its designee to the juvenile board's designated representative. The notification shall be made not later than two business days following a board's determination that the student is to be expelled. Failure to timely notify the designated representative shall result in the child's duty to continue attending a district's educational program, which shall be provided to that child until such time as the notification to the designated representative is properly made. *Family Code 52.041*

To Staff

In addition to providing any notice required under Code of Criminal Procedure 15.27 [see GRA], a district shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in expellable conduct.

Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as provided by state or federal law. An educator's certificate may be suspended or revoked for intentional failure to keep such information confidential.

Education Code 37.007(g)

Completion of Proceeding Upon Withdrawal

If a student withdraws from a district before an order for expulsion is entered, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student subsequently enrolls in the district during the same or subsequent school year, the district may enforce the order at that time except for any period of the expulsion that has been served by the student in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order. *Education Code 37.009(i)*

Additional Proceedings

If, during the term of expulsion, a student engages in additional conduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted and the principal or board, as appropriate, may enter an additional order. *Education Code 37.009(j)*

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Appeals

A decision by a board's designee to expel a student may be appealed to the board. If the hearing is not before the board directly, the results and findings of the hearing should be presented in a report open to the student's inspection. *Education Code 37.009(f); Dixon v. Alabama State Bd. of Educ., 294 F.2d 150 (5th Cir. 1961), cert. denied, 368 U.S. 930 (1961)*

Restrictions on Court Orders

A court may not order an expelled student to attend a regular classroom, a regular campus, or a district DAEP as a condition of probation.

Exception

A court may order a student to attend a regular classroom, a regular campus, or a district DAEP if the district has entered into a memorandum of understanding (MOU) with the juvenile board for the county in which the district's central administrative office is located, concerning the juvenile probation department's role in supervising and providing other support services for students in DAEPs.

Education Code 37.010(c)

District Responsibility for Expelled Student

Students Not Eligible for Existing JJAEP

In a county that operates a JJAEP, a district is responsible for providing an immediate educational program to a student who engages in behavior for which expulsion is permitted but not required under Education Code 37.007, but who is not eligible for admission into the JJAEP in accordance with an MOU. [See FODA]

Contracting for Services

A district may provide the program, or the district may contract with a county juvenile board, a private provider, or one or more other school districts to provide the program.

Education Code 37.011(l)

Certain Districts

This provision applies to a district located in a county considered to be a county with a population of 125,000 or less because it has a population of more than 200,000 and less than 220,000; has five or more school districts located wholly within the county's boundaries; and has located in the county a JJAEP that, on May 1, 2011, served fewer than 15 students. A qualifying district shall provide educational services to a student who is expelled from school. The district is entitled to count the student in the district's average daily attendance for purposes of receipt of state funds under the Foundation School Program. An educational placement under this section may include:

1. The district's DAEP.
2. A contracted placement with another school district, an open-enrollment charter school, an institution of higher education,

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an adult literacy council, or a community organization that can provide an educational program that allows the student to complete the credits required for high school graduation.

An educational placement other than a district's DAEP is subject to the educational and certification requirements applicable to an open-enrollment charter school under Education Code Chapter 12, Subchapter D.

Education Code 37.011(a-3)–(a-5)

Return to Class

Early / Permissive

On the recommendation of the placement review committee, or on its own initiative, a district may readmit an expelled student while the student is completing any court disposition requirements.

Required

After an expelled student has successfully completed any court disposition requirements, including conditions of a deferred prosecution, or conditions required by the prosecutor or probation department, a district may not refuse to admit the student if the student meets the requirements for admission. [See FD] A district may place the student in a DAEP.

The student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

Education Code 37.010(f)

Expelled from Another District

If a student has been expelled from another school district, the expelling district shall provide to a district in which the student enrolls a copy of the expulsion order and the referral to the authorized officer of the juvenile court. A district in which the student enrolls may continue the expulsion under the terms of the order, may place the student in a DAEP for the period specified by the expulsion order, or may allow the student to attend regular classes without completing the period of expulsion.

Out-of-State Expulsion

A district may take any of the above actions if the student was expelled by a district in another state if:

1. The out-of-state district provides a copy of the expulsion order; and

2. The grounds for the expulsion are also grounds for expulsion in the district in which the student is enrolling.

Education Code 37.010(g)

If the student was expelled for more than one year and the enrolling district continues the expulsion or places the student in a

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DAEP, the aggregate period of expulsion or placement may not exceed one year unless the district determines that:

1. The student is a threat to the safety of other students or to district employees; or

2. Extended placement is in the best interest of the student.

Education Code 37.010(g-1)

Note: See FOF for provisions concerning expulsion of students with disabilities.

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Meetings with Juvenile Board

A board or designee shall regularly meet with either:

1. The juvenile board for the county in which a district's central administrative office is located; or
2. The juvenile board's designee.

The meeting shall be called by the board president and shall address supervision and rehabilitative services appropriate for expelled students and students assigned to disciplinary alternative education programs (DAEPs).

Matters for discussion shall include:

1. Service by probation officers at the DAEP site;
2. Recruitment of volunteers to serve as mentors and provide tutoring services; and
3. Coordination with other social service agencies.

Education Code 37.013

Juvenile Justice Alternative Education Program

For the purposes of the following provisions, only a DAEP operated under the authority of a juvenile board of a county is considered a juvenile justice alternative education program (JJAEP).

Mandatory JJAEP

The juvenile board of a county with a population greater than 125,000 shall develop a JJAEP, subject to the approval of the Texas Juvenile Justice Department (TJJD).

Voluntary JJAEP

The juvenile board of a county with a population of 125,000 or less may develop a JJAEP. Such a JJAEP is not required to be approved by the TJJD. Further, it is not subject to Education Code 37.011(c), (d), (f), (g), (k) or (m).

Education Code 37.011(a), (k), (m)

County Population

A county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if:

1. The county had a population of 125,000 or less according to the 2000 federal census and the juvenile board of the county enters into, with the approval of the TJJD, a memorandum of understanding (MOU) with each school district within the county that:
    a. Outlines the responsibilities of the board and school districts in minimizing the number of students expelled without receiving alternative educational services; and
    b. Includes the coordination procedures required by Education Code 37.013, above.

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2. Has a population of 180,000 or less; is adjacent to two counties, each of which has a population of more than 1.7 million; and has seven or more school districts located wholly within the county's boundaries.

3. Has a population of more than 200,000 and less than 220,000; has five or more school districts located wholly within the county's boundaries; and has located in the county a JJAEP that, on May 1, 2011, served fewer than 15 students.

Education Code 37.011(a-1)–(a-3)

Note: The following provisions apply to all districts that operate JJAEPs, whether voluntary or mandatory.

Placement of Students in JJAEP—Expelled Students

An expelled student shall, to the extent provided by law or by the MOU, immediately attend the educational program from the date of expulsion. *Education Code 37.010(a)* [See FOD]

Court-Ordered Placement

If a student admitted under Education Code 25.001(b) is expelled for conduct for which expulsion is required under Education Code 37.007~~,~~(a), (d), or (e) or for conduct that contains the elements of the offense of terroristic threat as described by Penal Code 22.07(c-1), (d), or (e), the juvenile court, juvenile board, or juvenile board's designee, as appropriate, shall:

1. If the student is placed on probation under Family Code 54.04, order the student to attend the JJAEP in the county in which the student resides from the date of disposition as a condition of probation, unless the child is placed in a post-adjudication treatment facility;

2. If the student is placed on deferred prosecution under Family Code 53.03 by the court, prosecutor, or probation department, require the student to immediately attend the JJAEP in the county in which the student resides for a period not to exceed six months as a condition of the deferred prosecution;

3. In determining the condition of the deferred prosecution or court-ordered probation, consider the length of a district's expulsion order for the student; and

4. Provide timely educational services to the student in the JJAEP in the county in which the student resides, regardless of the student's age or whether the juvenile court has jurisdiction over the student. This provision does not require that educational services be provided to a student who is not entitled to admission under Education Code 25.001(b).

Education Code 37.011(b)–(b-1)

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A student transferred to a JJAEP must participate in the program for the full period ordered by the juvenile court, unless a district agrees to accept the student before the date ordered by the juvenile court. *Education Code 37.011(i)*

Students Who Move

If a student who is ordered to attend a JJAEP moves from one county to another, the juvenile court may request the JJAEP in the county to which the student moves to provide educational services to the student in accordance with the local MOU between the district and the juvenile board in the receiving county. *Education Code 37.011(n)*

Entry and Exit Transition Plans

For each student, the JJAEP must coordinate with the sending school district to develop a written transition plan for entrance into the JJAEP. For each student, the JJAEP must develop a written exit transition plan, provide the plan to the receiving school district, and maintain written verification that the plan was sent. The exit transition plan must include all information regarding courses in progress or completed, current grades for courses in progress, and the number of attendance days and absent days. *37 TAC 348.212(b)*

[See FOCA for requirements regarding transition to the regular classroom.]

Funding for JJAEPs

Mandatory Expulsions

Except as determined by the commissioner of education, a student served by a JJAEP on the basis of conduct for which expulsion is required under Education Code 37.007 is not eligible for Foundation School Program funding if the JJAEP receives funding from the TJJD. *Education Code 37.011(h)*

Court-Assigned Students

A district is not required to provide funding to a juvenile board for a student who is assigned by a court to a JJAEP but who has not been expelled. *Education Code 37.012*

Title 5 Felony Placements

A district shall reimburse a JJAEP in which a student is placed under Education Code 37.0081 [see FOE] for the actual cost incurred each day the student is enrolled in the program. For purposes of this subsection:

1. The actual cost incurred each day for the student is determined by the juvenile board of the county operating the program; and
2. The juvenile board shall determine the actual cost each day of the program based on the board's annual audit.

Education Code 37.0081(g)

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Funding for Discretionary Expulsions

Subject to Education Code 37.011(n) [see Students Who Move, above], the district in which a student is enrolled on the date the student is expelled for conduct for which expulsion is permitted but not required under Education Code 37.007 shall, if the student is served by the JJAEP, provide funding to the juvenile board in an amount determined by the MOU under Education Code 37.011(k).

The amount of the funds transferred is determined by the portion of the school year for which the JJAEP provides educational services to a district.

Education Code 37.012(a)

Arbitration of Disputes

If a district elects to contract with the juvenile board for the placement of students who are expelled for conduct for which expulsion is permitted but not required under Education Code 37.007, and the juvenile board and the district are unable to reach an agreement in the MOU, either party may request that the issues of dispute be referred to a binding arbitration process that uses a qualified alternative dispute resolution arbitrator.

Each party shall pay its pro rata share of the arbitration costs and shall submit its final proposal to the arbitrator. If the parties cannot agree on an arbitrator, the juvenile board shall select an arbitrator, the district shall select an arbitrator, and those two arbitrators shall select an arbitrator who shall decide the issues in dispute.

Decision of Arbitrator

The arbitration decision is enforceable in a court in the county in which the JJAEP is located. Any decision by an arbitrator concerning the amount of the funding for a student who is expelled and attending a JJAEP must provide an amount sufficient based on operation of the JJAEP. In determining the amount to be paid by a district for an expelled student enrolled in a JJAEP, the arbitrator shall consider the relevant factors, including evidence of:

1. The actual average total per student expenditure in the district's DAEP;
2. The expected per student cost in the JJAEP as described and agreed on in the MOU and in compliance with Education Code Chapter 37; and
3. The costs necessary to achieve the accountability goals under Education Code Chapter 37.

Education Code 37.011(p)

Fees

Except as otherwise authorized by law [see FP], a JJAEP may not require a student, or the parent or guardian, to pay any fee, including an entrance or supply fee, for participating in the program. *Education Code 37.012(e)*

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Location and Staffing

A JJAEP may be provided in a facility owned by a district. A district may provide personnel and services for a JJAEP under a contract with the juvenile board. *Education Code 37.011(e)*

Academic Mission of JJAEP

Academically, the mission of the JJAEP shall be to enable students to perform at grade level.

Accountability

For purposes of accountability under Education Code Chapters 39 and 39A, a student enrolled in a JJAEP is reported as if the student were enrolled at the student's assigned campus in the student's regularly assigned education program, including a special education program.

Education Code 37.011(h)

Program Requirements

JJAEP programs operated under Education Code 37.011 must comply with the requirements found at 37 Administrative Code Chapter 348. *37 TAC 348.104(b)*

Note: The following provisions apply only to districts located in counties with a population greater than 125,000 that are not exempt from the application of the provisions as detailed in Education Code 37.011(a-1), (a-2), or (a-3) [see County Population, above].

Memorandum of Understanding

A district and the county juvenile board shall, no later than September 1 of each school year, enter into a joint MOU that:

1. Outlines the responsibilities of the juvenile board concerning the establishment and operation of a JJAEP;
2. Defines the amount and conditions on payments from the district to the juvenile board for students who are served in the JJAEP whose placement was not made on the basis of expulsion required under Education Code 37.007(a), (d), or (e);
3. Establishes that a student may be placed in the JJAEP if the student engages in serious misbehavior, as defined by Education Code 37.007(c);
4. Identifies and requires a timely placement and specifies a term of placement for expelled students for whom the district has received a notice under Family Code 52.041(d);
5. Establishes services for the transitioning of expelled students to the district before the completion of the student's placement in the JJAEP;
6. Establishes a plan that provides transportation services for students placed in the JJAEP;

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7. Establishes the circumstances and conditions under which a juvenile may be allowed to remain in the JJAEP setting once the juvenile is no longer under juvenile court jurisdiction; and

8. Establishes a plan to address special education services required by law.

Education Code 37.011(k)–(m)

The memorandum of understanding must be submitted to TJJD no later than October 1 of each year. *37 TAC 348.200(c)*

Placement in JJAEP

Every expelled student who is not detained or receiving treatment under an order of the juvenile court must be enrolled in an educational program. *Education Code 37.010(a)*

Operating Requirements

The JJAEP shall be subject to a written operating policy developed by the local juvenile justice board and submitted to the TJJD for review and comment. The JJAEP is not subject to a requirement imposed by Education Code Title II, other than a reporting requirement or a requirement imposed by Education Code Chapters 37, 39, or 39A. *Education Code 37.011(g)*

Student Code of Conduct

The JJAEP shall adopt a Student Code of Conduct in accordance with Education Code 37.001. *Education Code 37.011(c); 37 TAC 348.224*

Educational Program

The JJAEP shall focus on English language arts, mathematics, science, social studies, and self-discipline.

Assessment

The JJAEP shall administer assessment instruments under Education Code Chapter 39, Subchapter B.

Equivalency

The JJAEP shall offer a high school equivalency program.

Review of Progress

The juvenile board or the board's designee, with the parent or guardian of each student, shall regularly review the student's academic progress. In the case of a high school student, the board or the board's designee, with the student's parent or guardian, shall review the student's progress toward meeting high school graduation requirements and shall establish a specific graduation plan for the student. The program is not required to provide a course necessary to fulfill a student's high school graduation requirements other than a course specified above.

Education Code 37.011(d)

Days and Hours

The JJAEP must operate at least seven hours per day and 180 days per year, except that a JJAEP may apply to the TJJD for a waiver of the 180-day requirement. The commissioner may not grant a waiver to a JJAEP for a number of days that exceeds the

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highest number of instructional days waived by the commissioner during the same school year for a district served by the program. *Education Code 37.011(f)*

Performance Reports

TJJD completes a performance assessment report as required by the General Appropriations Act. At mandatory JJAEPs (i.e., JJAEPs whose operation is required by law), the JJAEP administrator must provide a copy of the report to the juvenile board and the superintendent of each school district that participates in the JJAEP. *37 TAC 348.300*

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Nondiscrimination

No person shall, on the grounds of race, color, or national origin, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any district program or activity. *42 U.S.C. 2000d*

An officer or employee of a district who is acting or purporting to act in an official capacity may not, because of a person's race, religion, color, sex, or national origin:

1. Refuse to permit the person to use facilities open to the public and owned, operated, or managed by or on behalf of the district;
2. Refuse to permit the person to participate in a program owned, operated, or managed by or on behalf of the district;
3. Refuse to grant a benefit to the person; or
4. Impose an unreasonable burden on the person.

Civil Practices and Remedies Code 106.001(a)

Individuals with Disabilities

Federal Prohibition

No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a district, or be subjected to discrimination by a district. Nor shall a district exclude or otherwise deny equal services, programs, or activities to an individual because of the known disability of an individual with whom the individual is known to have a relationship or association. *42 U.S.C. 12132; 28 C.F.R. 35.130(g)*

Definition

A "qualified individual with a disability" is an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a district. *42 U.S.C. 12131(2); 28 C.F.R. 35.104*

Reasonable Modification

A district shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the district can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. *28 C.F.R. 35.130(b)(7)*

Communications

A district shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others. To this end, a district shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal

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opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by the district. In determining what type of auxiliary aid or service is necessary, a district shall give primary consideration to the requests of the individual with disabilities. *28 C.F.R. 35.160*

Auxiliary Aids and Services

"Auxiliary aids and services" includes:

1. Qualified interpreters, note-takers, transcription services, written materials, assistive listening systems, and other effective methods for making aurally delivered materials available to individuals with hearing impairments;
2. Qualified readers, taped texts, audio recordings, Braille materials, large print materials, or other effective methods for making visually delivered materials available to individuals with visual impairments;
3. Acquisition or modification of equipment or devices; and
4. Other similar services and actions.

28 C.F.R. 35.104

Limits of Required Modification

A district is not required to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. Any decision that compliance with its responsibility to provide effective communication for individuals with disabilities would fundamentally alter the service, program, or activity or unduly bur-den a district shall be made by a board after considering all re-sources available for use in funding and operating the program, service, or activity. The decision shall be accompanied by a written statement of the reasons for reaching that conclusion. *28 C.F.R. 35.164*

Notice

A district shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of Title II of the Americans with Disabilities Act (ADA) and its applicability to the services, programs, or activities of the district. The information shall be made available in such manner as the board and superintendent find necessary to apprise such persons of the protections against discrimination assured them by the ADA. *28 C.F.R. 35.106*

Compliance Coordinator

*A district shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title II of the ADA, including any investigation of any complaint communicated to it alleging its noncompliance or alleging any actions that would be prohibited under the ADA. A district shall make available

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to all interested individuals the name, office address, and telephone number of the employee(s) so designated and shall adopt and publish procedures for the prompt and equitable resolution of complaints alleging any action that would be prohibited under the ADA. *28 C.F.R. 35.107*

*Applies only to districts that employ 50 or more persons.

State Prohibition

Nondiscrimination

No person with a disability may be denied admittance to any public facility in the state because of the person's disability. No person with a disability may be denied the use of a white cane, assistance animal, wheelchair, crutches, or other device of assistance.

The discrimination prohibited by this section includes a refusal to allow a person with a disability to use or be admitted to any public facility, a ruse or subterfuge calculated to prevent or discourage a person with a disability from using or being admitted to a public facility and a failure to:

1. Comply with Government Code Chapter 469;
2. Make reasonable accommodations in policies, practices, and procedures; or
3. Provide auxiliary aids and services necessary to allow the full use and enjoyment of the public facility.

Regulations

Regulations relating to the use of public facilities by any designated class of persons from the general public may not prohibit the use of particular public facilities by persons with disabilities who, except for their disabilities or use of assistance animals or other devices for assistance in travel, would fall within the designated class.

Human Resources Code 121.003(c)–(e)

Religious Freedom

A district may not substantially burden a person's free exercise of religion, unless it is acting in furtherance of a compelling governmental interest and has used the least restrictive means of furthering that interest. *Civil Practices and Remedies Code 110.003* [See also DAA and FB]

A district may not penalize or withhold benefits or privileges, including tax exemptions or governmental contracts, grants, or licenses, from a religious organization, an organization supervised or controlled by or in connection with a religious organization, an individual employed by a religious organization while acting in the scope of that employment, or a clergy or minister, because the organization or individual refuses to solemnize any marriage or provide services, accommodations, facilities, goods, or privileges for a purpose related to the solemnization, formation, or celebration

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of any marriage if the action would cause the organization or individual to violate a sincerely held religious belief. *Family Code 2.601–.602*

Adverse Action Prohibited

Notwithstanding any other law, a district may not take any adverse action against any person based wholly or partly on the person's membership in, affiliation with, or contribution, donation, or other support provided to a religious organization. *Gov't Code 2400.002*

Definitions

"Adverse action" means any action taken by a district to:

1. Withhold, reduce, exclude, terminate, or otherwise deny any grant, contract, subcontract, cooperative agreement, loan, scholarship, license, registration, accreditation, employment, or other similar status from or to a person;
2. Withhold, reduce, exclude, terminate, or otherwise deny any benefit provided under a benefit program from or to a person;
3. Alter in any way the tax treatment of, cause any tax, penalty, or payment assessment against, or deny, delay, or revoke a tax exemption of a person;
4. Disallow a tax deduction for any charitable contribution made to or by a person;
5. Deny admission to, equal treatment in, or eligibility for a degree from an educational program or institution to a person; or
6. Withhold, reduce, exclude, terminate, or otherwise deny access to a property, educational institution, speech forum, or charitable fundraising campaign from or to a person.

"Benefit program" means any program administered or funded by a governmental entity or federal agency that provides assistance in the form of payments, grants, loans, or loan guarantees.

"Person" has the meaning assigned by Government Code 311.005, except the term does not include:

1. An employee of a governmental entity acting within the employee's scope of employment;
2. A contractor of a governmental entity acting within the scope of the contract; or
3. An individual or a medical or residential custodial health-care facility while the individual or facility is providing medically necessary services to prevent another individual's death or imminent serious physical injury.

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"Religious organization" means an organization that is a religious organization under Civil Practice and Remedies Code 110.011(b).

Gov't Code 2400.001

Exception for Prohibited Contracts or Investments

This prohibition does not apply to an investment or contract with a company that boycotts Israel prohibited under Government Code Chapters 808 or 2270. [See CH] *Gov't Code 2400.0015*

Interpretation

This prohibition may not be construed to:

1. Preempt a state or federal law that is equally or more protective of the free exercise of religious beliefs or to narrow the meaning or application of a state or federal law protecting the free exercise of religious beliefs; or

2. Prevent a district from providing, either directly or through a person who is not seeking protection under this prohibition, any benefit or service authorized under state or federal law.

Gov't Code 2400.005

Social Security Numbers

It shall be unlawful for a district to deny to any individual any right, benefit, or privilege provided by law because of the individual's refusal to disclose his or her Social Security number.

Exceptions

The above provision does not apply to:

1. Any disclosure that is required by federal statute. The United States Internal Revenue Code provides that the social security number issued to an individual for purposes of federal income tax laws shall be used as the identifying number for taxpayers;

2. Any disclosure to a district maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted before such date to verify the identity of an individual; or

3. Any use for the purposes of establishing the identity of individuals affected by any tax, general public assistance, driver's license, or motor vehicle registration law within a district's jurisdiction.

Statement of Uses

A district that requests disclosure of a social security number shall inform that individual whether the disclosure is mandatory or voluntary, by what statutory authority such number is solicited, and what uses will be made of it.

5 U.S.C. 552a Note; PL 93-579, § 7, 88 Stat. 1896 (1974)

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Public Information Defined

For purposes of the Texas Public Information Act (PIA), "public information" means information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

1. By a board;
2. For a board and the board:
    a. Owns the information;
    b. Has a right of access to the information; or
    c. Spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
3. By an individual officer or employee of a district in the officer's or employee's official capacity and the information pertains to official business of the district.

"Official business" means any matter over which a district has any authority, administrative duties, or advisory duties.

Information is "in connection with the transaction of official business" if the information is created by, transmitted to, received by, or maintained by an officer or employee of the district in the officer's or employee's official capacity, or a person or entity performing official business or a governmental function on behalf of a district, and pertains to official business of the district.

The definition of "public information" above applies to and includes any electronic communication created, transmitted, received, or maintained on any device if the communication is in connection with the transaction of official business.

Gov't Code 552.002(a)–(a-2), .003(2-a)

Forms of Public Information

The general forms in which the media containing public information exist include a book, paper, letter, document, email, internet posting, text message, instant message, other electronic communication, printout, photograph, film, tape, microfiche, microfilm, photostat, sound recording, map, and drawing and a voice, data, or video representation held in computer memory.

The media on which public information is recorded include:

1. Paper;
2. Film;

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3. A magnetic, optical, solid state, or other device that can store an electronic signal;
4. Tape;
5. Mylar; and
6. Any physical material on which information may be recorded, including linen, silk, and vellum.

Gov't Code 552.002(b)–(c)

Preservation of Information

A district may determine a time for which information that is not currently in use will be preserved, subject to any applicable rule or law governing the destruction and other disposition of state and local government records or public information.

The provisions of Chapter 441, Government Code and Title 6, Local Government Code (Local Government Records Act), governing the preservation, destruction, or other disposition of records or public information apply to records and public information held by a temporary custodian.

Gov't Code 552.004(a), (c) [See BBI, CPC, DH]

Temporary Custodians

"Temporary custodian" means an officer or employee of a district who, in the transaction of official business, creates or receives public information that the officer or employee has not provided to the officer for public information or the officer's agent. The term includes a former officer or employee who created or received public information in the officer's or employee's official capacity that has not been provided to the officer for public information or the officer's agent. *Gov't Code 552.003(7)*

No Property Right to Public Information

A current or former board member or employee of a district does not have, by virtue of the board member's or officer's position or former position, a personal or property right to public information the board member or employee created or received while acting in an official capacity.

Surrender or Return of Public Information

A temporary custodian with possession, custody, or control of public information shall surrender or return the information to the district not later than the 10th day after the date the officer for public information or the officer's agent requests the temporary custodian to surrender or return the information.

Disciplinary Action

A temporary custodian's failure to surrender or return public information as required is grounds for disciplinary action by the district or any other applicable penalties provided by the PIA or other law.

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Calculating Timelines	For purposes of requesting an attorney general opinion related to information surrendered or returned to a district by a temporary custodian, the district is considered to receive the request for that information on the date the information is surrendered or returned to the district. [See GBAA] *Gov't Code 552.233*
Online Message Board	If a board maintains an online message board or similar internet application under Government Code 551.006 [see BBI], and the board removes from the online message board or similar internet application a communication that has been posted for at least 30 days, the board shall maintain the posting for a period of six years. This communication is public information and must be disclosed in accordance with the PIA. *Gov't Code 551.006(d)*

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Right of Access to Public Information

Availability

Public information is available, at a minimum, to the public during a district's normal business hours. *Gov't Code 552.021*

Information That Must Be Disclosed

The following categories of information are public information and not excepted from required disclosure unless made confidential under Government Code Chapter 552 or other law:

1. A completed report, audit, evaluation, or investigation made of, for, or by a board, except as provided in Government Code 552.108.
2. The name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a district.
3. Information in an account, voucher, or contract relating to the receipt or expenditure of public funds.
4. The name of each official and the final record of voting on all proceedings of a board.
5. All working papers, research material, and information used to estimate the need or expenditure of public funds or taxes by a board, on completion of the estimate.
6. A description of a district's organization and where, from whom, and how the public may obtain information, submit information or requests, and obtain decisions.
7. A statement of the general course and method by which a district's functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures.
8. A rule of procedure, description of forms available or the places where forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations.
9. A substantive rule of general applicability adopted or issued by a board and a statement of general policy or interpretation of general applicability formulated and adopted by the board.
10. Any amendment, revision, or repeal of the information described in items 6–9.
11. Final opinions and orders issued in adjudication of cases.
12. A policy statement or interpretation adopted or issued by a board.

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13. Administrative manuals and instructions to staff that affect a member of the public.
14. Information regarded as open to the public under a district's policies.
15. Information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege.
16. Information that is also contained in a public court record.
17. A settlement agreement to which a board is a party.

Gov't Code 552.022

Contracting Information: Certain "contracting information," as that term is defined in Government Code 552.003(7), is public and must be released unless excepted from disclosure under the Public Information Act (PIA). The exceptions to disclosure provided by Government Codes 552.110 (trade secrets) and 552.1101 (proprietary information) do not apply to certain types of contracting information. *Gov't Code 552.0222(a), (b)*

Investment Information: Certain district investment information, as specified by Government Code 552.0225, is public information and not excepted from disclosure. *Gov't Code 552.0225*

Security System Information: Financial information in the possession of a district that relates to the expenditure of funds by a district for a security system is public information that is not excepted from required disclosure under the PIA. *Gov't Code 418.182(b)*

Body-Worn Camera: Except as set forth at Occupations Code Chapter 1701, Subchapter N, a recording from a body-worn camera that is or could be used as evidence in a criminal prosecution is subject to the requirements of the PIA.

However, a law enforcement agency may not release any portion of a recording made in a private space, or of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in arrest, without written authorization from the person who is the subject of that portion of the recording or, if the person is deceased, from the person's authorized representative.

Occupations Code 1701.661

Personal Information

Employee / Board Member: Each district employee, other than a peace officer or security officer, and board member and each former employee and board member shall choose whether to allow public access to district-

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held information relating to the person's home address, home telephone number, emergency contact information, or social security number, or any other information that reveals whether the person has family members. However, a district may not require an employee or former employee of the district to choose whether to allow public access to the employee's or former employee's social security number.

Employees and board members shall state their choice to a district's main personnel officer in a signed writing not later than the 14th day after employment begins, election or appointment to the board occurs, or service with the district ends. If an employee or board member fails to state his or her choice within 14 days, the information is available to the public. However, an employee or board member may make a written request at any time to the personnel officer to open or close the information. A written request made after the 14 days does not apply to an open records request made before the option was exercised.

Gov't Code 552.024; Tex. Atty. Gen. ORD 530 (1989)

Notice to Requestor

If an employee or board member has opted to restrict public access to his or her personal information, the district may redact the personal information from any information the district discloses without the necessity of requesting a decision from the attorney general. *Gov't Code 552.024(c)*

If a district redacts information under this provision, the district shall provide the information required by Government Code 552.024(c-2) to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter. *Gov't Code 552.024(c-2)*

Special Rights of Access

Employees

An employee or an employee's authorized representative has a special right of access, beyond the right of the general public, to information held by the district that relates to the employee and that is protected from public disclosure by laws intended to protect the employee's privacy interests. [See DBA] *Gov't Code 552.023*

Board Members

When acting in the member's official capacity, a board member has an inherent right of access to information, documents, and records maintained by the district. "Official capacity" means all duties of office and includes administrative decisions or actions. [See BBE] *Education Code 11.1512; Atty. Gen. Op. JM-119 (1983)*

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Information District Is Not Required to Release

Commercial Information

A district is not required to allow the inspection of or to provide a copy of information in a commercial book or publication purchased or acquired by the district for research purposes, if the book or publication is commercially available to the public. Although information in a book or publication may be made available to the public as resource material, such as a library book, a district is not required to make a copy of the information in response to a request for public information. The district shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of the district. *Gov't Code 552.027*

Request for Information from Incarcerated Individual

A district is not required to accept or comply with a request for information from an individual who is imprisoned or confined in a correctional facility or an agent of that individual, other than the individual's attorney when the attorney is requesting information that is subject to disclosure under the PIA. This section does not prohibit a district from disclosing to an incarcerated individual or the individual's agent information that pertains to the individual. *Gov't Code 552.028*

Voluntary Disclosure

A board or the officer for public information voluntarily may make part or all of its records available to the public, unless the disclosure is expressly prohibited by law or the records are confidential by law. *Gov't Code 552.007*

Confidential Information Under the Public Information Act or Other Law

A person commits a misdemeanor offense if the person distributes information considered confidential under the terms of the PIA. A violation of this section also constitutes official misconduct. *Gov't Code 552.352*

Information That May Not Be Disclosed

Student Records

Information is confidential and excepted from required disclosure if it is information in a student record at a district.

"Student record" means information that constitutes education records as that term is defined by the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g(a)(4)) [see FL] and information in a record of an applicant for admission to an educational institution, including a transfer applicant.

A district may disclose or provide information included in an education record as authorized by 20 U.S.C. Section 1232g or other federal law. [See FL] In addition, a student record shall be made available upon request to district personnel, the student, the student's

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parents, guardian, or spouse, or a person conducting a child abuse investigation required by Family Code Chapter 261, Subchapter D.

Except as set forth in federal law (the Family Educational Rights and Privacy Act), a district shall not release personally identifiable information in education records without the written consent of the student's parents.

A district may redact information that constitutes a student record from information disclosed under the PIA without requesting a decision from the attorney general.

If an applicant for admission to an educational institution funded wholly or partly by state revenue, or a parent or legal guardian of a minor applicant to such an educational institution, requests information in the record of the applicant, the district shall disclose any information that is related to the application for admission and was provided to the district by the applicant.

Gov't Code 552.026, .114 [See FL]

Employee Social Security Numbers

The social security number of an employee of a district in the custody of the district is confidential. *Gov't Code 552.147(a-1)*

Evaluations

A document evaluating the performance of a teacher or administrator is confidential and is not subject to disclosure under the ~~Public Information Act. *Education Code 21.355*~~PIA.

At the request of a school district, open-enrollment charter school, or private school at which an administrator has applied for employment, a district shall give the requesting district or school a document evaluating the performance of a teacher or administrator employed by the school.

A district shall give the Texas Education Agency (TEA) a document evaluating the performance of a teacher or administrator employed by the district for purposes of an investigation conducted by TEA.

Education Code 21.355(a), (c), (d)

Educator Certification Exam

The results of an educator certification examination are confidential and are not subject to disclosure, unless the disclosure is regarding notification to a parent of the assignment of an uncertified teacher to a classroom as required by Education Code 21.057. *Education Code 21.048(c-1)*

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Credit Card, Debit Card, Charge Card, and Access Device Numbers

A credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a district is confidential.

"Access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another device may be used to:

1. Obtain money, goods, services, or another thing of value; or
2. Initiate a transfer of funds other than a transfer originated solely by paper instrument.

A district may redact credit card, debit card, charge card, or access device numbers from any information the district discloses without the necessity of requesting a decision from the attorney general. The district shall provide the information required by Government Code 552.136 to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter.

Gov't Code 552.136

Email Addresses

Confidential

An email address of a member of the public that is provided for the purpose of communicating electronically with a district is confidential and not subject to disclosure unless the member of the public affirmatively consents to its release.

Exceptions

This confidentiality does not apply to an email address:

1. Provided to a district by a person who has a contractual relationship with the district or by the contractor's agent;
2. Provided to a district by a vendor who seeks to contract with the district or by the vendor's agent;
3. Contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to a district in the course of negotiating the terms of a contract or potential contract;
4. Provided to a district on a letterhead, coversheet, printed document, or other document made available to the public; or
5. Provided to a district for the purpose of receiving orders or decisions from the district, or for the purpose of providing public comment on or receiving notices related to an application for a license. A "license" under this section includes a state

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agency permit, certificate, approval, registration, or similar form of permission required by law.

A district may also disclose an email address for any reason to another governmental body or to a federal agency.

Gov't Code 552.137, 2001.003(2)

Victim of Abuse or Improper Relationship

The name of a person who is enrolled in a public or private primary or secondary school and involved in an improper relationship with an educator as provided by Penal Code 21.12(a) may not be released to the public and is not public information subject to disclosure. *Penal Code 21.12(d)*

The name of a student or minor who is the victim of abuse or unlawful conduct by an educator is not public information subject to disclosure. *Education Code 21.006(h)*

Crime Victims

Information relating to a participant in the Address Confidentiality Program for Victims of Family Violence, Sexual Assault or Abuse, Stalking, or Trafficking of Persons under Code of Criminal Procedure Chapter 56, Subchapter C is confidential, except as provided by Code of Criminal Procedure 56.90, and may not be disclosed. *Code of Criminal Procedure 56.88*

A district employee who is a victim under the Crime Victim Compensation Act may elect whether to allow public access to information held by the district that would identify or tend to identify the victim, including a photograph or other visual representation of the victim. The election must be made in writing on a form developed by the district, signed by the employee, and filed with the district before the third anniversary of the latest to occur of one of the following:

1. The date the crime was committed;
2. The date employment begins; or
3. The date the governmental body develops the form and provides it to employees.

If the employee fails to make an election, the identifying information is excepted from disclosure until the third anniversary of the date the crime was committed. In case of disability, impairment, or other incapacity of the employee, the election may be made by the guardian of the employee or former employee.

Gov't Code 552.132

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Location or Layout of Shelter Centers	Information that relates to the location or physical layout of a family violence shelter center or victims of trafficking shelter center is confidential. *Gov't Code 552.138(b-1)*
Criminal History Records	Information collected to comply with Education Code Chapter 22, Subchapter C (criminal records), including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records, is confidential and may not be released except to comply with Subchapter C, by court order, or with the consent of the person who is the subject of the information. *Education Code 22.08391* Criminal history record information obtained by the district from the Texas Department of Public Safety may not be disclosed to any person except: 1. The person who is the subject of the information; 2. The Texas Education Agency; 3. The State Board for Educator Certification; 4. The chief personnel officer of the transportation company if the information was obtained under Government Code 411.097(a)(2) with respect to a transportation company that contracts with the district to provide student transportation; or 5. By court order. *Gov't Code 411.097(d)(1)* [See CJA, DBAA, and DHB]
Sensitive Crime Scene Image	A sensitive crime scene image in the custody of a district is confidential and excepted from the requirements of the PIA, regardless of the date that the image was taken or recorded. "Sensitive crime scene image" means a photograph or video recording taken at a crime scene, contained in or part of a closed criminal case, that depicts a deceased person in a state of dismemberment, decapitation, or similar mutilation or that depicts the deceased person's genitalia. A district may not permit a person to view or copy the image except as provided by Government Code 552.1085. *Gov't Code 552.1085(a)(6), (c)*
School Marshal Identity	The identity of a school marshal appointed under Education Code 37.0811 is confidential except as provided by Occupations Code 1701.260(j). If a parent or guardian of a student enrolled at a school inquires in writing, the district shall provide the parent or guardian written no-

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tice indicating whether any employee of the school is currently appointed a school marshal. The notice may not disclose the identity of the school marshal.

Education Code 37.0811(g), (h)

Closed Meeting Recording / Certified Agenda

The certified agenda or tape recording of a closed meeting is available for public inspection only under a court order issued in litigation in a district court involving an alleged violation of the Open Meetings Act. *Gov't Code 551.104(c); Atty. Gen. ORD 684 (2009)*

Security Information

Except as provided by the Texas Homeland Security Act, Government Code 418.182, information, including access codes and passwords, in the possession of a district that relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity is confidential. *Gov't Code 418.182(a)*

The following information is confidential under Subchapter C of the PIA:

1. A computer network vulnerability report;
2. Any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a district or of a contractor of a district is vulnerable to unauthorized access or harm, including an assessment of the extent to which a district's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use;
3. A photocopy or other copy of an identification badge issued to an official or employee of a district; and
4. Information directly arising from a governmental body's routine efforts to prevent, detect, investigate, or mitigate a computer security incident, including information contained in or derived from an information security log. This does not affect the notification requirements related to a breach of system security as defined by Business and Commerce Code 521.053. [See ~~CQ~~CQB]

   A district may disclose the information to a bidder if the district determines that providing the information is necessary for the bidder to provide an accurate bid. Such a disclosure is not a voluntary disclosure for purposes of Government Code 552.007.

Gov't Code 552.139(b), (c)

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Military Discharge Records

A military veteran's Department of Defense Form DD-214 or other military discharge record that first comes into the possession of a district on or after September 1, 2003, is confidential for the 75 years following the date it comes into the possession of a district. A district that obtains information from the record shall limit the use and disclosure of the information to the purpose for which the information was obtained. *Gov't Code 552.140; Atty. Gen. ORD 684 (2009)*

Retirement Eligibility Records

Records, including any identifying information, of individual members, annuitants, retirees, beneficiaries, alternate payees, program participants, or persons eligible for benefits from TRS or another retirement system, are confidential and not subject to public disclosure. This provision applies to records in the custody of the district acting in cooperation with or on behalf of the retirement system. A district acting in cooperation with or on behalf of the retirement system is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general.

For purposes of Government Code 825.507, "participant" means a member, former member, retiree, annuitant, beneficiary, or alternate payee of the retirement system, or an employee or contractor of an employer covered by the retirement system for whom records were received by the retirement system for the purpose of administering the terms of the plan, including for audit or investigative purposes.

Gov't Code 552.0038, 825.507(g)

Peace / Security Officer Information

District information related to the home address, home telephone number, emergency contact information, date of birth, or social security number of a peace officer or commissioned security officer, or information that reveals whether the officer has family members, is confidential and may not be released if the officer chooses to restrict public access to the information by notifying the district on a form provided by the district with evidence of the individual's status.

In accordance with Government Code 552.1175(h), a district may redact information that must be withheld under this section from any information the district discloses under the PIA without the necessity of requesting a decision from the attorney general. If a district redacts information under this provision, the district shall provide the information required by Government Code 552.024(c-2) to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter.

Gov't Code 552.1175

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Election Judges and Clerks

An email address or personal phone number of an election judge or clerk collected or maintained by the authority conducting the election is confidential and does not constitute public information for purposes of Government Code Chapter 552.

Exception

An email address or phone number of an election judge or clerk shall be made available on request to:

1. Any entity eligible to submit lists of election judges or clerks for that election; or
2. The state executive committee of a political party with a county chair eligible to submit lists of election judges or clerks for that election.

Election Code 32.076

Cybersecurity Information

A cyber threat indicator or defensive measure shared by or with a state, tribal, or local government under 6 U.S.C. 1503 shall be deemed voluntarily shared information and exempt from disclosure under any state or local freedom of information law, open government law, open meetings law, open records law, sunshine law, or similar law requiring disclosure of information or records. *6 U.S.C. 1503(d)(4)(B)*

A cyber threat indicator or defensive measure shared with the federal government under Title 6, United States Code, shall be:

1. Deemed voluntarily shared information and exempt from disclosure under federal public information law and any state or local provision of law requiring disclosure of information or records; and
2. Withheld, without discretion, from the public under federal public information law and any state or local provision of law requiring disclosure of information or records.

6 U.S.C. 1504(d)(3) [See ~~CQ~~CQB]

Protected Health Information

An individual's protected health information as defined by Health and Safety Code 181.006 is not public information and is not subject to disclosure under the PIA. *Gov't Code 552.002(d)*

Out-of-State Health-Care Provider Information

Information obtained by a district that was provided by an out-of-state health-care provider in connection with a quality management, peer review, or best practices program that the out-of-state health-care provider pays for is confidential and excepted from the requirements of the PIA. *Gov't Code 552.159*

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Applicant for Disaster Recovery Funds

The following information maintained by a district is confidential:

1. The name, social security number, house number, street name, and telephone number of an individual or household that applies for state or federal disaster recovery funds;

2. The name, tax identification number, address, and telephone number of a business entity or an owner of a business entity that applies for state or federal disaster recovery funds; and

3. Any other information the disclosure of which would identify or tend to identify a person or household that applies for state or federal disaster recovery funds.

The street name and census block group of and the amount of disaster recovery funds awarded to a person or household are not confidential after the date on which disaster recovery funds are awarded to the person or household.

Gov't Code 552.160

Information Excepted from Disclosure

Except for social security numbers or as otherwise provided by law, information that is not confidential, but is excepted from required disclosure under Government Code sections 552.101–.151, is public information and is available to the public on or after the 75th anniversary of the date the information was originally created or received by a district. This paragraph does not limit the authority of a district to establish retention periods for records under applicable law. *Gov't Code 552.0215*

Confidential by Law

Information is excepted from public disclosure if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *Gov't Code 552.101*

Certain Personnel File Information

Information is excepted from public disclosure if it is information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and transcripts from institutions of higher education maintained in files of professional employees; however, the degree obtained and the curriculum on the transcripts shall be subject to disclosure. *Gov't Code 552.102*

Disclosure of employee birth dates would constitute a clearly unwarranted invasion of personal privacy, and such dates are excepted from disclosure under Government Code 552.102(a), if the employees' privacy interests substantially outweigh the public interest in the information. *Texas Comptroller of Public Accts. v. Atty. Gen'l of Texas, 354 S.W.3d 336 (Tex. 2010) (holding that a newspaper's stated reason for requesting state employees' dates of birth did not outweigh employees' privacy rights)*

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	Information is excepted from public disclosure if it is information in the custody of the district that relates to an employee or officer of the district if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm. *Gov't Code 552.152*
Information Relating to Litigation	Information is excepted from public disclosure if it is information relating to litigation of a civil or criminal nature to which a district is, or may be, a party or to which an officer or employee of the district, as a consequence of the office or employment, is or may be a party, but only if the litigation is pending or reasonably anticipated at the time the district's public information officer receives the request. *Gov't Code 552.103*
Information ~~That Advantages Competitors~~Related to Competition or ~~Bidders~~Bidding	Information is excepted from public disclosure if ~~it is~~ the district demonstrates that the release of the information ~~that, if released,~~ would ~~give~~harm its interests by providing an advantage to competitors or bidders~~. The requirement of Government Code 552.022 that~~ in a ~~category of information listed under 552.022~~(particular ongoing competitive situation or in a~~)~~ particular competitive situation where the district establishes the situation at issue is set to reoccur or there is a specific and demonstrable intent to enter into the competitive situation again in the future.
Parades, Concerts, and Entertainment Events	Information relating to the receipt or expenditure of public ~~information and~~ or other funds by a district for a parade, concert, or other entertainment event paid for in whole or part with public funds is not excepted from ~~required~~public disclosure ~~unless expressly confidential under law does~~. A person, including a district, may not ~~apply to information that is excepted from required~~include a provision in a contract related to an event that prohibits or would otherwise prevent the disclosure ~~under~~of this ~~paragraph.~~ information. A contract provision that violates Government Code 552.104(c) is void. *Gov't Code 552.104(a), (c)*
Certain Information on Real or Personal Property	Information is excepted from public disclosure if it is information relating to the location of real or personal property for a public purpose prior to public announcement of the project, or information pertaining to appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property. *Gov't Code 552.105*
Drafts Involving Legislation	A draft or working paper involved in the preparation of proposed legislation is excepted from public disclosure. *Gov't Code 552.106*

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Attorney–Client Information	Information is excepted from public disclosure if it is information a district's attorney is prohibited from disclosing because of a duty to the district under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct or information that a court order has prohibited from disclosure. *Gov't Code 552.107*
Certain Information from Law Enforcement	Under certain circumstances, information (except basic information about an arrested person, an arrest, or a crime) held by a law enforcement agency or prosecutor is excepted from public disclosure if it is: 1. Information that deals with detection, investigation, or prosecution of crime; and 2. An internal record or notation that is maintained for internal use in matters relating to law enforcement or prosecution. *Gov't Code 552.108*
Private Correspondence of Elected Official	Private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy are excepted from public disclosure. *Gov't Code 552.109*
Trade Secrets	~~A trade secret obtained from a person and privileged or confidential~~Except as provided by ~~statute or judicial decision~~Government Code 552.0222 (disclosure of contracting information), information is excepted from public disclosure~~.~~ if it is demonstrated based on specific factual evidence that the information is a "trade secret," as that term is defined by Government Code 552.110(a). *Gov't Code 552.110(~~a~~b)*
Certain Commercial and Financial Information	Except as provided by Government Code 552.0222 (disclosure of contracting information), commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained is excepted from public disclosure. *Gov't Code 552.110(~~b~~c)*
Proprietary Information	Except as provided by Government Code 552.0222 (disclosure of contracting information), information submitted to a district by a vendor, contractor, potential vendor, or potential contractor in response to a request for a bid, proposal, or qualification is excepted from public disclosure if the vendor, contractor, potential vendor, or potential contractor demonstrates the information is proprietary information under Government Code 552.1101. *Gov't Code 552.1101*
Certain Memoranda	An interagency or intra-agency memoranda or letters that would not be available by law to a party in litigation with a district is excepted from public disclosure. *Gov't Code 552.111; City of Garland*

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v. Dallas Morning News, 22 S.W.3d 351 (Tex. 2000) (concluding that the deliberative process privilege, incorporated into the exception found at Government Code 552.111, exempts communications related to a governmental agency's policymaking)

Audit Working Paper

An audit working paper of an audit performed by the district auditor, including any audit relating to the criminal history background check of a public school employee, is excepted from public disclosure. If information in an audit working paper is also maintained in another record, that other record is not excepted. *Gov't Code 552.116*

Certain Personal Information

Information is excepted from public disclosure if it is information that relates to the home address, home telephone number, emergency contact information, or social security number of the following persons, or that reveals whether the person has family members:

1. A current or former district employee or board member, except as provided by Government Code 552.024~~;~~ [see Personal Information, above]; or

2. A peace officer or ~~a~~commissioned security officer ~~commissioned by the Board of Private Investigators and Private Security Agencies, regardless of whether the officer complies with~~.

See Government Code 552.~~1175~~117(a) for the complete list of persons whose personal information is excepted from public disclosure.

Gov't Code 552.117

Photograph of Peace Officer

A photograph that depicts a peace officer, the release of which would endanger the life or physical safety of the officer, is excepted from public disclosure unless:

1. The officer is under indictment or charged with an offense by information;

2. The officer is a party in a fire or police civil service hearing or a case in arbitration; or

3. The photograph is introduced as evidence in a judicial proceeding.

If a photograph is exempt from public disclosure as described above, it may be made public only if the officer gives written consent.

Gov't Code 552.119

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Testing Items	A test item developed by a state-funded educational institution is excepted from public disclosure. *Gov't Code 552.122*
Certain Library Records	A record of a library or library system that identifies or serves to identify a person who requested, obtained, or used a library material or service is excepted from public disclosure, unless the record is disclosed: 1. Because the library determines that disclosure is reasonably necessary for the operation of the library and the records are not confidential under other state or federal law; 2. To a person with a special right of access under Government Code 552.023; or 3. To a law enforcement agency or prosecutor under a court order or subpoena. *Gov't Code 552.124*
Superintendent Applicants	The name of an applicant for superintendent is excepted from public disclosure, except a board must give public notice of the name or names of the finalists being considered for that position at least 21 days before the date of the meeting at which final action or a vote is to be taken on the applicant's employment. *Gov't Code 552.126*
Certain Motor Vehicle and Personal Identification Information	Information is excepted from public disclosure if the information relates to: 1. A motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country; 2. A motor vehicle title or registration issued by an agency of this state or another state or country; or 3. A personal identification document issued by an agency of this state, another state or country, or a local agency authorized to issue an identification document. The motor vehicle record information described above may be released only in accordance with Transportation Code Chapter 730. Subject to Transportation Code Chapter 730 (the Motor Vehicle Records Disclosure Act), a district may redact motor vehicle or driver license information under this provision from any information the district discloses without the necessity of requesting a decision from the attorney general. The district shall provide the information specified at Government Code 552.130 to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter.

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Gov't Code 552.130; Atty. Gen. ORD 684 (2009)

Individuals Who Inform of Violations of Law

An informer's name or information that would substantially reveal the identity of an informer is excepted from public disclosure, unless:

1. The informer consents. If the informer is a student or former student, consent may also be given by the informer's legal guardian or spouse; or
2. The informer planned, initiated, or participated in the possible violation.

"Informer" means a student or former student or an employee or former employee of a district who has furnished a report of another person's possible violation of criminal, civil, or regulatory law to the district or the proper regulatory enforcement authority.

The informer's name may be made available to a law enforcement agency or prosecutor for official purposes upon proper request, made in compliance with applicable law and procedure. However, this exception does not impair the confidentiality of information considered to be confidential by law, including information excepted from disclosure under the PIA.

Gov't Code 552.135

Economic Development Negotiations

Information is excepted from public disclosure if it is information that relates to economic development negotiations involving a board and a business prospect that the board seeks to have locate, stay, or expand in or near a district and the information relates to:

1. A trade secret of the business prospect; or
2. Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.

Gov't Code 552.131(a)

Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to a business prospect by a board or by another person is excepted from public disclosure.

After an agreement is made, information about a financial or other incentive being offered is no longer exempted from public disclosure if the information is about a financial or other incentive being offered to the business prospect:

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1. By a board; or

2. By another person, if the financial or other incentive may directly or indirectly result in the expenditure of public funds by a district or a reduction in revenue received by the district from any source.

Gov't Code 552.131(b), (c)

Computer Network Security	Information is excepted from public disclosure if it is information that relates to computer network security, to network security information that is restricted under Government Code 2059.055, or to the design, operation, or defense of a computer network. [See Security Information, above] *Gov't Code 552.139(a)*
Social Security Numbers	The social security number of a living person is excepted from public disclosure. The social security number of a living person other than a district employee is not confidential, however. A district may redact the social security number of a living person from any information the district discloses to the public without the necessity of requesting a decision from the attorney general. *Gov't Code 552.147*
Crime Victim	Information that would identify or tend to identify a district employee who is also a crime victim under Code of Criminal Procedure, Chapter 56, Subchapter B, regardless of whether the employee chooses to restrict public access to the information, is excepted from public disclosure until the third anniversary of the date the crime was committed. *Gov't Code 552.132*

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Officer for Public Information and Required Notices

A superintendent shall be a district's officer for public information. Each department head shall be an agent of the officer for purposes of complying with the public information laws.

Officer for Public Information

Duties

The officer is responsible for the release of public information as required by the Public Information Act (PIA), Government Code Chapter 552. The officer for public information shall:

1. Make public information available for public inspection and copying~~.~~;
2. Carefully protect public information from deterioration, alteration, mutilation, loss, or unlawful removal~~.~~;
3. Repair, renovate, or rebind public information when necessary to maintain it properly; and
4. Make reasonable efforts to obtain public information from a temporary custodian if:
   a. The information has been requested from the district;
   b. The officer is aware of facts sufficient to warrant a reasonable belief that the temporary custodian has possession, custody, or control of the information;
   c. The officer is unable to comply with the duties imposed by the PIA without obtaining the information from the temporary custodian; and
   ~~a.~~d. The temporary custodian has not provided the information to the officer or the officer's agent.

The officer is not responsible for the use made of the information by the requestor or the release of the information after it is removed from a record as a result of an update, correction, or change of status of the person to whom the information pertains.

Gov't Code 552.201(a)–.204

~~*Public Information Coordinator*~~

~~Within 90 days after assuming office,~~

Training

For a board that has designated a public information coordinator to satisfy its required PIA training, the designated public information coordinator shall complete ~~a course of~~the training course regarding the responsibilities of a district and district officers and employees under ~~Chapter 552 of the Texas Government Code (Public Information Act).~~the PIA not later than the 90th day after the date the coordinator assumes the person's duties as coordinator. [See CPC(LOCAL)]

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The training shall be not less than one nor more than two hours. The attorney general may provide the training and may also approve other acceptable sources of training.

A district shall maintain and make available for public inspection the record of a public information coordinator's completion of the training.

Gov't Code 552.012(b), (c), (e)

PIA Sign

The officer for public information shall prominently display a sign in the form prescribed by the attorney general that contains basic information about the rights of a requestor, the responsibilities of a district, and the procedures for inspecting or obtaining a copy of public information under the PIA. The officer shall display the sign at one or more places in the district's administrative offices where it is plainly visible to:

1. Members of the public who request public information in person; and

2. Employees of the district whose duties include receiving or responding to public information requests.

Gov't Code 552.205

Access to Public Information

It shall be the policy of a district to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested. *Gov't Code 552.228*

~~Access to~~Method of Requesting Public Information

A person may make a written request for public information only by delivering the request by one of the following methods to the officer for public information or a person designated by that officer:

1. United States mail;

2. Electronic mail;

3. Hand delivery; or

4. Any other appropriate method approved by the district, including facsimile transmission and electronic submission through the district's website.

A district is considered to have approved another method only if the district includes a statement that a request for public information may be made by that method on the PIA sign [see PIA Sign, above] or the district's website.

Designated Address

A district may designate one mailing address and one electronic mail address for receiving written requests for public information

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and shall provide the designated mailing address and electronic mailing address to any person on request.

A district that posts a designated mailing address or electronic mail address on the district's website or that prints those addresses on the PIA sign is not required to respond to a written request for public information unless the request is received:

1. At one of those addresses;

2. By hand delivery; or

3. By a method described above that has been approved by the district.

Gov't Code 552.234

Public Information Request Form

The attorney general shall create a public information request form that provides a requestor the option of excluding from a request information that the district determines is:

1. Confidential; or

2. Subject to an exception to disclosure that the district would assert if the information were subject to the request.

A district that allows requestors to use the form and maintains a website shall post the form on its website.

Gov't Code 552.235

Procedural Rules

A district may promulgate reasonable rules of procedure by which public information may be inspected and copied efficiently, safely, and without delay. These rules may not be inconsistent with any provision of the PIA. *Gov't Code 552.230*

~~It shall be the policy of a district to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested. *Gov't Code 552.228*~~

Treatment of Requests

The officer for public information and agent shall not make an inquiry of a requestor, except to establish proper identification or to ask the requestor to narrow or clarify the request. The officer for public information or agent shall treat all requests for information uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media. The officer for public information or agent shall give the requestor all reasonable comfort and facility for the full exercise of the right granted by the PIA. *Gov't Code 552.222(a)–(b), .223–.224*

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Location of Access

An officer for public information complies with a request for public information by:

1. Providing the information for inspection or duplication in a district's offices [see Time for Examination, below]. The PIA does not authorize a requestor to remove an original copy of a public record from the office of a district;

2. Sending copies of the information by first class mail, if the requestor requests that copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Subchapter F of the PIA [see Costs and Charges, below];

3. By referring a requestor to an exact internet location or uniform resource locator (URL) address on a website maintained by the district and accessible to the public if the requested information is identifiable and readily available on that website. If the person requesting the information prefers a manner other than access through the URL, the district must supply the information by sending copies to the requestor, as described above.

   If the officer for public information provides by email an internet location or URL address, the email must contain a statement in a conspicuous font clearly indicating that the requestor may nonetheless access the requested information by inspection or duplication or by receipt through United States Mail, as described above.

Gov't Code 552.221(b)–(b-2), .226

Time for Response

An officer for public information shall promptly produce public information for inspection, duplication, or both, on application by any person. "Promptly" means as soon as possible under the circumstances, that is, within a reasonable time, without delay. A district may not automatically withhold for ten business days public information not excepted from disclosure.

If an officer for public information cannot produce the public information for inspection or duplication within ten business days after the date the information is requested, the officer shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

If the requested information is unavailable because it is in storage or active use, an officer for public information shall certify this fact

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in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

Gov't Code 552.221; Tex. Atty. Gen. ORD 664 (2000)

Requests to Narrow or Clarify

If a large amount of information has been requested, the district may discuss with the requestor how the scope of the request might be narrowed, but the district may not inquire into the purpose for which the information will be used. If what information is requested is unclear to the district, the district may ask the requestor to clarify the request.

If the request included the requestor's physical or mailing address, the district must send the request for discussion or clarification to that address by certified mail. The written request for discussion or clarification must include a statement as to the consequences of failure by the requestor to timely respond.

If the requestor's request for public information was sent by electronic mail, the district may send the request for clarification or discussion or the written request for additional information by electronic mail to the same electronic mail address from which the original request was sent or to another electronic mail address provided by the requestor.

If the district does not receive a written response or a response by electronic mail, as applicable, by the 61st day after the district sends the written request, the underlying request for public information is considered to have been withdrawn by the requestor.

Gov't Code 552.222(b), (d)–(g)

Time for Examination

A requestor shall complete the examination of the information not later than the tenth business day after the date the custodian of the information makes it available. If the requestor does not complete the examination within ten business days and does not file a request for additional time, the requestor is considered to have withdrawn the request.

The officer shall extend the initial examination period by an additional ten business days if, within the initial period, the requestor files with the officer a written request for additional time. The officer shall extend an additional examination period by another ten business days if, within the first additional period, the requestor files with the officer a written request for more additional time.

The time during which a person may examine information may be interrupted by the officer if the information is needed for use by the district. The period of interruption is not considered to be a part of the time during which the person may examine the information.

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A request is considered to have been withdrawn if the requestor fails to inspect or duplicate the public information in the offices of the governmental body on or before the 60th day after the date the information is made available or fails to pay the postage and any other applicable charges accrued under Government Code, Chapter 552, Subchapter F on or before the 60th day after the date the requestor is informed of the charges.

Gov't Code 552.221(e), .225

Electronic Data

If public information exists in an electronic or magnetic medium, the requestor may request a copy in an electronic medium, such as on diskette or on magnetic tape. A district shall provide a copy in the requested medium:

1. If the district has the technological ability to produce the information in the requested medium;
2. If the district is not required to purchase any software or hardware to accommodate the request; and
3. Providing the copy will not violate any copyright agreement between the district and a third party.

If a district is unable to comply with a request to produce a copy of information in a requested medium for any of these reasons, the district shall provide a copy in another medium that is acceptable to the requestor. A district is not required to copy information onto a diskette or other material provided by the requestor but may use district supplies.

Gov't Code 552.228

Requests Requiring Programming or Manipulation

A district shall provide the requestor a written statement, described below, if the district determines:

1. That responding to a request for information will require programming or manipulation of data; and
2. That:
   a. Compliance with the request is not feasible or will result in substantial interference with operations; or
   b. The information could be made available in the requested form only at a cost that covers the programming and manipulation of data.

The written statement shall include:

1. A statement that the information is not available in the requested form;
2. A description of the form in which the information is available;

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3. A description of any contract or services that would be required to provide the information in the requested form;
4. A statement of the estimated cost of providing the information in the requested form, as determined in accordance with the rules established by the attorney general [see GBAA(EXHIBIT)]; and
5. A statement of the anticipated time required to provide the information in the requested form.

Response Time When Programming or Manipulation Is Required

A district shall provide the written statement to the requestor within 20 days after the date the district receives the request. The district has an additional ten days to provide the statement if the district gives written notice to the requestor, within 20 days after receiving the request, that additional time is needed.

Further Action

After providing the written statement described above, the district has no further obligation to provide the information in the requested form or in the form in which it is available, unless within 30 days the requestor states in writing that the requestor:

1. Wants the information in the requested form according to the time and cost parameters set out in the written statement, or according to other terms to which the requestor and the district agree; or
2. Wants the information in the form in which it is available.

If a requestor does not make a timely written statement, the requestor is considered to have withdrawn the request for information.

Processing of Requests

The officer for public information shall establish policies that assure the expeditious and accurate processing of requests for information that require programming or manipulation of data. A district shall maintain a readily accessible file containing all written statements issued concerning requests for information that require programming or manipulation of data.

Gov't Code 552.231

Repetitious or Redundant Requests

If a district determines that a requestor has made a request for information for which the district has previously furnished or made copies available to the requestor, the district may:

1. Respond to the request for information as set forth below, at Procedures; or

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2. Furnish the information or make the information available to the requestor again in accordance with the request. If the district selects this option, the district is not required to comply with the procedures described below.

Gov't Code 552.232(a)

These provisions do not apply to information not previously furnished to a requestor. A district shall treat a request for information for which copies have not been previously furnished or made available to the requestor, including information that was not furnished or made available because the information was redacted or because the information did not exist at the time of an earlier request, in the same manner as any other request for public information. *Gov't Code 552.232(d)*

Procedures

A district shall, free of charge, certify to the requestor that copies of all or part of the requested information were previously furnished or made available to the requestor. The certification must include:

1. A description of the information for which copies have been previously furnished or made available to the requestor;
2. The date the district received the requestor's original request for that information;
3. The date the district previously furnished copies or made available copies of the information to the requestor;
4. A certification that no subsequent additions, deletions, or corrections have been made to that information; and
5. The name, title, and signature of the officer for public information or agent making the certification.

Gov't Code 552.232(b), (c)

Requests for Contracting Information Not Maintained by the District

"Contracting information" means the following information maintained by a district or sent between a district and a vendor, contractor, potential vendor, or potential contractor:

1. Information in a voucher or contract relating to the receipt or expenditure of public funds by a district;
2. Solicitation or bid documents relating to a contract with a district;
3. Communications sent between a district and a vendor, contractor, potential vendor, or potential contractor during the solicitation, evaluation, or negotiation of a contract;

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4. Documents, including bid tabulations, showing the criteria by which a district evaluates each vendor, contractor, potential vendor, or potential contractor responding to a solicitation and, if applicable, an explanation of why the vendor or contractor was selected; and

5. Communications and other information sent between a district and a vendor or contractor related to the performance of a final contract with the district or work performed on behalf of the district.

Gov't Code 552.003(7)

Government Code 552.371 applies to an entity that is not a governmental body that executes a contract with a district that:

1. Has a stated expenditure of at least $1 million in public funds for the purchase of goods or services by the district; or

2. Results in the expenditure of at least $1 million in public funds for the purchase of goods or services by the district in a fiscal year of the district.

Government Code 552.371 applies to a written request for public information received by a district that is party to a contract described above for contracting information related to the contract that is in the custody or possession of the entity and not maintained by the district.

Gov't Code 552.371(a), (b)

Request to Contracting Entity

A district that receives a written request for contracting information shall request that the entity provide the information to the district. The district must send the request in writing to the party not later than the third business day after the date the district receives the written request. *Gov't Code 552.371(c)*

Request for Attorney General ~~Decisions~~Opinion

A district's request for an attorney general's decision to determine whether contracting information not maintained by the district falls within an exception to disclosure under the PIA is considered timely if made not later than the 13th business day after the date the district receives the written request described above. *Gov't Code 552.371(d)(1)*

The statement and copy described below [see Statement to Requestor] is considered timely if provided to the requestor not later than the 13th business day after the date the district receives the written request. *Gov't Code 552.371(d)(2)*

A submission and copy described below [see Submission to Attorney General] is considered timely if sent not later than the 18th

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business day after the date the district receives the written request. *Gov't Code 552.371(d)(3), (4)*

~~Attorney General Decisions~~

The presumption that information is subject to disclosure [see Time for Request, below] does not apply if a district:

1. Complies with the requirements of Government Code 552.371(c) in a good faith effort to obtain contracting information not maintained by the district;
2. Is unable to meet a deadline because the contracting entity failed to provide the information to the district not later than the 13th business day after the date the district received the written request for the information; and
3. Complies with all notice requirements not later than the eighth business day after the date the district receives the information from the contracting entity.

Gov't Code 552.371(e)

Nothing in Government Code 552.371 affects the deadlines or duties of a district related to requesting an attorney general opinion regarding contracting information the district maintains. *Gov't Code 552.371(f)*

Withholding Excepted Information

Request for Attorney General Decision

If a district receives a written request for information that the district considers to be within one of the exceptions to required disclosure and that the district wishes to withhold from public disclosure, the district shall request a decision from the attorney general about whether the information is within the exception [see Submission to Attorney General, below]. ~~For these purposes, the term "written request" includes a request sent by electronic mail or facsimile transmission to the officer or designee.~~*Gov't Code 552.301(a)*

A district may only request an attorney general decision if the district reasonably believes that the requested information is excepted from required disclosure. *Tex. Atty. Gen. ORD 665 (2000)*

Time for Request

A district must submit the request to the attorney general not later than the tenth business day after receiving the written request. If a district does not timely request a decision from the attorney general and comply with the requirements at Statement to Requestor, below, the information is presumed to be subject to public disclosure and must be released unless there is a compelling reason to withhold it.

Gov't Code 552.301(~~a) (c~~b), .302

~~A district may only request an attorney general decision if the district reasonably believes that the requested information is excepted from required disclosure. *Tex. Atty. Gen. ORD 665 (2000)*~~

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Calculating Timelines

For the purposes of Government Code sections 552.301–.308, if a district receives a written request by United States mail and cannot adequately establish the actual date of receipt, the request is considered to have been received by the district on the third business day after the date of the postmark on a properly addressed request. *Gov't Code 552.301(a-1)*

When Government Code sections 552.301–.308 require a request, notice, or other document to be submitted or otherwise given to the attorney general within a specified period, the requirement is met in a timely fashion if the district submits the document through the attorney general's designated electronic filing system within that period. This provision does not affect the right of a district to submit information to the attorney general by mail under Government Code 552.308.

When the attorney general is required to deliver a notice, decision, or other document within a specified period, the requirement is met in a timely fashion if the attorney general electronically transmits the document within that period.

For information surrendered or returned to a district by a temporary custodian, the district is considered to receive the request for that information on the date the information is surrendered or returned to the district. [See GB]

Gov't Code 552.233(d), .309

Previous Determinations

Same Information

Except as set forth at Government Code section 552.301(g), a district may not request an attorney general decision if the district has previously requested and received a determination from the attorney general concerning the precise information at issue in a pending request and the attorney general or a court determined that the information is not within one of the exceptions. This exception applies to specific information that is again requested from a district after the attorney general has previously issued a decision regarding the precise information or records at issue. *Gov't Code 552.301(f); Tex. Atty. Gen. ORD 673 (2001)*

Categories of Information

A district may rely on a previous determination by the attorney general regarding a specific, clearly delineated category of information if:

1. The previous decision is applicable to a school district;
2. The previous decision concludes that the category of information is or is not excepted from public disclosure;

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3. The elements of law, fact, and circumstances are met to support the previous decision's conclusion that the requested records and information at issue are or are not excepted from public disclosure; and

4. The previous decision explicitly provides that the governmental body or bodies to which the decision applies may withhold the information without the necessity of seeking a decision from the attorney general.

Tex. Atty. Gen. ORD 673 (2001)

A district that relies on any previous determination to withhold information from disclosure should notify the requestor in writing of the decision or ruling upon which it is relying.

A district may withhold from public disclosure the categories of records listed at Texas Attorney General Open Records Decision 684 (2009).

Tex. Atty. Gen. ORD 684 (2009)

A district may withhold from public disclosure personally identifiable, non-directory information in "education records" as defined in the Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. 1232g [see FL]. *Tex. Atty. Gen. ORD 634 (1995)*

Statement to Requestor

If a district requests an attorney general decision, it shall provide to the requestor within a reasonable time but not later than the tenth business day after the date of receiving the requestor's written request:

1. A written statement that the district wishes to withhold the requested information and has asked for a decision from the attorney general about whether the information is within an exception to public disclosure; and

2. A copy of the district's written communication to the attorney general asking for the decision. If a district's written communication to the attorney general discloses the requested information, the district shall provide a redacted copy of that written communication.

Gov't Code 552.301(d)

Submission to Attorney General

When a district requests an attorney general decision, it shall, within a reasonable time but not later than the15th business day after receiving the request for information, submit to the attorney general all of the following:

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1. Written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld;
2. A copy of the written request for information;
3. A signed statement as to the date on which the written request for information was received by the district or evidence sufficient to establish that date; and
4. A copy of the specific information requested, or representative samples of the information if a voluminous amount of information was requested. The district shall label the copies or representative samples to indicate which exceptions apply to which parts of the copy.

The district shall send a copy of the comments to the requestor not later than the 15th business day after the district receives the written request. If the written comments disclose or contain the substance of the information requested, the copy of the comments provided to the requestor shall be redacted.

Gov't Code 552.301(e), (e-1)

Unless the information is confidential by law, the district may disclose the requested information to the public or the requestor before a final determination that the information is public has been made by the attorney general or a court with jurisdiction. *Gov't Code 552.303(a)*

Additional Information

If the attorney general determines that additional information is necessary to render a decision, the attorney general shall give the district and the requestor written notice of that fact. The district shall submit the necessary additional information to the attorney general not later than the seventh calendar day after the date the notice is received. If the district does not comply with the attorney general's request, the information is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information. *Gov't Code 552.303(c)–(e)*

Privacy or Property Interests

If information is requested and a person's privacy or property interests may be involved, including a case under Government Code 552.101 (information confidential by law), 552.~~104 (information related to competitive bidding), 552.~~110 (trade secrets), ~~and~~552.1101 (proprietary information), 552.114 (student records), 552.131 (economic development information), or 552.143 (investment information) a district may decline to release the information for the purpose of requesting a decision from the attorney general. A person whose interests may be involved, or any other person, may submit

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in writing to the attorney general the person's reasons why the information should be withheld or released. A district may, but is not required to, submit its reasons why the information should be withheld or released. *Gov't Code 552.305(a)–(c)*

Notice to Owner of Proprietary Information

If release of a person's proprietary information may be subject to exception under Government Code 552.101 (information confidential by law), 552.110 (trade secrets), 552.1101 (proprietary information), 552.113 (geological or geophysical information), ~~or~~ 552.131 (economic development information), or 552.143 (investment information), a district that requests an attorney general decision shall make a good faith attempt to provide written notice to that person of its request. The notice must:

1. Be sent within a reasonable time not later than the tenth business day after the district receives the request for information; and

2. Include:

   a. A copy of any written request a district received for the information; and

   b. A statement, in the form prescribed by the attorney general, that the person is entitled to submit to the attorney general, not later than the tenth business day after the person receives the notice, a written statement of the reason(s) why the information should be withheld and a letter, memorandum, or brief supporting the reason(s).

Gov't Code 552.305(d)

Charges Regarding Public Information Requests

Costs and Charges

The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the information, including costs of materials, labor, and overhead. The charges shall not be excessive and shall not exceed the actual cost of producing the information or for making public information that exists in a paper record available.

Charges for providing a copy of public information are considered to accrue at the time the district advises the requestor that the copy is available on payment of the applicable charges.

50 Pages or Less

If a request is for 50 or fewer pages of paper records, the charge for providing the copy of the information shall be limited to the charge for each page of the paper record that is photocopied, unless the pages to be photocopied are located in two or more separate buildings that are not physically connected with each other or a remote storage facility. The charge for providing a copy may not include costs of materials, labor, or overhead.

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Statement of Labor Costs

If the charge for providing a copy of public information includes costs of labor, the requestor may require the officer for public information or agent to provide the requestor with a written statement as to the amount of time that was required to produce and provide the copy. The statement must be signed by the officer or agent, and the officer or agent's name must be typed or legibly printed below the signature. A charge may not be imposed for providing the written statement to the requestor.

All requests received in one calendar day from an individual may be treated as a single request for purposes of calculating costs. A district may not combine multiple requests from separate individuals who submit requests on behalf of an organization.

Gov't Code 552.261, .262(a)

Attorney General's Rules

A district shall use the attorney general's rules to determine the charges for providing copies of public information and to determine the charge, deposit, or bond required for making public information that exists in a paper record available for inspection, except to the extent that other law provides for charges for specific kinds of public information. [See GBAA(EXHIBIT)]

A district may determine its own charges for providing copies of public information and its own charge, deposit, or bond for making public information that exists in a paper record available for inspection. However, a district may not charge an amount that is greater than 25 percent more than the amount established by the attorney general, unless the district requests an exemption. *Gov't Code 552.262(a); 1 TAC 70.1(b)*

Exemptions

A district may request that it be exempt from part or all of the rules adopted by the attorney general for determining charges. The request must be made in writing to the attorney general and must state the reason for the exemption. If a district receives notice from the attorney general that an exemption has been granted, the district may amend its charges according to the attorney general's determination. *Gov't Code 552.262(c)*

Copies for Parents

A district may charge a reasonable fee in accordance with the above requirements for copies of materials provided to parents pursuant to Education Code Chapter 26. *Education Code 26.012*

Statement of Estimated Charges

If a request for a copy of public information will result in the imposition of a charge that exceeds $40, a district shall provide the requestor with a written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If an alternative less costly method of

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viewing the records is available, the statement must include a notice that the requestor may contact the district regarding the alternative method. A district must inform the requestor of the responsibilities imposed on the requestor by Government Code 552.2615 and the rights granted by that section and give the requestor the information needed to respond as detailed in Government Code 552.2615(a).

If, after a district provides the requestor the itemized statement but before it makes the copy or the paper record available, the district determines that the estimated charges will exceed the charges detailed in the original itemized statement by 20 percent or more, the district shall send to the requestor an updated written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs.

Requestor's Response

A request for which a district is required to produce an (original or updated) itemized statement of estimated charges is considered to have been withdrawn if the requestor does not respond in writing to the itemized statement by informing the district within ten business days after the date the statement is sent to the requestor that:

1. The requestor will accept the estimated charges;
2. The requestor is modifying the request in response to the itemized statement; or
3. The requestor has sent to the attorney general a complaint alleging that the requestor has been overcharged for being provided with a copy of the public information.

Actual Charges

If the actual charges exceed $40, the charges may not exceed:

1. The amount estimated in the updated itemized statement; or
2. If an updated itemized statement is not sent to the requestor, an amount that exceeds by 20 percent or more the amount estimated in the original itemized statement.

Timing of Deadlines

An original or updated itemized statement is considered to have been sent by a district, and a requestor is considered to have responded to the statement, on the date that the statement or response is:

1. Delivered in person;
2. Deposited, properly addressed, in the U.S. Mail; or
3. Transmitted by electronic mail or facsimile, provided the requestor agrees to receive the statement by those means.

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The time deadlines for providing or responding to the required statement of estimated charges do not affect the application of a time deadline imposed on a district for requesting a decision by the attorney general under Government Code 552, Subchapter G.

Gov't Code 552.2615

Deposit or Bond

The officer for public information or agent may require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information if:

1. The officer or agent has provided the requestor with the written itemized statement required by Government Code 552.2615 [see Statement of Estimated Charges, above]; and
2. The charge for providing the copy is estimated by the district to exceed $100, if the district has more than 15 full-time employees, or $50, if the district has fewer than 16 full-time employees.

The officer or agent may not require a deposit or bond as a down payment for copies of public information that the requestor may request in the future.

Gov't Code 552.263(a), (b)

For the purposes of charging for providing copies of public information or for requesting an attorney general's opinion, a request for a copy of public information is considered to have been received by the district on the date the district receives the deposit or bond. *Gov't Code 552.263(e)*

A requestor who fails to make such a deposit or post such a bond before the tenth business day after the date the deposit or bond is required is considered to have withdrawn the request. *Gov't Code 552.263(f)*

Modified Request

If a requestor modifies a request in response to the requirement of a deposit or bond, the modified request is considered a separate request and is considered received on the date the district receives the written modified request. *Gov't Code 552.263(e-1)*

Unpaid Amounts

The officer for public information or agent may require a deposit or bond for payment of unpaid amounts the requestor owes a district in relation to previous public information requests before preparing a copy of public information in response to a new request, if those unpaid amounts exceed $100. The officer for public information or agent may not seek payment of those unpaid amounts through any other means. *Gov't Code 552.263(c)*

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A district that receives a request from a requestor who, within the preceding 180 days, has accepted but failed to pay written itemized statements of estimated charges from the district as provided under Government Code 552.261(b) may require the requestor to pay the estimated charges for the request before the request is fulfilled. *Gov't Code 552.2661*

Documentation of Unpaid Amounts

A district must fully document the existence and amount of those unpaid amounts or the amount of any anticipated costs before requiring a deposit or bond. The documentation is subject to required public disclosure. *Gov't Code 552.263(d)*

Waivers

A district shall provide a copy of public information without charge or at a reduced charge if the district determines that waiver or reduction of the charge is in the public interest because providing the information primarily benefits the public.

If the cost to a district of processing the collection of a charge for providing a copy of public information will exceed the amount of the charge, the district may waive the charge.

Gov't Code 552.267

Government Publication

The cost provisions described above do not apply to a publication that is compiled and printed by or for a district for public dissemination. If the cost of the publication is not determined by state law, a district may determine the charge for providing the publication, or the district may provide the publication free of charge, if state law does not require a certain charge. *Gov't Code 552.270*

Inspection of Public Information

If the requestor does not request a copy of public information, a district may not impose a charge for making available for inspection any public information that exists in a paper record, except as set forth below. *Gov't Code 552.271(a)*

Inspection of Public Information

Confidential Information

If a page contains confidential information that must be edited from the record before the information can be made available for inspection, a district may charge for the cost of making a photocopy of the page from which the confidential information must be edited. No charge other than the cost of the photocopy may be imposed. *Gov't Code 552.271(b)*

Payment, Deposit, or Bond

The officer for public information or agent may require a requestor to pay, or to make a deposit or post a bond for the payment of, anticipated personnel costs for making available for inspection public information that exists in paper records if:

1. The information specifically requested by the requestor is older than five years or completely fills, or when assembled will completely fill, six or more archival boxes; and

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2. The officer for public information or agent estimates that more than five hours will be required to make the information available for inspection.

Gov't Code 552.271(c)

Certain Small Districts

If a district has fewer than 16 full-time employees, the payment, deposit, or bond may be required only if:

1. The information specifically requested by the requestor is older than three years or completely fills, or when assembled will completely fill, three or more archival boxes; and

2. The officer for public information or agent estimates that more than two hours will be required to make the information available for inspection.

Gov't Code 552.271(d)

Electronic Records

If a district receives a request to inspect information that exists in an electronic medium and that is not available directly online to the requestor, the district may not impose a charge for access to the information unless complying with the request will require programming or manipulation of data. If programming or manipulation of data is required, a district shall notify the requestor before assembling the information and provide the requestor with an estimate of charges that will be imposed.

If public information exists in an electronic form on a computer owned or leased by a district, and the public has direct access to that computer through a computer network or other means, the electronic form of the information may be electronically copied from that computer without charge if accessing the information does not require processing, programming, or manipulation on the district's computer before the information is copied. If such information does require processing, programming, or manipulation before it can be copied, a district may impose charges.

If a district creates or keeps information in an electronic form, the district is encouraged to explore options to separate confidential information from public information and make the public information available to the public through electronic access through a computer network or other means.

Gov't Code 552.272

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Temporary Suspension of Requirements for Districts Impacted by Catastrophe

The requirements of the PIA do not apply if a district is currently impacted by a catastrophe and complies with requirements below to declare a suspension period.

"Catastrophe" means a condition or occurrence that interferes with the ability of a district to comply with the requirements of the PIA, including:

1. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
2. Power failure, transportation failure, or interruption of communication facilities;
3. Epidemic; or
4. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

"Suspension period" means the period of time during which a district may suspend the applicability of the requirements of the PIA.

Initial Suspension Period

A board may suspend the applicability of the PIA to the district for an initial suspension period, which may not exceed seven consecutive days and must occur during the period that:

1. Begins not earlier than the second day before the date the district submits notice to the attorney general; and
2. Ends not later than the seventh day after the date the district submits that notice.

Extension of Initial Suspension Period

A board may extend an initial suspension period if the board determines that the district is still impacted by the catastrophe on which the initial suspension period was based. The initial suspension period may be extended one time for not more than seven consecutive days that begin on the day following the day the initial suspension period ends.

Notice to the Attorney General

A district that elects to suspend the PIA must submit notice to the attorney general that the district is currently impacted by a catastrophe and has elected to suspend the applicability of the PIA during the initial suspension period.

The notice must be on the form prescribed by the attorney general and must require the district to:

1. Identify and describe the catastrophe that the district is currently impacted by;
2. State the date the initial suspension period determined by the board begins and the date that period ends;

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3. If the board has determined to extend the initial suspension period:

   a. State that the district continues to be impacted by the catastrophe; and

   b. State the date the extension to the initial suspension period begins and the date the period ends; and

4. Provide any other information the office of the attorney general determines necessary.

Notice to the Public

A district that elects to suspend the PIA must provide notice to the public of the suspension in a place readily accessible to the public and in each other location the district is required to post a notice under the Open Meetings Act. The district must maintain the notice of the suspension during the suspension period.

Requests During Suspension Period

Notwithstanding another provision of the PIA, a request for public information received by a district during a suspension period is considered to have been received by the district on the first business day after the date the suspension period ends.

Pending Requests Tolled

A request for public information received by a district before the date an initial suspension period begins are tolled until the first business day after the date the suspension period ends.

Gov't Code 552.233

Miscellaneous Provisions

Large or Frequent Requests

Personnel Time

A district may establish reasonable monthly and yearly limits on the amount of time that district employees are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time. A yearly time limit may not be less than 36 hours for a requestor during the 12-month period that corresponds to a district's fiscal year. A monthly time limit may not be less than 15 hours for a requestor for a one-month period.

Request by Minor

Any time spent complying with a request submitted in the name of a minor, as defined by Family Code 101.003(a), is to be included in the calculation of the cumulative amount of time spent complying with a request for public information by a parent, guardian, or other person who has control of the minor under a court order and with whom the minor resides, unless that parent, guardian, or other person establishes that another person submitted that request in the name of the minor.

Exception

This section does not apply if the requestor is an individual who, for a substantial portion of the individual's livelihood or for substantial

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financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information for and is seeking the information for:

1. Dissemination by a news medium or communication service provider, including:

    a. An individual who supervises or assists in gathering, preparing, and disseminating the news or information; or

    b. An individual who is or was a journalist, scholar, or researcher employed by an institution of higher education at the time the person made the request for information; or

2. Creation or maintenance of an abstract plant as described by Insurance Code 2501.004.

"Communication service provider" has the meaning assigned by Civil Practice and Remedies Code 22.021.

"News medium" means a newspaper, magazine or periodical, a book publisher, a news agency, a wire service, an FCC-licensed radio or television station or a network of such stations, a cable, satellite, or other transmission system or carrier or channel, or a channel or programming service for a station, network, system, or carrier, or an audio or audiovisual production company or internet company or provider, or the parent, subsidiary, division, or affiliate of that entity, that disseminates news or information to the public by any means, including:

1. Print;

2. Television;

3. Radio;

4. Photographic;

5. Mechanical;

6. Electronic; and

7. Other means, known or unknown, that are accessible to the public.

This section also does not apply if the requestor is an elected official of the United States, this state, or a political subdivision of this state or a representative of a publicly funded legal services organization that is a federal tax exempt entity under Section 501(c)(3), Internal Revenue Code of 1986.

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Written Statement of Personnel Time

If a district establishes a time limit, each time the district complies with a request for public information, the district shall provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable monthly or yearly period. The amount of time spent preparing the written statement may not be included in the amount of time in the statement.

Written Estimate of Charges

If the cumulative amount of personnel time spent complying with requests for public information from the same requestor equals or exceeds the established time limit, a district shall provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. The district shall provide the written estimate on or before the tenth day after the date on which the request was made. The amount of this charge relating to the cost of locating, compiling, and producing the public information shall be established by rules prescribed by the attorney general.

When a request is made by a requestor who has made a previous request to the district that has not been withdrawn, for which the district has located and compiled documents in response, and for which the district has issued a written estimate of charges that remains unpaid on the date the requestor submits the new request, the district is not required to locate, compile, produce, or provide copies of documents or prepare an estimate of charges in response to a new request until the date the requestor pays each unpaid statement issued in connection with a previous request or withdraws the previous request to which the statement applies.

Additional Time

If a district provides the requestor with written notice that additional time is required to prepare the written estimate, the district must provide the written estimate as soon as practicable, but on or before the tenth day after the date the district provided the notice that additional time was required.

Acceptance of Charges

If a district provides a requestor with the estimate of charges and the time limits regarding the requestor have been exceeded, a district is not required to produce public information for inspection or duplication or to provide copies of public information in response to the requestor's request unless on or before the tenth day after the date the district provided the written estimate, the requestor submits payment of the amount stated in the written estimate.

If the requestor fails or refuses to submit payment, the requestor is considered to have withdrawn the request.

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Waived or Reduced Charges

This section does not prohibit a district from providing a copy of public information without charge or at a reduced rate, or from waiving a charge for providing a copy of public information, under Government Code 552.267 [see Waivers, above].

Gov't Code 552.275

Filing Suit to Withhold Information

A district may file suit seeking to withhold information if the district receives a determination from the attorney general that information must be disclosed to a requestor. The suit must be filed in Travis County district court against the attorney general and must seek declaratory relief from compliance with the attorney general's decision.

The district must bring the suit not later than the 30th calendar day after the district receives the attorney general's decision. If the district wishes to preserve an affirmative defense for its officer for public information, as provided by Government Code 552.353(b)(3), the district must file suit not later than the tenth calendar day after receipt of the attorney general's decision.

Gov't Code 552.324, .353(b)(3)

Parent's Request for Information

A district that receives a request from a parent for public information relating to the parent's child shall comply with the PIA.

A district that seeks to withhold information from a parent who has requested public information relating to the parent's child under the PIA, and that files suit to challenge a decision by the attorney general, must bring the suit not later than the 30th calendar day after the date the district receives the decision of the attorney general, unless an earlier deadline is established by the PIA.

A court shall grant such a suit precedence over other pending matters to ensure prompt resolution. Notwithstanding any other law, a district may not appeal the decision of the court. This prohibition does not affect the right of a parent to appeal the decision. If a district does not bring suit within the period established, the district shall comply with the decision of the attorney general.

Education Code 26.0085

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Applicability of Criminal Laws

The criminal laws of the state apply to the areas under the control and jurisdiction of the board. *Education Code 37.101*

Trespass

An unauthorized person who trespasses on the grounds of a school district commits a Class C misdemeanor. *Education Code 37.107*

Refusal of Entry or Ejection of Unauthorized Persons

A school administrator, school resource officer, or school district peace officer may refuse to allow persons to enter on or may eject a person from property under the district's control if the person refuses to leave peaceably on request and:

1. The person poses a substantial risk of harm to any person; or
2. The person behaves in a manner that is inappropriate for a school setting and:
    a. The administrator, resource officer, or peace officer issues a verbal warning to the person that the person's behavior is inappropriate and may result in the person's refusal of entry or ejection; and
    b. The person persists in that behavior.

Identification may be required of any person on property under the district's control.

A district shall maintain a record of each verbal warning issued, including the name of the person to whom the warning was issued and the date of issuance.

At the time a person is refused entry to or ejected from a school district's property, the district shall provide to the person written information explaining the appeal process.

If a parent or guardian of a child enrolled in a school district is refused entry to the district's property, the district shall accommodate the parent or guardian to ensure that the parent or guardian may participate in the child's admission, review, and dismissal committee or in the child's team established under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), in accordance with federal law.

The term of a person's refusal of entry to or ejection from a school district's property under this section may not exceed two years.

A district shall post on the district's website and each district campus shall post on any campus website a notice regarding these provisions, including the appeal process.

The board shall adopt a policy that uses the district's existing grievance process [see FNG, GF] to permit a person refused entry to or

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ejected from property controlled by the district to appeal such refusal of entry or ejection. The policy must permit a person appealing under this section to address the board in person within 90 days of the commencement of the appeal, unless the appeal is granted before the board considers the appeal.

The board's decision to grant or deny an appeal under this section is final and may only be further appealed under the applicable provisions of Texas Education Code 7.057.

Education Code 37.105; 19 TAC 103.1207

Vehicles on School Property

A board may bar or suspend a person from driving or parking a vehicle on any school property as a result of the person's violation of any rule or regulation promulgated by the board or set forth in Education Code Chapter 37, Subchapter D. [See CLC] *Education Code 37.106*

Disruption of Lawful Assembly

A person commits a Class B misdemeanor if the person, alone or in concert with others, intentionally engages in disruptive activity on the campus or property of a public school.

Disruptive activity means:

1. Obstructing or restraining the passage of persons in an exit, entrance, or hallway of any building without the authorization of the administration of the school;
2. Seizing control of any building or portion of a building to interfere with any administrative, educational, research, or other authorized activity;
3. Preventing or attempting to prevent by force or violence or the threat of violence any lawful assembly authorized by the school administration so that a person attempting to participate in the assembly is unable to participate due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur;
4. Disrupting by force or violence or the threat of force or violence a lawful assembly in progress; or
5. Obstructing or restraining the passage of any person at an exit or entrance to the campus or property or preventing or attempting to prevent by force or violence or by threats thereof the ingress or egress of any person to or from the property or campus without the authorization of the administration of the school.

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Free Speech

This provision shall not be construed to infringe upon any right of free speech or expression guaranteed by the constitutions of the United States or the state of Texas.

Education Code 37.123

Disruption of Classes

A person, other than a primary or secondary grade student enrolled in the school, commits a Class C misdemeanor if the person, on school property or on public property within 500 feet of school property, alone or in concert with others, intentionally disrupts the conduct of classes or other school activities. It is an exception to the application of the offense that, at the time the person engaged in the prohibited conduct, the person was younger than 12 years of age.

Disrupting the conduct of classes or other school activities includes:

1. Emitting noise of an intensity that prevents or hinders classroom instruction.
2. Enticing or attempting to entice a student away from a class or other school activity that the student is required to attend.
3. Preventing or attempting to prevent a student from attending a class or other school activity that the student is required to attend.
4. Entering a classroom without the consent of either the principal or the teacher and, through either acts of misconduct or use of loud or profane language, disrupting class activities.

"School property" includes a public school campus or school grounds on which a public school is located, and any grounds or buildings used by a school for an assembly or other school-sponsored activity.

"Public property" includes a street, highway, alley, public park, or sidewalk.

Education Code 37.124

Disruption of Transportation

A person, other than a primary or secondary grade student, commits a Class C misdemeanor if the person intentionally disrupts, prevents, or interferes with the lawful transportation of students to and from school, or to or from activities sponsored by a school, on a vehicle owned and/or operated by a district. It is an exception to the application of the offense that, at the time the person engaged in the prohibited conduct, the person was younger than 12 years of age. *Education Code 37.126*

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Tobacco and E-Cigarettes

A board shall prohibit smoking or using e-cigarettes or tobacco products at a school-related or school-sanctioned activity on or off school property. School personnel shall enforce these policies on school property. *Education Code 38.006* [See FNCD for the definition of e-cigarette.]

Smoking in Buildings

A district shall not permit smoking within any indoor facility used for provision of routine or regular kindergarten, elementary, or secondary education or library services to children; or regular or routine health care or day care or early childhood development (Head Start) services to children or for the use of employees who provide such services. *20 U.S.C. 6083; 20 U.S.C. 7183*

Criminal Penalty

A person commits an offense if the person is in possession of a burning tobacco product, smokes tobacco, or operates an e-cigarette in a facility of a public school.

Defense

It is a defense to prosecution that a district does not have prominently displayed a reasonably sized notice that smoking is prohibited by state law in such place and that an offense is punishable by a fine not to exceed $500.

Facilities for Extinguishment

A district shall be equipped with facilities for extinguishment of smoking materials.

Penal Code 48.01(a)–(c)

Alcohol

A board shall prohibit the use of alcoholic beverages at school-related or school-sanctioned activities on or off school property. *Education Code 38.007(a)* [See FNCF regarding alcohol-free zones.]

Intoxicants

A person commits a Class C misdemeanor if the person possesses an intoxicating beverage for consumption, sale, or distribution while:

1. On the grounds or in a building of a public school; or
2. Entering or inside any enclosure, field, or stadium where any athletic event sponsored or participated in by a public school is being held.

Education Code 37.122 [See also FNCF]

Fireworks

A person may not explode or ignite fireworks within 600 feet of any school unless the person receives authorization in writing from the school. *Occupations Code 2154.251(a)(1)*

Federal Gun-Free School Zones Act

It is unlawful for any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone.

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"School zone" means in, or on the grounds of, a school; or within a distance of 1,000 feet from the grounds of a school.

This prohibition does not apply to the possession of a firearm:

1. On private property not part of school grounds;
2. If the individual possessing the firearm is licensed to do so by the state, and the law of the state requires that, before an individual obtains such a license, the law enforcement authorities of the state verify that the individual is qualified under law to receive the license;
3. That is not loaded and in a locked container, or a locked firearms rack that is on a motor vehicle;
4. By an individual for use in a program approved by a school in the school zone;
5. By an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;
6. By a law enforcement officer acting in his or her official capacity; or
7. That is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

It is unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm at a place that the person knows is a school zone.

This prohibition does not apply to the discharge of a firearm:

1. On private property not part of school grounds;
2. As part of a program approved by a school in the school zone, by an individual who is participating in the program;
3. By an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or
4. By a law enforcement officer acting in his or her official capacity.

18 U.S.C. 921(a)(25), .922(q)

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Possession of Weapons

A person commits a third degree felony if the person knowingly, intentionally, or recklessly possesses or goes with a firearm, location-restricted knife, club, or prohibited weapon [see FNCG]:

1. Onto the physical premises (a building or portion of a building) of a school;
2. Onto any grounds or into a building in which an activity sponsored by a school is being conducted; or
3. On a passenger transportation vehicle of a school.

This offense does not apply if the person is acting pursuant to written regulations or written authorization of a district.

It is not a defense to prosecution that the person possessed a handgun and was licensed to carry a handgun.

Penal Code 46.03(a)(1), (f)

A person commits a third degree felony if the person intentionally, knowingly, or recklessly possesses or goes with a location-restricted knife on the premises where a high school sporting event or interscholastic event is taking place, unless the person is a participant in the event and a location-restricted knife is used in the event. [See FNCG] *Penal Code 46.03(a-1)*

"Premises" Defined

"Premises," for purposes of this policy, means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area. *Penal Code 46.035(f)(3)*

Excepted Persons

Penal Code 46.03 does not apply to:

1. Peace officers or special investigators regardless of whether engaged in the actual discharge of the officer's or investigator's duties;
2. Parole officers while engaged in the actual discharge of the officer's duties;
3. Community supervision and corrections department officers while engaged in the actual discharge of the officer's duties;
4. An active judicial officer who is licensed to carry a handgun;
5. An honorably retired peace officer~~,~~ or other qualified retired law enforcement officer, ~~federal criminal investigator, or former reserve law enforcement officer~~as defined by 18 U.S.C. Section 926C, who holds a certificate of proficiency and is carrying a photo identification verifying that the officer ~~or investigator~~ qualifies for this exception;

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6. The attorney general or a United States attorney, district attorney, criminal district attorney, county attorney, or municipal attorney who is licensed to carry a handgun;

7. An assistant United States attorney, assistant attorney general, assistant district attorney, assistant criminal district attorney, or assistant county attorney who is licensed to carry a handgun;

8. A bailiff designated by an active judicial officer who is licensed to carry a handgun and engaged in escorting the judicial officer;

9. A juvenile probation officer who is authorized to carry a firearm; or

10. A person who is volunteer emergency services personnel if the person is carrying a handgun under the authority of Government Code, Chapter 411, Subchapter H; and engaged in providing emergency services.

Penal Code 46.15(a)

Transportation or Storage of Firearm in School Parking Area

A district may not prohibit a person who holds a license to carry a handgun under Government Code, Chapter 411, Subchapter H, from transporting or storing a handgun or other firearm or ammunition in a locked, privately owned or leased motor vehicle in a parking lot, parking garage, or other parking area provided by the district, and may not regulate the manner in which the handgun, firearm, or ammunition is stored in the vehicle, provided that the handgun, firearm, or ammunition is not in plain view.

This does not authorize a person to possess, transport, or store a handgun, a firearm, or ammunition in violation of Education Code 37.125 or Penal Code 46.03 or 46.035, or other law.

Education Code 37.0815

Volunteer Emergency Services Personnel

A district is not liable in a civil action arising from the discharge of a handgun by an individual who is volunteer emergency services personnel and licensed to carry the handgun under Government Code, Chapter 411, Subchapter H.

The discharge of a handgun by an individual who is volunteer emergency services personnel and licensed to carry the handgun under Subchapter H, Chapter 411, Government Code, is outside the course and scope of the individual's duties as volunteer emergency services personnel.

The district does not waive immunity from suit or liability under the Texas Tort Claims Act or any other law.

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"Volunteer emergency services personnel" includes a volunteer firefighter, an emergency medical services volunteer as defined by Health and Safety Code 773.003, and any individual who, as a volunteer, provides services for the benefit of the general public during emergency situations. The term does not include a peace officer or reserve law enforcement officer, as those terms are defined by Occupations Code 1701.001, who is performing law enforcement duties.

Civil Practice & Remedies Code 112.001; Penal Code 46.01(18)

Exhibition of Firearm

A person commits a third degree felony if, in a manner intended to cause alarm or personal injury to another person or to damage school property, the person intentionally:

1. Exhibits or uses a firearm:
    a. In or on any property, including a parking lot, parking garage, or other parking area, that is owned by a private or public school; or
    b. On a school bus being used to transport children to and from school-sponsored activities;
2. Threatens to exhibit or use a firearm in or on property described above or on a bus and was in possession of or had immediate access to the firearm.

A person commits a Class A misdemeanor if the person threatens to exhibit or use a firearm, but was not in possession of or did not have immediate access to the firearm.

Education Code 37.125

Trespass—Concealed Carry of Handgun

A license holder commits an offense if the license holder:

1. Carries a concealed handgun on the property of another without effective consent; and
2. Received notice that entry on the property by a license holder with a concealed handgun was forbidden.

An offense under Penal Code 30.06 is a Class C misdemeanor, except that the offense is a Class A misdemeanor if, after entering the property, the license holder was personally given the notice that entry or remaining on the property with a concealed handgun was forbidden and subsequently failed to depart.

Notice / Sign—Concealed Carry of Handgun

For purposes of Penal Code 30.06, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

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"Written communication" means:

1. A card or other document on which is written language identical to the following: "Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun"; or

2. A sign posted on the property that includes the language described above in both English and Spanish, appears in contrasting colors with block letters at least one inch in height, and is displayed in a conspicuous manner clearly visible to the public.

Exception

It is an exception to Penal Code 30.06 that the property on which the license holder carries a concealed handgun is owned or leased by a district and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Penal Code 46.03 or 46.035.

Penal Code 30.06 [See also FNCG]

Unauthorized Notice

A district may not ~~provide~~take any action, including an action consisting of the provision of notice, by a communication described by Penal Code 30.06 or ~~by any sign expressly referring to~~30.07 that ~~law~~states or ~~to a concealed handgun license,~~implies that a license holder who is carrying a handgun under the authority of Government Code Chapter 411 is prohibited from entering or remaining on a premises or other place owned or leased by the district unless license holders are prohibited from carrying a handgun on the premises or other place by Penal Code 46.03 or 46.035~~.~~ or other law.
Gov't Code 411.209

Trespass—Open Carry of Handgun

A holder of a license to openly carry a handgun commits an offense if the license holder:

1. Openly carries a handgun on property of another without effective consent; and

2. Received notice that entry on the property by a license holder openly carrying a handgun was forbidden.

Notice / Sign—Open Carry of Handgun

For purposes of Penal Code 30.07, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

"Written communication means":

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1. A card or other document on which is written language identical to the following: "Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly"; or
2. A sign posted on the property that includes the language described above in both English and Spanish, appears in contrasting colors with block letters at least one inch in height, and is displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

An offense under Penal Code 30.07 is a Class C misdemeanor, except that the offense is a Class A misdemeanor if, after entering the property, the license holder was personally given the notice by oral communication that entry or remaining on the property with an openly carried handgun was forbidden and subsequently failed to depart.

Exception

It is an exception to Penal Code 30.07 that the property on which the license holder openly carries the handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Penal Code 46.03 or 46.035.

Penal Code 30.07

Interscholastic Events

Unless authorized by law, a license holder commits a Class A misdemeanor if the license holder intentionally, knowingly, or recklessly carries a handgun, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place.

Penal Code 46.035(b)(2) does not apply if the license holder is a participant in the event and a handgun is used in the event.

Penal Code 46.035(b)(2)

Board Meetings

Unless authorized by law, a license holder commits a Class A misdemeanor if the license holder intentionally, knowingly, or recklessly carries a handgun, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, in the room or rooms where a meeting of the board is held and if the meeting is an open meeting under the Open Meetings Act.

Penal Code 46.035(c) does not apply unless the license holder was given effective notice under Penal Code 30.06 or 30.07 [see Notice/Sign—Concealed Carry of Handgun and Notice/Sign—Open Carry of Handgun, above].

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Penal Code 46.035(c), (i)

Board Authorization

A license holder does not commit a criminal offense under Penal Code 46.035 [see Interscholastic Events and Board Meetings, above] if the person is lawfully carrying a handgun pursuant to a board's written regulations and authorization. *Att'y Gen. Op. GA-1051 (2014)* [See Handgun Licensees at CKE(LEGAL)]

Drones

Federal Law

Small Unmanned Aircraft

"Small unmanned aircraft" means an unmanned aircraft weighing less than 55 pounds on takeoff, including everything that is on board or otherwise attached to the aircraft.

Small Aircraft Systems

"Small unmanned aircraft system" (small UAS) means a small unmanned aircraft and its associated elements (including communication links and the components that control the small unmanned aircraft) that are required for the safe and efficient operation of the small unmanned aircraft in the national airspace system.

The registration, airman certification, and operation of civil small UAS within the United States is subject to 14 C.F.R. Part 107. Part 107 does not apply to the following:

1. Air carrier operations;
2. Any aircraft subject to the provisions of 14 C.F.R. Part 101; or
3. Any operation that a remote pilot in command elects to conduct pursuant to an exemption issued under Section 333 of Public Law 112–95, unless otherwise specified in the exemption.

14 C.F.R. 107.1, .3

Model Aircraft

A "model aircraft" is an unmanned aircraft that is capable of sustained flight in the atmosphere, flown within visual line of sight of the person operating the aircraft, and flown for hobby or recreational purposes.

Title 14 C.F.R. Part 101, Subpart E prescribes rules governing the operation of a model aircraft (or an aircraft being developed as a model aircraft) that meets all of the following conditions:

1. The aircraft is flown strictly for hobby or recreational use;
2. The aircraft is operated in accordance with a community-based set of safety guidelines and within the programming of a nationwide community-based organization;
3. The aircraft is limited to not more than 55 pounds unless otherwise certified through a design, construction, inspection,

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flight test, and operational safety program administered by a community-based organization;

4. The aircraft is operated in a manner that does not interfere with and gives way to any manned aircraft; and

5. When flown within five miles of an airport, the operator of the aircraft provides the airport operator and the airport air traffic control tower (when an air traffic facility is located at the airport) with prior notice of the operation.

No person may operate a model aircraft so as to endanger the safety of the national airspace system.

14 C.F.R. 101.1(5), .41, .43

State Law

Regulation Limited

A political subdivision, including a school district, may not adopt or enforce any ordinance, order, or other similar measure regarding the operation of an unmanned aircraft. An ordinance, order, or other similar measure that violates this provision is void and unenforceable. *Gov't Code 423.009(b), (d)*

Exception

A political subdivision may adopt and enforce an ordinance, order, or other similar measure regarding:

1. The use of an unmanned aircraft during a special event;

2. The political subdivision's use of an unmanned aircraft; or

3. The use of an unmanned aircraft near a facility or infrastructure owned by the political subdivision, if the political subdivision:

   a. Applies for and receives authorization from the Federal Aviation Administration to adopt the regulation; and

   b. After providing reasonable notice, holds a public hearing on the political subdivision's intent to apply for the authorization.

"Special event" means a festival, celebration, or other gathering that involves the reservation and temporary use of all or a portion of a public park, road, or other property of a political subdivision; and entertainment, the sale of merchandise, food, or beverages, or mass participation in a sports event; and requires a significant use or coordination of a political subdivision's services.

Gov't Code 423.009(a)(2), (c)

Privacy Law

It is lawful to capture an image using an unmanned aircraft in this state for the reasons listed in Government Code 423.002, including:

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1. With the consent of the individual who owns or lawfully occupies the real property captured in the image; or

2. From a height no more than eight feet above ground level in a public place, if the image was captured without using any electronic, mechanical, or other means to amplify the image beyond normal human perception.

Gov't Code 423.002(a)

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Regional education service centers shall be located throughout the state so that each school district has the opportunity to be served by and to participate in an approved center on a voluntary basis. The centers shall provide services to assist school districts in improving student performance and increasing the efficiency and effectiveness of school operations. *Education Code 8.001(b~~)~~), .002*

Core Services

Each service center shall develop and maintain core services for purchase by school districts and campuses. These services are:

1. Training and assistance in teaching each subject area assessed under Education Code 39.~~054~~023 (state assessments~~).~~) and providing instruction in personal financial literacy as required under Education Code 28.0021.
2. Training and assistance in providing a gifted and talented program and each program that qualifies for a funding allotment under Education Codes 48.102 (special education~~,~~), 48.104 (compensatory education~~,~~), or 48.105 (bilingual education~~, and gifted and talented education.~~).
3. Assistance specifically designed for a district or campus assigned an unacceptable performance rating under Education Code 39.054.
4. Training and assistance to teachers, administrators, school board members, and members of site-based decision-making committees.
5. Assistance specifically designed for a school district that is considered out of compliance with state or federal special education requirements.
6. Assistance in complying with state laws and rules.

Education Code 8.051(d)

Additional Services

In addition to the core services, a regional education service center may offer any service requested and purchased by any school district or campus in the state. *Education Code 8.053*

A regional education service center shall assist the board of a district in entering into an agreement with another district or political subdivision, a regional education service center, or an institution of higher education for a cooperative shared services arrangement regarding administrative services, including transportation, food service, purchasing, and payroll functions. *Education Code 11.003(c)*

Delegation of Functions

The board of a school district may delegate purchasing or other administrative functions to a service center to the extent necessary to achieve efficiencies in the use of available services. *Education Code 8.122(d)*

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~~Education Code 37.015 requires principals to make reports to local law enforcement authorities of certain classes of offenses, four of which are referenced entirely by citation. The offenses referenced only by citation are further defined below.~~

1. ~~"Conduct that may constitute an offense listed under Section 508.149, Government Code":~~
    a. ~~An offense for which the judgment contains an affirmative finding under Section 3g(a)(2), Article 42.12, Code of Criminal Procedure (use or exhibition of a prohibited weapon during commission of or flight from a felony offense).~~
    b. ~~A first or second degree felony under Penal Code 19.02 (murder).~~
    c. ~~A capital felony under Penal Code 19.03 (capital murder).~~
    d. ~~A first or second degree felony under Penal Code 20.04 (aggravated kidnapping).~~
    e. ~~An offense under Penal Code 21.11 (indecency with a child).~~
    f. ~~A felony under Penal Code 22.011 (sexual assault).~~
    g. ~~A first or second degree felony under Penal Code 22.02 (aggravated assault).~~
    h. ~~A first degree felony under Penal Code 22.021 (aggravated sexual assault).~~
    i. ~~A first degree felony under Penal Code 22.04 (injury to a child, elderly individual, or disabled individual).~~
    j. ~~A first degree felony under Penal Code 28.02 (arson).~~
    k. ~~A second degree felony under Penal Code 29.02 (robbery).~~
    l. ~~A first degree felony under Penal Code 29.03 (aggravated robbery).~~
    m. ~~A first degree felony under Penal Code 30.02 (burglary).~~
    n. ~~A felony for which punishment is increased under Health and Safety Code 481.134 (drug-free zones) or 481.140 (use of child in commission of offense).~~
    o. ~~An offense under Penal Code 43.25 (sexual performance by a child).~~
    p. ~~An offense under Penal Code 21.02 (continuous sexual abuse of young child or children).~~
2. ~~"Deadly conduct under Section 22.05, Penal Code":~~
    a. ~~A person commits an offense if he or she recklessly engages in conduct that places another in imminent danger of serious bodily injury.~~
    b. ~~A person commits an offense if he or she knowingly discharges a firearm at or in the direction of one or more individuals or a habitation, building, or vehicle and is reckless as to whether the habitation, building, or vehicle is occupied.~~

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c. Recklessness and danger are presumed if the actor knowingly pointed a firearm at or in the direction of another whether or not the actor believed the firearm to be loaded.

3. "Terroristic threat under Section 22.07, Penal Code":

A person commits an offense if he or she threatens to commit any offense involving violence to any person or property with intent to:

a. Cause a reaction of any type to the threat by an official or volunteer agency organized to deal with emergencies;

b. Place any person in fear of imminent serious bodily injury;

c. Prevent or interrupt the occupation or use of a building; room; place of assembly; place to which the public has access; place of employment or occupation; aircraft, automobile, or other form of conveyance; or other public place;

d. Cause impairment or interruption of public communications; public transportation; public water, gas, or power supply; or other public service;

e. Place the public or a substantial group of the public in fear of serious bodily injury; or

f. Influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision of the state.

4. "Conduct that may constitute a criminal offense under Section 71.02, Penal Code" (Engaging in Organized Criminal Activity):

A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, he or she commits or conspires to commit one or more of the following:

a. Murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;

b. Any gambling offense punishable as a Class A misdemeanor;

c. Promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;

d. Unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;

e. Unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;

f. Any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;

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g. Any offense under Penal Code Chapter 43, Subchapter B depicting or involving conduct by or directed toward a child younger than 18 years of age (Chapter 43, Subchapter B prohibits obscenity including: sale, distribution, or display of material harmful to minor; sexual performance by a child; employment of a child in a sexually oriented activity or a place where the child works nude or topless; and possession or promotion of child pornography);

h. Any felony offense under Penal Code Chapter 32 (fraud);

i. Any offense under Penal Code Chapter 34 (money laundering) or Chapter 35 (insurance fraud);

j. Any offense under Penal Code Chapter 36 (bribery and corrupt influence);

k. Any offense under Penal Code 37.11(a) (impersonating a public servant);

l. Any offense under Penal Code Chapter 20A (trafficking of persons);

m. Any offense under Penal Code 37.10 (tampering with government record);

Any offense under Penal Code 38.06 (escape), 38.07 (permitting or facilitating escape), 38.09 (providing a person in custody or an inmate with an implement for escape), or 38.11 (providing prohibited or controlled substances or items to person in custody or an inmate).

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Notices to Law Enforcement Agencies

A principal or designee shall notify local law enforcement if the principal has reasonable grounds to believe that any of the following activities occurred in school, on school property, or at a school-sponsored or school-related activity on or off school property, without regard to whether the activity is investigated by school security officers:

1. Conduct that may constitute an offense listed in Government Code 508.149; deadly conduct, as described by Penal Code 22.05; or a terroristic threat, as described by Penal Code 22.07. ~~[See GRAA(EXHIBIT)]~~
2. The use, sale, or possession of a controlled substance, drug paraphernalia, or marijuana, as defined by Health and Safety Code 481.
3. The possession of any of the weapons or devices listed in Penal Code 46.01(1)–(7), (9)–(14~~)~~), or (16). [See FNCG]
4. The possession of a weapon as defined by 18 U.S.C. Section 921, in accordance with the Gun-Free Schools Act. [See FOD]
5. Conduct that may constitute a criminal offense under Penal Code 71.02, Engaging in Organized Criminal Activity. ~~[See GRAA(EXHIBIT)]~~
6. Conduct that may constitute a criminal offense for which a student may be expelled under Education Code 37.007(a), (d), or (e).

Notice is not required if the principal reasonably believes that the activity does not constitute a criminal offense.

The principal or designee shall provide the notice to the district police department (if one exists) and the police department of the municipality in which the school is located. If the school is not in a municipality, the principal or designee shall provide the notice to the sheriff of the county in which the school is located. The report shall include the name and address of each student the person believes may have participated in the activity.

Notice to Employees

The principal or designee shall also notify each instructional or support employee of the school who has regular contact with a student whose conduct is the subject of the notice.

Education Code 37.015, .007(e)

Report of Conduct Constituting Assault or Harassment

A principal or designee may make a report to any school district police department or the police department of the municipality in which the school is located or, if the school is not in a municipality,

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the sheriff of the county in which the school is located if, after an investigation is completed, the principal has reasonable grounds to believe that a student engaged in conduct that constitutes assault under Penal Code 22.01 or harassment with electronic communications under Penal Code 42.07(a)(7).

A person who makes a report may include the name and address of each student the person believes may have participated in the conduct.

Designee

The principal may designate a school employee, other than a school counselor, who is under the supervision of the principal to make the report.

Immunity

A person who voluntarily makes a report is immune from civil or criminal liability. A person who takes any action under this provision is immune from civil or criminal liability or disciplinary action resulting from that action.

This provision does not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides a basis for a cause of action.

District employees and volunteers are immune from suit resulting from an act under this provision, including an act under related policies and procedures.

An act by a district employee or volunteer under this provision, including an act under related policies and procedures, is the exercise of judgment or discretion on the part of the employee or volunteer and is not considered to be a ministerial act for purposes of liability of the district or the district's employees.

Education Code 37.0151

Notices from Law Enforcement Agencies

As described below, representatives of the juvenile justice system shall provide notice to a district when:

1. A student is arrested or referred to the juvenile board [see Arrest, below];
2. A student is convicted, or receives deferred prosecution or deferred adjudication [see Conviction or Adjudication, below];
3. A student was removed to a disciplinary alternative education program (DAEP) and the criminal case against the student is refused or the student is found not guilty [see Not Guilty/Charges Dropped, below]; or

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4. A student on parole, probation, or community supervision transfers into or reenrolls in a district [see Transfer Students, below].

Code of Criminal Procedure 15.27(a), (b), (c), (g)

Local law enforcement shall provide notice to the superintendent if a registered sex offender intends to reside in the district, as set out below. *Code of Criminal Procedure 62.053(e), .053(f)* [See Registered Sex Offenders, below]

Reportable Offenses

Code of Criminal Procedure 15.27 applies to the following offenses:

1. Any felony offense; and

2. The following misdemeanors:

   a. An offense under Penal Code 20.02 (Unlawful Restraint), 21.08 (Indecent Exposure), 22.01 (Assault), 22.05 (Deadly Conduct), 22.07 (Terroristic Threat), or 71.02 (Engaging in Organized Criminal Activity);

   b. The unlawful use, sale, or possession of a controlled substance, drug paraphernalia, or marijuana, as defined by Health and Safety Code Chapter 481; and

   c. The unlawful possession of any of the weapons or devices listed in Penal Code 46.01(1)–(7), (9)–(14~~)~~), or (16), or a weapon listed as a prohibited weapon under Penal Code 46.05.

Code of Criminal Procedure 15.27(h)

Contents of Notice

Oral or written notice under Code of Criminal Procedure 15.27 must include all pertinent details of the offense or conduct, including details of any:

1. Assaultive behavior or other violence;

2. Weapons used in the commission of the offense or conduct; or

3. Weapons possessed during the commission of the offense or conduct.

Threat Assessment and Safety Plan

In addition to the information above, the law enforcement agency shall provide information relating to the student that is requested for the purpose of conducting a threat assessment or preparing a safety plan relating to that student. A school board may enter into a memorandum of understanding with a law enforcement agency regarding the exchange of information relevant to conducting a threat

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assessment or preparing a safety plan. Absent a memorandum of understanding, the information requested by the superintendent or the superintendent's designee shall be considered relevant.

Code of Criminal Procedure 15.27(k), (k-1)

Law enforcement records concerning a child may be inspected or copied by the superintendent of a public school where the child is enrolled only for the purpose of conducting a threat assessment or preparing a safety plan related to the child. *Family Code 58.008(d), (d-1)*

Electronic Notice

A person may substitute electronic notice for oral notice where oral notice is required by Code of Criminal Procedure 15.27. If electronic notice is used, any written notice required by article 15.27 is not required. *Code of Criminal Procedure 15.27(i)*

Arrest

Oral Notice

If a law enforcement agency arrests a person or refers a child to the juvenile board for an offense specified at Reportable Offenses, and the agency believes the person is enrolled as a student in a public school, the head of the agency or designee shall orally notify the superintendent or designee in the district in which the student is enrolled, or believed to be enrolled, of the arrest or referral. The notice shall be provided within 24 hours after the arrest or referral is made or before the next school day, whichever is earlier.

Written Notice

Within seven days after oral notice is given, the head of the law enforcement agency or designee shall mail written notice to the superintendent or designee. The written notice shall include the facts in the oral notice, the name of the person who was orally notified, and the date and time of the oral notice.

Both the oral and written notice shall contain sufficient details of the arrest or referral and the acts allegedly committed by the student to enable a superintendent or designee to determine whether there is a reasonable belief that the student has engaged in conduct defined as a felony offense by the Penal Code. or whether it is necessary to conduct a threat assessment or prepare a safety plan related to the student. The information in the notice shall be considered by a superintendent or designee in making such a determination.

Code of Criminal Procedure 15.27(a)

Failure to Provide Notice to District

If the superintendent of a district in which a student is enrolled learns of a failure of the head of a law enforcement agency or designee to provide a notice under Code of Criminal Procedure 15.27(a), the superintendent or principal shall report the failure to the Commission on Law Enforcement Officer Standards and Education. *Code of Criminal Procedure 15.27(m)*

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Notice to Employees

A superintendent or designee shall immediately notify all instructional and support personnel who have responsibility for supervision of a student who has been arrested or taken into custody. All personnel shall keep the information received confidential.

A superintendent or designee shall send to an employee having direct supervisory responsibility over the student the information in the confidential notice provided by the law enforcement agency.

Failure to Provide Notice to Employees

If a board learns of a failure by the superintendent or a principal to provide a notice required under Code of Criminal Procedure 15.27(a) or (a-1), the board shall report the failure to the State Board for Educator Certification (SBEC).

Code of Criminal Procedure 15.27(a), (a-1), (l)

Conviction or Adjudication

Oral Notice

On conviction, deferred prosecution, deferred adjudication, or adjudication of delinquent conduct of a student for an offense or for any conduct specified at Reportable Offenses, the office of the prosecuting attorney shall orally notify a superintendent or designee of the conviction or adjudication and whether the student is required to register as a sex offender. Oral notice must be given within 24 hours of the time of the order or before the next school day, whichever is earlier.

Written Notice

Within seven days after the date the oral notice is given, the office of the prosecuting attorney shall mail written notice, which must contain a statement of the offense of which the individual is convicted or on which the adjudication, deferred adjudication, or deferred prosecution is grounded and a statement of whether the student is required to register as a sex offender.

Notice to Employees

A superintendent or designee shall, within 24 hours of receiving notice from the office of the prosecuting attorney, or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student.

Failure to Provide Notice to Employees

If a board learns of a failure by the superintendent or a principal to provide a notice required under Code of Criminal Procedure 15.27(b), the board shall report the failure to the SBEC.

Code of Criminal Procedure 15.27(b), (l)

Not Guilty/Charges Dropped

The office of the prosecuting attorney or the office or official designated by the juvenile board shall notify the district that removed a student to a (DAEP) if:

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1. Prosecution of the student's case was refused for lack of prosecutorial merit or insufficient evidence and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or

2. The court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice.

Notice shall be provided to the district within two working days.

Review of Placement

On receipt of the notice, the superintendent or designee shall review the student's placement in the DAEP [see FOC].

Code of Criminal Procedure 15.27(g); Education Code 37.006(h)

Transfer Students

If a juvenile justice agency has jurisdiction over a student who is arrested, referred, convicted, or adjudicated for a reportable offense and the student transfers from a school or is subsequently removed from a school and later returned to a school or district other than the one the student was enrolled in when the arrest, referral, conviction, or adjudication occurred, the juvenile justice agency shall notify the superintendent or designee of the district to which the student transfers or is returned.

The juvenile justice agency shall provide notice of an arrest or referral in a manner similar to that provided above, at Arrest. The juvenile justice agency shall provide notice of a conviction or delinquent adjudication in a manner similar to that provided above at Conviction or Adjudication. In either case, notice shall be provided within 24 hours of learning of the student's transfer or reenrollment, or before the next school day, whichever is earlier.

Notice to Employees

The superintendent of the district to which the student transfers or is returned shall, within 24 hours of receiving notice or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student.

Code of Criminal Procedure 15.27(c)

Registered Sex Offenders

The local law enforcement authority shall immediately provide notice to the superintendent of the district in which a person subject to registration as a sex offender intends to reside, by mail to the office of the superintendent, as set out below. *Code of Criminal Procedure 62.053(e), .053(f)*

A local law enforcement authority shall provide notice to a superintendent regarding a registered sex offender only if:

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1. The victim was at the time of the offense a child younger than 17 years of age or a student enrolled in a public or private secondary school;

2. The person subject to registration is a student enrolled in a public or private secondary school; or

3. The basis on which the person is subject to registration is a conviction, deferred adjudication, or adjudication of delinquent conduct for an offense under Penal Code 43.25 (Sexual Performance by a Child) or 43.26 (Possession or Promotion of Child Pornography), or a substantially similar offense

A local law enforcement authority may not provide notice to a superintendent if the basis for the notice is a conviction, deferred adjudication, or adjudication of delinquent conduct for an offense under Section 25.02, Penal Code (Prohibited Sexual Conduct, relating to incest), or a substantially similar offense.

Code of Criminal Procedure 62.054

Notice to Employees

On receipt of the notice from law enforcement regarding a registered sex offender, a superintendent shall release the information in the notice to appropriate district personnel, including peace officers and security personnel, principals, nurses, and counselors. *Code of Criminal Procedure 62.053(e), .055(f)*

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A district may contract with another local government or a federally recognized Indian tribe that is located in Texas. A party to an interlocal contract may contract with a state agency or similar agency of another state.

An interlocal contract may:

1. Study the feasibility of the performance of a governmental function or service by interlocal contract; or
2. Provide a governmental function or service that each party to the contract is authorized to perform individually.

An interlocal contract shall comply with the requirements at Government Code Chapter 791. [See CH for interlocal purchasing contracts]

Gov't Code 791.011

Health-Care and Hospital Services

A district may contract with another local government authorized to provide health-care and hospital services to provide those services for the district's officers and employees and their dependents. *Gov't Code 791.030*

A hospital district may contract with a school district included in the hospital district to provide nursing services and assistance to employees or students of the district. *Health and Safety Code 281.0465*

Transportation System

A board may establish and operate an economical public school transportation system outside the district if the district enters into an interlocal contract as provided by Government Code Chapter 791. *Education Code 34.007(a)*

School Crossing Guards

A municipality with a population greater than 850,000 may contract with one or more school districts to provide school crossing guards. Under such a contract, a district may provide school crossing guard services to areas of the municipality that are not part of the district. *Local Gov't Code 343.011, .012*

State Hospital for Accountability Purposes

A memorandum of understanding between a district and a state hospital under which the district provides educational services to a student who resides in the state hospital must provide that the district include the performance of the student on an assessment instrument or other achievement indicator adopted under Education Code 39.053 or a reporting indicator adopted under Education Code 39.301 in determining the performance of the district. *Education Code 39.0552*

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Emergency Assistance

A district may provide emergency assistance to another local government, whether or not the district and the local government have previously agreed or contracted to provide that kind of assistance, if:

1. In the opinion of the presiding officer of the other local government, a state of civil emergency exists that requires assistance from the district and the presiding officer requests assistance; and
2. Before the emergency assistance is provided, the board authorizes the district to provide the assistance by resolution or other official action.

Similarly, if in the opinion of a board president a civil emergency exists in the district that requires assistance from another local government, the board president may request assistance.

Gov't Code 791.027

Mutual Aid

A district that maintains the capability to provide mutual aid may render mutual aid to other local government entities under mutual aid agreements or the Texas Statewide Mutual Aid System. *Gov't Code 418.107(c)*

A district may provide mutual aid assistance on request from another local government entity or organized volunteer group. A superintendent, with the approval and consent of the board president, may provide that assistance while acting in accordance with the policies, ordinances, and procedures established by the board. *Gov't Code 418.109(d)*

Definitions

Local Government Entity

"Local government entity" means a county, incorporated city, independent school district, public junior college district, emergency services district, other special district, joint board, or other entity defined as a political subdivision under Texas law that maintains the capability to provide mutual aid.

Mutual Aid

"Mutual aid" means a homeland security activity, as defined by Government Code 421.001, performed under the system or a written mutual aid agreement.

Gov't Code 418.004

Requests for Assistance

A request for mutual aid assistance may be submitted verbally or in writing. If a request is submitted verbally, it must be confirmed in writing. *Gov't Code 418.115*

Ability to Render Assistance

When contacted with a request for mutual aid assistance, a district shall assess local resources to determine availability of personnel, equipment, and other assistance to respond to the request.

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A responding local government entity may provide assistance to the extent personnel, equipment, and resources are determined to be available. A local government entity is not required to provide mutual aid assistance unless the entity determines that the entity has sufficient resources to provide assistance, based on current or anticipated events in its jurisdiction.

Gov't Code 418.1151

Supervision and Control

When providing mutual aid assistance under the system:

1. The response effort must be organized and function in accordance with the National Incident Management System guidelines;
2. The personnel, equipment, and resources of a district being used in the response effort are under the operational control of the requesting local government entity unless otherwise agreed;
3. Direct supervision and control of personnel, equipment, and resources and personnel accountability remain the responsibility of the designated supervisory personnel of the district;
4. The designated supervisory personnel of the district shall:
    a. Maintain daily personnel time records, material records, and a log of equipment hours;
    b. Be responsible for the operation and maintenance of the equipment and other resources furnished by the district; and
    c. Report work progress to the requesting local government entity.
5. The district's personnel and other resources are subject to recall at any time, subject to reasonable notice to the requesting local government entity.

Gov't Code 418.1152

Duration of Aid

The provision of mutual aid assistance under the system may continue until:

1. The services of a district are no longer required; or
2. The district determines that further assistance should not be provided.

Gov't Code 418.1153

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Employee Rights and Privileges

A person assigned, designated, or ordered to perform duties by the district employing the person in response to a request under the Texas Statewide Mutual Aid System is entitled to receive the same wages, salary, pension, and other compensation and benefits, including injury or death benefits, disability payments, and workers' compensation benefits, for the performance of the duties under the system as though the services were rendered for the entity employing the person.

The district employing the person is responsible for the payment of wages, salary, pension, and other compensation and benefits associated with the performance of duties under the system.

Gov't Code 418.116

Reimbursement of Costs

If the division of emergency management in the office of the governor requests the provision of assistance and a district responds, the state shall reimburse the actual costs of providing assistance, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the district. A request for reimbursement made to the division must be made in accordance with procedures developed by the division. *Gov't Code 418.118*

If a local government entity requests mutual aid assistance from a district under the system that requires a response that exceeds 12 consecutive hours, the local government entity shall reimburse the actual costs of providing mutual aid assistance to the district, including costs for personnel, operation and maintenance of equipment, damaged equipment, food, lodging, and transportation, incurred by the district in response to a request for reimbursement. Local government entities with a mutual aid agreement when the request for mutual aid assistance is made are subject to the agreement's terms of reimbursement, as provided by Government Code 418.111. *Gov't Code 418.1181*

~~**Emergency Management Training**~~

~~This section applies only to an appointed public officer:~~

~~3. Whose position description, job duties, or assignment includes emergency management responsibilities; or~~

~~4. Who plays a role in emergency preparedness, response, or recovery.~~

~~An appointed public officer shall complete a course of training provided or approved by the division of emergency management in the office of the governor of not less than three hours regarding the responsibilities of state and local governments under Government Code Chapter 418 not later than the 180th day after the date the person:~~

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~~5. Takes the oath of office, if the person is required to take an oath of office to assume the person's duties as an appointed public officer; or~~

~~6. Otherwise assumes responsibilities as an appointed public officer, if the person is not required to take an oath of office to assume the person's duties.~~

~~The division or other entity providing the training shall provide a certificate of course completion to public officers who complete the training required by this section. A public officer who completes the training required by this section shall maintain and make available for public inspection the record of the public officer's completion of the training.~~

~~*Gov't Code 418.005*~~

~~[See CKC for emergency management within a district.]~~

Infection Control Officer

A district that employs or uses the services of an emergency response employee or volunteer shall nominate a designated infection control officer and an alternate designated infection control officer to:

1. Receive notification of a potential exposure to a reportable disease from a health-care facility;
2. Notify the appropriate health-care providers of a potential exposure to a reportable disease;
3. Act as a liaison between the district's emergency response employees or volunteers who may have been exposed to a reportable disease during the course and scope of employment or service as a volunteer and the destination hospital of the patient who was the source of the potential exposure;
4. Investigate and evaluate an exposure incident, using current evidence-based information on the possible risks of communicable disease presented by the exposure incident; and
5. Monitor all follow-up treatment provided to the affected emergency response employee or volunteer, in accordance with applicable federal, state, and local law.

Health and Safety Code 81.012

Definitions

"Emergency response employee or volunteer" means an individual acting in the course and scope of employment or service as a volunteer as emergency medical service personnel, a peace officer, or a fire fighter.

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"Reportable disease" means a disease or condition included in the list of reportable diseases and includes a disease that is designated as reportable under Health and Safety Code 81.048.

Health and Safety Code 81.003(1-a), (8)

Notice to Local Health Authority

A district that employs or uses the services of an emergency response employee or volunteer is responsible for notifying the local health authorities or local health-care facilities, according to any local rules or procedures, that the district has a designated infection control officer or alternate designated infection control officer. *Health and Safety Code 81.012(c)*

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MEDINA VALLEY INDEPENDENT SCHOOL DISTRICT

"Proud of our past, dedicated to the present, committed to the Future"

MEMORANDUM

To: Medina Valley ISD Board of Trustees
From: Dr. Kenneth Rohrbach, Superintendent
Re: TASB Board Policy Update 114
Date: February 13, 2020

The Board is required to appoint an election judge and alternates for the upcoming trustee election. These individuals will serve for early voting and election day.

Superintendent Recommendation: Appoint Bertha Benedetti as Election Judge and Pam Sonnen and Lori Reeve as Alternate Judges for a one year term commencing on March 1, 2020.

8449 FM 471 South, Castroville, TX 78009-5309 Phone (830) 931-2243 FAX (830) 931-4050

AW4-10
Prescribed by Secretary of State
Sec. 32.008, Texas Election Code
3/07

Medina Valley Independent School District

ORDER OF APPOINTMENT FOR ELECTION JUDGE AND ALTERNATE

The Medina Valley ISD Board of Trustees do hereby appoint the following election judge and alternate judges for a one year term to begin March 1, 2020.

Election Judge: Bertha Benedetti

Alternate Judge: Pam Sonnen
Lori Reeve

It is hereby directed that this order be filed with Medina Valley Independent School District's general custodian of election records. The District's Election Administrator is hereby instructed to send notice of appointment to each election judge of their appointment for a one year term to begin March 1, 2020 as stated above in accordance with Tex. Elec. Code Ann. § 32.009.

_____
President, Board Trustees

Attest:

_____
Secretary, Board of Trustees

MEDINA VALLEY INDEPENDENT SCHOOL DISTRICT

"Proud of our past, dedicated to the present, committed to the Future"

MEMORANDUM

To: Medina Valley ISD Board of Trustees
From: Dr. Kenneth Rohrbach, Superintendent
Re: Consider Petition Requesting Annexation to City of LaCoste
Date: February 12, 2020

As you will recall, we were approached by the City of LaCoste a number of months ago about allowing them to annex district property into the city limits. Currently, a portion of the property on which LaCoste Elementary sits is in the city limits, and the rest is outside the city limits, which is approximately 12.8 acres. I do not see any issues with allowing the City of LaCoste to annex the remainder of the LaCoste Elementary property.

Superintendent Recommendation: Approve the Petition Requesting Annexation to the City of LaCoste.

8449 FM 471 South, Castroville, TX 78009-5309 Phone (830) 931-2243 FAX (830) 931-4050

PETITION REQUESTING ANNEXATION BY AREA LANDOWNER

TO THE MAYOR OF THE GOVERNING BODY OF LA COSTE, TEXAS

The undersigned owner of the hereinafter described tracts of land, which are vacant and without residents, or on which fewer than three qualified voters reside, hereby petition your honorable Body to extend the present city limits so as to include as part of the City of La Coste, Texas, the following:

Approximately 3.68 acres of land, more or less, out of the M. Hernandez Survey No. 27, Abstract 0460, Medina County, Texas; and

Approximately 9.12 acre of land, more or less, out of the M. Hernandez Survey No. 27, Abstract 0460, Medina County, Texas.

I certify that the above described tracts of land are contiguous and adjacent to the City of La Coste, Texas, and that this petition is signed and duly acknowledged by each and every person having an interest in said land.

Signed: _____

Title: _____

Date: _____

STATE OF TEXAS *

COUNTY OF MEDINA *

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she/they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this _____ day of _____, 2020.

_____

Notary Public, State of Texas

MEDINA VALLEY INDEPENDENT SCHOOL DISTRICT

"Proud of our past, dedicated to the present, committed to the Future"

MEMORANDUM

To: Medina Valley ISD Board of Trustees
From: Dr. Kenneth Rohrbach, Superintendent
Re: Consider Naming of Elementary #5
Date: February 12, 2020

This item was tabled at the January meeting. Two nominations have been received. The two names submitted are Ladera Elementary and Lucas Creek Elementary. Ladera, of course, is named for the subdivision. Lucas Creek comes from the fact that the San Lucas Springs, which flow into Lucas Creek are located just to the west of the subdivision. Lucas Creek runs through the subdivision, and under 211 into Briggs Ranch.

Superintendent Recommendation:

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MEDINA VALLEY INDEPENDENT SCHOOL DISTRICT



"Proud of our past, dedicated to the present, committed to the Future"

MEMORANDUM

To: Medina Valley ISD Board of Trustees
From: Dr. Kenneth Rohrbach, Superintendent
Re: Consider Board and Superintendent Goals for 2020
Date: February 12, 2020

The proposed goals have been developed collaboratively by the Superintendent and the Board, and are based on identified needs in the district. The goals are each linked to goals in the MVISD Strategic Plan.

Superintendent Recommendation: Approve the Board and Superintendent Goals for 2020

8449 FM 471 South, Castroville, TX 78009-5309 Phone (830) 931-2243 FAX (830) 931-4050

2020 Medina Valley ISD Board/Superintendent Goals

*Not listed in any type of rank order.

Goal 1: Focus on safety of staff and students, ensuring that appropriate safety measures are in place at all campuses and all district facilities, and implement corrective actions based on campus and district safety audits.

MVISD Strategic Plan Goal(s) Addressed by Board/Superintendent Goal 1:
Growth - Takes a proactive role in planning for our rapidly growing population.
Funding – Ensures proper allocation of funds to support all areas of the district.
Facilities/Infrastructure – Provides and maintains appropriate facilities for district programs.
Technology – Provides relevant and reliable technology for staff, students, and guests.

Goal 2: Ensure that the district curriculum addresses the needs of all learners, and provide appropriate resources to campuses in order to support the curriculum.

MVISD Strategic Plan Goal(s) Addressed by Board/Superintendent Goal 2:
Funding – Ensures proper allocation of funds to support all areas of the district.
Class/Course Offerings - Provides a variety of academic and extracurricular activities that promote well-rounded, career-minded students.
Growth - Takes a proactive role in planning for our rapidly growing population.
Staffing – Recruits and retains quality staff while offering professional development and leadership opportunities.

Goal 3: Ensure that the rapid growth of the district is supported in all aspects, including planning for new campuses, staffing, budgeting, and demographic studies.

MVISD Strategic Plan Goal(s) Addressed by Board/Superintendent Goal 3:
Growth - Takes a proactive role in planning for our rapidly growing population.
Funding - Ensures proper allocation of funds to support all areas of the district.
Facilities/Infrastructure - Provides and maintains appropriate facilities for district programs.
Legislative – Exceeds federal/state/local legislative requirements to develop an educational journey for each student's interests and success.
Communication/Involvement – Fosters an environment of parental and community involvement through open communication.

Goal 4: Increase access to and participation in extra- and co-curricular activities.

MVISD Strategic Plan Goal(s) Addressed by Board/Superintendent Goal 4:
Growth - Takes a proactive role in planning for our rapidly growing population.
Funding - Ensures proper allocation of funds to support all areas of the district.
Class/Course Offerings - Provides a variety of academic and extracurricular activities that promote well-rounded, career-minded students.
Facilities/Infrastructure - Provides and maintains appropriate facilities for district programs.
Staffing – Recruits and retains quality staff while offering professional development and leadership opportunities.

Goal 5: Review and update policy manuals and handbooks district-wide, including development of board operating procedures.

MVISD Strategic Plan Goal(s) Addressed by Board/Superintendent Goal 5:
Growth - Takes a proactive role in planning for our rapidly growing population.
Communication/Involvement – Fosters an environment of parental and community involvement through open communication.
Legislative – Exceeds federal/state/local legislative requirements to develop an educational journey for each student's interests and success.

Approved by Board of Trustees _____

MEDINA VALLEY INDEPENDENT SCHOOL DISTRICT



"Proud of our past, dedicated to the present, committed to the Future"

MEMORANDUM

To: Medina Valley ISD Board of Trustees
From: Dr. Kenneth Rohrbach, Superintendent
Re: Consider Superintendent Evaluation Instrument for 2020
Date: February 12, 2020

The proposed Superintendent Evaluation Instrument focuses on carrying out activities and initiatives that align with the Board and Superintendent Goals. Each goal listed in the Board and Superintendent Goals is followed by activities to be carried out in order to achieve each goal. The activities and initiatives focus on identified needs in the district. A second part of the superintendent evaluation is the student performance worksheet, which must now be a part of the superintendent evaluation. The form will be completed at the end of the year with student performance data for the 2019-2020 school year.

Superintendent Recommendation: Approve the Superintendent Evaluation Instrument for 2020

8449 FM 471 South, Castroville, TX 78009-5309 Phone (830) 931-2243 FAX (830) 931-4050

2020 Medina Valley ISD Superintendent Evaluation Instrument

Date adopted by Board:

Superintendent: Dr. Kenneth Rohrbach

Date of Evaluation: _____

Type of Evaluation (circle one): Formative Summative

General Information

The Evaluation Instrument consists of two parts: Priority Performance Goals for the superintendent and items that assess performance on ongoing management responsibilities of the superintendent. In assessing performance on both the goals and the ongoing responsibilities, the board will consult data provided by the superintendent.

Rating Scale:

E	Exceptional	Progress exceeds expectations and criteria noted in the instrument
P	Proficient	Progress meets the expectations and criteria noted in the instrument
IP	In Progress	Progress is being made but the final product has not been presented
N	Needs Improvement	Progress does not meet the expectations and criteria noted in the instrument

Comments may be made on any item. Any rating of "Needs Improvement" must be accompanied by a comment indicating the nature of the deficiency or a statement of what the board expected to see in performance that was not evident.

DRAFT

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Superintendent Priority Performance Goal 1:

Focus on safety of staff and students, ensuring that appropriate safety measures are in place at all campuses and all district facilities, and implement corrective actions based on campus and district safety audits.

- 1A. During the prior evaluation year, the superintendent updated the Board as to compliance with safety measures resulting from the 86th Legislature.
  Rating_____
- 1B. During the prior evaluation year, the superintendent increased security measures at district facilities, as appropriate.
  Rating_____

Overall Rating for Goal 1: _____

Comments:

DRAFT

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Superintendent Priority Performance Goal 2:

Ensure that the district curriculum addresses the needs of all learners, and provide appropriate resources to campuses in order to support the curriculum.

- 2A. During the prior evaluation year, the superintendent conducted a review of the districts program to serve English Language Learners and took appropriate corrective action.
  Rating_____

- 2B. During the prior evaluation year, the superintendent conducted a review of the district's special education program and took appropriate corrective action.
  Rating_____

- 2C. During the prior evaluation year, the superintendent presented to the Board a Gifted and Talented plan and framework.
  Rating_____

- 2D. During the prior evaluation year, the superintendent conducted a review of the district's career and technical education program, and recommended expanded/new programs.
  Rating_____

- 2E. During the prior evaluation year, the superintendent presented to the Board a writing plan and framework.
  Rating_____

- 2F. During the prior evaluation year, the superintendent ensured that district technology was updated in accordance with the long-range technology plan.
  Rating_____

- 2G. During the prior evaluation year, the superintendent ensured the implementation of instructional technology in accordance with the long-range plan.
  Rating_____

Overall Rating for Goal 2: _____

Comments:

DRAFT

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Superintendent Priority Performance Goal 3:

Ensure that the rapid growth of the district is supported in all aspects, including planning for new campuses, staff, budgeting, and demographic studies.

- 3A. During the prior evaluation year, the superintendent developed and presented a plan for the opening of Elementary #5.
  Rating_____
- 3B. During the prior evaluation year, the superintendent presented a staffing plan for the 20-21 school year and a projected staffing plan for the 21-22 school year to address growth and the opening of Elementary #5.
  Rating_____
- 3C. During the prior evaluation year, the superintendent presented an updated long-range facilities plan with current demographic data and projections.
  Rating_____
- 3D. During the prior evaluation year, the superintendent presented an updated long-range finance plan with current demographic data and projections.
  Rating_____
- 3E. During the prior evaluation year, the superintendent presented a district transportation plan.
  Rating_____

Overall Rating for Goal 3: _____

Comments:

DRAFT

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Superintendent Priority Performance Goal 4:

Increase access to and participation in exta- and co-curricular activities.

- 4A. During the prior evaluation year, the superintendent conducted a student survey for fine arts course offerings and presented the results to the Board.
  Rating_____
- 4B. During the prior evaluation year, the superintendent conducted a study on expanding middle school athletic offerings to possibly include tennis and soccer. The results of that study were presented to the Board.
  Rating_____
- 4C. During the prior evaluation year, the superintendent conducted a study on expanding the number of clubs offered on campuses and increasing student involvement.
  Rating_____

Overall Rating for Goal 4: _____

Comments:

DRAFT

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Superintendent Priority Performance Goal 5:

Review and update policy manuals and handbooks district-wide, including development of board operating procedures.

- 5A. During the prior evaluation year, the superintendent recommended a TASB policy review to the Board.
  Rating_____
- 5B. During the prior evaluation year, the superintendent conducted a review of all student and employee handbooks, and revised as appropriate in order to ensure compliance with state and federal law and policy, and current district practice.
  Rating_____
- 5C. During the prior evaluation year, the superintendent began establishing an administrative regulations manual.
  Rating_____
- 5D. During the prior evaluation year, the superintendent began updating all district procedural manuals to ensure compliance with state and federal law and policy, and current district practice.
  Rating_____

Overall Rating for Goal 5: _____

Comments:

DRAFT

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President	Date
Vice-President	Date
Secretary	Date
	Date
	Date
	Date
	Date

I have discussed this evaluation with the Board and have received a copy. If I do not agree with this evaluation, I understand that I may submit a letter in duplicate stating my position.

Kenneth Rohrbach, Ed.D. – Superintendent	Date

DRAFT

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Commissioner-Recommended Student Performance Domain

Superintendent: Dr. Kenneth Rohrbach

District: Medina Valley ISD

Date: Click here to enter a date.

Commissioner-Recommended Student Performance Domain/Superintendent Appraisal WORKSHEET

To be included as one component of the locally developed appraisal instrument

Texas statute requires that the board use the district performance report as a primary consideration in its appraisal of superintendent performance (TEC §39.054). This worksheet provides an analysis of district student performance based on the district Accountability Reports.

To meet the statutory requirement for primary consideration, the board should consider the information on this worksheet in discussing and evaluating each area of superintendent responsibility on the local appraisal instrument. Such areas of responsibility often include: instructional management; personnel management; student management; management of fiscal, administrative, and facilities functions; organization morale; organization improvement; school-community relations; school board relations; and professional growth and development.

The information on this worksheet should be used as only one indicator of the success of the superintendent in managing specified areas of district operations for increased student achievement. In addition, the board should use locally determined and other indicators of success in discussing and evaluating the job performance of the superintendent in specified areas of responsibility.

Goals for the superintendent should ideally be developed by board consensus in collaboration with the superintendent.

Commissioner-Recommended Student Performance Domain/Superintendent Appraisal WORKSHEET

Directions for cover sheet: Click once on the "Click here to enter text" button to enter the Superintendent name and District. Click once on the "Click here to enter a date" button and a drop down arrow will appear. Click on the arrow and choose the completion date for this form.

Data Sources for worksheet: The superintendent should use the 2019 and 2020 Accountability Reports by District, the comprehensive online Texas Academic Performance Report system, 2019-2020 Texas Academic Performance Reports, and www.txschools.org to complete Steps 1-3.

STEP 1: 2020 STATUS

DISTRICT

Overall District Rating

☐ A ☐ B ☐ C ☐ D ☐ F ☐ District is identified for Distinction Designation in Post-Secondary Readiness

Student Achievement Domain Rating

☐ A ☐ B ☐ C ☐ D ☐ F

School Progress Domain Rating

☐ A ☐ B ☐ C ☐ D ☐ F

-Part A (Academic Growth) Rating: ☐ A ☐ B ☐ C ☐ D ☐ F

-Part B (Relative Performance) Rating: ☐ A ☐ B ☐ C ☐ D ☐ F

Closing the Gaps Domain Rating

☐ A ☐ B ☐ C ☐ D ☐ F

Superintendent Comments: Click here to enter text.

Commissioner-Recommended Student Performance Domain/Superintendent Appraisal WORKSHEET

CAMPUS(ES)

Campus Information (State Accountability)	
Number of campuses with letter grade of A (Exemplary Performance)	
Number of campuses with letter grade of B (Recognized Performance)	
Number of campuses with letter grade of C (Acceptable Performance)	
Number of campuses with letter grade of D (In Need of Improvement)	
Number of campuses with letter grade of F (Unacceptable Performance)	
Number of campuses with **multi-year** F rating	
Number of campuses with D/F in a Domain	

Campus Information (Federal Accountability)	
Number of campuses labeled as Additional Targeted Support	
Number of campuses labeled as Targeted Support	
Number of campuses labeled as Comprehensive Support	

Distinction Designations								
Number of Campuses	**Read/ELA**	**Math**	**Science**	**Social Studies**	**Academic Growth**	**Gap**	**Post-Secondary**	**Total #**
Eligible for Distinction Designation								**0**
Identified for Distinction Designation								**0**

Superintendent Comments: Click here to enter text.

Step 2: Closing the Gaps

Complete district information. Indicate types of campuses (i.e., elementary, secondary, etc.) and number of campuses within each category. The data can be found on the Closing the Gaps Report. Indicate number of campuses within each type which "Met Indicators". For participation, enter percent of participation for All Students for ELA/Reading and Mathematics. When needed, use "NA" to indicate not applicable.

Closing the Gaps											
		Academic Achievement Status		Growth/Federal Graduation Status		English Language Proficiency Status		School Quality/ Student Success Status		Participation	
		# Indicators Met	**# Indicators Evaluated**	**# Indicators Met**	**# Indicators Evaluated**	**# Indicators Met**	**# Indicators Evaluated**	**# Indicators Met**	**# Indicators Evaluated**	**% of ELA / Reading**	**% of Mathematics**
District											
Campus Type	**Number**										
EX. HS	*5*	*29*	*31*	*26*	*31*	*4*	*5*	*63*	*70*	*98%*	*97%*

Superintendent Comments: Click here to enter text.

Step 3: Summary of Current Year Results.

A. Post district State Assessment results below. Possible data sources may include comprehensive online Texas Academic Performance Report system, 2018 and 2019 STAAR Performance Data Table. The column to the right of the percentage should be used to indicate direction of rates comparing 2019 to 2018. For an increase in percentage, mark a "+". For a decrease in percentage, mark a "-". For a neutral, mark a "/". When needed, use "NA" to indicate not applicable.

STAAR Percent at Approaches Grade Level or Above All Grades																												
	District*		African American*		Hispanic *		White*		American Indian*		Asian*		Pacific Islander *		Two or More Races*		Econ Disadv*		EL (Current & Monitored) *		Special Ed (Current)		Special Ed (Former)		Continuously Enrolled		Non-Continuously Enrolled	
EXAMPLE	**88%**	**+**	**84%**	**/**	**79%**	**-**	**93%**	**-**	**88%**	**+**	**84%**	**/**	**79%**	**-**	**93%**	**-**	**78%**	**-**	**93%**	**+**	**73%**	**-**	**73%**	**-**	**84%**	**+**	**82%**	**/**
All Subjects																												
Reading																												
Mathematics																												
Writing																												
Science																												
Social Studies																												

*State Accountability student group for state assessment (if group size meets minimum requirements)

Superintendent Comments: Click here to enter text.

Commissioner-Recommended Student Performance Domain/Superintendent Appraisal WORKSHEET

STAAR Percent at Meets Grade Level or Above All Grades																														
	District*		African American*		Hispanic*		White*		American Indian*		Asian*		Pacific Islander*		Two or More Races*		Econ Disadv*		EL (Current & Monitored)*		Special Ed (Current)		Special Ed (Former)		Continuously Enrolled		Non-Continuously Enrolled	
EXAMPLE	**88%**	**+**	**84%**	**/**	**79%**	**-**	**93%**	**-**	**88%**	**+**	**84%**	**/**	**79%**	**-**	**93%**	**-**	**78%**	**-**	**93%**	**+**	**73%**	**-**	**73%**	**-**	**84%**	**+**	**82%**	**/**
All Subjects																														
Reading																														
Mathematics																														
Writing																														
Science																														
Social Studies																														

*State Accountability student group for state assessment (if group size meets minimum requirements)

Superintendent Comments: Click here to enter text.

STAAR Percent at Master Grade Level All Grades																														
	District*		African American*		Hispanic*		White*		American Indian*		Asian*		Pacific Islander*		Two or More Races*		Econ Disadv*		EL (Current & Monitored)*		Special Ed (Current)		Special Ed (Former)		Continuously Enrolled		Non-Continuously Enrolled	
EXAMPLE	**88%**	**+**	**84%**	**/**	**79%**	**-**	**93%**	**-**	**88%**	**+**	**84%**	**/**	**79%**	**-**	**93%**	**-**	**78%**	**-**	**93%**	**+**	**73%**	**-**	**73%**	**-**	**84%**	**+**	**82%**	**/**
All Subjects																														
Reading																														
Mathematics																														
Writing																														
Science																														
Social Studies																														

*State Accountability student group for state assessment (if group size meets minimum requirements)

Superintendent Comments: Click here to enter text.

Commissioner-Recommended Student Performance Domain/Superintendent Appraisal WORKSHEET

B. Post Academic Growth Rates below. Possible data sources may include 2019 and 2020 Academic Growth Data Table. For an increase in percentage, mark a "+". For a decrease in percentage, mark a "-". For a neutral, mark a "/". When needed, use "NA" to indicate not applicable.

	District 2019	District 2020	District +, -, /
All Subjects			
Reading			
Mathematics			

Superintendent Comments: Click here to enter text.

C. Post district Graduation and Dropout Rates below. The data can be found on the 2020 Graduation Rate Data Table and online Texas Academic Performance Report system.

Graduation Rate											
	District*	African American*	Hispanic*	White*	American Indian*	Asian*	Pacific Islander*	Two or More Races*	Econ Disadv*	EL	Special Ed
4-Year Graduation Rate (Gr. 9-12) Class of 2019											
5-Year Extended Graduation Rate (Gr. 9-12) Class of 2018											
6-Year Extended Graduation Rate (Gr. 9-12) Class of 2017											

*State Accountability student group for Graduation (if group size meets minimum size requirements)

	District*	African American*	Hispanic*	White*	American Indian*	Asian*	Pacific Islander*	Two or More Races*	Econ Disadv*	EL	Special Ed
Grade 7-8											
Grade 9-12											

*State Accountability student group for dropout rate (if group size meets minimum requirements)

Superintendent Comments: Click here to enter text.

Step 4: Strengths and Areas of Need

Using the student performance data summarized in Steps 1-3 above, the superintendent and board should identify strengths and areas that may need to be addressed.

A. Strengths in district student performance: Click here to enter text.

B. Areas that may need to be addressed in district student performance. In the spaces provided, indicate approaches to improve student performance.

STAAR Reading/ELA	
STAAR Writing	
STAAR Math	
STAAR Social Studies	
STAAR Science	
Participation	
Dropout	
Graduation	
Special Education	
English Learners	
Economically Disadvantaged	
Other	

Superintendent Comments: Click here to enter text.

Step 5: Goal Setting

The board should review the information on this worksheet as part of its local procedures for setting goals with the superintendent for the next evaluation cycle. District student performance identified on the worksheet as needing to be addressed should be reflected in appropriate locally developed goals. Goals for the superintendent should ideally be developed by board consensus in collaboration with the superintendent.

Legal Authority: The analysis of district student performance provided on this worksheet should be used by the board in the evaluation of the superintendent. The results of the analysis should be incorporated into the local appraisal instrument. TEC §39.054; TAC §150.1022(d)

The information in this domain should be incorporated into the locally adopted appraisal instrument in a manner consistent with locally adopted procedures for evaluating the superintendent. In addition, the information should be used to set priorities for ongoing improvement with the superintendent and as additional data to appraise other aspects of the superintendent's job performance.